

**THE CITY OF MARION****ROADS BY-LAW 2021****By-law No. 5 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 2021* and is By-law No. 5 of the City of Marion.

2. Authorising law

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

3. Objectives

The objectives of this By-law are to manage, control and regulate the prescribed uses of 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's 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:

*By-Law No. 5 – Roads 2014.*²

- 4.2 This By-law will expire on 1 January 2029.³

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

- 5.1 This By-law operates subject to the Council's *Permits and Penalties By-law 2021*.
- 5.2 Subject to subclause 5.3, this By-law applies throughout the Council's area
- 5.3 Subclause 7.3 and 7.4.2 of this By-law apply throughout the Council's area except 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 **animal** includes birds, insects and poultry but does not include a dog;
- 6.3 **authorised person** is a person appointed by the Council as an authorised person under section 260 of the Act;
- 6.4 **camp** includes setting up a camp or causing:
 - 6.4.1 a tent or other structure of calico, canvas, plastic or other similar material; or
 - 6.4.2 a swag or similar bedding; or
 - 6.4.3 subject to the *Road Traffic Act 1961*, a caravan, motor home or similar camping vehicle -

to remain on a road for the purpose of staying overnight, whether or not any person is in attendance or sleeps on the road;
- 6.5 **Council** means the City of Marion;
- 6.6 **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 a person within its immediate vicinity;
- 6.7 **emergency vehicle** has the same meaning as in the *Australian Road Rules* and the *Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014*;
- 6.8 **emergency worker** has the same meaning as in the *Road Traffic (Road Rules - Ancillary and Miscellaneous Provisions) Regulations 2014*;
- 6.9 **moveable sign** has the same meaning as in the Act;

6.10 **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:

6.10.1 a bridge, viaduct or subway; or

6.10.2 an alley, laneway or walkway; and

6.11 **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 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 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 2021*.

7.2 Amplification

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

7.3 Animals

Subject to the *Road Traffic Act 1961*, ride, lead or drive any horse, cattle or sheep, except on any road that the Council has set aside (as indicated by signage on or near the road) for use by that animal.

7.4 Camping and Tents

7.4.1 Subject to this subclause 7.4, erect a tent or other structure of calico, canvas, plastic or other similar material as a place of habitation.

7.4.2 Camp or occupy any caravan or other camping vehicle for or in connection with undertaking camping activities, including (but not limited to) washing, cooking, sleeping, except on any road to which the Council has resolved this subclause applies.

7.5 Donations and soliciting

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

7.6 **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.

7.7 **Preaching & Canvassing**

7.7.1 Preach, harangue, solicit or canvass for religious or charitable purposes.

7.7.2 Subject to subclause 11.2, convey any or other message to any bystander, passerby or other person.

7.8 **Public Exhibitions and Displays**

7.8.1 Sing, busk, play a recording or use a music instrument, or perform similar activities.

7.8.2 Conduct, cause or hold a concert, festival, show, display public gathering, circus, performance or a similar activity.

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

7.8.4 Cause any public exhibition or displays.

7.9 **Rubbish Bins**

Deposit in any Council bin on a road any rubbish:

7.9.1 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.

7.10 **Repairs to Vehicles**

Repair, wash, paint, panel beat or perform other work of any nature on or to any 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.

PART 3 – ENFORCEMENT

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 the 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;
- dismantle and remove a tent from a road.

10. Removal of animals and objects

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

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

PART 4 – MISCELLANEOUS

11. Exemptions

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

11.2 The restrictions in subclause 7.7.2 of this by-law do not apply to:

- 11.2.1 electoral matters authorised by a candidate and which relate to a Commonwealth or State election that 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 electoral matters authorised by a candidate and which relate to an election under the *Local Government Act 1999* or the *Local Government (Elections) Act 1999* that 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 matters which relate to, and occur 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.
- 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 Marion held on **9 August 2021** 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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TONY HARRISON
Chief Executive Officer