

# By-law Review – Draft for Public Consultation

Strategic Alignment - Our Corporation

Public

Tuesday, 4 June 2024

**City Planning, Development and Business Affairs Committee**

**Program Contact:**

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**Approving Officer:**

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Shaping

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## EXECUTIVE SUMMARY

This report seeks Council endorsement for draft by-laws to be released for public consultation.

City of Adelaide's (CoA's) current nine by-laws have been in place since 1 January 2018 and enable effective governance, public safety and access. As a result, the majority of draft changes are minor and the result of legislative, interpretive or grammatical factors.

CoA's by-laws expire on 1 January 2025. A review of our by-laws has been undertaken, which has involved internal engagement, analysis of external trends and past community feedback, benchmarking, legal advice, and a Committee Workshop on 20 February 2024.

Once endorsed, relevant draft by-laws will be submitted to the Dog and Cat Management Board for a 21-day consultation period. Following this, all draft by-laws will undergo a formal public consultation process.

Draft by-laws will then be presented to Council for final endorsement, along with a summary of feedback received during consultation and any proposed changes. This is scheduled for Council in August 2024.

By-laws will then be Gazetted and referred to the Legislative Review Committee, taking effect from 1 January 2025.

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## RECOMMENDATION

The following recommendation will be presented to Council on 11 June 2024 for consideration

THAT THE CITY PLANNING, DEVELOPMENT AND BUSINESS AFFAIRS COMMITTEE RECOMMENDS TO COUNCIL

THAT COUNCIL

1. Endorses the proposed by-laws as contained in Attachment A to Item 7.4 on the Agenda for the City Planning, Development and Business Affairs Committee held on 4 June 2024 for the purposes of public consultation for a minimum period of 21 days, which includes consultation with the Dog and Cat Management Board in accordance with Section 249 of the *Local Government Act 1999 (SA)* and Section 90 of the *Dog and Cat Management Act 1995*.
  2. Authorises the Acting Chief Executive Officer or delegate to provide a report to the Dog and Cat Management Board in accordance with Section 90(5) of the *Dog and Cat Management Act 1995* with respect to the proposed Dogs By-law 2024 and proposed Cats By-law 2024.
  3. Authorises the Acting Chief Executive Officer or delegate to make copies of the draft by-laws available for the public in accordance with Section 132(1) of the *Local Government Act 1999 (SA)*, no sooner than 21 days after referring the Dogs By-law 2024 and Cats By-law 2024 to the Dog and Cat Management Board.
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## IMPLICATIONS AND FINANCIALS

City of Adelaide 2024-2028 Strategic Plan	Strategic Alignment – Our Corporation – Enable effective governance, risk management, accountability and transparency at all times in decision making.
Policy	By-laws are a legislated function, which support the delivery of Council’s legislative obligations, Strategic Plan and policies. The proposed changes to our by-laws will not significantly impact existing policies.
Consultation	Draft by-laws will require formal consultation with the Dog and Cat Management Board and the general public.
Resource	Not as a result of this report
Risk / Legal / Legislative	Legal advice has been sought to mitigate risk and ensure the process out outcomes are legislatively sound. Final Council endorsement is required by 1 September 2024 to allow revised by-laws to take effect from 1 January 2025.
Opportunities	To support enhanced community convenience, safety, and comfort, leveraging updated by-laws to benefit residents, businesses, and visitors.
23/24 Budget Allocation	\$8,000 (includes legal fees, advertising and State Government fees)
Proposed 24/25 Budget Allocation	\$9,500 (includes legal fees, advertising and State Government fees)
Life of Project, Service, Initiative or (Expectancy of) Asset	By-laws require formal review every seven years.
23/24 Budget Reconsideration (if applicable)	Not as a result of this report
Ongoing Costs (eg maintenance cost)	Not as a result of this report
Other Funding Sources	Not as a result of this report

# DISCUSSION

## Background

1. Council's power to pass a by-law is derived from Section 246 of the *Local Government Act 1999 (SA)* (the Act), which requires the review and formal adoption of by-laws every seven years.
2. City of Adelaide's (CoA) by-laws are due to expire on 1 January 2025.
3. By-laws are a form of legislation designed to provide good governance at the local level, assisting Councils to provide a convenient, safe, and comfortable space for its community and environment.
4. By-laws are commonly derived from 'model' by-laws prepared by the Local Government Association, and refined by legal providers with expert knowledge of local government.
5. CoA's current by-laws came into effect on 1 January 2018, and continue to enable effective governance, public safety and access.
6. CoA currently has nine by-laws:
  - 6.1 By-law No. 1 – Permits and Penalties – [Link 1](#)
  - 6.2 By-law No. 2 – Moveable Signs – [Link 2](#).
  - 6.3 By-law No. 3 – Local Government Land – [Link 3](#).
  - 6.4 By-law No. 4 – Roads – [Link 4](#).
  - 6.5 By-law No. 5 – Waste Management – [Link 5](#).
  - 6.6 By-law No. 6 – Rundle Mall – [Link 6](#).
  - 6.7 By-law No. 7 – Dogs – [Link 7](#).
  - 6.8 By-law No. 8 – Cats – [Link 8](#).
  - 6.9 By-law No. 9 – Lodging Houses – [Link 9](#).
7. It is possible to review and amend by-laws outside of the legislated minimum requirement to review by-laws every seven years, however, there has been no requirement to amend the current CoA by-laws prior to this review.

## Review Process

8. CoA's By-law Review has involved:
  - 8.1 A series of internal workshops and engagement with subject matter experts.
  - 8.2 Analysis of external trends and benchmarking other jurisdictions.
  - 8.3 Assessment of past customer requests, complaints & breaches.
  - 8.4 Assessment of Council's 2024-2028 Strategic Plan and previous community engagement feedback.
  - 8.5 A workshop with Elected Members at the 20 February 2024 Committee, provided as [Link 10](#).
  - 8.6 External legal advice.
9. The process for adopting by-laws is set out in legislation and involves multiple steps beyond this report. This includes:
  - 9.1 Referring relevant draft by-laws to the Dog and Cat Management Board (DCMB) together with a report outlining the objectives of any proposed changes, for a 21-day consultation period.
  - 9.2 Following consultation with the DCMB, a 21-day public consultation process.
  - 9.3 Council endorsement of by-laws following consideration of consultation feedback.
  - 9.4 Endorsed by-laws progressing through Government Gazetting and the Legislative Review Committee.

## Proposed Changes

10. The proposed changes are minor in nature and are largely a result of legislative, interpretive or grammatical factors, or the modernising of language and terms.
11. [Link 11](#) contains all nine draft by-laws, showing proposed track changes and additions in orange.
12. [Link 11](#) also details explanations for the changes. The majority of explanations explain that proposed edits have been made to either:

- 12.1 Make the document easier to interpret for our community.
- 12.2 Reflect gender neutral language.
- 12.3 Use City of Adelaide terms/language.
- 12.4 Reflect current Legislation.
- 12.5 Remove content that is no longer relevant.

13. Amendments not explained by one of the above categories are listed in the following table:

By-law No.	New Wording	Explanation
<p>By-law No. 2 Moveable Signs:</p> <p>3.2</p> <p>9.</p>	<p><b>Definitions</b></p> <p><b>In this By-law:</b></p> <ul style="list-style-type: none"> <li>• <b>Banner</b> means a moveable sign constituted of a strip of cloth, plastic or other material hung or attached to a pole, fence or other structure and includes a tear drop sign;</li> </ul> <p><b>Part 3 – Provisions Applicable to Banners</b></p> <p><b>Banners</b> A banner must:</p> <ul style="list-style-type: none"> <li>• only be displayed on a road, footpath or road related area;</li> <li>• be securely fixed to a pole, fence or other structure so that it does not hang loose or flap;</li> <li>• not 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;</li> <li>• not be displayed more than one month before and two days after the event it advertises;</li> <li>• not exceed 3m<sup>2</sup> in size.</li> </ul>	<p>The addition of ‘banners’ and the subsequent definition will support many requests Administration receives – often from the business community – to use ‘tear drop’ advertising signage to promote their business. From a practical perspective this is supported and commonly used in many locations. However, our current by-laws are silent on this option, which has caused operational issues previously.</p>
<p>By-law No. 3 Local Government Land 5.10</p> <p>By-law No. 4 Roads 5.6</p> <p>By-law No. 6 Rundle Mall 5.7</p>	<p><b>Prohibited Activities</b></p> <p><b>A person must not:</b></p> <p><b>Public Conveniences</b> in any public convenience:</p> <ul style="list-style-type: none"> <li>• smoke tobacco or any other substance;</li> <li>• deposit anything in a pan, urinal or drain which is likely to cause a blockage;</li> <li>• use it for a purpose for which it was not designed or constructed;</li> <li>• subject to clause (5.6.5) (5.10.5) (5.7.5), enter the public convenience unless the person is of</li> </ul>	<p>Revised conditions regarding the use of public conveniences reflect the model clause drafted by the Legislative Review Committee of Parliament.</p>

	<p>the gender indicated in writing or on a sign located on the public convenience;</p> <ul style="list-style-type: none"> <li>• clause (5.6.4) (5.10.4) (5.7.4) does not apply –</li> <li>• in a genuine emergency; or</li> <li>• to a vulnerable person being assisted by the vulnerable person’s caregiver, parent or guardian; or</li> <li>• to a person that is intersex, transgender or gender diverse; or</li> <li>• to a person with a disability; or</li> <li>• to a person assisting a person with a disability;</li> </ul>	<p>By-law 3 – clause 5.6.5, By-law 4 – clause 5.10.5 By-law 6 – clause 5.7.5</p> <p>By-law 3 – clause 5.6.4, By-law 4 – clause 5.10.4 By-law 6 – clause 5.7.4</p>
<p>By-law No. 5 Waste Management</p> <p>4.4</p>	<p><b>‘Container’ replaced with the word ‘Bin’</b></p> <p><b>Management of Waste System</b></p> <p>Bins that are placed on the footpath area or road, must be labelled with the address of the premises or business name to which they relate.</p>	<p>Throughout this by-law the use of the word Container has been replaced with the word Bin to be consistent with the language within the draft CoA Kerbside Waste Management Services – Operating Guideline.</p> <p>The proposed new clause will assist in the identification of bins, which will enhance operational matters and the investigation of potential concerns/breaches. This will be implemented in a staged approach.</p>
<p>By-law No. 6 Rundle Mall</p> <p>4.5</p>	<p><b>Activities Requiring Permission</b> <b>A person must not without Permission in Rundle Mall or in the vicinity of Rundle Mall:</b></p> <p><b>Fireworks</b></p> <ul style="list-style-type: none"> <li>• use, discharge or explode any fireworks;</li> </ul>	<p>Reference to firearms removed as this duplicates existing legislation that regulates the use, possession etc of firearms</p>

14. **Attachment A** contains the final version of the 2024 By-laws without track changes.

#### Next Steps

15. Should the recommendations of this report be endorsed, the next steps are listed below.

15.1. A report to the DCMB and consideration of any resulting recommendations from the 21-day consultation period.

15.2. Release of the draft by-laws for public consultation.

15.3. A report to Council seeking endorsement of draft by-laws, scheduled for August 2024.

16. If significant changes are required post-consultation, further consultation may need to be undertaken in relation to those changes.

17. Following final Council endorsement, proposed by-laws will be published in the Government Gazette and a report referred to the Legislative Review Committee for approval.

18. If there are no objections or amendments, by-laws will take effect four months after they are Gazetted and will be valid until 1 January 2032, unless revoked prior.

## DATA AND SUPPORTING INFORMATION

**Link 1** - By-law No. 1 - Permits and Penalties – 2018

**Link 2** - By-law No. 2 - Moveable Signs – 2018

**Link 3** - By-law No. 3 - Local Government Land – 2018

**Link 4** - By-law No. 4 - Roads – 2018

**Link 5** - By-law No. 5 - Waste Management – 2018

**Link 6** - By-law No. 6 – Rundle Mall – 2018

**Link 7** - By-law No. 7 - Dogs – 2018

**Link 8** - By-law No. 8 - Cats - 2018

**Link 9** - By-law No. 9 - Lodging Houses – 2018

**Link 10** - Workshop with Elected Members at the 20 February 2024 Committee

**Link 11** - Revised City of Adelaide By-laws with track changes and comments

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## ATTACHMENTS

**Attachment A** – Final version of the City of Adelaide By-laws 2024

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