



## **PERMITS AND PENALTIES BY-LAW 2012**

### **BY-LAW NO. 1 OF 2012**

A By-law is to create a permit system for Council By-laws, to fix maximum and continuing penalties for offences, and for the construction of Council By-laws.

#### **CONTENTS**

<b>PART 1 – PRELIMINARY .....</b>	<b>2</b>
<b>1. Title.....</b>	<b>2</b>
<b>2. Authorising law .....</b>	<b>2</b>
<b>3. Purpose.....</b>	<b>2</b>
<b>4. Commencement, revocation and expiry .....</b>	<b>2</b>
<b>5. Application.....</b>	<b>2</b>
<b>6. Interpretation .....</b>	<b>2</b>
<b>7. Construction of By-laws generally.....</b>	<b>3</b>
<b>PART 2 – PERMITS AND PENALTIES.....</b>	<b>3</b>
<b>8. Permits.....</b>	<b>3</b>
<b>9. Offences and penalties.....</b>	<b>3</b>

**PART 1 – PRELIMINARY****1. Title**

This By-law may be cited as the *Permits and Penalties By-law 2012* and is By-law No. 1 of the Port Augusta City Council.

**2. Authorising law**

This By-law is made under section 246 of the Act and sections 667(1) 3.LIV and 9.XVI of the *Local Government Act 1934*.

**3. Purpose**

The objectives of this By-law are to provide for the good rule and government of the Council area, and for the convenience, comfort and safety of its inhabitants by:

- 3.1. creating a permit system to authorise certain activities under Council By-laws;
- 3.2. providing for the enforcement of breaches of Council By-laws and fixing penalties; and
- 3.3. clarifying the construction of Council By-laws.

**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 operation<sup>1</sup>:

4.1.1 By-law No.1 Permits and Penalties 2005<sup>2</sup>

4.2. This By-law will expire on 1 January 2020.<sup>3</sup>

**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 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. **Council** means Port Augusta City Council;
- 6.3. **person** includes a body corporate.

**Note-**

Section 14 of the *Interpretation Act 1915* provides that an expression used in this By-law has, unless the contrary intention appears, the same meaning as in the Act.

**7. Construction of By-laws generally**

- 7.1. Every By-law of the Council is subject to any Act of Parliament and Regulations made thereunder.
- 7.2. In any By-law of the Council, unless the contrary intention appears **permission** means permission of the Council, granted in writing prior to the act, event or activity to which it relates.

**PART 2 – PERMITS AND PENALTIES**

**8. Permits**

- 8.1. Where a By-law requires that permission be obtained, any person seeking the grant of permission must submit a written application to the Council in the form (if any) and accompanied by the fee (if any) prescribed by the Council.
- 8.2. The Council may attach such conditions as it thinks fit to a grant of permission, and may vary or revoke such conditions or impose new conditions by notice in writing to the permit holder.
- 8.3. A permit holder must comply with every such condition.
- 8.4. The Council may suspend or revoke a grant of permission at any time by notice in writing to the permit holder.

**9. Offences and penalties**

- 9.1. A person who commits a breach of any By-law of the Council is guilty of an offence and may be liable to pay:
  - 9.1.1 the maximum penalty, being the maximum penalty referred to in the Act that may be fixed for any breach of a By-law; or
  - 9.1.2 any expiation fee fixed by resolution of the Council for alleged offences against the Council's By-laws.
- 9.2. A person who commits a breach of a By-law of the Council of a continuing nature is guilty of an offence and, in addition to any other penalty that may be imposed, is liable to a further penalty for every day on which the offence continues, such penalty being the maximum amount referred to in the Act that may be fixed by a By-law for a breach of a By-law of a continuing nature.

**Note-**

The maximum penalty for a breach of a By-law is currently \$750.00, and the maximum penalty for every day in which a breach of a continuing nature continues is currently \$50.00 – see section 246(3)(g) of the Act.

This By-law was duly made and passed at a meeting of the Port Augusta City Council held on the **23rd day of April 2012** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

.....

Mr Greg Perkin  
City Manager