

CITY OF PORT ADELAIDE ENFIELD
BY-LAW MADE UNDER THE DOG AND CAT MANAGEMENT ACT 1995 AND THE LOCAL
GOVERNMENT ACT 1999

By-law No. 5 of 2015—Dogs

A Dog and Cat Management Act 1995 by-law to limit the number of dogs kept on premises and for the management and control of dogs in the Council's area.

PART 1—PRELIMINARY

1. *Title*

This by-law may be cited as the Dog By-law 2015 and is By-law No. 5 of the City of Port Adelaide Enfield.

2. *Authorising Law*

This by-law is made under Section 90 (5) of the Dog and Cat Management Act 1995, Sections 238 and 246 of the Act, and Sections 667 (1) 9.XVI of the Local Government Act 1934.

3. *Purpose*

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

- 3.1 to protect the convenience, comfort and safety of members of the public;
- 3.2 to reduce the incidence of environmental nuisance caused by dogs;
- 3.3 to promote responsible dog ownership; 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. 5—Dogs.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 Subject to Clauses 5.3, this by-law applies throughout the Council area.

5.3 Clauses 9.1.1 and 11.1.2 of this by-law only apply in such part or parts of the Council area as the Council may, by resolution direct in accordance with Section 246 (3) (e) of the Act.

6. *Interpretation*

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

6.1 *Act* means the Local Government Act 1999;

6.2 *approved kennel establishment* means a building, structure or area approved by a relevant authority, pursuant to the Development Act 1993 for the keeping of dogs on a temporary or permanent basis;

6.3 *assistance dog* means a dog trained and used for the purpose of assisting a person who is wholly or partially disabled;

6.4 *children's playground* means an enclosed area in which there is equipment or other installed devices for the purpose of children's play (or within 3 metres of such devices if there is no enclosed area);

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

6.6 *dog* (except as indicated in Clause 7.2) has the same meaning as in the Dog and Cat Management Act 1995;

6.7 *effective control* means a person exercising effective control of a dog either:

6.7.1 by means of a physical restraint; or

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

6.8 *foreshore* means land extending from the low water mark on the seashore in the Council's area to the nearest road or section boundary, or for a distance of 50 metres from the high water mark (whichever is the lesser);

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

6.10 *park* means a park, garden, reserve or other similar public open space or foreshore within the area of the Council; and

6.11 *premises* includes land, whether used or occupied for domestic or non-domestic purposes, except an approved kennel establishment.

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-laws was made.

PART 2—LIMITS ON DOG NUMBERS

7. *Limits on Dog Numbers in Private Premises*

7.1 Subject to Clauses 7.2 and 7.3, a person must not, without Council permission, keep more than two dogs on any premises.

7.2. For the purposes of Clause 7.1, 'dog' means a dog that is three months of age or older or, a dog that has lost its juvenile teeth.

7.3. Clause 7.1 does not apply to:

7.3.1 approved kennel establishments operating in accordance with all required approvals and consents; or

7.3.2 any business involving the keeping of dogs provided that the business is registered in accordance with the Dog and Cat Management Act 1995 and operating in accordance with all required approvals and consents.

7.4 An application for permission to keep an additional dog must be in the form determined by the Council and be accompanied by information regarding:

7.4.1 the type and size of the property on which it is proposed to keep the dogs;

7.4.2 the manner in which it is proposed that the dogs will be contained; and

7.4.3 any other information that the Council requires to ensure proper consideration of the application.

7.5 Any premises which is the subject of an application for permission to keep additional dogs must be inspected by an authorised person (before the application is determined) for the purpose of assessing the suitability of the premises for housing dogs.

7.6 No dog is to be kept on any premises where, in the opinion of an authorised person, there is no secure or appropriate area where a dog may be effectively confined.

PART 3—DOG CONTROLS

8. *Dog Exercise Areas*

8.1 Subject to Clauses 9, 10 and 11 of this by-law, a person may enter a park for the purpose of exercising a dog under his or her effective control.

8.2 Any person entering a park for the purposes of exercising a dog must ensure that any dog under that person's control, charge or authority is under effective control at all times.

Note:

If a person is exercising a dog in a park as permitted under this clause and the dog is not under effective control, this gives rise to a dog wandering at large offence under Section 43 (1) of the Dog and Cat Management Act 1995, for which the owner of or person responsible for the dog may be liable.

9. Dog on Leash Areas

9.1 A person must not, without the Council's permission, allow a dog under that person's control, charge or authority (except an assistance dog that is required to remain off-lead in order to fulfil its functions) to be or remain:

9.1.1 on Local Government land or public place to which the Council has resolved that this sub-clause applies; and

9.1.2 on any park or reserve during times when organised sport is being played,

unless the dog is secured by a strong leash not exceeding two metres in length which is either tethered securely to a fixed object capable of securing the dog or held by a person capable of controlling the dog and preventing it from being a nuisance or a danger to other persons.

10. Dogs on Foreshore

Subject to Clause 11, between the hours of 10 a.m. and 8 p.m. on any day during the period of daylight savings, a person must not cause or permit any dog under that person's control, charge or authority (except an assistance dog that is required to remain off-lead in order to fulfil its functions) to be or remain on the foreshore, unless the dog is restrained by a strong leash not exceeding two metres in length, and either tethered securely to a fixed object, or held by a person capable of controlling the dog and preventing it from being a nuisance or a danger to other persons.

11. Dog Prohibited Areas

11.1 A person must not allow a dog under that person's control, charge or authority (except an assistance dog) to enter or remain:

11.1.1 on any children's playground on Local Government land;

11.1.2 on any other Local Government land or public place to which the Council has determined that this sub-clause applies.

12. Dog Faeces

No person is to allow a dog under that person's control, charge or authority to be in a public place or on Local Government land unless that person has in their possession a bag or other suitable container for the collection and lawful disposal of any faeces that the dog may deposit (for the purpose of complying with their obligation under Section 45A (6) of the Dog and Cat Management Act 1995).

PART 4—ENFORCEMENT

13. Orders

13.1 If a person engages in conduct that is in contravention of this by-law, an authorised person may order that person:

13.1.1 if the conduct is still continuing—to stop the conduct; and

13.1.2 whether or not the conduct is still continuing—to take specified action to remedy the contravention.

13.2 A person must comply with an order under this clause.

13.3 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.

13.4 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 dogs on that person's premises; or
- remove a dog from a dog prohibited area.

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

ITEM 12.1.4 HIRE BIKES

Cr. Martin moved that Council resolves as follows:

1. That the Acting Director Community Development's report titled "*Hire Bikes*" be received and noted.
2. That a New Budget Proposal be presented as part of the 2016/2017 budget to support implementation of a trial bike repair station at Semaphore Foreshore.

Cr. Wright seconded

CARRIED.

ITEM 12.1.5 AGED CARE

Cr. Iammarrone withdrew from the Chamber at 8.09 pm.

Cr. Osborn moved that Council resolves as follows:

1. That the Acting Director Community Development's report titled "*Aged Care*" be received and noted.
2. That Council undertake a comprehensive strategic review of the delivery of Community Services to proactively plan for and manage how it operates within the highly changing Aged Care and Disability Sector.
3. That Council engage an appropriate consultant to work with Council in an independent way to a) ensure Council understands the needs of its community and b) develop a proposed strategic operating framework to guide Council's ongoing involvement in community connectedness and wellbeing through its community services and programs.
4. That Council approve a budget of \$30,000 to engage a consultant to undertake the service.

Cr. Hubycz seconded

CARRIED UNANIMOUSLY.

ITEM 12.1.6 APPLICATION OF BY-LAW 5 - DOG-ON-LEASH AND DOG-FREE AREAS

Cr. Iammarrone re-entered the Chamber at 8.12 pm.

Cr. Basham moved that Council resolves as follows:

1. That the Acting Director Community Development's report titled "*Application of By-law 5 - Dog-on-Leash and Dog-Free Areas*" be received and noted.

2. Pursuant to the powers contained in Section 246 (3)(e) of the Local Government Act, 1999 Council resolves to apply sub-paragraph 11.1.2 of By-law 5, Dogs Prohibited Areas to the following areas:
 - 2.1 Barker Inlet Wetlands, Salisbury Highway, Wingfield;
 - 2.2 Magazine Creek Wetlands, Whicker Road, Gillman;
 - 2.3 Range Wetlands, Hanson Road North, Wingfield;
 - 2.4 Folland Park, Turnbull Road, Enfield.


 3. Pursuant to the powers contained in Section 246 (3)(e) of the Local Government Act, 1999 Council resolves to apply sub-paragraph 9.1.1 of By-law 5, Dogs-on-Leash Areas to the following areas:
 - 3.1 Northgate Reserve, Folland Avenue, Northgate;
 - 3.2 Roy Amer Reserve, Sir Ross Smith Boulevard, Oakden;
 - 3.3 Stockade Park, Cnr Twin Street and Howard Street, Northfield;
 - 3.4 Torrens Linear Park;
 - 3.5 Regency Park Golf Course, South Road, Regency Park;
 - 3.6 EP Nazer Reserve, Swan Terrace, Semaphore South;
 - 3.7 Harold Tyler Reserve, days Road, Angle Park;
 - 3.8 T K Shutter Reserve, Fourth Avenue, Klemzig;
 - 3.9 R B Connolly Reserve, Grose Crescent, North Haven;
 - 3.10 Parkway/Creekview Reserve, Walkley Heights.

 4. Pursuant to the powers contained in Section 246 (3)(e) of the Local Government Act, 1999 Council resolves to apply sub-paragraph 9.1.1 of By-law 5, Dogs-on-Leash Areas between 8.30am and 6.30pm on weekends and between 4.30pm and 5.30am on weekdays to the following reserve:
 - 4.1 Thomas Turner Reserve, Geraldine Street, Valley View.

 5. Pursuant to the powers contained in Section 246 (4a) of the Local Government Act, 1999 If a Council makes a determination under subsection (3)(e), the Council must ensure that notice of the determination is published in the Gazette and in a newspaper circulating in the area of the Council.

 6. Pursuant to the powers contained in Section 238 (3) of the Local Government Act, 1999 Council hereby authorises the erection of notices setting out the effect of By-law 5, Dogs-on-Leash Areas and Dog-Free (Prohibited) Areas, in prominent positions on or in the immediate vicinity of the relevant local government land.

 7. That a review of Council's Dog on Leash and Dog Free Areas policy including public consultation be referred to Council's 2016/2017 budget process.
- Cr. Russell seconded CARRIED.


CHIEF EXECUTIVE
OFFICE (ACTING)