

**BY-LAW AMENDMENT BY-LAW 2023****By-law No. 8 of 2023**

A By-law to amend various By-laws of the City of Mitcham to address matters raised by the Legislative Review Committee

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PART 1 – PRELIMINARY

1. Title

This By-law may be cited as the '*By-law Amendment By-law 2023*' and is By-law No. 8 of the City of Mitcham.

2. Authorising Law

This By-law is made under sections 246 and 249 of the *Local Government Act 1999*.

3. Purpose

The objective of this By-law is to amend various provisions in Council By-laws in the manner set out in Part 2. The By-laws amended by this By-law are the following By-laws made by the Council on 9 August 2022 and published in the *Government Gazette* on 25 August 2022:

3.1 By-law No. 2 - *Moveable Signs By-law 2022*;

3.2 By-law No. 3 - *Local Government Land By-law 2022*.

3.3 By-law No. 5 - *Dogs By-law 2022*; and

3.4 By-law No. 7 - *Waste Management By-law 2022*.

4. Commencement, Revocation and Expiry

4.1 Pursuant to section 249(6)(d) of the *Local Government Act 1999*, this By-law will take effect on the date that it is published in the *Government Gazette*.

4.2 This By-law will expire on 1 January 2030.

5. Interpretation

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

5.1 **Act** means the *Local Government Act 1999*;

5.2 **Council** means the City of Mitcham;

5.3 **By-law 2** means the *Moveable Signs By-law 2022* made by the Council on 9 August 2022 and published in the *Government Gazette* on 25 August 2022;

5.4 **By-law 3** means the *Local Government Land By-law 2022* made by the Council on 9 August 2022 and published in the *Government Gazette* on 25 August 2022;

5.5 **By-law 5** means the *Dogs By-law 2022* made by the Council on 9 August 2022 and published in the *Government Gazette* on 25 August 2022; and

5.6 **By-law 7** means the *Waste Management By-law 2022* made by the Council on 9 August 2022 and published in the *Government Gazette* on 25 August 2022.

PART 2 – AMENDMENTS TO BY-LAWS

6. Amendments to the *Moveable Signs By-law 2022*

As and from the date that this By-law takes effect:

- 6.1 clause 12.3.1 of By-law 2 is deleted and substituted with the following:

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

- 6.2 clause 12.3.12 of By-law 2 is deleted and substituted with the following:

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.

7. Amendments to the *Local Government Land By-law 2022*

As and from the date that this By-law takes effect:

- 7.1 clause 9.16 of By-law 3 is deleted and substituted with the following:

9.16 Donations

Ask for or receive or indicate that the person desires a donation of money or any other thing.

- 7.2 clause 9.25 of By-law 3 is deleted and substituted with the following:

9.25 Overhanging Articles

Suspend or hang an article or object from a building, verandah, pergola, post or other structure where it might present, in the reasonable opinion of an authorised person, a nuisance or danger to a person using the land, or cause an unsightly condition.

- 7.3 clause 10.12.5 of By-law 3 is deleted and substituted with the following:

10.12.5 enter any public convenience unless the person is of the gender indicated in writing or on a sign located on that facility except:

10.12.5.1 in the case of a genuine emergency; or

10.12.5.2 where a vulnerable person is being assisted by the vulnerable person's caregiver, parent or guardian; or

10.12.5.3 if the person is intersex, transgender or gender diverse; or

10.12.5.4 if the person is a person with a disability; or

10.12.5.5 if the person is assisting a person with a disability.

7.4 clause 11.2 of By-law 3 is deleted and substituted with the following:

11.2 *A person who, in the reasonable opinion of an authorised person, is likely to commit or has committed, a breach of this By-law must immediately comply with a reasonable direction of an authorised person to leave that part of Local Government land.*

7.5 clause 13 of By-law 3 is deleted and substituted with the following:

13 Removal of Animals and Objects

An authorised person may remove an animal or object that is on Local Government land in breach of a By-law if the authorised person reasonably believes no person is in charge of the animal or object.

8. Amendments to the Dogs By-law 2022

8.1 As and from the date that this By-law takes effect, clause 7.5 of By-law 5 is deleted and substituted with the following:

7.5 *No dog is to be kept on any premises where, in the reasonable opinion of an authorised person, there is no secure or appropriate area where a dog may be effectively confined.*

9. Amendments to Waste Management By-law 2022

As and from the date that this By-law takes effect:

9.1 clause 7.1 of By-law 7 is deleted and substituted with the following:

7.1 *An occupier of premises must keep on the occupier's premises a Domestic Waste Container and a Recyclables Container and, if directed by the Council in writing, a Green Organics Container.*

9.2 clause 7.2 of By-law 7 is deleted and substituted with the following:

7.2 *An occupier of premises who has not been directed by the Council to keep a Green Organics Container on the premises may keep on the occupier's premises a Green Organics Container.*

9.3 clause 8.6.4 of By-law 7 is deleted and substituted with the following:

8.6.4 *its use is, in the reasonable opinion of an authorised officer, otherwise impaired;*

9.4 clause 8.7.1.2(c) of By-law 7 is deleted and substituted with the following:

(c) *if placed on a crossover, only on the part of a crossover (where it abuts the carriageway) that is closest to the edge of the crossover and not in the centre of the crossover or in any other place or manner that may be considered (in the reasonable opinion of an authorised person) to create a restriction or a danger for other pedestrians or vehicular access to the crossover; and*

This By-law was duly made and passed at a meeting of the City of Mitcham held on **20 JUNE 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.



MATTHEW PEARS
Chief Executive Officer