

**CITY OF MITCHAM****CATS BY-LAW 2022****By-law No. 6 of 2022**

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.

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PART 1 – PRELIMINARY

1. Title

This By-law may be cited as the *Cats By-law 2022* and is By-law No. 6 of the City of Mitcham.

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 Act.

3. Purpose

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

- 3.1 to promote responsible cat ownership;
- 3.2 to reduce the incidence of 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's area.

4. Commencement and Expiry

This By-law will commence in accordance with the Act¹ and will expire on 1 January 2030².

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. 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 2022*.
- 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 except for the purposes of clauses 8 and 9, **cat** means an animal of the species *felis catus* which is three (3) months of age, or has lost its juvenile canine teeth;
- 6.3 **Council** means the City of Mitcham;
- 6.4 **keep** includes the provision of food or shelter;
- 6.5 for the purposes of clause 8, a cat (or cats) causes a **nuisance** if it:

- 6.5.1 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;
- 6.5.2 damages or otherwise has an adverse impact upon native flora or fauna;
- 6.5.3 acts in a manner that is injurious or causes damage to a person's real or personal property;
- 6.5.4 wanders onto premises without the consent of the owner or occupier of the premises; or
- 6.5.5 defecates or urinates on premises without the consent of the owner or occupier of the premises;
- 6.6 **owner** of a cat has the same meaning as in section 5 of the *Dog and Cat Management Act 1995*;
- 6.7 **premises** includes any land (whether used or occupied for domestic or non-domestic purposes) and any part thereof; and
- 6.8 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 12 of the *Legislation Interpretation Act 2021* 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 The limit prescribed by subclause 7.1 does not apply to premises comprising a business involving the keeping of cats provided that the business is operating in accordance with all required approvals and consents.
- 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 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 As and from 1 January 2024, the owner or person responsible for the control of a cat must take steps to ensure that the cat is confined at all times to the premises occupied by that person unless:
- 9.1.1 the cat is in the presence of and in close proximity to the owner or person responsible for its control; and
- 9.1.2 is under effective supervision or control by that person such that it is not creating a nuisance.

Note-

By way of example, a cat will be under effective supervision or control if, without limitation, it is being transported from premises in a suitable enclosure from which it cannot escape, is being held or in close proximity to the person so it can be picked up or, is being exercised on a leash or similar.

- 9.2 For the purposes of this subclause 9, **cat** means an animal of the species *felis catus* (of any age).
- 9.3 Subclause 9.1 does not apply to any cat that was born before 1 January 2024 provided that:
- 9.3.1 the cat is registered with the Council and was registered with the Council on 1 January 2024; and
- 9.3.2 evidence of the cat's age that is satisfactory to an authorised person (acting reasonably) is provided to the Council.

10. Registration of Cats

- 10.1 A person must not keep or cause, suffer or permit to be kept, a cat in the Council's area for more than fourteen (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);
- 10.2.2 be accompanied by the fee (if any) prescribed by the Council;

- 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;
 - 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 Subclause 10.1 does not apply to a person operating a business involving the keeping of cats provided that the business is operating in accordance with all required approvals and consents.
- 10.4 Registration under this By-law remains in force until 30 June next year following the grant of registration and may be renewed from time to time for further periods of up to twelve (12) months.

PART 4 – 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 5 – 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 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 or wandering cats.

This By-law was duly made and passed at a meeting of the City of Mitcham held on **9 August 2022** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.



MATTHEW PEARS
Chief Executive Officer