

## 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 Victor Harbor****By-law No 2 – Moveable Signs By-Law 2016**

*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:

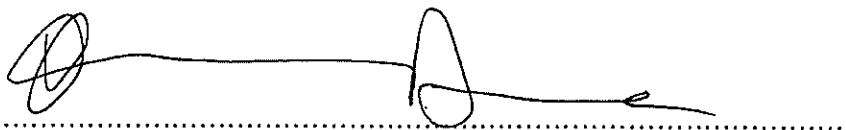
City of Victor Harbor

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

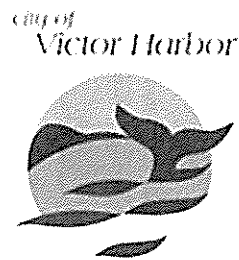
*Local Government Act 1999: sections 226, 238, 239(1)(a), 246(1), 246(2), 246(3)(a), 246(3)(c), 246(3)(f) and 246(3)(h)(iii);*

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

DATED the 6 day of July 2016

A handwritten signature in black ink, consisting of a large, stylized initial 'C' followed by a long horizontal line and a smaller, less distinct signature at the end.

Cimon Burke, Legal Practitioner



**CITY OF VICTOR HARBOR**  
**MOVEABLE SIGNS BY-LAW 2016**

**By-law No. 2 of 2016**

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.

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## PART 1 – PRELIMINARY

### 1. Title

This By-law may be cited as the *Moveable Signs By-law 2016* and is By-law No. 2 of the City of Victor Harbor.

### 2. Authorising law

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

### 3. Purpose

The object of this By-law is 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<sup>1</sup>:

4.1.1 *By-law No.2 – Moveable Signs 2009*.<sup>2</sup>

4.2. This By-law will expire on 1 January 2024.<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 operates subject to the Council's *Permits and Penalties By-law 2016*.

5.2. 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. **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 Victor Harbor;
- 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 must:

- 7.1. be of kind known as an 'A' frame or sandwich board sign, an 'inverted 'T' sign, or a flat sign or, with the permission of the Council, a sign of some other kind;
- 7.2. be designed, constructed and maintained in good quality and condition 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 any 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, cloth, metal, plastic or plastic coated cardboard, or a mixture of such materials;
- 7.7. not rotate or contain flashing parts;
- 7.8. not have balloons, flags, streamers or other things attached to it;

- 7.9. not exceed 900mm in perpendicular height or have a base with any side exceeding 600mm in length;
- 7.10. not have a display area exceeding 1 square metre in total, or, if the sign is two-sided, 1 square metre on each side;
- 7.11. in the case of an 'A' frame or sandwich board sign:
  - 7.11.1 be hinged or joined at the top;
  - 7.11.2 be of such construction that its sides are securely fixed or locked in position when erected; or
- 7.12. 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.

## 8. **Appearance**

A moveable sign placed on the footpath area must, in the opinion of an Authorised Person:

- 8.1. be painted or otherwise detailed in a competent and professional manner; and
- 8.2. be of such design that is aesthetically appealing and legible.

## 9. **Placement**

A moveable sign must not be:

- 9.1. placed on any part of a road other than the footpath area;
- 9.2. tied, fixed or attached to, or placed closer than 1.8 metres from any structure, fixed object, tree, bush or plant (including another moveable sign);
- 9.3. placed on a designated parking area or within 1.8 metres of an entrance to any business or other premises;
- 9.4. placed on the sealed part of a footpath:
  - 9.4.1 if there is an unsealed part on which the sign can be placed in accordance with this By-law; or
  - 9.4.2 unless the sealed part is wide enough to contain the sign and leave a clear thoroughfare for pedestrians of a width of at least 1.8 metres;
- 9.5. placed so as to interfere with the reasonable movement of persons or vehicles using the footpath or road in the vicinity of where the moveable sign is placed;
- 9.6. placed closer than 0.4 metres to the edge of the carriageway of a road;
- 9.7. in the case of a flat sign, placed other than in line with and against the property boundary of a road;
- 9.8. placed on a landscaped area;
- 9.9. placed within 5 metres of an intersection;

- 9.10. placed on a footpath area unless it is wide enough to contain the sign and still leave a clear thoroughfare of a width of at least 1.8 metres;
- 9.11. placed on a footpath area with a minimum height clearance from a structure above it of less than 2 metres;
- 9.12. placed on a median strip, traffic island, roundabout or any other traffic control device on a road;
- 9.13. placed other than adjacent to the business premises to which it relates;
- 9.14. displayed during the hours of darkness unless it is in a clearly lit area and is clearly visible; or
- 9.15. be placed in such a position or in such circumstances so that:
  - 9.15.1 it compromises the safety of any person or places a person at risk of harm; or
  - 9.15.2 it obstructs or impedes (or would be likely to obstruct or impede) a vehicle door when opened, provided that the vehicle is parked lawfully on the carriageway.

## 10. Banners

A banner displayed on a road must:

- 10.1. be securely fixed at both ends to a pole, fence or other structure so that it does not hang loose or flap at either end;
- 10.2. not, without the Council's permission, be attached to any building, structure, fence, vegetation or other item owned by the Council;
- 10.3. not be displayed more than one month before and two days after the event it advertises; and
- 10.4. not, without the Council's permission, exceed 3 square metres in size.

### 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 the footpath area at any time.
- 11.2. A person must not, without the Council's permission, display 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.
- 11.3. A person must not cause or allow a moveable sign to be placed on a footpath area unless:

- 11.3.1 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
- 11.3.2 the business premises to which it relates is open to the public;
- 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 on such conditions as the Council thinks fit.

## 12. Exemptions

- 12.1. Subclauses 9.14, 11.1 and 11.3 of this By-law do not apply to a moveable sign which:
- 12.1.1 advertises a garage sale taking place from residential premises provided that:
- (a) no more than four moveable signs per residential premises are displayed at any one time in relation to a garage sale taking place at that premises;
  - (b) the moveable sign displays the address of the vendor; and
  - (c) the moveable sign is displayed on the day the garage sale is taking place; or
- 12.1.2 is a directional sign to a short term event (of less than three days) run by a community organisation or charitable body.
- 12.2. Subclauses 11.1 and 11.3 of this By-law do not apply to a flat sign which only contains a newspaper headline 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 the moveable sign to be displayed contrary to that requirement.

### 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 made pursuant to section 227(1) of the Act.

- 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 of, 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 Victor Harbor held on **25 July 2016** 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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Mr Graeme Maxwell  
Chief Executive Officer