

**CERTIFICATE OF VALIDITY**

**UNDER SECTION 249(4) OF THE LOCAL GOVERNMENT ACT 1999**

I, PAUL ST LEGER KELLY of Norman Waterhouse Lawyers, Level 15, 45 Pirie Street, Adelaide SA 5000, being a legal practitioner within the meaning of the Legal Practitioners Act 1981, declare that I have examined the following by-law, By-law No. 2 – Moveable Signs, which the Port Augusta City Council intends to make, and do certify that in my opinion:

- (a) the said Council has the power to make the by-law by virtue of the following statutory provisions:

Local Government Act 1934, Section 667(1) paragraphs 4.I and 9.XVI;

Local Government Act 1999, Sections 238(1), 239(1)(a), 239(1)(g), 246(1)(a), 246(1)(b), 246(3)(a), 246(3)(c), 246(3)(d) and 246(3)(f);

Acts Interpretation Act 1915, Section 39;

Local Government (Implementation) Regulations 1999, Regulation 13(1)(c); and

- (b) the by-law is not in conflict with the Local Government Act 1999.

**DATED** the 2<sup>nd</sup> day of June 2011

  
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Paul St Leger Kelly, Legal Practitioner

**PORT AUGUSTA CITY COUNCIL**

*By-law made under the Local Government Act 1999*

**By-law No. 2 – Moveable Signs**

To protect visual amenity and public safety on roads by setting standards for moveable signs on roads and providing conditions for the design, construction and placement of such signs in a manner which recognises the advertising needs of businesses to maximise economic viability and revoke Council's current By-law No. 2 – Moveable Signs.

**1. Revocation of By-law**

By-law No. 2 – Moveable Signs made by the Council on 22 February 2010 is hereby revoked effective from the day on which this by-law comes into operation.

**2. Definitions**

In this by-law:

- 2.1 'Authorised Person' has the same meaning as in the Local Government Act 1999.
- 2.2 'Banner' means a strip of cloth hung up or carried on a pole, fence or other structure and includes a feather banner.
- 2.3 'Boundary' means that line between private property and the Road or Road Related Area.

- 2.4 'Business premises' means the premises from which a business, trade or calling is conducted.
- 2.5 'Footpath Area' means that part of the Road between the boundary of the Road and the edge of the carriageway of the Road on the same side as that boundary.
- 2.6 'Local Government Land' means land owned by the Council or under the Council's care, control and management.
- 2.7 'Moveable Sign' has the same meaning as in the Local Government Act 1999.
- 2.8 'Road' has the same meaning as in the Local Government Act 1999.
- 2.9 'Road Related Area' has the same meaning as in the Road Traffic Act 1961 and the Australian Road Rules 1999.
- 2.10 'Vehicle' has the same meaning as in the Road Traffic Act 1961 and the Australian Road Rules 1999.

3. **Design and Construction**

A Moveable Sign displayed on a Road must:

- 3.1 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, a sign of some other kind;
- 3.2 be well designed, constructed and maintained in good quality and condition so as not to present a hazard to any member of the public;
- 3.3 be of strong construction so as to be stable when in position and be able to keep its position in adverse weather conditions;
- 3.4 not contain sharp or jagged edges or corners;
- 3.5 not be unsightly or offensive in appearance or content;
- 3.6 not contain flashing parts or rotate;
- 3.7 be constructed of timber, cloth, metal, plastic or plastic coated cardboard, or a mixture of such materials;
- 3.8 not have balloons, flags, streamers or other material attached to it;
- 3.9 not exceed 900mm in perpendicular height, or have a base with any side exceeding 600mm in length;
- 3.10 not have a display area exceeding one square metre in total or if the sign is two-sided, one square metre on each side;
- 3.11 in the case of an 'A' Frame or Sandwich Board sign:
  - 3.11.1 be hinged or joined at the top; and
  - 3.11.2 be of such construction that its sides shall be securely fixed or locked in position when erected;
- 3.12 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.

**4. Appearance**

A Moveable Sign on a Road must, in the opinion of an Authorised Person:

- 4.1 be painted or otherwise detailed in a competent and professional manner;
- 4.2 be aesthetically appealing, legible and simply worded to convey a precise message;
- 4.3 be of such design and contain such colours as are compatible with the architectural design of the premises adjacent to the moveable sign, and which relate well to the townscape and overall amenity of the locality in which it is situated;
- 4.4 contain combinations of colour and typographical styles which blend in with and reinforce the heritage qualities of the locality and the buildings where it is situated.

**5. Placement**

A Moveable Sign must:

- 5.1 only be positioned on the Footpath Area of a Road;
- 5.2 be adjacent to the Business Premises to which it relates;
- 5.3 be placed no closer than 400mm from the edge of the carriageway of a Road;
- 5.4 in the case of a flat sign, must be in line with and against the property boundary of the Road;
- 5.5 not be placed on a Footpath Area less than 1.8 metres from any structure, fixed object, tree, bush or plant (including another Moveable Sign);
- 5.6 not be fixed, tied, chained to or leant against any other structure, fixed object, tree, bush or plant (including another Moveable Sign);
- 5.7 not be placed on the sealed part of any Footpath Area, unless the sealed part is wide enough to contain the sign and still leave a clear thoroughfare for pedestrians of a width of at least 1.8 meters;
- 5.8 not be placed within 1.8 metres of the corner of a Road;
- 5.9 not be placed on a landscaped area;
- 5.10 be placed on a designated parking area or within 1.8 meters of an entrance to or exit from premises;
- 5.11 not be placed within 1.8 meters of an intersection;
- 5.12 not unreasonably restrict the use of the Footpath Area or endanger the safety of members of the public;
- 5.13 not be placed on a Footpath Area that is less than 1.8 meters wide;
- 5.14 not be placed on a Footpath Area with a minimum height clearance, of a structure above it of less than 2 meters;
- 5.15 not be placed so as to interfere with the reasonable movement of persons using the Footpath Area in the vicinity of or adjacent to where the moveable sign is positioned;

- 5.16 in the case of a flat sign, the message of which only contains newspaper headlines and the name of the newspaper, be placed resting against the premises of the business to which the moveable sign relates; and
- 5.17 not be placed so as to obstruct or impede a vehicle door when opened, provided that the vehicle is parked lawfully on the carriageway.

**6. Restrictions**

- 6.1 A Moveable Sign must:
  - 6.1.1 only display material which advertises a business being conducted on premises which is immediately adjacent to the Moveable Sign, or the products available from that business;
  - 6.1.2 be limited to one Moveable Sign per business;
  - 6.1.3 only be displayed when the business to which the Moveable Sign relates is open;
  - 6.1.4 be securely fixed in position such that it cannot be blown over or swept away in adverse weather conditions;
  - 6.1.5 not be in such a position or in such circumstances that the safety of any person or user of the Road is at risk;
  - 6.1.6 not be displayed during the hours of darkness unless it is in a clearly lit area and clearly visible; and
  - 6.1.7 not be displayed on a median strip, traffic island or on the carriageway of a Road.
- 6.2 If in the opinion of the Council a Footpath Area or other area forming the boundary of any Road is unsafe for any Moveable Sign to be displayed or placed the Council may by resolution prohibit or restrict the display or placement of a Moveable Sign or the times at which a Moveable Sign may be displayed or placed in that area.

**7. Banners**

A banner must:

- 7.1 only be displayed on a Road, Footpath Area or Road Related Area; and
- 7.2 be securely fixed to a pole, fence or other structure so that it does not hang loose or flap; and
- 7.3 not, without the Council's permission, be attached to any building, structure, fence, vegetation or other item owned by the Council on a Road, or other improvement to a Road owned by the Council; and
- 7.4 not be displayed more than one month before and two days after the event it advertises; and
- 7.5 not be displayed for a continuous period of more than one month and two days in any twelve month period; and
- 7.6 not exceed 3 square meters in size.

**8. Signs on Local Government Land**

A person must not, without the Council's permission, display or cause to be displayed a Moveable Sign on any Local Government Land or resting on or attached to a vehicle on any Local Government Land except a moveable sign:

- 8.1 attached to a licensed taxi;
- 8.2 on or attached to a vehicle belonging to any council and which has been placed on or attached to the vehicle with the consent of the council to which the vehicle belongs;
- 8.3 on or attached to a bus greater than 6 metres in length;
- 8.4 on or attached to a vehicle which only has a sign or signs painted on or glued to it the main purpose of which is to identify it as belonging to a business;
- 8.5 comprising a sunscreen on a vehicle, where any message or trade name or mark on the sunscreen does not advertise a business being carried on in the vicinity of the place the vehicle is parked, or the products available from that business.

**9. Exemptions**

- 9.1 Subparagraphs 6.1 and 6.2 of this by-law do not apply to a Moveable Sign which is displayed and used:
  - 9.1.1 to advertise a garage sale taking place from residential premises provided that no more than four Moveable Signs per residential premises may be displayed at any one time in relation to a garage sale taking place at that residential premises; or
  - 9.1.2 as a directional sign to a short term (less than three days) event run by a community/charitable body or an unincorporated association.
- 9.2 Subparagraphs 6.1.1, 6.1.2 and 6.1.3 of this by-law do not apply to a flat sign the message of which only contains a newspaper or magazine headlines and the name of the newspaper or magazine.
- 9.3 A requirement of this by-law will not apply where the Council has granted permission for the Moveable Sign to be displayed contrary to the requirement.
- 9.4 This by-law will not apply to a Moveable Sign which is:
  - 9.4.1 placed on a Road pursuant to an authorisation under the Local Government Act 1999 or another Act; or
  - 9.4.2 designed to direct people to the open inspection of any land or building that is available for purchase or lease; or
  - 9.4.3 related to a State or Commonwealth election and is displayed during the period commencing on the issue of writ or writs for the election and ending at the close of polls on polling day; or
  - 9.4.4 related to an election held under the Local Government Act 1999 or the Local Government (Elections) Act 1999 and is displayed during the period commencing four 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.

**10. Removal of Unauthorised Moveable Signs**

10.1 If:

- 10.1.1 the design or construction of a Moveable Sign that has been placed on a Road does not comply with a requirement of this by-law; or
- 10.1.2 the positioning of a Moveable Sign does not comply with a requirement of this by-law; or
- 10.1.3 any other relevant requirement of this by-law is not complied with; or
- 10.1.4 the sign unreasonably:
  - 10.1.4.1 restricts the use of the Road; or
  - 10.1.4.2 endangers the safety of members of the public,


an Authorised Person may order the owner of the sign to remove the sign from the Road.

- 10.2 A person must comply with an Order of an Authorised Person made pursuant to paragraph 10.1 of this by-law.
- 10.3 If the Authorised Person cannot find the owner, or the owner fails to comply immediately with the order, the Authorised Person may remove the Moveable Sign.
- 10.4 If a Moveable sign that is removed pursuant to clause 10.3 of this by-law, is not claimed within thirty days of such removal, the Authorised Person may sell, destroy or otherwise dispose of the Moveable Sign as the Authorised Person thinks fit.
- 10.5 The owner or other person entitled to recover a Moveable Sign removed pursuant to paragraph 10.3 of this by-law must pay to the Council any reasonable costs incurred by the Council in removing, storing and attempting to dispose of the Moveable Sign before being entitled to recover the Moveable Sign.

**11. Removal of Authorised Moveable Signs**

- 11.1 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 if, in the reasonable opinion of that 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.
- 11.2 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 for the purpose of special events, parades, Road works or in any other circumstances which, in the reasonable opinion of the Authorised Person, requires relocation or removal of the Moveable Sign to protect public safety or to protect or enhance the amenity of a particular locality.

The foregoing by-law was duly made and passed at a meeting of the Port Augusta City Council held on the 27<sup>th</sup> day of June 2011 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 Greg Perkin  
Chief Executive Officer