

SECTION 249 LOCAL GOVERNMENT ACT 1999

CERTIFICATE OF VALIDITY

I, CIMON ANGELA BURKE of Level 6, 19 Gilles Street, Adelaide in the State of South Australia, being a legal practitioner within the meaning of the *Legal Practitioners Act 1981*, declare that I have examined the following by-law:

City of Whyalla

By-law No 6 – Cats By-Law 2021

A by-law to limit the number of cats kept on premises and for the management and control of cats in the Council's area;

and do certify that in my opinion:

City of Whyalla

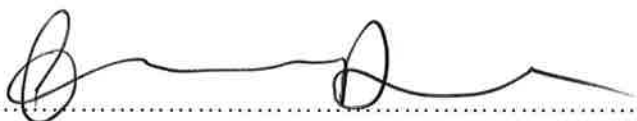
has the power to make the by-law by virtue of the following statutory provisions:

Local Government Act 1999: sections 238, 246(1), 246(2), 246(3)(a), 246(3)(c), and 246(3)(f); and

Dog and Cat Management Act 1995: section 90;

and the by-law is not in conflict with the *Local Government Act 1999*.

DATED the 12 day of August 2021



Cimon Burke, Legal Practitioner

CITY OF WHYALLA**CATS BY-LAW 2021****By-law No. 6 of 2021**

A By-law to limit the number of cats kept on premises and for the management and control of cats in the Council's area.

PART 1 – PRELIMINARY**1. Title**

This By-law may be cited as the *Cats By-law 2021* and is By-law No. 6 of the City of Whyalla.

2. Authorising law

This By-law is made under section 90(5) of the *Dog and Cat Management Act 1995* and section 246 of the *Local Government Act 1999*.

3. Purpose

The objects of this By-law are to control and manage cats in the Council area:

- 3.1 to promote responsible cat ownership;
- 3.2 to reduce the incidence of the public and environmental nuisance caused by cats;
- 3.3 to protect the comfort and safety of members of the public; and
- 3.4 for the good rule and government of the Council area.

4. Commencement, revocation and expiry

- 4.1 The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation:¹

*By-law No 6 – Cats 2014.*²

- 4.2 This By-law will expire on 1 January 2029.³

Note-

- 1. Generally, a By-law comes into operation 4 months after the day on which it is gazetted section 249(5) of the Act.
- 2. Section 253 of the Act provides that the revocation of a By-law by another By-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a By-law to a part or parts of the Council area.
- 3. Pursuant to section 251 of the Act, a By-law will expire on 1 January following the seventh anniversary of the gazettal of the By-law.

5. Application

5.1 This By-law operates subject to the Council's *Permits and Penalties By-law 2021*.

5.2 This By-law applies throughout the Council's area.

6. Interpretation

In this By-law, unless the contrary intention appears;

6.1 **Act** means the *Local Government Act 1999*;

6.2 **approved cattery** means a building, structure, premises or area approved by the relevant authority pursuant to the *Planning, Development and Infrastructure Act 2016* for the keeping of cats on a temporary or permanent basis or, for use in connection with a business involving the keeping of cats, that is operating in the accordance with all approvals;

6.3 except for in clauses 8 and 9, **cat** means an animal of the species *felis catus*, which is three months of age or that has lost its juvenile canine teeth;

6.4 **Council** means the City of Whyalla;

6.5 **effective control by means of physical restraint** means

6.5.1 a person is exercising effective control of a cat by means of a chain, cord or leash that does not exceed 2 metres in length restraining the cat; or

6.5.2 a person has effectively secured the cat by placing it in a cage, vehicle or other object or structure;

6.6 **keep** includes the provision of food or shelter;

6.7 for the purposes of clause 8, a cat (or cats) causes a **nuisance** if it:

6.7.1 unreasonably interferes with the peace, comfort or convenience of a person, including but not limited to by displaying aggressive nature or creating unpleasant noise or odour; or

6.7.2 damages or otherwise has an adverse impact upon native flora or fauna; or

6.7.3 acts in a manner that is injurious or causes damage to a person's real or personal property; or

6.7.4 wanders onto premises without the consent of the owner or occupier of the premises; or

6.7.5 defecates or urinates on premises without the consent of the owner or occupier of the premises;

6.8 **owner** of a cat has the same meaning as in section 5 of the *Dog and Cat Management Act 1995*;

6.9 **premises** includes any land (whether used or occupied for domestic or non-domestic purposes) and any part thereof; and

- 6.10 the **person responsible for the control of a cat** has the same meaning as in section 6 of the *Dog and Cat Management Act 1995*.

Note-

Section 14 of the *Acts Interpretation Act 1915* provides that an expression used in this By-law has, unless the contrary intention appears, the same meaning as in the Acts under which the By-law is made.

PART 2 – LIMITS ON CAT NUMBERS

7. Limits on cat numbers

- 7.1 Subject to this clause 7, a person must not, without the Council's permission, keep, or cause suffer or permit to be kept, more than two (2) cats on any premises.
- 7.2 Subclause 7.1 does not apply to premises comprising an approved cattery.
- 7.3 The Council may require that premises that are the subject of an application for permission to keep additional cats, must be inspected by an authorised person for the purpose of assessing the suitability of the premises for housing cats.
- 7.4 Permission under subclause 7.3 may be given if the Council is satisfied that:
- 7.4.1 no insanitary condition exists or is likely to arise on the premises as a result of the keeping of cats; and
- 7.4.2 a nuisance is not or is not likely to be caused to any neighbour as a result of the keeping of cats on the premises.

PART 3 –CAT CONTROLS

8. Cats not to be a nuisance

- 8.1 An owner or occupier of premises is guilty of an offence if a cat (or cats) kept or allowed to remain on the premises causes a nuisance.
- 8.2 Without limiting liability under clause 8.1, the owner of or person responsible for the control of a cat is guilty of an offence under this By-law if the cat causes a nuisance.
- 8.3 For the purposes of this subclause 8, **cat** means an animal of the species *felis catus* (of any age).

9. Effective confinement of cats

- 9.1 The owner or person responsible for the control of a cat must ensure that the cat is effectively confined to the premises occupied by that person between the hours of 10:00pm and 6:00am each day unless the cat is under effective control by means of physical restraint.
- 9.2 For the purposes of this subclause 9, **cat** means an animal of the species *felis catus* (of any age).

10. Registration of cats

- 10.1 A person must not keep a cat in the Council's area for more than 14 days unless the cat is registered in accordance with this By-law.

- 10.2 An application for registration of a cat must:
- 10.2.1 be made to the Council in the manner and form prescribed by Council (if any); and
 - 10.2.2 be accompanied by the fee (if any) prescribed by the Council; and
 - 10.2.3 nominate a person of or over sixteen (16) years of age who consents to the cat being registered in his or her name; and
 - 10.2.4 identify with reference to an address the premises at which the cat is kept; and
 - 10.2.5 otherwise comply with any other requirements determined by the Council.
- 10.3 Registration under this By-law remains in force until the next 30 June following the grant of registration and may be renewed from time to time for further periods of up to twelve (12) months.

PART 3 – EXEMPTIONS

11. Council may grant exemptions

- 11.1 The Council may, by notice in writing, on application or on its own initiative, exempt a person (or a class of persons) from the operation of a specified provision of this By-law.
- 11.2 An exemption—
- 11.2.1 may be granted or refused at the discretion of the Council;
 - 11.2.2 may operate indefinitely or for a period specified in the instrument of exemption; and
 - 11.2.3 is subject to any conditions specified in the instrument of exemption.
- 11.3 The Council may, by notice in writing, vary, revoke or add a condition of an exemption.
- 11.4 The Council may, in its discretion, revoke an exemption for a contravention of a condition of the exemption, or for any other reason it thinks fit.

PART 4 – ENFORCEMENT

12. Orders

- 12.1 If a person engages in conduct that is a contravention of this By-law, an authorised person may order that person:
- 12.1.1 if the conduct is still continuing – to stop the conduct; and
 - 12.1.2 whether or not the conduct is still continuing – to take specified action to remedy the contravention.
- 12.2 A person must comply with an order under this clause.

- 12.3 If a person does not comply with an order, the authorised person may take the action reasonably required to have the order carried out, and the Council may seek to recover its costs of any action so taken from the person to whom the order was directed.
- 12.4 However, an authorised person may not use force against a person under this section.

Note-

For example, an authorised person may order a person to:

- cease keeping more than the permitted number of cats on that person's premises; or
- take the necessary steps to mitigate a nuisance caused by howling cats.

This By-law was duly made and passed at a meeting of the City of Whyalla held on **16 August 2021** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.



JUSTIN COMMONS
Chief Executive Officer

16 August 2021