

# GOLD COAST CITY COUNCIL



## LOCAL LAW NO 5

(DISTRIBUTION OF BUSINESS ADVERTISING PUBLICATIONS  
AND TOUTING)

REPEALED (GZETTE 19/12/08)

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TOUTING)**

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**PART 1 – PRELIMINARY**

**Citation**

- 1 This local law may be cited as Gold Coast City Council Local Law No 5 (Distribution of Business Advertising Publications and Touting).

**Commencement**

- 2 This local law commences on the date a notice of the making of this local law is published in the government gazette.

**Objects**

- 3 (1) The object of this local law is to prohibit touting and the distribution of business advertising publications in a public place.
- (2) This local law is intended to:
- (a) prevent unreasonable impacts upon the amenity, enjoyment and use of a public place; and
  - (b) prevent a nuisance, hazard, inconvenience or annoyance to a person in a public place.

**Definitions**

- 4 In this local law:
- “**Act**” means the Local Government Act 1993.
- “**business advertising publication**” means a publication that publicises any business, commercial or trade activity.

**“chief executive officer”** means the Chief executive officer of the local government and includes any person acting in that position from time to time.

**“corporation”** includes:

- (a) a corporation as defined in the Corporations Law; and
- (b) an association as defined by the Associations Incorporations Act 1981.

**“executive officer”** of a corporation means a person who is concerned with, or takes part in, the corporation’s management, whether or not the person is a director or the person’s position is given the name of executive officer.

**“newspaper”** has the meaning ascribed in the Printing and Newspapers Act 1981.

**“publication”** means any printed or written matter and includes a book, pamphlet, leaflet, circular, handbill, notice, ticket, voucher, pass, advertisement, poster, magazine or other periodical publication, but does not include a newspaper.

**“public place”** means:

- (a) a road as defined under the Act; or
- (b) land owned by the local government; or
- (c) trust land as defined under the Land Act 1994 of which the local government is trustee; or
- (d) a mall; or
- (e) any place under the local government’s control that is declared under a local law policy to be subject to this local law.

**“publicise”** means to draw to the attention of, make known, advertise or promote and

**“publicises”** has the corresponding meaning.

**“tout”** means to approach another person and publicise either verbally or in writing a business, commercial or trade activity and **“touted”** and **“touting”** have the corresponding meaning.

**Relationship with other local laws**

- 5 This local law is in addition to, and does not derogate from a local law:
- (a) regulating advertising; and
  - (b) regulating litter; and
  - (c) about roads and pedestrian traffic.

**PART 2 – PROHIBITED ACTIVITY****Distribution of business advertising publications**

- 6 (1) Subject to section 6(2) (Distribution of business advertising publications) of this local law, a person must not when in a public place distribute a business advertising publication.
- Maximum penalty – 50 penalty units
- (2) Section 6(1) (Distribution of business advertising publications) of this local law, does not apply to the distribution of:
- (a) a newspaper which complies with the Printing and Newspaper Act 1981;  
or
  - (b) printed material by post; or
  - (c) a bus timetable at a bus stop; or
  - (d) a particular business advertising publication or a class of business advertising publication which is specified by a local law policy.

**Touting**

- 7 (1) A person must not tout in a public place.
- Maximum penalty – 200 penalty units
- (2) Section 7(1) (Touting) of this local law does not apply to:

- (a) a person who is attempting to arrange a multiple hiring for a taxi at a taxi rank pursuant to the Transport Operations (Passenger Transport) Act 1994; or
- (b) a person who at a bus stop is selling nothing but tickets which allow travel on a scheduled passenger service (as defined under the Transport Operations (Passenger Transport Act 1994) which utilises that bus stop; or
- (c) a person who is the operator of a tow truck pursuant to the Tow Truck Act 1973 who is touting in respect of the operation of that tow truck; or
- (d) touting in respect of an activity specified by a local law policy.

### **PART 3 – ENFORCEMENT**

#### **Evidence**

- 8** (1) In any proceedings for an offence involving a contravention of this local law, an averment in a complaint that:
- (a) a named location is a public place; or
  - (b) a public place is within the territorial unit of the local government; or
  - (c) in the case of a contravention of section 6(1) (Distribution of business advertising publications) of this local law, section 6(2) (Distribution of business advertising publications) of this local law has no application; or
  - (d) in the case of an offence under section 9(2) (Executive Officers must ensure corporation complies with this local law) of this local law:
    - (i) a person is an executive officer of the corporation; and
    - (ii) the corporation has been convicted of an offence;

will be evidence of the fact stated.

**Executive officers must ensure corporation complies with local law**

- 9 (1) The executive officers of a corporation must ensure the corporation complies with this local law.
- (2) If a corporation commits an offence against a provision of this local law, each of the corporation's executive officers also commits an offence, namely, the offence of failing to ensure that the corporation complies with the provision.
- Maximum penalty – the penalty for the contravention of the provision by an individual
- (3) Evidence that the corporation has been convicted of an offence against a provision of this local law is evidence that each of the executive officers committed the offence of failing to ensure that the corporation complied with the provision.
- (4) However, it is a defence for an executive officer to prove:
- (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence – the officer exercised reasonable diligence to ensure the corporation complied with the provision; or
- (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.
- (5) This section applies so as not to limit or affect in any way the liability of a corporation to be proceeded against and punished for an offence committed by the corporation in contravention of this local law.

**Liability of third parties**

- 10 (1) Any person involved in a contravention of this local law commits an offence.
- Maximum Penalty – the penalty for which any person who committed the contravention would be liable.

- (2) For the purposes of section 10(1) (Liability of third parties) of this local law, a person involved in a contravention of this local law is any person who:
- (a) has aided, abetted, counselled or procured the contravention; or
  - (b) has induced, whether by threats or promises or otherwise, the contravention; or
  - (c) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention; or
  - (d) has conspired with others to effect the contravention.

### **Attempts to commit offences**

- 11** (1) A person who attempts to commit an offence under this local law commits an offence.
- Maximum penalty – half the maximum penalty for committing the attempted offence.
- (2) The provisions of the Criminal Code (relevant to attempts to commit offences) apply to the attempt.

## **PART 4 – LOCAL LAW POLICIES**

### **Local law policies**

- 12** The local government may in a local law policy specify:
- (a) that a place under the local government's control is subject to this local law pursuant to section 4 (Definitions) of this local law; and
  - (b) that section 6(1) (Distribution of business advertising publications) of this local law does not apply to the distribution of a particular business advertising publication or a class of business advertising publication pursuant to section 6(2)(d) (Distribution of business advertising publications) of this local law; and



- (c) that section 7(1) (Touting) of this local law does not apply to a person who has touted in respect of a specified activity pursuant to section 7(2)(d) (Touting) of this local law; and
- (d) other matters about which this local law specifically allows for the making of local law policies.

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