CITY OF MARION

MOVEABLE SIGNS BY-LAW 2021

By-law No. 2 of 2021

A By-law to set standards for moveable signs on roads and to provide conditions for the placement of such signs including 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 2021* and is By-law No. 2 of the City of Marion.

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, 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[1]:

By-Law No.2 – Moveable Signs 2014.[2]

4.2 This By-law will expire on 1 January 2029.[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 2021.*

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 Marion;

6.6 ***footpath*** means:

6.6.1 a footway, lane or other place made or constructed for the use of pedestrians; or

6.6.2 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;

6.7 ***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. Design and Construction

A moveable sign displayed on a road 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 constructed so as not to present a hazard to any member of the public;

7.3 be maintained in good condition (as determine by an authorised person);

7.4 be constructed so as to be stable when in position and to be able to keep its position in adverse weather conditions;

7.5 not be unsightly or offensive in appearance or content;

7.6 not contain flashing or moving parts;

7.7 be not more than one metre high, 70cm in width or 70cm in depth; or

7.8 not contain any sharp or jagged edges or corners.

8. Placement

A moveable sign displayed on a road must:

8.1 not be placed anywhere except on the footpath;

8.2 not be placed on the sealed part of any footpath, unless the sealed part is wide enough to contain the sign and still leave a clear thoroughfare of at least 1.2 metres wide;

8.3 be placed at least 1.5 metres from the kerb (or if there is no kerb, from the edge of the roadway) unless this cannot be done without contravening subclause 8.2;

8.4 not be placed on a landscaped area, other than on landscaping that comprises only lawn;

8.5 not be placed on a designated parking area or within 1.8 metres of an entrance to any premises or corner of a road;

8.6 not be fixed, tied or chained to, leaned against or placed closer than 1.2 metres to any other structure, object, tree, bush or plant (including another moveable sign);

8.7 not be placed in a position that puts the safety of any person at risk or that unreasonably restricts the use of the footpath;

8.8 not be placed on a median strip, traffic island or on a carriageway;

8.9 be securely fixed in position such that it cannot be blown over or swept away; or

8.10 not be displayed during the hours of darkness unless it is in a clearly lit area and is clearly visible.

9. Banners

A banner must:

9.1 only be displayed on a road, footpath area or road related area;

9.2 be securely fixed to a pole, fence or other structure so that it does not hang loose or flap;

9.3 not, without the Council's permission, be attached to any building, structure, fence, vegetation or other improvement on a road owned by the Council;

9.4 not be displayed more than one month before and two days after the event it advertises;

9.5 not be displayed for a continuous period of more than one month and two days in any twelve month period; and

9.6 not exceed $3m^2$ in size.

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 at any time.

10.2 A person must not cause or allow a moveable sign to be placed on a footpath unless:

10.2.1 it only contains material which advertises a business being conducted on commercial premises adjacent to the sign, or the goods and services availablefrom that business; and

10.2.2 the business to which it relates is open to the public.

10.3 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.

10.4 If in the opinion of the Council a footpath is unsafe for a moveable sign to be displayed, the Council may by resolution 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 10.2 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 This by-law does not apply to:

11.2.1 a flat sign containing only the banner or headlines of a newspaper or magazine; or

11.2.2 a moveable sign that is placed on a public road pursuant to an authorisation under the Act or another Act; or

11.2.3 is related to a referendum and is displayed during the course of and for the purpose of that referendum.

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 of general application 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;
- 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

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; or
- 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 If a moveable sign that is removed by an authorised person is not claimed within 30 days of such removal, the authorised person may sell, destroy or otherwise dispose of the moveable sign as the authorised person thinks fit.

12.3 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.

12.4 The owner, or other person responsible for a moveable sign must remove or relocate the moveable sign at the request of an authorised person:

12.4.1 if, in the opinion of an authorised person, and not withstanding 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

12.4.2 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; or

12.4.3 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 Marion held on **10 August 2021** 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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TONY HARRISON
Chief Executive Officer