By-law made under the Local Government Act 1999
and the Dog and Cat Management Act 1995

CATS (CONFINEMENT) VARIATION BY-LAW 2019

City of Marion By-law No. 7

To vary the Council's *Cats By-law 2014* and for related purposes.

Part 1 - Preliminary

1. **Short title**

This by-law may be cited as the *Cats (Confinement) Variation By-law 2019*.

2. **Commencement**

This by-law will come into operation four months after the day on which it is published in the *Gazette* in accordance with Section 249(5) of the *Local Government Act 1999*.

3. **Variation provisions**

In this by-law, a provision under a heading referring to the variation of a specified by-law varies the by-law so specified.

Part 2 - Variation to *Cats By-law 2014*

4. **Variation of Paragraph 3**

4.1 Paragraph 3.1 – delete the paragraph and substitute:

'3.1 **authorised person** has the same meaning as in the *Dog and Cat Management Act 1995*;'

4.2 After paragraph 3.4 insert:

'3.4A **effective control by means of physical restraint** for the purposes of paragraph 3.10 means:

3.4A.1 the person is exercising effective control of the cat by means of a chain, cord or leash that does not exceed 2 metres in length restraining the cat;

3.4A.2 the person has effectively secured the cat:

3.4A.2.1 by placing it in a cage, vehicle or other object or structure; or

3.4A.2.2 by tethering it to a fixed object by means of a chain, cord or leash that does not exceed 2 metres in length;

4.2 Paragraph 3.7.2 after the word 'land' delete '.' and substitute ';'

4.3 After paragraph 3.7 insert:

'3.8 **prescribed premises** means:

3.8.1 a cattery;

3.8.2 a veterinary practice;

3.8.3 a pet shop; or

3.8.4 any premises for which the Council has granted an exemption;

3.9 **public notice** has the same meaning as in Section 4(1aa) of the *Local Government Act 1999*;

3.10 **wander at large** means the cat is in a public place or a private place without the consent of the occupier, and no person is exercising effective control of the cat by means of physical restraint.'

5. **Variation of Paragraphs 6 and 7**

Paragraphs 6 and 7 - delete the paragraphs and substitute:

'6. **Cats not to Wander at Large**

6.1 A person who owns or is responsible for the control of a cat must not allow the cat to wander at large.

6.2 A person is not guilty of an offence by reason of the fact that a cat is wandering at large if the cat is wandering at large:

6.2.1 within a designated span of hours;

6.2.2 within a designated area.

6.3 In this paragraph:

6.3.1 **designated span of hours** means the span or spans of hours determined by the Council, by resolution, when the requirements of this paragraph will not apply;

6.3.2 **designated area** means a part or parts of the Council that the Council may, by resolution, determine that the requirements of this paragraph will not apply.

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7. **Identification of Cats**

7.1 Every cat must be identified in the prescribed manner at all times while the cat is not effectively confined to premises of which the owner of the cat is the occupier.

7.2 If a cat is not identified in the prescribed manner required by paragraph 7.1 any person who owns or is responsible for the control of the cat is guilty of an offence.

7.3 A person is not guilty of an offence by reason of the fact that the cat is not identified in the prescribed manner if:

7.3.1 the cat:

7.3.1.1 is travelling with the person; and

7.3.1.2 is not usually kept within the area of the Council; or

7.3.2 the person is responsible for the control of the cat only by reason of the cat being kept, for business purposes, at prescribed premises; or

7.3.3 the Council has granted the owner of the cat an exemption from the requirements of this paragraph.

7.4 For the purposes of this paragraph, the **prescribed manner** in which a cat is to be identified at all times while the cat is not effectively confined to premises of which the owner of the cat is the occupier is by means of a collar around its neck to which a tag is attached legibly setting out:

7.4.2.1 the name of the owner of the cat, or of a person entitled to possession of the cat; and

7.4.2.2 either:

(a) the address of the owner or other person; or

(b) the telephone number of the owner or other person.'

6. **Variation of Paragraph 8**

Paragraph 8.3 – delete the words 'cat management officer' and substitute: 'authorised person'.

7. **Insertion of Paragraphs 11 and 12**

After paragraph 10 insert:

'11. **Seizure, Detention and Destruction of Cats**

11.1 An authorised person may seize and detain a cat in any of the following circumstances:

11.1.1 the cat is wandering at large in circumstances that would constitute an offence against this By-law;

11.1.2 the cat is found on local government land to which paragraph 5 of this By-law applies and the owner or person responsible for control of the cat:

11.1.2.1 cannot immediately be located; or

11.1.2.2 refuses or fails to comply with a direction of the authorised person to remove the cat from the land.

11.2 If an unidentified cat is seized under this paragraph, it may be lawfully disposed of, destroyed or injured by the authorised person.

11.3 If an identified cat is seized under this paragraph:

11.3.1 the provisions of Section 61(1)-(3) of the *Dog and Cat Management Act 1995* apply to the cat as if it were a dog seized under Section 60 of the *Dog and Cat Management Act 1995*; and

11.3.2 the cat may be destroyed or otherwise disposed of by an authorised person if:

11.3.2.1 the cat is not claimed by a person entitled to the return of the cat within 72 hours from when notice of its detention is given under this By-law;

11.3.2.2 a person who owns the cat declines to take possession of the cat; or

11.3.2.3. all fees incurred by the Council in seizing and detaining the cat are not paid within 7 days after a request for payment.

11.4 Despite any other provision of this By-law, an authorised person may cause a cat detained under this By-law to be destroyed if the circumstances in Section 62(3) of the *Dog and Cat Management Act 1995* arise with respect to the cat, as if it were a dog detained under Section 60 of the *Dog and Cat Management Act 1995*.

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12. **Requirement to Publish Determinations**

If the Council makes a determination under paragraph 6 of this by-law, the Council must give public notice of the making of that determination.'

The foregoing by-law was duly made and passed at a meeting of the Corporation of the City of Marion held on 2019 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

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Mr Adrian Skull
Chief Executive Officer

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