

CITY OF WHYALLA
ROADS BY-LAW 2021
By-law No. 3 of 2021

For the management, control and regulation of activities on roads in the Council's area.

PART 1— PRELIMINARY

1. Title

This By-law may be cited as the *Roads By-law 2020* and is By-law No. 3 of the City of Whyalla.

1.2. Authorising law

This By-law is made under sections 239 and 246 of the *Local Government Act 1999* and regulation 28 of the *Local Government (General) Regulations 2013*.

3. Purpose

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

1.13.1 to protect the convenience, comfort and safety of road users and members of the public;

1.23.2 to prevent damage to buildings and structures on roads;

1.33.3 to prevent certain nuisances occurring on roads; and

1.43.4 for the good rule and government of the Council's area.

2.4. Commencement, revocation and expiry

2.14.1 The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation¹:

By-~~Law~~ No. 4 – Roads 2014.²

2.24.2 This By-law will expire on 1 January 2028.³

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

~~2.35.1~~ This By-law operates subject to the Council's *Permits and Penalties By-law 2014*.

~~2.45.2~~ Subject to subclause 5.3, this By-law applies throughout the Council's area.

5.3 Subclause 7.3.3 of this By-law applies to that part or parts of the Council's area as the Council may determine by resolution 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*;

~~2.56.2~~ **animal** includes birds, insects and poultry but does not include a dog;

~~2.66.3~~ **authorised person** is a person appointed by the Council as an authorised person under section 260 of the Act;

~~2.76.4~~ **Council** means the City of Whyalla;

~~6.5~~ **effective control** means a person exercising effective control of an animal either:

~~2.7.16.5.1~~ by means of a physical restraint; or

~~2.7.26.5.2~~ by command, the animal being in close proximity to the person and the person being able to see the animal at all times;

~~2.86.6~~ **electoral matter** has the same meaning as in the *Electoral Act 1995* provided that such electoral matter is not capable of causing physical damage or injury to ~~any~~ person within its immediate vicinity;

~~2.96.7~~ **emergency worker** has the same meaning as in the *Road Traffic (Road Rules — Ancillary and Miscellaneous Provisions) Regulations 2014*;

~~2.106.8~~ **livestock** has the same meaning as in the *Livestock Act 1997*;

~~2.116.9~~ **moveable sign** has the same meaning as in the Act;

2.126.10 **road** has the same meaning as in the Act being, a public or private street, road or thoroughfare to which public access is available on a continuous or substantially continuous basis to vehicles or pedestrians or both and includes—

2.12.16.10.1 a bridge, viaduct or subway; or

2.12.26.10.2 an alley, laneway or walkway; and

2.136.11 **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 ROADSLAND

3.7. Activities requiring permission

A person must not engage in or undertake any of the following activities on a road without the permission of the Council.:

3.47.1 Advertising

~~display any sign on a parked vehicle thereon such that the dominant use of the vehicle is for the purposes of commercial advertising.~~

~~Display or cause to be displayed on a road or on a structure on a road, any poster, advertising or sign for the purpose of advertising goods or services or for any other purpose, other than a moveable sign that is displayed in accordance with the Council's Moveable Signs By-law, subject to By-law No. 4—Moveable Signs, display any sign for the purpose of commercial adverti~~

3.27.2 Amplification

Use an amplifier or other device whether mechanical or electrical for the purpose of amplifying sound or magnifying sound including the broadcasting of announcements or advertisements.

3.37.3 Animals

3.3.17.3.1 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.

~~3.3-27.3.2~~ Lead, herd, ~~ride~~ or exercise an animal in such a manner as to cause a nuisance or endanger the safety of a person.

~~3.3-37.3.3~~ Ride, lead, drive or allow any livestock on any ~~r~~Road to which the Council has resolved this paragraph applies.

3.47.4 Defacing Property

Deface, paint, spray, write, cut names, letters or make marks on any tree, rock, gate, fence, building, sign, bridge or property of the Council.

3.57.5 Donations

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

~~1.1~~ *Distribution*

~~Subject to clause 12.2 Place on a vehicle (without the consent of the owner of the vehicle), or give out or distribute any hand bill, book, notice, leaflet, or other printed matter to any bystander, passer-by or other person.~~

3.67.6 Obstructions

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

3.77.7 Preaching & Canvassing

~~3.7-17.7.1~~ Preach, harangue, solicit or canvass for religious or ~~charitable~~other purposes.

~~3.7-27.7.2~~ Subject to subclause 11.2, convey any religious or other message to any bystander, passerby or other person.

3.87.8 Public Exhibitions and Displays

~~3.8-17.8.1~~ Sing, busk, play a recording or use a music instrument, or perform similar activities.

~~3.8-27.8.2~~ Conduct, cause or hold a concert, festival, show, display public gathering, circus, performance or a similar activity.

~~3.8-37.8.3~~ Erect a stage or structure for the purpose of conducting or holding a concert, festival, show, circus, performance or a similar activity.

~~3.8.47.8.4~~ Cause any public ~~exhibition~~exhibitions or displays ~~to occur thereon.~~

3.97.9 Rubbish Bins

Deposit in any Council bin on a road any rubbish;

~~3.9.17.9.1~~ emanating from a domestic, commercial or trade source; or

7.9.2 that is not rubbish of the type permitted to be placed in the bin, as indicated on signs on the bin or in its vicinity.

~~1.2 — Soliciting~~

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

3.107.10 Repairs to Vehicles

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

Note-

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

~~A person on a road must comply with a reasonable direction or request from an authorised person relating to:~~

~~1.3 — that person's use of the road for a purpose other than driving a vehicle;~~

~~1.4 — that person's conduct and behaviour on the road other than conduct and behaviour in connection with driving a vehicle; or the safety and enjoyment of other persons on the road~~

PART 3 - ENFORCEMENT

4.8. Directions

A person on a road 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 ~~thean~~ authorised person to leave that part of the road.

5.9. 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:

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; or
- remove ~~bills advertising displayed on a posted on~~ a structure on a road.

6-10. Removal of animals and objects

10.1 The Council (or its delegate) may, pursuant to section 234 of the Act, An authorised person may remove an animal or object that is on a road in breach of a By-law if the Council (of its delegate) reasonably believes that no person is in charge, ~~or apparently in charge,~~ of the animal or object.

10.2 The Council may seek to recover from the owner or apparent owner of an object removed under subclause 10.1 the costs it incurs in removing that object.

PART 4 – MISCELLANEOUS

7-11. Exemptions

7-11.1 The restrictions in this By-law do not apply to any emergency worker, Police Officer, 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 or in accordance with a direction of a Council Officer.

7-211.2 The restrictions in subclauses ~~7.5 and 7.27~~ 7.2 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

7-2-11.2.3 related to, and occurs during the course of and for the purpose of a referendum.

12. Liability of vehicle owners

12.1 For the purposes of this clause 12, **owner** in relation to a vehicle has the same meaning as contained in section 4 of the Act.

~~7.3~~12.2 The owner and the driver of a vehicle driven, parked or standing in contravention of this By-law are each guilty of an offence and liable to the penalty as prescribed for that offence.

This By-law was duly made and passed at a meeting of the City of Whyalla held on **INSERT DATE** 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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JUSTN COMMONS
Chief Executive Officer