

**CITY OF MITCHAM****MOVEABLE SIGNS BY-LAW 2022****By-law No. 2 of 2022****CONSOLIDATED AS AT 6 July 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.

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PART 1 – PRELIMINARY

1. Title

This By-law may be cited as the *Moveable Signs By-law 2022* and is By-law No. 2 of the City of Mitcham

2. Authorising Law

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

3. Purpose

The objectives 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's 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's area.

4. Commencement and Expiry

This By-law will commence in accordance with the Act¹ and will expire on 1 January 2030².

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. 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 2022*.
- 5.2 This By-law applies throughout the Council's 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 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 Mitcham;
- 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; and
 - 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 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 Act.

PART 2 – MOVEABLE SIGNS

7. Construction

A moveable sign must:

- 7.1 be of a 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 (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 condition so as not to present a hazard to any member of the public;
- 7.3 be of strong construction so as to be stable and fixed in position, including so that it keeps its position in adverse weather conditions;
- 7.4 not contain any sharp or jagged edges or corners;
- 7.5 not rotate, contain flashing parts or lights or be illuminated internally;
- 7.6 not be unsightly or offensive in appearance or content;
- 7.7 not have balloons, flags, streamers or other things attached to it;
- 7.8 be constructed of timber, metal, plastic or plastic coated cardboard, or a mixture of such materials;
- 7.9 subject to this clause 7, not have a display area exceeding one square metre in total or, if the sign is two-sided, one 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 shall be securely fixed or locked in position when erected; and

7.11 in the case of an inverted 'T' sign, contain no struts or supports that run between the display area and the base of the sign.

8. Placement

A moveable sign must not be:

- 8.1 placed on any part of a road apart from the footpath area;
- 8.2 placed on a footpath area that is less than 2.5 metres wide;
- 8.3 not be placed on a sealed part of any footpath area unless the sealed part is wide enough to contain the sign and still leave a clear thoroughfare of at least 1.2 metres;
- 8.4 placed closer than 1.5 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);
- 8.5 placed on a landscaped area, other than landscaping that comprises only lawn;
- 8.6 placed within 3 metres of an intersection;
- 8.7 placed on a footpath area with a minimum height clearance from a structure above it of less than 2 metres;
- 8.8 placed on a designated parking area or within 1 metre of an entrance to premises;
- 8.9 tied, fixed, leaned against or attached to, or placed closer than 2 metres to any other structure, object or thing (including another moveable sign);
- 8.10 displayed during the hours of darkness unless it is clearly lit and is clearly visible;
- 8.11 placed in such a position or in such circumstances that the safety of a user of the footpath area or road is at risk;
- 8.12 placed on a median strip, traffic island, roundabout or any other traffic control device on a road; or
- 8.13 placed so as to unreasonably restrict the use of the footpath area or endanger the safety of members of the public.

9. Banners

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

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 Act

10. Restrictions

- 10.1 The owner or operator of a business must not, without the permission of the Council, cause or allow more than one moveable sign for each business premises to be displayed on the footpath area 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.
- 10.4 If, in the opinion of the Council, a footpath area is unsafe for a moveable sign to be displayed, the Council may resolve to prohibit or restrict the display of a moveable sign thereon on such conditions as the Council thinks fit.

11. Exemptions

- 11.1 Subclauses 10.1 and 10.3 do not apply to a moveable sign which is used:
- 11.1.1 to advertise a garage sale taking place from residential premises; or
- 11.1.2 as a directional sign to an event run by an incorporated association or a charitable body.
- 11.2 Subclauses 10.1 and 10.3 do not apply to a flat sign, the message of which only contains newspaper headlines and the name of a newspaper.
- 11.3 A requirement of this By-law will not apply where the Council has granted permission (which may include by way of adopting a policy for this purpose) for a moveable sign (or class of 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; or
- the sign is 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 made pursuant to section 227(1) of the Act to remove a moveable sign.

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.

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 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

12.3.2 for the purpose of special events, parades, 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 Mitcham held on **9 August 2022** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.



MATTHEW PEARS
Chief Executive Officer

LEGISLATIVE HISTORY**Amendments**

Year	By-law No.	Reference	Commencement
2023	8	By-Law Amendment By-Law 2023 published in the <i>Government Gazette</i> on 6 July 2023	6 July 2023

Provision of Moveable Signs By-law	How varied	Date of Effect
Clause 12.3.1	Substituted per clause 6.1 of 8/2023	6 July 2023
Clause 12.3.2	Substituted per clause 6.2 of 8/2023	6 July 2023