

SECTION 249 LOCAL GOVERNMENT ACT 1999

CERTIFICATE OF VALIDITY

I, CIMON ANGELA BURKE of Level 6, 19 Gilles Street, Adelaide in the State of South Australia, being a legal practitioner within the meaning of the *Legal Practitioners Act 1981*, declare that I have examined the following by-law:

City of Whyalla

By-law No 4 – Moveable Signs By-Law 2021

A By-law to set standards for moveable signs on roads and to provide conditions for the placement of such signs for the purpose of protecting visual amenity and public safety;

and do certify that in my opinion:

City of Whyalla

has the power to make the by-law by virtue of the following statutory provisions:

Local Government Act 1999: sections 226, 238, 239(1)(a), 246(1), 246(2), 246(3)(a), 246(3)(c), 246(3)(f) and 246(3)(h)(iii);

and the by-law is not in conflict with the *Local Government Act 1999*.

DATED the 12 day of August 2021



Cimon Burke, Legal Practitioner

CITY OF WHYALLA
MOVEABLE SIGNS BY-LAW 2021
By-law No. 4 of 2021

A by-law to set standards for moveable signs on roads and to provide conditions for the placement of such signs for the purpose of protecting visual amenity and public safety.

PART 1 – PRELIMINARY

1. Title

This By-law may be cited as the *Moveable Signs By-law 2020* and is By-law No. 4 of the City of Whyalla.

2. Authorising law

This By-law is made under sections 226, 238, 239 and 246 of the Act.

3. Purpose

The objects of this By-law are to set standards for moveable signs on roads:

- 3.1 to protect the comfort and safety of road users and members of the public;
- 3.2 to enhance the amenity of roads and surrounding parts of the Council area;
- 3.3 to prevent nuisances occurring on roads;
- 3.4 to prevent unreasonable interference with the use of a road; and
- 3.5 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 operation:¹

By-law No. 4 – Moveable Signs 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 This By-law applies throughout the Council area and is subject to the exemptions set out in clause 12.

6. Interpretation

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

- 6.1 **Act** means the *Local Government Act 1999*;
- 6.2 **authorised person** means a person appointed as an authorised person pursuant to section 260 of the Act;
- 6.3 **banner** means a slip of cloth, plastic or other material hung up or carried on a pole, fence or other structure;
- 6.4 **business premises** means premises from which a business is being conducted;
- 6.5 **Council** means the City of Whyalla;
- 6.6 **footpath area** means:
 - 6.6.1 that part of a road between the property boundary of the road and the edge of the carriageway on the same side as that boundary;
 - 6.6.2 a footway, lane or other place made or constructed for the use of pedestrians and not for the use of vehicles;
- 6.7 **Local Government land** has the same meaning as in the Act;
- 6.8 **moveable sign** has the same meaning as in the Act;
- 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 – MOVEABLE SIGNS

7. Construction and design

A moveable sign placed on a road must:

- 7.1 be of a kind known as an 'A' frame or sandwich board sign, an inverted 'T' sign, a flat sign or, with the permission of the Council (including as may be set out in a Council policy of general application from time to time), a sign of some other kind;

- 7.2 be designed, constructed and maintained in good quality and condition, including so as not to present a hazard to any member of the public;
- 7.3 be of strong construction and sufficiently stable or securely fixed so as to keep its position in adverse weather conditions;
- 7.4 have no sharp or jagged edges or corners;
- 7.5 not be unsightly or offensive in appearance or content;
- 7.6 be constructed of timber, metal, plastic or plastic coated cardboard, or a mixture of such materials;
- 7.7 not rotate or contain flashing parts;
- 7.8 not exceed 1.2 metres in height, 800mm in width and 800mm in depth;
- 7.9 in the case of an 'A' frame or sandwich board sign:
 - 7.9.1 be hinged or joined at the top; and
 - 7.9.2 be of such construction that its sides are securely fixed or locked in position when erected;
- 7.10 in the case of an inverted 'T' sign, not contain struts or members that run between the display area and the base of the sign; and
- 7.11 not have a display area exceeding one square metre in total or, if the sign is two-sided, one square meter on each side.

8. Placement

A moveable sign must not be placed:

- 8.1 on any part of a road other than the footpath area;
- 8.2 so that it is less than 400mm from the edge of the carriageway.
- 8.3 on a footpath that is less than 2.5 metres wide;
- 8.4 on the sealed or paved part of a footpath area unless the sealed or paved part is wide enough to contain the sign and still leave a clear thoroughfare for pedestrians of at least 1.2 metres width.
- 8.5 so as to unreasonably interfere with the reasonable movement of persons or vehicles using the footpath or road in the vicinity of where the moveable sign is placed;
- 8.6 within 10 metres of an intersection;
- 8.7 on a footpath area with a minimum height clearance from a structure above it of less than 2 metres;
- 8.8 on a designated parking area or within 1 metre of an entrance or exit to premises;
- 8.9 so that it is tied, fixed or attached to, or placed closer than 1.2 metres to any other structure, object or thing (including another moveable sign);

- 8.10 so as to obstruct or impede a vehicle door when opened, provided that the vehicle is parked lawfully on the road;
- 8.11 on a road during the hours of darkness unless it is in a clearly lit area and clearly visible; or
- 8.12 in such a position or in such circumstances that, in the opinion of an authorised person, it would or would be likely to endanger the safety of any person.

9. **Appearance**

A moveable sign displayed on a road must, in the opinion of an authorised person:

- 9.1 be painted or otherwise detailed in a competent and professional manner;
- 9.2 be aesthetically appealing, legible and simply worded to convey a precise message;
- 9.3 be of such design and contain such colours:
 - 9.3.1 as are compatible with the architectural design of the premises adjacent to the sign; and
 - 9.3.2 which relate well to the townscape and overall amenity of the locality in which it is situated; and
 - 9.3.3 which do not detract from or conflict with traffic, safety or direction signs or signals; and
- 9.4 contain combinations of colours and typographical styles which blend in with and reinforce the heritage qualities of the locality and the buildings where it is situated.

10. **Banners**

A banner must not be displayed on a road unless it:

- 10.1 is securely fixed to a fence or structure so that it does not hang loose or flap and provided that prior permission is obtained in the case of attachment to any Council property;
- 10.2 only advertises an event to which the public are invited; and
- 10.3 is displayed not more than one month before the event it advertises, not more than one week after the event, and provided it is not displayed for a continuous period of more than one month in any twelve month period.

Note-

A person must not erect or display a banner on a public road for a business purpose without a permit from the Council issued under section 222 of the *Local Government Act 1999*.

11. **Restrictions**

- 11.1 The owner or operator of a business must not cause or allow more than one moveable sign for each business premises to be displayed on a road at any time.
- 11.2 A person must not cause or allow a moveable sign to be placed on a road unless:

- 11.2.1 it only displays material which advertises a business being conducted on premises adjacent to the moveable sign or the goods and services available from that business; and
- 11.2.2 the business premises to which it relates is open to the public during such times as the sign is displayed.
- 11.3 A person must not, without the permission of the Council, display or cause to be displayed a moveable sign on or attached to or adjacent to a vehicle that is parked on Local Government land or a road primarily for the purpose of advertising or offering for sale a product (including the vehicle) or business to which the sign relates.
- 11.4 If in the opinion of the Council a footpath area is unsafe for a moveable sign to be displayed, the Council may by resolution prohibit or restrict the display of a moveable sign thereon on such conditions as the Council thinks fit.

12. Exemptions

- 12.1 Subclauses 9.3, 9.4, 11.1 and 11.2 do not apply to a moveable sign which:
- 12.1.1 advertises a garage sale taking place from residential premises; or
- 12.1.2 is a directional sign to an event run by a community organisation or charitable body;
- 12.2 Subparagraphs 9.3, 9.4, 11.1 and 11.2 of this By-law do not apply to a flat sign which only contains newspaper headlines and the name of a newspaper or magazine.
- 12.3 A requirement of this By-law will not apply where the Council has granted permission for a moveable sign (or class of moveable sign) to be displayed contrary to that requirement (which permission may be granted by way of the Council adopting a policy of general application for this purpose).

Note-

This By-law does not apply to moveable signs placed and maintained on a road in accordance with section 226(3) of the Act, which includes any sign:

- placed there pursuant to an authorisation under another Act;
- designed to direct people to the open inspection of any land or building that is available for purchase or lease;
- related to a State or Commonwealth election and is displayed 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;
- related to an election held under this Act or the *Local Government (Elections) Act 1999* and is displayed during the period commencing four (4) 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
- the sign is of a prescribed class.

PART 3 – ENFORCEMENT

13. Removal of moveable signs

- 13.1 A person must immediately comply with the order of an authorised person to remove a moveable sign that is made pursuant to section 227(1) of the Act.

Note-

Pursuant to section 227(1) of the Act, an authorised person may order the owner of a moveable sign to remove the sign from the road if:

- the design, construction or positioning of a Moveable Sign does not comply with a requirement of this By-law; or
- any other requirement of this By-law is not complied with; or
- the Moveable Sign unreasonably restricts the use of the Road or endangers the safety of other persons.

13.2 The owner of or other person entitled to recover a moveable sign removed by an authorised person pursuant to section 227(2) of the Act, may be required to pay to the Council any reasonable costs incurred by the Council in removing, storing, and/or disposing of the moveable sign before being entitled to recover the moveable sign.

13.3 The owner, or other person responsible for a moveable sign must remove or relocate the moveable sign at the request of an authorised person:

13.3.1 if, in the opinion of an authorised person, and notwithstanding compliance with this By-law, there is any hazard or obstruction or there is likely to be a hazard or obstruction arising out of the location of the moveable sign; or

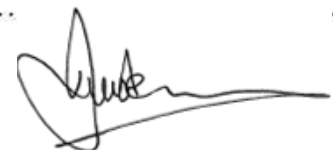
13.3.2 for the purpose of special events, parades, roadworks or in any other circumstances which, in the opinion of the authorised person, require relocation or removal of the moveable sign to protect public safety or to protect or enhance the amenity of a particular locality.

14. Liability of vehicle owners

14.1 For the purposes of this clause 14, **owner** in relation to a vehicle has the same meaning as contained in section 4 of the Act.

14.2 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 **16 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.



JUSTIN COMMONS
Chief Executive Officer

16 August 2021