



CITY OF ONKAPARINGA
MOVEABLE SIGNS BY-LAW 2023
By-law No. 2 of 2023

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 2023* and is By-law No. 2 of the City of Onkaparinga.

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 operation¹:

*By-law 2 – Moveable Signs 2016.*²

- 4.2 This By-law will expire on 1 January 2031.³

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 2023*.
- 5.2 This By-law applies throughout the Council area and is subject to the exemptions set out in clause 11.

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 mounted to a building or other structure by its ends or corners 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 Onkaparinga;
- 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; or
- 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;
- 6.10 **traffic control device** has the same meaning as in the *Road Traffic Act 1961*; and
- 6.11 **vehicle** has the same meaning as in the *Road Traffic Act 1961*.

Note-

Section 12 of the *Legislation Interpretation Act 2021* 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 guideline 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, including in adverse weather conditions;
- 7.4 have no sharp or jagged edges or corners;
- 7.5 not, in the reasonable opinion of an authorised officer, be unsightly or offensive in appearance or content;
- 7.6 not contain flashing parts or be illuminated;
- 7.7 be constructed of timber, metal, plastic or plastic coated cardboard, or a mixture of such materials;
- 7.8 not exceed 900mm in height or have a base with any side exceeding 600mm in length;
- 7.9 not have a display area exceeding one (1) square metre in total or, if the sign is two-sided, one (1) square metre on each side;
- 7.10 in the case of an 'A' frame or sandwich board sign:
 - 7.10.1 be hinged or joined at the top; and
 - 7.10.2 be of such construction that its sides are securely fixed or locked in position when erected; and
- 7.11 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
- 7.12 in the case of a sign of some other kind, comply with the requirements of any guideline published by the Council in relation to that type of sign.

8. Placement

A moveable sign must not be:

- 8.1 placed on any part of a road except on the footpath area;
- 8.2 placed, in the case of a flat sign, on a footpath area unless securely tied or chained to a pole or other structure adjacent to the business premises to which it relates;
- 8.3 subject to subclause 8.2, tied, fixed or attached to or, placed closer than two (2) metres from another structure, fixed object (including another moveable sign), tree, bush or plant;
- 8.4 placed on the sealed part of a footpath unless the sealed part is wide enough to contain the sign and still leave a clear thoroughfare (of sealed footpath area) of at least 1.2 metres wide;
- 8.5 placed on a footpath that is less than 2.5 metres wide;

8.6 placed so as to:

- 8.6.1 obstruct a vehicle door when opened, provided that the vehicle is parked lawfully on the road;
 - 8.6.2 otherwise interfere with the reasonable movement of persons or vehicles using the footpath or road in the vicinity of where the moveable sign is placed; or
 - 8.6.3 cause, in the reasonable opinion of an authorised person, a hazard or risk to the safety of any person on the road;
- 8.7 placed closer than 0.4 metres to the kerb (or, if there is no kerb, to the edge of the carriageway of a road or the shoulder of the road, whichever is the greater);
- 8.8 placed on a landscaped area, other than landscaping that comprises only lawn;
- 8.9 placed within three (3) metres of an intersection of roads;
- 8.10 placed on a designated parking area or within one (1) metre of an entrance to premises;
- 8.11 displayed during the hours of darkness unless it is in a lit area and clearly visible; or
- 8.12 placed on a median strip, traffic island, roundabout or any other traffic control device on a road.

9. Banners

A person must not erect or display a banner on a building or structure on a road without the Council's permission.

10. Restrictions

- 10.1 A person (including, but not limited to, the owner or operator of a business) must not cause or allow more than one (1) moveable sign for a business premises to be displayed on a road at any time.
- 10.2 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.
- 10.3 A person must not cause or allow a moveable sign to be placed on a road unless:
- 10.3.1 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
 - 10.3.2 the business premises to which it relates is open to the public when the sign is displayed.
- 10.4 Notwithstanding compliance with provisions of this By-law and if, in the reasonable opinion of the Council, a footpath area is unsafe for a moveable sign to be displayed either permanently or for a period of time, the Council may prohibit or restrict the display of a moveable sign on that footpath area on such conditions as the Council thinks fit.

11. Exemptions

- 11.1 Subclauses 10.1, and 10.3 of this By-law do not apply to a moveable sign which:
- 11.1.1 advertises a garage sale taking place from residential premises; or
 - 11.1.2 is a directional sign to an event run by a community organisation or charitable body.
- 11.2 Subclauses 10.1 and 10.3.1 of this By-law do not apply to a flat sign which only contains newspaper headlines and the name of a newspaper or magazine.
- 11.3 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 or guideline 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; or
- 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; or
- of a prescribed class.

PART 3 – ENFORCEMENT

12. Removal of Moveable Signs

- 12.1 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;
- 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.

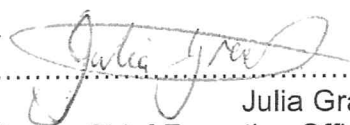
Section 227(2) of the Act provides that if the authorised person cannot find the owner, or the owner fail to comply immediately with the order, the authorised person may remove and dispose of the sign.

- 12.2 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.
- 12.3 The owner, or other person responsible for a moveable sign must remove or relocate the moveable sign at the request of an authorised person:
- 12.3.1 if, in the reasonable opinion of the 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
 - 12.3.2 for the purpose of a special event, parade, roadworks or in any other circumstances which, in the reasonable 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.

13. Liability of Vehicle Owners

- 13.1 For the purposes of this clause 13, **owner** in relation to a vehicle has the same meaning as contained in section 4 of the Act.
- 13.2 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 Onkaparinga held on **18 July 2023** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.


.....
Julia Grant
Acting Chief Executive Officer

SECTION 249 LOCAL GOVERNMENT ACT 1999

CERTIFICATE OF VALIDITY

I, CIMON ANGELA BURKE care 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:

THE CITY OF ONKAPARINGA

By-law No 2 – Moveable Signs By-Law 2023

This By-law is 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 in the Council's area.

and do certify that in my opinion:


THE CITY OF ONKAPARINGA

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

Local Government Act 1999: sections 226, 238, 239, 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 2 day of July 2023



Cimon Burke, Legal Practitioner

- *Real Property Act 1886 (attachment 3 to the agenda report).*

Seconded by Cr Deakin.

CARRIED

9.6 By-law Resolutions

MOVED Cr Kilby.

1. *That pursuant to By-law 2 of 2016 Moveable Signs, clauses 7.1 and 10.1, effective from 28 November 2016:*
 - a. *'the number of 'A' and 'T' Frame moveable signs allowed per business be no greater than three, to be displayed in accordance with the guidelines for 'A' and 'T' Frame signs, as attached to the agenda.*
 - b. *vertical banner moveable signs be displayed in accordance with the guidelines for vertical banner signs, as attached to the agenda.*
2. *That pursuant to By-law 4 of 2016 Local Government Land, clause 9.4.2, effective from 28 November 2016, horse access be permitted on:*
 - a. *the Council reserves that comprise parts of the City of Onkaparinga's horse trail network.*
 - b. *the Council land leased to the following organisations:*
 - *Kangarilla Pony Club, Kangarilla Rd Kangarilla*
 - *Southern Hills Pony Club, Station Rd Willunga*
 - *Morphett Vale Riding Club, Wheatsheaf Rd Morphett Vale*
 - *McLaren Flat Riding Club, Main Road McLaren Flat*
 - *SA Horse Trials, Pine Road Woodcroft*
 - *Riding for the Disabled, Pine Road Woodcroft*
 - *Aldinga Riding Club (GSWRC), Port Road Aldinga*
 - *Sophia Nicolis, horse recreation use on portion of Oakridge Road reserve, Aberfoyle Park.*
3. *That pursuant to By-law 4 of 2016 Local Government Land, clause 9.10.2 (b) effective from 28 November 2016, the signed area at Clarendon Oval be designated as an area for 24 hour camping.*
4. *That pursuant to By-law 6 of 2016 Foreshore, clause 8.2.1, effective from 28 November 2016, horse access be permitted to the following areas:*
 - a. *The foreshore at Maslin Beach, Port Willunga, Aldinga Beach, Silver Sands, and Sellicks Beach subject to the following conditions:*
 - *Horses are permitted 24 hour access during the winter months (May to September inclusive), and access between the hours of midnight and 9 am during the summer months (October to April inclusive).*
 - *Horses are not permitted within 10 metres of dunes or vegetated areas or pebble banks.*
 - *Horses are to be ridden in a manner which does not endanger the safety of any person in the area or unduly interfere with the peace,*