

## ELECTED MEMBERS' BRIEFING SESSION COVER SHEET

<b>Date of Workshop:</b>	07 February 2022
<b>Subject:</b>	By Law Review - Discussion
<b>Department:</b>	Office of the CEO
<b>Presenter(s):</b>	Cimon Burke, Lawyer, Kelledy Jones Lawyers
<b>Session:</b>	Open to the public.
<b>Attachments:</b>	Attachment 1 (By-Law 1 - Permits and Penalties) Attachment 2 (By-Law 2 - Roads) Attachment 3 (By-Law 3 - Local Government Land) Attachment 4 (By-Law 4 - Moveable Signs) Attachment 5 (By-Law 5 - Dogs)

---

### PURPOSE

To introduce Cimon Burke, Lawyer from Kelledy Jones Lawyers, who will be assisting Council with the by-law review. The briefing is also an opportunity for Elected Members to provide input ahead of the preparation of the draft by-laws which will return to Council for endorsement and form the basis of the initial community consultation process.

### DISCUSSION

Councils in South Australia can establish by-laws under the *Local Government Act 1999*. By-laws are local laws established by Councils to deal with issues specific to the areas under the care and control of Council.

The City of Unley currently has five (5) by-laws and last undertook a review of the by-laws in 2015. Following community consultation, the revised by-laws were endorsed by Council and became effective from 1 January 2016.

Section 251 (1) of the *Local Government Act 1999* (the Act) states:

*A by-law made under this Act, and all subsequent by-laws altering that by-law, unless it has already expired or been revoked, expire on 1 January of the year following the year in which the seventh anniversary of the day on which the by-law was made falls.*

The briefing will commence with an overview of the current by-laws, along with a brief PowerPoint presentation, presented by Cimon Burke of Kelledy Jones Lawyers, which will address the proposed amendments to the current by-laws. Following this, Elected Members will have the opportunity to provide comments and feedback regarding the proposed direction of the by-laws.

### Key Considerations

- By-laws enable management of particular matters which assist to create a safe, welcoming, and aesthetically pleasing city.
- Under the *Local Government Act 1999*, Councils must consult with the community for a minimum of 21 days regarding draft by-laws.
- By-laws enable the good rule and government of the local community.
- Council will not be able to administer and enforce its current by-laws after 1 January 2023 and therefore the by-laws need to be re-made. A by-law automatically expires unless it has been previously revoked. A new by-law is required to be made as opposed to an existing by-law being extended.
- All by-laws will be reviewed and re-made (if still required) to ensure that the by-laws do not contradict with any other legislation.
- This is an opportunity for Elected Members to consider the need for any new by-laws and to review the City of Unley's existing by-laws.

### Preparation for Members

To assist in the discussion, Members have been provided with copies of the current by-laws:

- By-Law 1 – Permits and Penalties
- By-Law 2 – Roads
- By-Law 3 – Local Government Land
- By-Law 4 – Moveable Signs
- By-Law 5 - Dogs

*Attachments 1-5*

### **SPEAKERS**

Cimon Burke, Lawyer, Kelledy Jones Lawyers

### ***THE BRIEFING IS OPEN TO THE PUBLIC***

- The cover sheet and attachments are public documents.



## CERTIFICATE OF VALIDITY

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

I, CAROLYN JANE HILLMAN VIGAR, of Wallmans Lawyers, Level 5, 400 King William Street, Adelaide, South Australia, 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 1 – Permits and Penalties**

*A by-law to regulate permits and penalties issued by the Council*

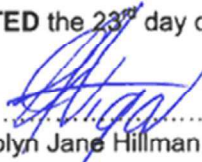
and do certify that in my opinion the Corporation of the City of Unley has power to make the by-law by virtue of the following statutory provisions:

*Local Government Act 1934*, sections 667(1).3.LIV, 667(1).9.XVI and 791;

*Local Government Act 1999*, sections 246(1)(a), 246(3)(c), 246(3)(f) and 246(3)(g),

and the by-law is not in conflict with the *Local Government Act 1999*.

DATED the 23<sup>rd</sup> day of July 2015

  
.....  
Carolyn Jane Hillman Vigar, Legal Practitioner

## CORPORATION OF THE CITY OF UNLEY

### BY-LAW MADE UNDER THE LOCAL GOVERNMENT ACT 1999

#### **By-law No. 1 – Permits and Penalties**

*A by-law to regulate permits and penalties issued by the Council.*

#### **PART 1 – PRELIMINARY**

##### **1. Title**

This by-law may be cited as the *Permits and Penalties By-law 2015*.

##### **2. Objectives**

The objectives of this by-law are to provide for the good rule and government of the Council area by providing for:

- 2.1 the issuing of permits under Council by-laws; and
- 2.2 providing for the imposition of penalties for breach of Council by-laws.

##### **3. Commencement**

This by-law comes into operation on 1 January 2016.



**4. Application**

This by-law applies throughout the Council area.

**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 Corporation of the City of Unley; and
- 5.3 **person** includes a natural person, a body corporate, an incorporated association and an unincorporated association.

**PART 2 – PERMITS AND PENALTIES**


**6. Permits**

- 6.1 In any by-law of the Council, unless the contrary intention appears, 'permission' means permission of the Council granted in writing prior to the act, event or activity to which it relates.
- 6.2 Where a by-law requires that permission be obtained, any person seeking the grant of permission must submit a written application to the Council in the form (if any) and accompanied by the fee (if any) fixed by the Council.
- 6.3 The Council may attach such conditions as it thinks fit to a grant of permission and may vary or revoke such conditions or impose new conditions by notice in writing to the person granted permission.
- 6.4 A person granted permission must comply with every condition applying to that permission.
- 6.5 The Council may suspend or revoke a grant of permission at any time by notice in writing to the person granted permission.

**7. Offences and penalties**

- 7.1 A person who commits a breach of any by-law of the Council is guilty of an offence.
- 7.2 The maximum penalty specified by section 246(3)(g) of the Act for the breach of a by-law applies to any breach of a by-law of the Council.
- 7.3 Where a breach of any by-law of the Council continues, the maximum penalty specified by section 246(3)(g) of the Act for a continuing offence applies to any breach of a by-law of the Council which continues.
- 7.4 The expiation fee fixed for a breach of a by-law is a fee equivalent to 25 per cent of the maximum fine applicable to a breach of the by-law.

This by-law was duly made and passed at a meeting of the Corporation of the City of Unley held on 27 July 2015 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

  
.....  
Peter Tsokas  
Chief Executive Officer



## **CERTIFICATE OF VALIDITY**

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

I, CAROLYN JANE HILLMAN VIGAR, of Wallmans Lawyers, Level 5, 400 King William Street, Adelaide, South Australia, 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 – Roads**

*A by-law to regulate or prohibit certain activities on roads in the Council area*

and do certify that in my opinion the Corporation of the City of Unley has power to make the by-law by virtue of the following statutory provisions:

*Local Government Act 1934*, sections 667(1).3.LIV, 667(1).4.I, 667(1).5.VII, 667(1).7.II and 667(1).9.XVI;

*Local Government Act 1999*, sections 144, 239(1)(a), 239(1)(b), 239(1)(c), 239(1)(d), 239(1)(e), 239(1)(f), 239(1)(g), 240, 246(1)(a), 246(1)(b), 246(3)(c), 246(3)(e), 246(3)(f) and 262;

*Local Government (General) Regulations 2013*, regulation 28;

and the by-law is not in conflict with the *Local Government Act 1999*.

**DATED** the 23<sup>rd</sup> day of July 2015



Carolyn Jane Hillman Vigar, Legal Practitioner

## **CORPORATION OF THE CITY OF UNLEY**

### **BY-LAW MADE UNDER THE LOCAL GOVERNMENT ACT 1999**

#### **By-law No. 2 - Roads**

*A by-law to regulate or prohibit certain activities on roads in the Council area.*

#### **PART 1 – PRELIMINARY**

##### **1. Title**

This by-law may be cited as the *Roads By-law 2015*.

##### **2. Objectives**

The objectives of this by-law are to regulate the use of roads in the Council area for the:

- 2.1 protection, convenience, comfort and safety of road users and members of the public;
- 2.2 prevention of damage to buildings and structures on roads;

- 2.3 prevention of specified nuisances occurring on roads; and
- 2.4 for the good rule and government of the Council area.

### 3. Commencement

This by-law comes into operation on 1 January 2016.

### 4. Application

- 4.1 This by-law operates subject to the Council's *Permits and Penalties By-law 2015*.
- 4.2 This by-law applies throughout the Council area.
- 4.3 Clauses 6.1, 6.5 and 6.7 of this by-law do not apply to electoral matters authorised by a candidate and which is:
  - 4.3.1 related to a Commonwealth or State election and occurs 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
  - 4.3.2 related to an election under the Act or the *Local Government (Elections) Act 1999* and occurs 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; or
  - 4.3.3 related to and occurs during the course of and for the purpose of a referendum.
- 4.4 This by-law does not apply to a police officer, emergency worker, Council officer or Council employee acting in the course and within the scope of that person's normal duties or to a contractor while performing work for the Council.

### 5. Interpretation

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

- 5.1 **Act** means the *Local Government Act 1999*;
- 5.2 **animal** includes birds and insects but does not include a dog;
- 5.3 **camp** includes setting up a camp, or causing a tent, caravan or motor home to remain on the land for the purpose of staying overnight, whether or not any person is in attendance or sleeps on the road;
- 5.4 **Council** means the Corporation of the City of Unley;
- 5.5 **effective control** means a person exercising effective control of an animal either:
  - 5.5.1 by means of a physical restraint; or
  - 5.5.2 by command, the animal being in close proximity to the person and the person being able to see the animal at all times;

- 5.6 **electoral matter** has the same meaning as in the *Electoral Act 1985*, provided that such electoral matter is not capable of causing physical damage or injury to a person within its immediate vicinity;
- 5.7 **emergency worker** is a person identified in regulation 54 of the *Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014*; and
- 5.8 **vehicle** has the same meaning as in the *Road Traffic Act 1961*.

## **PART 2 – USE OF ROADS**

### **6. Activities requiring permission**

A person must not do any of the following activities on a road without Council permission:

#### **6.1 Advertising**

Display any sign other than a moveable sign which is displayed in accordance with the Council's *Moveable Signs By-Law 2015*.

#### **6.2 Amplification**

Use an amplifier or other device whether mechanical or electrical for the purpose of broadcasting announcements or advertisements or magnifying sound.

#### **6.3 Animals**

6.3.1 Cause or allow an animal to stray onto, move over, graze or be unattended on a road.

6.3.2 Lead, herd or exercise an animal in such a manner as to cause a nuisance or endanger the safety of a person.

#### **6.4 Camping and tents**

6.4.1 Erect a tent or other structure for the purposes of camping.

6.4.2 Camp or sleep overnight.

#### **6.5 Canvassing and preaching**

Preach to, harangue, solicit or canvass any advertising of a religious or other message to any bystander, passer-by or other person.

#### **6.6 Obstructions**

Erect, install or place or cause to be erected, installed or placed any structure, object or material of any kind so as to obstruct a road, footway, water-channel or watercourse in a road.

#### **6.7 Posting of bills**

Post or allow or cause to be posted any bills, advertisements or other papers or items on a building or structure on a road.

**6.8 Public exhibitions and displays**

- 6.8.1 Sing, busk, play a recording or use a musical instrument or perform similar activities.
- 6.8.2 Conduct or hold a concert, festival, show, circus, performance or a similar activity.
- 6.8.3 Erect a stage or structure for the purpose of conducting or holding a concert, festival, show, circus, performance or a similar activity.
- 6.8.4 Cause any public exhibitions or displays.

**6.9 Soliciting**

Ask for or otherwise indicate a desire for a donation of money or any other thing.

**6.10 Vehicles**

Repair, wash, paint, panel beat or perform other work of a similar nature to a vehicle, except for running repairs in the case of a vehicle breakdown.

**PART 3 – ENFORCEMENT**


**7. Recovery of expenses**

Where the Council incurs expenses by action taken under section 262(3) of the Act to carry out an order issued for the breach of a by-law under section 262(1) of the Act, the Council may recover those expenses as a debt from the person who failed to comply with the order by an action in a court of competent jurisdiction pursuant to section 144(1) of the Act.

**8. Removal of animals and objects**

An authorised person may remove an animal or object that is on a road in breach of a by-law if no person is in possession or control, or apparently in possession or control, of the animal or object.

This by-law was duly made and passed at a meeting of the Corporation of the City of Unley held on 27 July 2015 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

  
Peter Tsokas  
Chief Executive Officer

## **CERTIFICATE OF VALIDITY**

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

I, CAROLYN JANE HILLMAN VIGAR, of Wallmans Lawyers, Level 5, 400 King William 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:

#### **By-law No 3 – Local Government Land**

*A by-law to regulate the access to and use of local government land (other than roads) and certain public places.*


and do certify that in my opinion the Corporation of the City of Unley has power to make the by-law by virtue of the following statutory provisions:

*Local Government Act 1934*, sections 667(1).3.LIV, 667(1).4.I and 667(1).9.XVI;

*Local Government Act 1999*, sections 144, 188 (1)(a), 188(1)(f), 238(1), 240, 246(1), 246(3)(a), 246(3)(c), 246(3)(d), 246(3)(e), 246(3)(f) and 262;

and the by-law is not in conflict with the *Local Government Act 1999*.

**DATED** the 23<sup>rd</sup> day of July 2015

  
.....  
Carolyn Jane Hillman Vigar, Legal Practitioner

## **CORPORATION OF THE CITY OF UNLEY**

### **BY-LAW MADE UNDER THE LOCAL GOVERNMENT ACT 1999**

#### **By-Law No. 3 - Local Government Land**

*A by-law to regulate the access to and use of local government land (other than roads) and certain public places.*

#### **PART 1 – PRELIMINARY**

##### **1. Title**

This by-law may be cited as the *Local Government Land By-law 2015*.

##### **2. Objectives**

The objectives of this by-law are to regulate the access to and use of local government land (other than roads) and certain public places for the:

- 2.1 prevention and mitigation of nuisances;
- 2.2 prevention of damage to local government land;
- 2.3 protection, convenience, comfort and safety of members of the public;



2.4 enhancement of the amenity of the Council area; and

2.5 good rule and government of the area.

### 3. Commencement

This by-law comes into operation on 1 January 2016.

### 4. Application

4.1 This by-law operates subject to the Council's *Permits and Penalties By-law 2015*.

4.2 This by-law applies throughout the Council area.

4.3 Clauses 8.1, 8.14, 8.16 and 8.27 of this by-law do not apply to electoral matter authorised by a candidate and which is:

4.3.1 related to a Commonwealth or State election and occurs 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;

4.3.2 related to an election under the Act or the *Local Government (Elections) Act 1999* and occurs 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; or

4.3.3 related to and occurs during the course of and for the purpose of a referendum.

4.4 This by-law does not apply to a police officer, emergency worker, Council officer or employee acting in the course and within the scope of that person's normal duties or to a contractor while performing work for the Council.

### 5. Interpretation

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

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

5.2 **animal or animals** includes birds, aquatic creatures and insects but does not include a dog;

5.3 **building** includes any structure or fixture of any kind whether for human habitation or not;

5.4 **camp** includes setting up a camp or causing a tent, caravan or motor home to remain on the land for the purpose of staying overnight, whether or not any person is in attendance or sleeps on the land;

5.5 **Council** means the Corporation of the City of Unley;

5.6 **electoral matter** has the same meaning as in the *Electoral Act 1985*, provided that such electoral matter is not capable of causing physical damage or injury to any person within its immediate vicinity;

5.7 **effective control** means a person exercising effective control of an animal either:

- 5.7.1 by means of a physical restraint; or
- 5.7.2 by command, the animal being in close proximity to the person and the person being able to see the animal at all times;
- 5.8 **emergency worker** is a person identified in regulation 54 of the *Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014*;
- 5.9 **human remains** has the same meaning as in the *Burial and Cremation Act 2013*;
- 5.10 **liquor** has the same meaning as in the *Liquor Licensing Act 1997*;
- 5.11 **offensive** includes threatening, abusive, insulting or annoying behaviour and offend has a complementary meaning;
- 5.12 **playing area** means a playground, field or space which is used by the public for social and organised sport or leisure;
- 5.13 **tobacco product** has the same meaning as in the *Tobacco Products Regulation Act 1997*;
- 5.14 **vehicle** has the same meaning as in the *Road Traffic Act 1961*; and
- 5.15 **waters** includes a body of water including a pond, lake, river, creek or wetlands under the care, control and management of the Council.

## **PART 2 – ACCESS TO AND CLOSURE OF LOCAL GOVERNMENT LAND**

### **6. Access**

- 6.1 The Council can:
  - 6.1.1 close, regulate or restrict access to any part of local government land to the public for specified times and days; and
  - 6.1.2 fix charges or fees payable for entry onto any part of local government land.
- 6.2 A person must comply with a sign installed by the Council indicating the conditions on which access to local government land is granted.

### **7. Closed lands**

A person must not, without permission, enter or remain on any local government land:

- 7.1 which has been closed or at times when access by the public is restricted in accordance with clause 6.1;
- 7.2 where entry fees or charges are payable, without paying those fees or charges; or
- 7.3 where the land has been enclosed by fences or walls and gates that have been closed and locked.

## **PART 3 – USE OF LOCAL GOVERNMENT LAND**

### **8. Activities requiring permission**

A person must not do any of the following activities on local government land without Council permission:

#### **8.1 Advertising**

Display any sign other than a moveable sign which is displayed in accordance with the Council's *Moveable Signs By-Law 2015*.

#### **8.2 Aircraft**

Subject to the *Civil Aviation Act 1988*, land any aircraft on the land or take off from the land.

#### **8.3 Alcohol**

Consume, carry or be in possession or in charge of any liquor on local government land comprising parks or reserves to which the Council has determined this clause applies.

#### **8.4 Amplification**

Use an amplifier or other mechanical or electrical device for the purpose of broadcasting announcements or advertisements or magnifying sound.

#### **8.5 Animals**

8.5.1 Cause or allow an animal to stray onto, move over, graze or be left unattended.

8.5.2 Cause or allow an animal to enter, swim, bathe or remain in any waters.

8.5.3 Lead, herd or exercise an animal, except where the Council has set aside a track or other area for use by, or in connection with, an animal of that kind and provided that the animal or animals are under effective control.

#### **8.6 Annoyance**

Do anything likely to offend or unreasonably interfere with any other person:

8.6.1 using that land; or

8.6.2 occupying nearby premises,

by making a noise or creating a disturbance.

#### **8.7 Aquatic creatures**

Introduce any aquatic creature into any waters.

#### **8.8 Attachments**

Attach anything to a tree, plant, equipment, fence, post, structure or fixture.

**8.9 Bees**

Place a hive of bees on local government land or allow it to remain on the land.

**8.10 Bridge jumping**

Jump or dive from a bridge.

**8.11 Buildings**

Use a building or structure for a purpose other than its intended purpose.

**8.12 Burials and memorials**

8.12.1 Bury, inter or spread the ashes of any human remains or animal remains.

8.12.2 Erect any memorial.

**8.13 Camping and tents**

8.13.1 Erect a tent or other structure as a place of habitation.

8.13.2 Camp or sleep overnight.

**8.14 Canvassing and preaching**

Preach to, harangue, solicit, canvass or convey any advertising of a religious or other message to any bystander, passer-by or other person.

**8.15 Defacing property**

Deface, paint, spray, write, cut names, letters or make marks on any tree, rock, gate, fence, building, sign, bridge or property of the Council.

**8.16 Distribution**

Place on a vehicle (without the consent of the owner of the vehicle) or give out or distribute any hand bill, book, notice, leaflet or other printed matter to any bystander, passer-by or other person.

**8.17 Entertainment and busking**

8.17.1 Sing, busk or play a recording or use a musical instrument for the apparent purpose of either entertaining others or receiving money.

8.17.2 Conduct or hold a concert, festival, show, public gathering, circus, meeting, performance or any other similar activity.

**8.18 Equipment**

Use an item of equipment, facilities or property belonging to the Council if the person is of an age indicated by a sign or notice as being outside of the permitted age range for using such equipment, facility or property.

**8.19 Fires**

Subject to the *Fire and Emergency Services Act 2005*, light a fire except:

- 8.19.1 in a place provided by the Council for that purpose; or
- 8.19.2 in a portable barbeque, as long as the barbeque is used in an area that is clear of flammable material for a distance of at least 4 metres.

#### **8.20 Flora and fauna**

Subject to the *Native Vegetation Act 1991* and the *National Parks and Wildlife Act 1972*:

- 8.20.1 damage, pick, disturb, interfere with or remove any plant or flower;
- 8.20.2 cause or allow an animal to stand or walk on any flowerbed or garden plot;
- 8.20.3 deposit, dig, damage, disturb, interfere with or remove any soil, stone, wood, clay, gravel, pebbles, timber, bark or any part of the land;
- 8.20.4 take, interfere with, tease, harm or disturb any animal or the eggs of any animal;
- 8.20.5 pick, collect, take, interfere with or disturb any fruit, nuts, berries or native seeds;
- 8.20.6 disturb, interfere with or damage any burrow, nest or habitat of any animal;
- 8.20.7 use, possess or have control of any device for the purpose of killing or capturing any animal; or
- 8.20.8 burn any timber or dead wood.

#### **8.21 Games**

- 8.21.1 Participate in, promote or organise any organised competition or sport, as distinct from organised social play.
- 8.21.2 Play or practice any game which involves kicking, hitting or throwing a ball or other object on local government land which may cause or be likely to cause injury or discomfort to a person being on or in the vicinity of that land or detract from or be likely to detract from another person's lawful use and enjoyment of that land.
- 8.21.3 Play or practice the game of golf on local government land to which the Council has resolved this subclause applies.

#### **8.22 Litter, rubbish and refuse**

Subject to clause 9.13:

- 8.22.1 throw, cast, place, deposit or leave any rubbish, dirt or refuse of any kind whatsoever except in a garbage container provided for that purpose; or
- 8.22.2 deposit any soil, clay, stone, gravel, green waste or other putrescible waste or any other matter.

**8.23 Model aircraft, boats and cars**

Fly or operate a model aircraft, boat or model or remote control vehicle in a manner which may cause or be likely to cause injury or discomfort to a person being on or in the vicinity of the land or detract from or be likely to detract from another person's lawful use of and enjoyment of the land.

**8.24 Obstruct waters**

Place a buoy, cable, chain, hawser, rope or net in or across any waters.

**8.25 Overhanging articles**

Suspend or hang an article or object from a building, verandah, pergola, post or other structure on local government land where it might present a nuisance or danger to a person using the land or be of an unsightly nature.

**8.26 Playing area**

Use or occupy a playing area:

8.26.1 in such a manner as to damage or be likely to damage the surface of the playing area or infrastructure (above and under ground level);

8.26.2 in a manner contrary to the purpose for which the playing area was intended to be used or occupied; or

8.26.3 contrary to directions of the Council made by resolution and indicated on a sign displayed adjacent to the playing area.

**8.27 Posting of bills**

Post or allow or cause to be posted any bills, advertisements or other papers or items on a building or structure on local government land or in a public place.

**8.28 Soliciting**

Ask for or otherwise indicate a desire for a donation of money or any other thing.

**8.29 Swimming**

Subject to the provisions of the *Harbors and Navigation Act 1993* swim in, bathe or enter any waters except:

8.29.1 in an area which the Council has determined may be used for such purposes; and

8.29.2 in accordance with any conditions that the Council has determined by resolution apply to such use.

**8.30 Trading**

Sell, buy, offer or display anything for sale.

**8.31 Vehicles**

- 8.31.1 Drive or propel a vehicle except on an area or road constructed and set aside by the Council for that purpose.
- 8.31.2 Promote, organise or take part in a race, test or trial of any kind in which vehicles take part, except on an area properly constructed for that purpose.
- 8.31.3 Repair, wash, paint, panel beat or carry out other work to a vehicle, except for running repairs in the case of a breakdown.

**8.32 Weddings, functions and special events**

- 8.32.1 Hold, conduct or participate in a marriage ceremony, funeral or special event, except where the number of persons attending the event or entertainment does not exceed 50 people and does not involve the installation of infrastructure or vehicular access.
- 8.32.2 Erect a marquee, stage or structure for the purpose of holding or conducting a wedding, funeral or special event.
- 8.32.3 Hold or conduct any filming where the filming is for a commercial purpose.

**9. Prohibited activities**

A person must not do any of the following activities on local government land:

**9.1 Animals**

- 9.1.1 Cause or allow any animal to enter, swim, bathe or remain in any waters to the inconvenience, annoyance or danger of any other person bathing or swimming to which the Council has determined this subclause applies.
- 9.1.2 Cause or allow any animal to damage a flowerbed, garden plot, tree, lawn or like thing or place.
- 9.1.3 Lead, herd or exercise an animal in such manner as to cause a nuisance or endanger the safety of a person.

**9.2 Equipment**

Use any equipment, facility or property that belongs to the Council other than in the manner and for the purpose for which it was designed, constructed or intended to be used or in such manner as is likely to damage or destroy it.

**9.3 Fishing**

Fish in any waters to which the Council has determined this subclause applies.

**9.4 Glass**

Willfully break any glass, china or other brittle material.

**9.5 Interference with land**

Interfere with, alter or damage the land (including a building, structure or fixture located on the land) including:

- 9.5.1 altering the construction or arrangement of the land to permit or facilitate access from an adjacent property;
- 9.5.2 erecting or installing a structure in, on, across, under or over the land;
- 9.5.3 changing or interfering with the construction, arrangement or materials of the land;
- 9.5.4 planting a tree or other vegetation on the land, interfering with the vegetation on the land or removing vegetation from the land; or
- 9.5.5 otherwise using the land in a manner contrary to the purpose for which the land was designed to be used.

**9.6 Interference with permitted use**

Interrupt, disrupt or interfere with any other person's use of local government land which is permitted or for which permission has been granted.

**9.7 Nuisance**

Behave in such a manner as to cause discomfort, inconvenience, annoyance or offence to any other person.

**9.8 Playing games**

Play or practise a game:

- 9.8.1 which is likely to cause damage to the land or anything on it;
- 9.8.2 which endangers the safety or interferes with the comfort of any person; or
- 9.8.3 in any area where a sign indicates that the game is prohibited.

**9.9 Smoking**

Subject to the *Tobacco Products Regulation Act 1997* smoke, hold or otherwise have control over an ignited tobacco product or other substance on any land to which the Council has determined this subclause applies.

**9.10 Solicitation**

Tout or solicit customers for the parking of vehicles or for any other purpose whatsoever.

**9.11 Throwing objects**

Throw, roll, project or discharge a stone or any other object in a hazardous manner.

**9.12 Toilets**

In any public convenience:



- 9.12.1 urinate other than in a urinal or pan or defecate other than in a pan set apart for that purpose;
- 9.12.2 deposit anything in a pan, urinal or drain which is likely to cause a blockage;
- 9.12.3 use it for a purpose for which it was not designed or constructed;
- 9.12.4 enter a toilet that is set aside for use of the opposite sex except:
  - (a) where a child under the age of eight years is accompanied by an adult, parent or guardian of that sex;
  - (b) to provide assistance to a disabled person; or
  - (c) in the case of a genuine emergency.

**9.13 Waste**

Deposit or leave thereon:

- 9.13.1 anything obnoxious or offensive;
- 9.13.2 any offal, dead animal, dung or filth; or
- 9.13.3 industrial waste or bi-products.

**PART 4 – ENFORCEMENT**

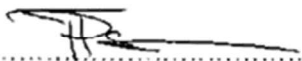
**10. Recovery of expenses**

Where the Council incurs expenses by action taken under section 262(3) of the Act to carry out an order issued for the breach of a by-law under section 262(1) of the Act, the Council may recover those expenses as a debt from the person who failed to comply with the order by an action in a court of competent jurisdiction pursuant to section 144(1) of the Act.

**11. 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 no person is in possession or control of, or apparently in possession or control of, the animal or object.

This by-law was duly made and passed at a meeting of the Corporation of the City of Unley held on 27 July 2015 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

  
Peter Tsokas  
Chief Executive Officer

## CERTIFICATE OF VALIDITY

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

I, CAROLYN JANE HILLMAN VIGAR, of Wallmans Lawyers, Level 5, 400 King William Street, Adelaide, South Australia, 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 4 – Moveable Signs**

*A by-law to set standards for moveable signs on roads and to provide conditions for the placement of such signs.*

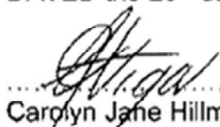
and do certify that in my opinion the Corporation of the City of Unley has power to make the by-law by virtue of the following statutory provisions:

*Local Government Act 1934*, sections 667(1) 3.LIV, 4.I and 667(1).9.XVI;

*Local Government Act 1999*, sections 144, 226(1), 226(2), 238(1), 239(1)(a), 246(1)(a), 246(3)(a), 246(3)(b), 246(3)(c), 246(3)(f) and 262,

and the by-law is not in conflict with the *Local Government Act 1999*.

DATED the 23<sup>rd</sup> day of July 2015

  
Carolyn Jane Hillman Vigar, Legal Practitioner

## CORPORATION OF THE CITY OF UNLEY

### BY-LAW MADE UNDER THE LOCAL GOVERNMENT ACT 1999

#### **By-law No. 4 - Moveable Signs**

A by-law to set standards for moveable signs on roads and to provide conditions for the placement of such signs.

#### **PART 1 – PRELIMINARY**

##### **1. Title**

This by-law may be cited as the *Moveable Signs By-law 2015*.

##### **2. Objectives**

The objectives of this by-law are to set standards for moveable signs on roads for the:

- 2.1 protection, comfort and safety of road users and members of the public;
- 2.2 amenity of the roads and surrounding Council area;
- 2.3 prevention of nuisances occurring on roads;

- 2.4 prevention of unreasonable interferences with the use of a road; and
- 2.5 good rule and government of the Council area.

### 3. Commencement

This by-law comes into operation on 1 January 2016.

### 4. Application

- 4.1 This by-law operates subject to the Council's *Permits and Penalties By-law 2015*.
- 4.2 This by-law applies throughout the Council area.

### 5. Interpretation

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

- 5.1 **Act** means the *Local Government Act 1999*;
- 5.2 **banner** means a sign that is made from non-rigid and lightweight material which is mounted to a building or other structure by its ends or corners;
- 5.3 **business** means the business to which the moveable sign relates;
- 5.4 **business premises** means premises from which a business is being conducted;
- 5.5 **Council** means the Corporation of the City of Unley;
- 5.6 **footpath area** means:
  - 5.6.1 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;
  - 5.6.2 a footway, lane or other place made or constructed for the use of pedestrians and not for the use of vehicles;
- 5.7 **moveable sign** includes a moveable sign attached to a vehicle;
- 5.8 **road related area** has the same meaning as the *Road Traffic Act 1961*;
- 5.9 **road banner site** means a specific site where a banner can be erected in accordance with Council's banner policy;
- 5.10 **street pole banner site** means a specific site where a banner can be erected in accordance with Council's banner policy; and
- 5.11 **vehicle** has the same meaning as in the *Road Traffic Act 1961*.

## PART 2 – MOVEABLE SIGNS

### 6. Construction and design

Subject to clause 9, a moveable sign placed on a footpath area must:

- 6.1 be of a kind known as an 'A' frame or sandwich board sign, an inverted 'T' sign, a flat sign or tear drop sign unless otherwise permitted by the Council;
- 6.2 be designed, constructed and maintained in good quality and condition so as not to present a hazard to any member of the public;
- 6.3 be of strong construction and sufficiently stable or securely fixed so as to keep its position in adverse weather conditions;
- 6.4 have no sharp or jagged edges or corners;
- 6.5 not be unsightly or offensive in appearance or content;
- 6.6 be constructed of timber, metal, plastic or plastic coated cardboard or a mixture of such materials;
- 6.7 not rotate or contain moving parts;
- 6.8 not contain flashing lights or be illuminated internally;
- 6.9 other than a tear drop sign, not exceed 0.9 metres in height, 0.6 metres in width and 0.6 metres in depth;
- 6.10 in the case of a tear drop sign, not exceed 2.5 metres in height from the ground, 0.6 metres in width and 0.6 metres in depth;
- 6.11 in the case of an 'A' frame or sandwich board sign:
  - 6.11.1 be hinged or joined at the top;
  - 6.11.2 be of such construction that its sides are securely fixed or locked in position when erected; and
- 6.12 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.

**7. Placement**

Subject to clause 9, the moveable sign must not be:

- 7.1 placed on any part of a road other than the footpath area;
- 7.2 placed within 1 metre of an entrance to any premises;
- 7.3 placed on the sealed part of a footpath, unless the sealed part is wide enough to place the sign with a clear thoroughfare of at least 1.2 metres;
- 7.4 placed so as to interfere with the reasonable movement of persons or vehicles using the footpath or road (other than a carriageway) in the vicinity of or adjacent to where the moveable sign is positioned or endanger the safety of members of the public;
- 7.5 placed less than 0.6 metres from:
  - 7.5.1 where the road has a kerb, the kerb;
  - 7.5.2 where the road has no kerb but has a shoulder, the shoulder;

- 7.5.3 where the road has neither a kerb nor a shoulder, the edge of the carriageway;
- 7.6 placed on a landscaped area, other than landscaping that comprises only lawn;
- 7.7 placed on a designated parking area;
- 7.8 tied, fixed or attached to any other structure, object or thing (including another moveable sign);
- 7.9 displayed during the hours of darkness unless it is in a lit area and is clearly visible; or
- 7.10 placed in an area that is not directly in front of the business premises to which it relates or outside the projections of the side boundaries of the business premises to which it relates.

## **8. Appearance**

A moveable sign placed on the footpath area of a road must, in the opinion of an authorised person:

- 8.1 be painted or otherwise detailed in a competent and professional manner;
- 8.2 be attractive, legible and simply worded to convey a precise message;
- 8.3 be of such design and contain such colours which are compatible with the architectural design of the premises adjacent to the sign and which relate well to the townscape and overall amenity of the locality in which it is situated and not detract from or conflict with traffic, safety or direction signs or signals;
- 8.4 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; and
- 8.5 not have balloons, flags, streamers or other things attached to it.

## **9. Banners**

A banner must:

- 9.1 only be displayed on a road, footpath or road related area;
- 9.2 be securely fixed to a pole, fence or other solid structure so that it does not hang loose or flap and so that a person or vehicle on the road or footpath cannot come into contact with it;
- 9.3 not, without the Council's permission, be attached to any building, structure, fence, vegetation or other item owned by the Council on a road, footpath or road related area or other improvement owned by the Council on a road, footpath or road related area;
- 9.4 only advertise an event to which the public are invited;
- 9.5 be displayed for a maximum of one month leading up to and two days after the event it advertises; and

9.6 must not exceed 3 metres<sup>2</sup> in size.

## **10. Restrictions**

- 10.1 The owner or operator of a business must not cause or allow more than one moveable sign for each business premises to be displayed on the footpath area of a road at any time.
- 10.2 A person must not, without the Council's permission, display a moveable sign on or attached to or adjacent to a vehicle that is parked on local government land (including roads) 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 footpath area 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 Notwithstanding compliance with provisions of this by-law and if, in the 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 such conditions as the Council thinks fit.

## **11. Exemptions**

- 11.1 Subclauses 6.6, 7.8, 7.10, 8.1, 8.2, 8.3, 8.4, 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, 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;
  - 11.1.2 displays directions to an event run by a community organisation or charitable body.
- 11.2 Subclauses 7.8, 7.10, 8.1, 8.2, 8.3, 8.4 and 10.1 of this by-law do not apply to a flat sign which only contains a newspaper headline and the name of a newspaper or magazine.
- 11.3 A requirement of this by-law does not apply where the Council has granted permission for the moveable sign to be displayed contrary to that requirement.
- 11.4 This by-law does not apply to a moveable sign which is placed on a road banner site or street pole banner site in accordance with the Council's banner policy.


## **PART 3 – ENFORCEMENT**

### **12. Recovery of expenses**

Where the Council incurs expenses by action taken under section 262(3) of the Act to carry out an order issued for the breach of a by-law under section 262(1) of the Act, the Council

may recover those expenses as a debt from the person who failed to comply with the order by an action in a court of competent jurisdiction pursuant to section 144(1) of the Act.

This by-law was duly made and passed at a meeting of the Corporation of the City of Unley held on 27 July 2015 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

  
.....  
Peter Tsokas  
Chief Executive Officer

## **CERTIFICATE OF VALIDITY**

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

I, CAROLYN JANE HILLMAN VIGAR, of Wallmans Lawyers, Level 5, 400 King William Street, Adelaide, South Australia, 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 5 – Dogs**

*A by-law to limit the number of dogs kept on premises and for the management and control of dogs in the Council area.*

and do certify that in my opinion the Corporation of the City of Unley has power to make the by-law by virtue of the following statutory provisions:

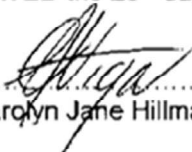
*Dog and Cat Management Act 1995*, sections 90(1), 90(2) and 90(3);

*Local Government Act 1934*, sections 667(1).3.LIV, 4.I and 667(1).9.XVI.

*Local Government Act 1999*, sections 144, 238(1), 246(1)(a), 246(3)(a), 246(3)(c), 246(3)(e) and 262,

and the by-law is not in conflict with the *Local Government Act 1999*.

**DATED** the 23<sup>rd</sup> day of July 2015

  
.....  
Carolyn Jane Hillman Vigar, Legal Practitioner

## **CORPORATION OF THE CITY OF UNLEY**

### **BY-LAW MADE UNDER THE LOCAL GOVERNMENT ACT 1999**

#### **By-law No. 5 - Dogs**

A by-law to limit the number of dogs kept on premises and for the management and control of dogs in the Council area.

#### **PART 1 – PRELIMINARY**

##### **1. Title**

This by-law may be cited as the *Dogs By-law 2015*.

##### **2. Objectives**

The objectives of this by-law are:

- 2.1 to control and manage dogs in the Council area;
- 2.2 to reduce the incidence of environmental nuisance caused by dogs;
- 2.3 to promote responsible dog ownership;
- 2.4 to protect the convenience, comfort and safety of members of the public; and



2.5 for the good rule and government of the Council area.

### 3. Commencement

This by-law comes into operation on 1 January 2016.

### 4. Application

4.1 This by-law operates subject to the Council's *Permits and Penalties By-law 2015*.

4.2 This by-law applies throughout the Council area.

### 5. Interpretation

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

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

5.2 **approved kennel establishment** means a building, structure or area approved by a relevant authority, pursuant to the *Development Act 1993* for the keeping of dogs on a temporary or permanent basis;

5.3 **Council** means the Corporation of the City of Unley;

5.4 **dog** (except for in clause 6.1) has the same meaning as in the *Dog and Cat Management Act 1995*;

5.5 **effective control** has the meaning stated in the *Dog and Cat Management Act 1995*;

5.6 **keep** includes the provision of food or shelter;

5.7 **organised community or sporting event** means a public event (including an event for which an attendance fee is payable) which the Council has permitted on local government land; and

5.8 **premises** includes land, whether used or occupied for domestic or non-domestic purposes, except an approved kennel establishment.

## PART 2 – LIMITS ON DOG NUMBERS

### 6. Limits on dog numbers in private premises

6.1 A person must not, without the Council's permission, keep more than two dogs on premises.

6.2 For the purpose of clause 6.1, 'dog' means a dog that is three months of age or older or a dog that has lost its juvenile teeth.

6.3 Clause 6.1 does not apply to:

6.3.1 approved kennel establishments operating in accordance with all required approvals and consents; or

6.3.2 any business involving dogs, provided that the business is registered in accordance with the *Dog and Cat Management Act 1995*.

- 6.4 A dog kept on any premises must be effectively confined in a secure and appropriate area.

### **PART 3 – DOG CONTROLS**

#### **7. Responsibility for dog**

A person must not allow a dog within his or her possession or control to be a nuisance or danger to any other person or to interfere with or hinder an organised community or sporting event.

#### **8. Dog exercise areas**

A person may enter a public place or part of local government land identified by Council as a dog exercise area during the hours permitted by the Council for the purpose of exercising a dog, provided that the dog is under his or her effective control.

#### **9. Dog on leash areas**

A person must not, without Council permission, allow a dog under that person's control, charge or authority (except a guide dog, hearing dog or disability dog) to be or remain:

- 9.1 at an organised community or sporting event; or
  - 9.2 on local government land or public place to which the Council has resolved that this subclause applies,
- unless the dog is secured by a strong leash not exceeding 2 metres in length which:
- 9.3 is either tethered securely to a fixed object capable of securing the dog or held by a person capable of controlling the dog; and
  - 9.4 prevents the dog from being a nuisance or a danger to other persons.

#### **10. Dog prohibited areas**

A person must not allow a dog under that person's control, charge or authority (except a guide dog, hearing dog or disability dog) to enter or remain:

- 10.1 within any enclosed area on local government land where there is children's play equipment;
- 10.2 within 3 metres of children's play equipment on local government land which is not enclosed; or
- 10.3 on any other local government land or public place to which the Council has determined that this subclause applies.

#### **11. Dog faeces**


No person is to allow a dog under that person's control, charge or authority to be in a public place or on local government land unless that person has in their possession a bag or other suitable container for the collection and lawful disposal of any faeces that the dog may deposit for the purpose of complying with their obligation under section 45A(6) of the *Dog and Cat Management Act 1995*.

## **PART 4 – ENFORCEMENT**

### **12. Recovery of expenses**

Where the Council incurs expenses by action taken under section 262(3) of the Act to carry out an order issued for the breach of a by-law under section 262(1) of the Act, the Council may recover those expenses as a debt from the person who failed to comply with the order by an action in a court of competent jurisdiction pursuant to section 144(1) of the Act.

This by-law was duly made and passed at a meeting of the Corporation of the City of Unley held on 27 July 2015 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

  
.....  
Peter Tsokas  
Chief Executive Officer