

CITY OF PORT ADELAIDE ENFIELD
BY-LAW MADE UNDER THE LOCAL GOVERNMENT ACT 1999
By-law No. 4 of 2015—Roads

A by-law to manage, control and regulate certain activities on roads in the Council's area.

PART 1—PRELIMINARY

1. *Title*

This by-law may be cited as the Roads By-law 2015 and is By-law No. 4 of the City of Port Adelaide Enfield.

2. *Authorising Law*

This by-law is made under Sections 239 and 246 of the Act, Regulation 28 of the Local Government (General) Regulations 2013, and Sections 667 (1), 4.I, 5.VII, 7.II and 9.XVI of the Local Government Act 1934.

3. *Purpose*

The objectives of this by-law are to manage, control and regulate certain activities on roads in the Council's area:

- 3.1 to protect the convenience, comfort and safety of road users and members of the public;
- 3.2 to prevent damage to buildings and structures on roads;
- 3.3 to prevent certain nuisances occurring on roads; 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 operation¹:

4.1.1 By-law No. 4—Roads.²

4.2 This by-law will expire on 1 January 2023.³

Note:

¹ Generally a by-law comes into operation four 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 2015.

5.2 This by-law applies throughout the Council area.

6. *Interpretation*

In this by-law, unless the contrary intention appears:

6.1 *Act* means the Local Government Act 1999;

6.2 *animal* includes birds, insects and poultry but does not include a dog;

6.3 *authorised person* means a person appointed as an authorised person pursuant to Section 260 of the Act;

6.4 *camp* includes:

6.4.1 setting up a camp, tent or other structure of calico, canvas, plastic or other similar material on a road; or

6.4.2 subject to the Road Traffic Act 1961, causing a caravan or motor home to remain on a road overnight, whether or not any person is in attendance or sleeps on the road or intends to stay overnight;

6.5 *Council* means the City of Port Adelaide Enfield;

6.6 *effective control* means a person exercising effective control of an animal either:

6.6.1 by means of a physical restraint; or

6.6.2 by command, the animal being in close proximity to the person, and the person being able to see the animal at all times;

6.7 *electoral matter* has the same meaning as in the Electoral Act 1985, provided that such electoral matter is not capable of causing physical damage or injury to a person within its immediate vicinity;

6.8 *emergency worker* has the same meaning as in the Road Traffic (Road Rules—Ancillary and Miscellaneous Provisions) Regulations 2014;

6.9 *road* has the same meaning as in the Act; and

6.10 *vehicle* has the same meaning as in the Road Traffic Act 1961.

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 was made.

PART 2—USE OF ROADS

7. Activities Requiring Permission

A person must not do any of the following activities on a road without the permission of the Council:

7.1 Amplification

Use an amplifier or other mechanical or electrical device for the purpose of broadcasting sound, or magnifying sound, to an audience, including the broadcasting of announcements or advertisements.

7.2 Animals

7.2.1 Cause or allow an animal to stray onto, move over, or graze on a road except where the Council has set aside a track or other area for use by or in connection with an animal of that kind, and provided the animal or animals are under effective control.

7.2.2 Lead, herd or exercise an animal in such a manner as to cause a nuisance or endanger the safety of a person.

7.3 Camping and Tents

Camp, sleep or otherwise remain overnight whether or not the person is in a tent, motor home or caravan other than in an area (or areas) to which the Council has resolved this Clause applies (if any).

7.4 Obstructions

Erect, install or place or cause to be erected, installed or placed any structure, object or material of any kind so as to obstruct a road, footway, water-channel, or watercourse in a road.

7.5 Posting of Bills

Subject to Clause 11.2, post or allow or cause to be posted any bills, advertisements, or other papers or items on a building, object or structure on a road.

7.6 Preaching

Preach, harangue, solicit or canvas for religious purposes.

7.7 Public Exhibitions and Displays

7.7.1 Sing, busk, play a recording or instrument, or perform similar activities;

7.7.2 Conduct or hold a concert, festival, show, circus, performance or a similar activity;

7.7.3 Erect a stage or structure for the purpose of conducting or holding a concert, festival, show, circus, performance or a similar activity;

7.7.4 Cause any public exhibitions or displays;

7.7.5 Undertake filming for a commercial purpose.

7.8 *Soliciting*

Ask for or receive or indicate a desire for a donation of money or any other thing.

7.9 *Vehicles*

Repair, wash, paint, panel beat or perform other work of a similar nature to a vehicle, except for running repairs in the case of a vehicle breakdown.

Note:

Moveable signs on roads are regulated by Sections 226 and 227 of the Act and the Council's Moveable Signs By-law.

PART 3—ENFORCEMENT

8. *Directions*

A person who, in the opinion of an authorised person is committing or has committed a breach of this by-law, must immediately comply with a direction of an authorised person to leave that part of the road.

9. *Orders*

If a person does not comply with an order of an authorised person made pursuant to Section 262 of the Act in respect of a breach of this by-law, the Council may seek to recover its costs of any action taken under Section 262 (3) of the Act from the person to whom the order was directed.

Note:

Section 262 (1) of the Act states:

- (1) If a person (the offender) engages in conduct that is a contravention of this Act or a by-law under this Act, an authorised person may order the offender:
- (a) if the conduct is still continuing—to stop the conduct; and
 - (b) whether or not the conduct is still continuing—to take specified action to remedy the contravention.

Subsections (2) and (3) of Section 262 also provide that it is an offence to fail to comply with an order and that if a person does not comply, the authorised person may take action reasonably required to have the order carried out. For example, an authorised person may order a person to:

- cease busking on a road;
- remove an object or structure blocking a footpath;
- remove bills posted on a structure on a road; and

- dismantle and remove a tent from a road.

10. *Removal of Animals and Objects*

An authorised person may remove or cause to have removed an animal or object that is on a road in breach of a by-law if no person is in charge, or apparently in charge, of the animal or object.

PART 4—MISCELLANEOUS

11. *Exemptions*

11.1 The restrictions in this by-law do not apply to a Police Officer, Emergency Worker, Council officer or employee acting in the course and within the scope of that person's normal duties, or to a Contractor while performing work for the Council and while acting under the supervision of a Council officer.

11.2 The restrictions in Clause 7.5 of this by-law do not apply to electoral matter authorised by a candidate and which is:

11.2.1 related to a Commonwealth or State election and occurs during the period commencing on the issue of the writ or writs for the election and ending at the close of polls on polling day; or

11.2.2 related to an election under the Act or the Local Government (Elections) Act 1999 and occurs during the period commencing four weeks immediately before the date that has been set (either by or under either Act) for polling day and ending at the close of voting on polling day; or

11.2.3 related to, and occurs during the course of and for the purpose of a referendum.

This by-law was duly made and passed at a meeting of the City of Port Adelaide Enfield held on 14 July 2015, by an absolute majority of the members for the time being constituting the Council, there being at least two-thirds of the members present.

M. WITHERS, Chief Executive Officer
