

LOCAL GOVERNMENT ACT 1995

SHIRE OF ASHBURTON

LOCAL LAW RELATING TO THE CONTROL OF CATS

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LOCAL GOVERNMENT ACT 1995

SHIRE OF ASHBURTON

LOCAL LAW RELATING TO THE CONTROL OF CATS

In pursuance of the powers conferred upon it by the above mentioned Act and of all other powers enabling it the Council of the Shire of Ashburton hereby records having resolved on the 19 May 1998 to make the following local law.

PART 1—PRELIMINARY**1. Citation**

This local law may be cited as the Shire of Ashburton "Local Law Relating to the Control of Cats".

2. Commencement

This local law comes into effect thirty (30) days after the date of its publication in the *Government Gazette*.

3. Content and Intent

This local law provides for rules and guidelines for the proper management and control of cats throughout the whole of the district, to—

- (a) encourage responsible cat ownership;
- (b) reduce public and environmental nuisance caused by cats;
- (c) promote the effective management of cats; and
- (d) limit the damage to and loss of wildlife caused by cats.

4. Interpretation

(1) In this local law unless the context otherwise requires—

"Act" means the Local Government Act 1995.

"attack" in relation to the behaviour of a cat, does not include behaviour which was an immediate response to and was induced by provocation, but includes—

- (a) aggressively rushing at or harassing any person or animal;
- (b) biting or otherwise causing physical injury to a person or an animal;
- (c) tearing clothing on, or otherwise causing damage to the property of the person attacked;
or
- (d) attempting to attack, or behaviour in such a manner toward a person as would cause a reasonable person to fear physical injury, unless the keeper establishes that the behaviour was justified by a reasonable cause.

"authorised person" means a person appointed by the local government for the purposes of this local law.

"district" means the Local Government district of the Shire of Ashburton.

"food premises" has the meaning given to it by the Health Act 1911

"identified cat" means a cat identified in the manner of having a collar around its neck and tag securely attached to the collar with the tag being marked with the name and current address or telephone number of the owner or other person entitled to possession of the cat.

"keeper" in relation to a cat means each of the following persons—

- (a) the owner of the cat;
- (b) the person by whom the cat is ordinarily kept;
- (c) a person who has or appears to have immediate custody or control of the cat;
- (d) a person who keeps the cat, or has the cat in his or her possession for the time being;
or
- (e) a person who occupies any premises in which the cat is ordinarily kept or ordinarily permitted to live;

"local government" means the local government of the Shire of Ashburton.

"premises" shall, for the purpose of determining who is occupier, be taken to refer to any land or building, or part of any land or building, that is intended to be occupied as a separate residence from any adjacent tenement.

“public place” includes each of the following—

- churches;
- Cinemas/Drive Inn
- community, sporting and recreation centres and public swimming pools;
- premises licensed under the Liquor Licensing Act 1988; and
- public and private primary, secondary and tertiary places of education.

“unidentified cat” means a cat that is not identified in the manner as prescribed for an “identified cat”.

(2) Unless otherwise defined herein, the terms and expressions used in this local law shall have the same meaning given to them in the Act.

(3) Where a term is not defined in this local law, the Act or its regulations the terminology is to be taken from the Oxford Dictionary.

PART 2—KEEPING OF CATS

5. Identified Cats

(1) No person shall, without the permission of the local government, keep a cat over the age of six (6) months on any premises unless the cat is an identified cat.

(2) Subclause (1) does not apply to a cat—

- (a) kept at any refuge conducted by the RSPCA or any other animal welfare organisation;
- (b) kept at an animal pound which has been approved by the local government;
- (c) kept at a pet shop;
- (d) kept at a veterinarian surgery;
- (e) where an exemption has been granted by the local government.

(3) A person must not, without reasonable excuse, interfere with or remove the means by which a cat is identified under this local law.

6. Maximum Number of Cats to be Kept

(1) No keeper shall keep or allow to remain on any premises of which he or she is the owner or occupier, unless an exemption is granted under subclause (2) more than two (2) cats over the age of six (6) months and the young of those cats under that age anywhere within the District.

(2) The local government may grant an exemption in respect of those premises but such exemption:

- (a) may be made subject to conditions, including a condition that it applies to the cats specified therein;
- (b) shall not operate to authorise the keeping of more than three (3) cats on those premises unless special permission is granted by the local government.

(3) An applicant to keep more than two (2) cats shall be made in the form of the Fourth Schedule.

PART 3—CONTROL OF KEPT CATS

7. Cat Not to be a Nuisance

(1) A keeper shall not keep or allow to remain on any premises of which he or she is the owner or occupier, any cat or cats as to be a nuisance to another person or animal or injurious to the health of another person or animal by reason of—

- (a) the number of cats;
- (b) the noise or odour generated by the presence of the cat or cats;
- (c) the aggressive nature of the cat or cats; and
- (d) the wandering of the cat or cats.

(2) A cat shall not attack or threaten to attack a person or an animal.

(3) If a cat attacks or threatens to attack a person or an animal, every keeper of the cat commits an offence.

(4) The local government may make a destruction order in respect of a cat which has attacked or threatened to attack a person or an animal.

(5) The local government, in respect of any cat which has on three (3) separate occasions within a 12 month period, been observed by an authorised person to be unrestrained or not under effective control off the keepers premises may—

- (a) require the keeper to confine the cat in a manner to the satisfaction of the local government;
- or
- (b) make a destruction order.

(6) A cat shall not be in any food premises or public place.

8. Abandonment of Cats

(1) A person must not abandon a cat.

(2) A person who delivers a cat into the custody of an authorised person or to a cat pound is not to be regarded as having abandoned the cat.

PART 4—IMPOUNDING AND TRAPPING OF CATS**9. Cat Pounds**

(1) The local government may establish and maintain a pound or pounds, and may approve an animal pound maintained by any person, for the impounding of cats under this local law.

(2) The local government shall have regard to any policy statements it has in relation to the establishment of a cat pound.

10. Dealing with Impounded Cats

(1) If a cat is impounded and the authorised person who impounds the cat knows, or can readily find out, the name and address of the keeper of the cat, the authorised person must give the keeper written notice of the impounding which states that the cat may be reclaimed within a specified period on the payment of specified fees.

(2) The payment of any fees by a keeper in respect of the seizure, impounding and detention of a cat does not relieve the keeper of any liability to a penalty for an offence against any provision of this local law.

(3) Where an unidentified cat is impounded and is not reclaimed within 3 days of its impounding, the local government may—

- (a) offer the cat for sale through the cat pound; or
- (b) cause the cat to be destroyed;

(4) Subject to subclause (5), where an impounded cat is diseased, emaciated, injured or sick, the local government may destroy the cat without the requirement to hold the cat, upon advice of a veterinarian surgeon.

(5) Unless the condition of a cat is such that it should be destroyed immediately, where an identified cat is diseased, emaciated or sick, the local government shall not destroy the cat under subclause (4) until reasonable steps have been taken to notify a keeper of the condition of the cat.

(6) Where an identified cat, is impounded and it is not reclaimed within the period specified in a notice of impounding, the local government may—

- (a) offer the cat for sale through a cat pound; or
- (b) cause the cat to be destroyed.

(7) If an impounded cat is sold under clause 3 or 6, the proceeds of sale become the property of the local government and may be disposed of in such manner as the local government think fit.

11. Trapping of Cats

Unless the occupier or the owner of premises consents, a person shall not trap or set a trap for a cat on premises of which he or she is not the occupier or the owner.

PART 5—PENALTIES AND INFRINGEMENTS**12. Penalties**

A person who contravenes or fails to comply with any provision of this Local Law is, upon conviction, liable to a penalty of \$200 for each offence.

13. Modified Penalties

(1) The offences described in the table set out in the First Schedule to this Local Law are prescribed pursuant to Section 3.10 and 9.17 of the Act as an offence to which a modified penalty applies.

(2) The amount appearing in that table directly opposite an offence is the prescribed modified penalty payable in respect of that offence if dealt with pursuant to this sub-clause.

(3) Where a person does not contest an allegation that the person committed an offence of the kind to which this clause applies, the production of an acknowledgment from the local government that the modified penalty has been paid to the local government is a defence to a charge of the offence in respect of which the modified penalty was paid.

14. Authorised Person May Issue an Infringement

(1) Where an authorised person has reason to believe that a person has committed an offence of the kind described in the First Schedule a notice may be served on that person in the form contained in the Second Schedule informing the person that if the person does not wish to have a complaint of the alleged offence heard and determined by a Court the person may pay to the local government within the time therein specified the amount prescribed as the modified penalty.

(2) An Infringement Notice may be served on an alleged offender personally or by posting it to that person's address as ascertained from that person at the time of or immediately following the occurrence giving rise to the allegation of the offence.

(3) Where a person who received an Infringement Notice fails to pay the prescribed penalty within the time specified in the Notice, or within any further time as in any particular case is allowed by the local government, the person is deemed to have declined to have the allegation dealt with by way of a modified penalty.

(4) An alleged offender on whom an Infringement Notice has been served may, within the time specified in the Notice or further time as in any particular case is allowed by the local government, send or deliver to the local government the amount of the prescribed penalty with or without a reply as to the circumstances giving rise to the allegation.

15. Infringement Notice Maybe Withdrawn

(1) An Infringement Notice may, whether or not the prescribed penalty has been paid be withdrawn by the local government by sending, of a Notice in the form contained in the Third Schedule to the alleged offender at the address specified in the Notice or to the person's last known place of residence or business.

(2) In the case of an event any amount received by way of a modified penalty shall be refunded and any acknowledgment of the receipt of that amount shall for the purpose of any proceedings in respect of the alleged offence be deemed not to have been issued.

PART 6—MISCELLANEOUS PROVISIONS

16. Objection and Appeal Rights

When the local government makes a decision in relation to—

- (a) grant or refuse to grant a person a permit under this local law; or
- (b) renew, vary or cancel a permit that a person has under this local law; or
- (c) the local government makes a destruction order.

the provisions of Division 1 of Part 9 of the Act and Regulations 33 and 34 of the Local Government (Functions and General) Regulations 1996 shall apply to that decision or destruction order.

17. Fees and Charges

The fees and charges in relation to this Local Law will be set in accordance with Part 6, Division 5 and subdivision 2 of the Act.

First Schedule

LOCAL LAW RELATING TO THE CONTROL OF CATS

Shire of Ashburton

MODIFIED PENALTIES

Item	Clause	Nature of Offence	Modified Penalty
1	5(1)	Keeping an unidentified cat over the age of six (6) months	\$50
2	6(1)	Keeping more than the approved limit on the number of cats	\$50
3	7(1)	Keeping a cat so to be a nuisance or injurious to health	\$50
4	7(6)	Cat in any food premises or public place.	\$50
5	8	Abandonment of cat	\$60
6	11	Setting an unlawful trap	\$50

Second Schedule

LOCAL LAW RELATING TO THE CONTROL OF CATS

Shire of Ashburton

INFRINGEMENT NOTICE

No:.....

Date:/...../.....

To:....., of.....

It is alleged that on the.....day of.....19..... you committed an offence that you—

You may dispose of this matter—

- (1) By payment of a penalty of \$..... within twenty-eight days of this Notice at any Shire office or;
- (2) By having it dealt with by a Court.

If this modified penalty is not paid within the time specified, Court proceedings may be taken against you.

.....
Name of Authorised Person

.....
Signature of Authorised Person

Third Schedule
 LOCAL LAW RELATING TO THE CONTROL OF CATS
Shire of Ashburton
WITHDRAWAL OF INFRINGEMENT NOTICE

No:.....

Date:/...../.....

To:....., of.....

Infringement Notice No:....., dated/...../..... for.....

with a penalty of \$..... is hereby withdrawn.

No further action will be taken / It is proposed to institute Court proceedings for the alleged offence (delete which is not applicable).

.....
Name of Authorised Person

.....
Signature of Authorised Person

.....
Chief Executive Officer

Fourth Schedule
 LOCAL LAW RELATING TO THE CONTROL OF CATS
Shire of Ashburton
APPLICATION TO KEEP MORE THAN TWO CATS

I/We
(Full Name)

of.....
(Postal Address)

hereby make application to keep more than two (2) cats in accordance with clause 6(1) of the Local Law relating to the Control of Cats at:

.....
(Property Address)

for (give details of all cats proposed to be kept on the above mentioned premises)

No.	Breed	Sex	Colour	Name	Age
1					
2					
3					

It is necessary for me to keep more than two (2) cats because:

.....
.....

DATED this.....day of.....

.....
Signature of Applicant(s)

Dated this 19 day of May 1998.

The Common Seal of the Shire of Ashburton was hereunto affixed in the presence of—

BRIAN HAYES, President.
DAVID CAREY, Chief Executive Officer