

GOLD COAST CITY COUNCIL



LOCAL LAW No 7

(CONTROL OF ADVERTISING DEVICES)

REPEALED (GZETTE 19/12/08)

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PART 1 - PRELIMINARY

1.	Citation	1
2.	Objects	1
3.	Definitions	1
4.	Interaction between this local law and other laws	2

PART 2 - PERMITTED ADVERTISEMENTS

5.	Classification of advertisements	3
6.	Conditions on which advertisements are classified as permitted advertisements ...	4
7.	Compliance with conditions of classification	4

PART 3 - EXHIBITION OF ADVERTISEMENTS

8.	Unlawful exhibition of advertisements	5
9.	Application for local government's approval	5
10.	Criteria to guide local government's discretion	6
11.	Term of Approval	7
12.	Conditions of Approval	8
13.	Compliance with conditions of approval	9

PART 4 - ENFORCEMENT

14.	Obligation to maintain	9
15.	Removal of advertisements unlawfully exhibited	10
16.	Notice to remove in other cases	10
17.	Local government's powers on default	11
18.	Removal without notice	11
19.	Powers of entry and cost recovery	12

PART 5 - MISCELLANEOUS

20.	Local government advertisements	12
21.	Interference with local government advertisements	12

22. General defence to charge of unlawful exhibition of advertisement13
23. Local law policies (See section 464 of the Local Government Act 1993)... 13

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PART 1 - PRELIMINARY

Citation

1. This local law may be cited as Local Law No. 7 (Control of Advertising Devices).

Objects

2. The objects of this local law are to ensure that advertisements and associated structures
 - (a) are constructed and maintained to essential standards of public safety; and
 - (b) complement or, at least, do not unreasonably detract from, desirable characteristics of the natural and built environment in which the advertisements are exhibited.

Definitions

3. In this local law
"advertisement" means an advertisement or sign that is visible from a road or other public place and includes a structure that forms part of the advertisement or sign, or to which it is attached, or on which it is exhibited.

"advertiser" means a person

- (a) by whom an advertisement is exhibited; or
- (b) whose business or place of business is advertised by the advertisement;

and includes a person who manages and controls, or has power to manage or control, the place in which the advertisement is exhibited.

"authorised person" means a person authorised by the local government to exercise the powers of an authorised person under this local law.

"building approval" means an approval, permission, consent or authorisation under the Building Act 1975.

"environmental protection policy" means an environmental protection policy under the Environmental Protection Act 1994 (Under Chapter 2 of the Environmental Protection Act 1994, the Minister responsible for the administration of that Act may prepare environmental policies about the environment or anything that affects or may affect the environment (See section 24 of that Act)).

"permitted advertisement" means an advertisement classified as a permitted advertisement under Part 2 (Permitted Advertisements).

"planning approval" means an approval, permission, consent or authorisation under the Local Government (Planning and Environment) Act 1990.

Interaction between this local law and other laws

4. (1) This local law is in addition to, and does not derogate from, the Local Government (Planning and Environment) Act 1993 and the Building Act 1975.

(2) The administration and enforcement of this local law must be consistent with the Local Government (Planning and Environment) Act 1990 and the Building Act 1975.

Example

The structural adequacy of an advertisement must be assessed, where appropriate criteria exist under the Building Act 1975, in accordance with the relevant criteria.

PART 2 - PERMITTED ADVERTISEMENTS

Classification of advertisements

5. (1) The local government may, by local law policy

- (a) classify advertisements by reference to criteria stated in the local law policy as permitted advertisements; or
- (b) vary or revoke an earlier classification under this section.

(2) The classification of advertisements as permitted advertisements may be based on 1 or more of the following criteria

- (a) the nature, dimensions, design, structural form or other physical characteristics of the advertisement;
- (b) the content of the advertisement;
- (c) the part of the area in which the advertisement is to be exhibited;

Example

For example, the part of the area may be a particular zone established by a town planning scheme.

- (d) the positioning of the advertisement in relation to
 - (i) an allotment boundary; or
 - (ii) a building; or
 - (iii) a road, footpath or other thoroughfare; or
 - (iv) another physically identifiable point or line;
- (e) other criteria stated in the relevant local law policy.

Conditions on which advertisements are classified as permitted advertisements

6. (1) The local government may, by local law policy, prescribe conditions on which advertisements of a particular class are classified as permitted advertisements.

(2) The conditions may, for example

- (a) require the advertiser to give the local government written notice containing specified information before, or within a specified period after, the advertisement is exhibited;
- (b) require that a registration number allocated by the local government be affixed to the advertisement for as long as it is exhibited.

Compliance with conditions of classification

7. If a permitted advertisement is exhibited, and a condition on which the advertisement is classified as a permitted advertisement is not complied with, the advertiser is guilty of an offence.

Maximum penalty 20 penalty units.

PART 3 - EXHIBITION OF ADVERTISEMENTS

Unlawful exhibition of advertisements

8. (1) An advertisement must not be exhibited in the area unless
- (a) the advertisement is a permitted advertisement; or
 - (b) the exhibition of the advertisement is approved by the local government.

(2) If an advertisement is exhibited in contravention of subsection (1), the advertiser is guilty of an offence.

Maximum penalty 50 penalty units.

Application for local government's approval

9. (1) An application for the local government's approval of the proposed exhibition of an advertisement in the area must set out
- (a) full details of the advertisement, including its contents, its design, its dimensions and its construction; and
 - (b) full details of when, where and how the advertisement is to be exhibited.
- (2) If planning approval or building approval is required for the advertisement, the application must be accompanied by evidence of the relevant approval.
- (3) If an advertisement is to be exhibited in a place that is not controlled by the advertiser, the application must be accompanied by the written consent of the owner and occupier of the place.

Criteria to guide local government's discretion

10. (1) In deciding whether to approve the exhibition of an advertisement, the local government must have regard to
- (a) relevant submissions made by interested persons; and
 - (b) the public interest; and
 - (c) relevant Commonwealth, State or local government plans, proposals or agreements affecting the part of the area in which the advertisement is to be situated.
- (2) The local government may only approve the exhibition of an advertisement if
- (a) the advertisement is structurally sound (If approval for the proposed advertisement is required under the Building Act 1975, this requirement will be satisfied if approval for the structural elements of the advertisement has been given under that Act.); and

- (b) the advertisement causes no significant obstruction of, or distraction to, vehicular or pedestrian traffic; and
- (c) the exhibition of the advertisement is consistent with applicable environmental protection policies; and
- (d) the dimensions of the advertisement bear a reasonable relationship to the dimensions of surrounding buildings and allotments so that
 - (i) its presence is not unduly dominating or oppressive; and
 - (ii) it does not unreasonably obstruct existing views; and
- (e) the advertisement is consistent, in colour and appearance, with buildings and natural features of the environment in which it is to be situated; and
- (f) the advertisement is in other respects consistent with the character and values of the environment in which it is to be situated; and
- (g) the approval is consistent with the local law policies.

(3) The local government may, by local law policy

- (a) prescribe criteria for the grant or refusal of approvals for the exhibition of advertisements; or
- (b) prohibit specified classes of advertisements, or prohibit the exhibition of advertisements in circumstances of a specified class.

Term of approval

11. (1) An approval is granted for a term specified in the approval.

(This refers only to the approval to exhibit the advertisement under this local law. If approval for the structural elements of the advertisement has been given under the Local Government (Planning and Environment) Act 1990 or the Building Act 1975, that approval is unaffected by this section.)

(2) The local government may, from time to time, on application by the advertiser, renew an approval for a further term.

(3) The term for which an approval is granted or renewed must be fixed as required under a relevant local law policy, or as decided by the local government when it grants or renews the approval.

Conditions of approval

12. (1) An approval may be granted on conditions the local government considers appropriate.

(2) The conditions may, for example

- (a) regulate the materials out of which the advertisement is to be constructed; or
- (b) regulate the dimensions of the advertisement; or
- (c) require the periodic painting or external treatment of the advertisement; or
- (d) require the securing of the advertisement in a specified way; or
- (e) regulate the positioning of the advertisement in relation to the boundaries of land, or a building or structure, on which it is situated or a road or other public place; or
- (f) regulate how the advertisement is to be illuminated and the intensity of illumination.

(3) The local government may, by local law policy, prescribe conditions that must be imposed on an approval or that will ordinarily be imposed on an approval.

(4) Conditions imposed under this section must be consistent with the conditions of any relevant planning approval or building approval.

Compliance with conditions of approval

13. The advertiser must ensure that the conditions of an approval are complied with.

Maximum penalty 20 penalty units.

PART 4 - ENFORCEMENT

Obligation to maintain

14. (1) If an authorised person is of the opinion that an advertisement is not in good order and repair, or is unsightly, the authorised person may, by notice in writing, require the advertiser to carry out specified work to put the advertisement into good order or repair, or to remedy the unsightly condition of the advertisement.

(2) An advertiser must comply with a notice under subsection (1) within the time allowed in the notice.

Maximum penalty 50 penalty units.

(3) However, if an advertiser removes an advertisement within the time allowed in the notice, the advertiser is taken to have complied with the notice.

Removal of advertisements unlawfully exhibited

15. (1) If an advertisement is exhibited in contravention of this local law or a condition imposed under this local law, an authorised person may, by written notice to the advertiser, require the advertiser to remove the advertisement within a time specified in the notice.

(2) The local government may withdraw a notice under this section if, within the time allowed for removal of the advertisement, the advertiser obtains the necessary approval for exhibition of the advertisement or takes other necessary action to ensure that the advertisement is lawfully exhibited.

(3) An advertiser must comply with a notice under subsection (1) within the time allowed in the notice.

Maximum penalty 50 penalty units.

Notice to remove in other cases

16. (1) If

(a) the character of a particular part of the area changes as a result of commercial or residential development or for another reason, and the exhibition of an advertisement is no longer consistent with the character of the relevant part of the area; or

(b) an advertisement is exhibited in a particular part of the area and the advertisement, in conjunction with other advertisements exhibited by the same or other advertisers, seriously detracts from the character of the relevant part of the area;

(i) the local government may, by written notice, require the advertiser to remove the advertisement.

(2) An advertiser must comply with a notice under subsection (1) within the time allowed in the notice.

Maximum penalty 50 penalty units.

Local government's powers on default

17. (1) If a person fails to comply with a notice under this Part within the time allowed in the notice, the local government may remove and dispose of the advertisement.

(2) An authorised person acting on the local government's instructions may carry out demolition or other work that may be necessary to remove the advertisement.

Removal without notice

18. (1) If

- (a) an advertisement is exhibited in contravention of this local law or a condition imposed under this local law and there are, in the opinion of an authorised person, adequate reasons for removing the advertisement immediately; or
- (b) an advertisement creates, in the opinion of an authorised person, a risk to life or property;
 - (i) the local government may remove and dispose of the advertisement.

(2) An authorised person acting on the local government's instructions may carry out demolition or other work that may be necessary to remove the advertisement.

Powers of entry and cost recovery

19. (1) An authorised person acting on the local governments instructions may enter land to carry out work under this Part

- (a) under section 661 of the Act, if the advertiser is the owner or occupier of the relevant land; or
- (b) under section 665 of the Act, if the advertiser is not the owner or occupier of the relevant land (A magistrate may make an order for entry to the land under section 658 (Order on occupier who refuses entry) if the occupier refuses to permit entry.)

(2) If the advertiser is the owner of the relevant land, the amount properly and reasonably incurred by the local government in having work carried out under this Part is recoverable (together with interest) under sections 661, 662 and 663 of the Act.

(3) If the advertiser is not the owner of the relevant land, the amount properly and reasonably incurred by the local government is recoverable as a debt from the advertiser together with interest on the same basis as applies to an owner of land under section 662 of the Act (Section 662(2) of the Local Government Act 1993 provides for the payment of interest on the same basis as for an overdue rate.).

PART 5 - MISCELLANEOUS

Local government advertisements

20. The local government may itself exhibit advertisements without approval under this local law.

Interference with local government advertisements

21. A person must not remove, alter, deface or otherwise interfere with an advertisement exhibited by the local government.

Maximum penalty 50 penalty units.

General defence to charge of unlawful exhibition of advertisement

22. If a person is charged with exhibiting an advertisement in contravention of this local law, it is a defence for the defendant to prove that the advertisement was exhibited without the defendant's knowledge or consent.

Local law policies (See section 464 of the Local Government Act 1993.)

23. The local government may make local law policies about

- (a) classifying advertisements as permitted advertisements, and the conditions on which advertisements are classified as permitted advertisements; (See Sections 5 and 6). or

- (b) criteria for granting approvals for exhibition of advertisements, the term for which approvals are to be granted or renewed, and the conditions of approvals; (See sections 10-12). or
- (c) specifying classes of advertisements that are prohibited or circumstances in which the exhibition of advertisements is prohibited; (See section 10(3)(b)). or
- (d) other matters about which this local law specifically allows for the making of local law policies.

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