



Indian Ocean Territories Government Gazette

Territory of Christmas Island

Territory of Cocos (Keeling) Islands

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LOCAL GOVERNMENT ACT 1995 (WA)(CI)

SHIRE OF CHRISTMAS ISLAND

CATS LOCAL LAW 2010

Under the powers conferred by the *Local Government Act 1995 (WA)(CI)* and by all other powers, the Council of the Shire of Christmas Island resolved on 24 August 2010 to make the following local law.

PART 1.-PRELIMINARY

Citation

1.1 This local law may be cited as the *Shire of Christmas Island Cats Local Law 2010*.

Application

1.2 This local law applies throughout the district of the Shire of Christmas Island.

Objects

1.3 The objectives of this local law are to –

- (a) protect the iconic native fauna of Christmas Island;
- (b) promote responsible cat ownership;
- (c) control the number of cats kept on premises;
- (d) require all cats to have identification and be neutered;
- (e) reduce potential health risks (eg. Toxoplasmosis) and nuisance to the community caused by cats;
- (f) provide for the impounding and disposal of cats; and
- (g) prevent the introduction of new cats onto Christmas Island.

Definitions

1.4 In this local law unless the context otherwise requires —

“**Act**” means the *Local Government Act 1995 (WA)(CI)*;

“**applicant**” means the occupier of the premises who makes an application for an exemption under this local law;

“**authorised person**” means a person authorised by the local government to perform the functions conferred on an authorised person under this local law;

“**cat**” means a domestic cat of the species *Felis catus* and includes all domestic, feral and stray cats of that species;

“**cat prohibited area**” means an area of the district designated as a cat prohibited area under Part 5 of this local law;

“**cat boarding premises**” means any premises where a cat is boarded on behalf of the cat’s keeper;

“**CEO**” means the Chief Executive Officer of the Shire of Christmas Island;

“**Council**” means the Council of the Shire of Christmas Island;

“**district**” means the district of the local government;

“**identified cat**” means a cat, which is identified under clause 2.1(2);

“**keeper**” in relation to a cat means each of the following persons —

- (a) the owner of the cat;
- (b) a 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 her or his possession for the time being;
 - (e) a person who occupies any premises in which a cat is ordinarily kept or ordinarily permitted to live;
 - (f) a permit holder or the holder of an exemption issued in relation to a cat;
- “local government”** means the Shire of Christmas Island;
- “Minister”** means the Minister for Territories and Local Government;
- “neutering”** means, castration (removal of the testes) and salpingo-oophorectomy (removal of the ovaries and fallopian tubes), called “neutering” or “spaying” when applied to cats, used to reduce or eliminate sexual behaviour and to prevent conception;
- “permit”** means a permit issued by the local government in relation to the keeping of a cat;
- “permit holder”** means a person who holds a valid permit issued under this local law;
- “premises”** includes:
- (a) any land and any improvements; and
 - (b) any part of any building in separate ownership or separate occupation, or any unit, flat, townhouse, duplex or apartment;
- “public place”** means any place to which the public has access, and includes a place that is on private property, which the public is allowed to use;
- “unidentified cat”** means a cat, which is not identified under clause 2.1(2);
- “universal mark of de-sexing via neutering”** means the standard symbol, represented in Schedule 3, recognised throughout Australia as the indicator that a cat has been neutered;
- “veterinary surgeon”** means a veterinary surgeon registered under the *Veterinary Surgeons Act 1960 (WA)(CI)*; and
- “zoning”** means a zoning under the local planning scheme of the local government made under the *Planning and Development Act 2005(WA)(CI)*;

Repeal

1.5 The *Shire of Christmas Island Keeping and Control of Cats Local Law 2004* as published in the *Territory of Christmas Island Gazette* on 27 July 2007 is repealed.

PART 2.-IDENTIFYING CATS

Keeper of a cat shall identify it

2.1(1) The keeper of a cat shall identify the cat.

(2) A cat will be taken to be identified if the cat has –

- (a) a collar around its neck and the collar, or a tag securely attached to the collar, that is marked with information that may be used to obtain the current address or telephone number of a keeper of the cat; and
- (b) a microchip implanted in its body containing information that may be used to obtain the name of a keeper of the cat, the current address and telephone number of the keeper.

No interference with identification

2.2 A person, other than the keeper of a cat or a person acting with the keeper’s authority, shall not without reasonable cause interfere with or remove the means by which a cat is identified under clause 2.1(2).

Address of keeper for giving notice

2.3 For the purpose of giving a notice to a keeper of an identified cat, the keeper's address is to be taken to be that ascertained from the cat's collar or tag, and obtained from the microchip.

No marking of universal mark of de-sexing via neutering unless neutered

2.4 A person shall not tattoo, or cause to be tattooed, the universal mark of de-sexing via neutering on the inside of a cat's ear unless the cat has been neutered.

PART 3.-.PERMIT REQUIRED FOR KEEPING CATS

Cats not to be kept on any premises without a permit

3.1 (1) A person shall not, unless the provisions of sub-clause (2) apply, keep a cat on any premises except in accordance with a valid permit issued in relation to those premises.

(2) A permit is not required under subclause (1) if the premises concerned are –

- (a) an animal pound which has been approved by the local government;
- (b) a veterinary surgery or research facility established by the Commonwealth Government or the local government to conduct cat control research; or
- (c) the subject of an exemption granted by the local government.

Application for a permit to keep a cat

3.2 An application for any permit under this local law shall be –

- (a) made by an owner or occupier of the premises;
- (b) in a form approved by the local government;
- (c) accompanied by the consent in writing of the owner of the premises, where the occupier is not the owner of the premises to which the application relates; and
- (d) accompanied by any fee imposed and determined by the local government, in accordance with Section 6.16 to 6.19 of the Act.

Limitation on the number of cats

3.3 (1) With the exception of a permit granted for a cat boarding premises the local government shall not grant a permit for the keeping of more than two cats on any premises.

(2) Subject to sub-clause (3), the local government shall not grant a permit for the keeping of cats on any **premises within a designated cat prohibited area**.

(3) The local government may grant a permit for the keeping of a cat on premises within a designated cat prohibited area if the cat was being kept on the premises prior to the premises being designated.

Refusal to determine application

3.4 The local government may refuse to determine an application for any permit under this local law if it is not made in accordance with the provisions of clause 3.2.

Factors relevant to determination of application

3.5(1) In determining an application for any permit under this local law the local government may have regard to –

- (a) the physical suitability of the premises for the proposed use;

- (b) the suitability of the zoning of the premises for the proposed use;
 - (c) the structural suitability of any enclosure in which any cat is to be kept;
 - (d) the likely effect on the amenity of the surrounding area of the proposed use;
 - (e) the likely effect on the local environment including any pollution or other environment damage which may be caused by the proposed use;
 - (f) any submissions received under subclause (2) within the time specified in subclause (2); and
 - (g) such other factors which the local government may consider to be relevant in the circumstances of the particular application.
- (2) The local government may, before determining an application for a permit under this local law, require an applicant to –
- (a) consult with adjoining landowners or occupiers; and
 - (b) advise the adjoining landowners or occupiers that they may make submissions to the local government on the application for the permit within 14 days of receiving that advice.

Decision on application

- 3.6(1) The local government may –
- (a) approve an application for any permit under this local law subject to the conditions referred to in clause 3.7;
 - (b) approve the application for a permit to use a premises as a cat boarding premises subject to the conditions referred to in clause 4.2(1); or
 - (c) refuse to approve an application for any permit under this local law.
- (2) If the local government approves an application for any permit under this local law a permit shall be issued to the applicant in the form determined by the local government.
- (3) If the local government refuses to approve an application then it is to advise the applicant accordingly in writing.

Conditions

- 3.7(1) Every permit issued under this local law, unless otherwise specified by the local government, is issued subject to the following conditions –
- (a) each cat kept on the premises to which the permit relates shall be an identified cat;
 - (b) each cat on the premises, unless already so, shall be neutered within 12 months of the date of issue of the permit;
 - (c) the premises shall be maintained in good order and in a clean and sanitary condition;
 - (d) adequate space shall be provided on then premises for the exercise of the cats; and
 - (e) the permit holder shall not substitute or replace any cat once that cat -
 - (i) dies; or
 - (ii) is permanently removed from the premises,
 without first obtaining the consent of the local government.
- (2) A cat will be taken as neutered if –
- (a) it has been tattooed with the universal mark of de-sexing via neutering; or
 - (b) the keeper holds a certificate signed by a veterinary surgeon stating that the cat is or is considered to be neutered.

Duration of permit

- 3.8 Unless otherwise specified a permit issued for the keeping of cats on a premises as

required by clause 3.1(1) commences on the date of issue and is valid for a period not exceeding three (3) years;

Revocation of permit

3.9 The local government may revoke any permit issued under this local law if the permit holder fails to observe any provision of this local law or a condition of a permit.

Permit not transferable

3.10 Any permit issued under this local law is not transferable, either in relation to the permit holder or the premises.

PART 4 – CAT BOARDING PREMISES

Permit required for Cat Boarding Premises

4.1 The local government may grant a permit for the keeping of more than two cats on any premises not in a cat prohibited area if the purpose of the application is to use the premises as a cat boarding premises.

Additional conditions for Cat Boarding Premises

4.2(1) In addition to the conditions referred to in clause 3.7, every permit to use a premises as a cat boarding premises is issued subject to the following conditions –

- (a) each cat is to be confined within an enclosure on the premises at all times;
 - (b) the enclosure for the cats shall be structurally sound, have impervious flooring, be well lit and ventilated;
 - (c) the premises shall have a feed room, wash area and isolation cages;
 - (d) enclosures shall be thoroughly cleaned and disinfected at least once a week;
 - (e) materials used in structures are to be of a type approved by the local government;
 - (f) the internal surfaces of walls are, where possible to be smooth, free from cracks, crevices and other defects;
 - (g) all fixtures, fittings and appliances are to be capable of being easily cleaned, resistant to corrosion and constructed to prevent the harbourage of vermin;
 - (h) washing basins and running hot and cold water shall be available;
 - (i) the maximum number of cats to be kept on the premises;
- (2) The permit holder shall keep an entry book and record in respect of each cat the –
- (a) date of admission;
 - (b) date of departure;
 - (c) breed, age colour and sex; and
 - (e) name and residential address of the keeper;
- (3) The permit holder shall produce the entry book for inspection at the request of an authorised person.
- (4) A permit may be issued subject to such other conditions as the local government may consider appropriate.
- (5) A permit holder shall not contravene any conditions of a permit.

Duration of permit for cat boarding premises

4.3 Unless otherwise specified by the local government a permit issued in relation to a cat boarding premises has effect for a period of twelve (12) months from the date of issue.

PART 5 – CAT PROHIBITED AREAS

Designation of Cat Prohibited Area

5.1 The local government may designate land as a cat prohibited area by stating a description of the land in Schedule 4.

5.2 The local government, by resolution of the Council, may designate further areas as cat prohibited areas but shall not do so without first giving local public notice of its intention to designate land or an area as a cat prohibited area and considering any submissions received in response to the local public notice.

5.3 In designating land for the purpose of clause 5.1 the local government may have regard to the following matters in relation to the land –

- (a) that the land should preferably be greater than 1 hectare in area;
- (a) the proximity of the land to any other land that has been recognised by any authority as having fauna of significance to Christmas Island;
- (b) the nature of the fauna habitat on the land or any nearby public place;
- (c) whether there are any artificial or natural barriers between the land and the land described in paragraphs b) and c) above; and
- (d) such other matters which the local government considers relevant.

PART 6 - REMOVAL AND IMPOUNDING OF CATS

Act Regulates Removal and Impounding of Cats

6.1 The removal impounding and disposal of cats shall be in accordance with Subdivision 4 of Division 3 of Part 3 of the Act and Regulation 29 of the *Local Government (Functions and General) Regulations 1996*.

Identifying cats

The local law requires that the keeper of a cat shall identify the cat by a collar or a microchip

Impoundment of cats

6.2 An authorised person may –

- (a) pursue, seize, detain and impound a cat involved in contravention of Part 11;
- (b) unless a permit has been issued under clause 3.3(3), pursue, seize, detain and impound a cat that is in a designated cat prohibited area;
- (c) at any time enter upon either local government property or private property for the purpose of placing a trap to give effect to paragraphs a) and b) provided that no entry shall be made upon privately owned land without the prior authority of the owner or occupier of that land;
- (d) where a permit issued under this local law is revoked under clause 3.9, seize and impound any or all of the cats on the premises; and
- (e) during the term of a permit issued under this local law seize and impound any or all of the cats on the premises, if the authorised person suspects that a breach of the permit, or of any condition of the permit, has occurred.

Establishment of Cat Pounds

6.3 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.

6.4 The local government may determine from time to time –

- (a) the times when a cat pound will be open for the reception and release of cats; and
- (b) under sections 6.16 to 6.19 of the Act a scale of impounding fees to be paid on the release of impounded cats.

Register of Impounded Cats

6.5(1) The local government is to keep a record of impounded cats (the “Register”)

(2) The register is to contain the following information about each impounded cat –

- (a) the breed and sex of the cat;
- (b) the colour, distinguishing markings and features of the cat;
- (c) if known, the name and address of its keeper;
- (d) the date and time of its impoundment;
- (e) the name of the person who impounded the cat;
- (f) the reason for the impoundment;
- (g) the place from where it was impounded; and
- (h) the date of release or disposal.

No unauthorised release, breaking into or damage of pound

6.6 Unless the person is an authorised person, a person must not –

- (a) release or attempt to release a cat from a pound;
- (b) destroy, break into, damage or in any other way interfere or render not cat proof a pound;
- (c) destroy, break into, damage or in any other way interfere with any container used for the purpose of catching, holding or conveying cats; or
- (d) destroy, break into, damage or in any way interfere with any container or device used for the purpose of photographing, catching or feeding cats.

Dealing with impounded cats

6.7 Where a cat is impounded and the keeper of the cat can be readily identified, the authorised person shall cause written notice to be given to the keeper of the cat, advising that the cat may be claimed within a specified time and upon the payment of a specified fee.

6.8 The payment of any fees by a keeper in the respect of the impounding and keeping of a cat does not relieve the keeper of any liability to a penalty for an offence against any provisions of this local law.

6.9 Where –

- (a) a keeper wishes to reclaim a cat within the period stated in the notice of impounding; and
 - (b) a permit is required for the keeping of the cat,
- the cat shall not be released until such permit is obtained.

Destruction of impounded cat because of disease

6.10(1) Subject to sub-clause (2) where an impounded cat is diseased, emaciated, injured or sick, the local government may destroy the cat, upon written authority of the CEO.

(2) Where an identified cat is diseased, emaciated or sick, the local government shall take all reasonable steps to notify the keeper of the cat of its condition, prior to destruction under sub-clause (1), unless the condition of the cat is such that it should be destroyed immediately.

Disposal of unclaimed impounded cat

6.11 Where either an unidentified cat; or an identified cat is impounded and it is not claimed within seven (7) days of it being impounded, the local government may –

- (a) cause the cat to be destroyed; or
- (b) cause the cat to be re-housed.

PART 7 - ABANDONMENT OF CATS

No abandonment

7.1 A person shall not abandon a cat.

Delivery to an authorised person not abandonment

7.2 A person who delivers a cat into the custody of an authorised person is to be taken not to have abandoned the cat.

PART 8 – MISCELLANEOUS

8.1 A notice given under this local law may be given –

- (a) personally to the keeper of the cat;
- (b) by registered mail addressed to the keeper;
- (c) by leaving it for the keeper at his address; or
- (d) by attaching it on some conspicuous part of the premises on or in which the cat is ordinarily kept or permitted to live.

PART 9 - EVIDENCE

Averment that a person is a keeper

9.1 In proceedings for any offence against any provision of this local law an averment in the complaint that at a specified time a person was a keeper of the cat is evidence of the fact in the absence of proof to the contrary.

PART 10 - OBJECTIONS AND APPEALS

Objection and appeal rights

10.1 Any person who is aggrieved –

- (a) by the conditions imposed in relation to a permit, the revocation of a permit, or by the refusal of the local government to grant a permit may lodge an objection to the decision with the Council.
- (b) by the conditions imposed in relation to a permit, the revocation of a permit or by the refusal of the local government to grant a permit, and where that decision adversely affects the business or livelihood of the appellant, they may

in the prescribed manner and in the prescribed time appeal against the decision to the local court or the Minister, as the appellant elects.

PART 11 - OFFENCES AND PENALTIES

Division 1 – General

Offences

11.1 A cat shall not be in a public place unless –

- (a) it is held by a person over the age of 18 years; or
- (b) it is securely tethered or contained in a receptacle; or
- (c) it is in a motor vehicle.

11.2 If a cat is at any time in a public place in contravention of this provision, every keeper of the cat commits an offence unless the person satisfies the Court that he or she took all reasonable precautions and exercised all due diligence to avoid the contravention or in the case of a keeper that at the material time, the cat was in the possession or control of some other person without the consent of the keeper, expressed or implied.

11.3 A cat shall not be in any place that is not a public place unless consent to its being there has been given –

- a) by the occupier or a person apparently authorised to consent on behalf of the occupier; or
- b) if the place is unoccupied by the owner or a person apparently authorised to consent on behalf of the owner.

11.4 If a cat is at any time in a cat prohibited area and a permit has not been issued under clause 3.3(3), the keeper of the cat commits an offence.

11.5 The permit holder who fails to comply with a condition of a permit commits an offence.

11.6 Any person who contravenes or fails to comply with a provision of this local law commits an offence and shall upon conviction be liable to a penalty not exceeding \$5,000.00, and if the offence is of a continuing nature, an additional penalty not exceeding \$500.00 for each day or part of the day during which the offence continues.

Division 2 – Infringement notices and modified penalties

Prescribed offences

11.7 The offences prescribed in Schedule 1 are in relation to which a modified penalty applies, and the amount appearing directly opposite each such offence is the modified penalty payable in relation to that offence.

Forms

11.8(1) Where an authorised person has reason to believe that a person has committed an offence against this local law he or she may serve upon that person an Infringement Notice and the Infringement Notice issued under this local law shall be in the form of Form 1 of Schedule 2.

(2) An Infringement Notice may be served on an alleged offender personally or by

posting it to their last known address as ascertained at the time or immediately following the occurrence giving rise to the allegation of the offence.

(3) Where a person who has received an Infringement Notice fails to pay the prescribed penalty within the time specified in the notice, or within such time as may in any particular case be allowed, they are deemed to have declined to have the alleged offence dealt with by way of a modified penalty.

(4) An Infringement Notice may, whether or not the prescribed penalty has been paid, be withdrawn by sending a notice in the prescribed form to the alleged offender at the address specified in the notice or his last known place of residence or business.

(5) The Notice of Withdrawal of Infringement Notice issued under this local law shall be in the form of Form 2 of Schedule 2.

SCHEDULE 1

Local Government Act 1995(WA)(CI)

Shire of Christmas Island

CATS LOCAL LAW 2010

MODIFIED PENALTIES

Item No.	Clause No.	Nature of Offence	Modified Penalty
1	2.1	Failure of a keeper to identify a cat	\$200
2	2.2	Interference with or removal of the identification of a cat	\$100
3	2.4	Marking cat with universal mark of de-sexing via neutering when cat not neutered.	\$200
4.	3.1(1)	Keeping a cat without a permit	\$200
5	4.1	Using a premises as a cat boarding premises without a permit	\$200
6	6.6(a)	Releasing or attempt to release a cat from a pound	\$200
7	6.6(b)	Destroy, break into, damage or in any other way interfere or render not cat proof a pound	\$200
8	6.6(c)	Destroy, break into, damage or in any other way interfere with any container used for the purpose of catching, holding or conveying cats	\$200
8	7.1	Abandonment of cat	\$200.
9	11.1	Cat in a public place	\$200
10	11.3	Cat in a place that is not a public place.	\$100
11	11.4	Cat in a cat prohibited area	\$250
12	11.5	Breach of a condition of permit	\$250.

SCHEDULE 2

Form 1

Local Government Act 1995 (WA)(CI)

Shire of Christmas Island

CATS LOCAL LAW 2010

INFRINGEMENT NOTICE

No.....

Date.../.../....

To (Name of alleged offender).....

It is alleged that at (place of alleged offence).....

on the.....day of.....20.....

you committed an offence in that you (particulars of alleged offence).....

.....

.....

.....

(to be signed by an authorised person).....

You may dispose of this matter —

by payment of a penalty of \$.....(insert amount of penalty) within 28 days of the date of this Notice to (insert address of office where payment may be made).....; or

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.

SCHEDULE 2

Form 2

Local Government Act 1995(WA)(CI)

Shire of Christmas Island

CATS LOCAL LAW 2010

NOTICE OF WITHDRAWAL OF INFRINGEMENT NOTICE

No.....

Date...../...../.....

To (Name of alleged offender).....

Infringement Notice No..... dated..... for the alleged
offence of (particulars of alleged offence).....

.....
.....
.....

Penalty (amount of penalty prescribed) \$.....is hereby withdrawn.

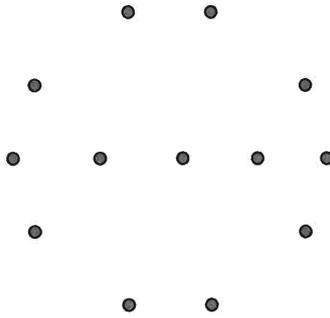
* No further action will be taken

* It is proposed to institute court proceedings for the alleged offence.

.....

(to be signed by an authorised person)

SCHEDULE 3



Universal Mark of De-sexing via Neutering

Date: 28 / 9 / 2010

The Common Seal of the Shire of Christmas Island was affixed under the authority of a resolution of the Council in the presence of –

Cr G. THOMSON, Shire President
K MATTHEWS, Chief Executive Officer



SCHEDULE 4

Local Government Act 1995(WA)(CI)

Shire of Christmas Island

CATS LOCAL LAW 2010

CAT PROHIBITED AREAS

Area 1

All land indicated as Cat Prohibited Area as shown on Map 1 of this schedule.

Map 1



200 0 200 400 Meters



Cat Prohibited Areas