



**Brisbane City Council**

**ADVERTISEMENTS LOCAL LAW  
2013**

Consolidated as at 6 August 2013



## Brisbane City Council

# ADVERTISEMENTS LOCAL LAW 2013

made under the  
*City of Brisbane Act 2010*

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## Part 1 Preliminary

### 1 Citation

This local law may be cited as *Advertisements Local Law 2013*.

### 2 Objects

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.

*Note—*

*Council does not have jurisdiction under this local law to enforce matters concerning the content of signs which relate to public taste or community expectations. The relevant State legislation is the Classification of Publications Act 1991. Claims relating to defamation are handled by means of the Defamation Act 2005 and the Criminal Code. The Advertising Standards Bureau is an industry body which handles complaints about advertising.*

### 3 Definitions

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.

**“approved advertisement”** means an advertisement for which approval is required by the Council under Part 3.

**“authorised person”** means a person authorised by the Council 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*.

**“Council”** means Brisbane City Council.

**“generally inappropriate advertisement”** means an advertisement which is classified in a subordinate local law as generally inappropriate in a city environment but which may be approved where it meets the criteria for a generally

inappropriate advertisement in the subordinate local law.

**“permitted advertisement”** means an advertisement classified as a permitted advertisement in Part 2 which may be installed without an application for approval provided it complies with all the conditions for such advertisements set out in a subordinate local law.

**“Planning Act”** means the *Sustainable Planning Act 2009*.

**“planning approval”** means an approval, permission, consent or authorisation under the *Planning Act*.

**“prohibited advertisement”** means an advertisement which is prohibited in all or part of the City of Brisbane as specified in a subordinate local law.

**“public place”** has the same meaning as section 114(5) of the *City of Brisbane Act 2010*.

**“review application”** see section 13A.

**“review decision”** see section 13B.

#### **4 This number is not used.**

## **Part 2 Permitted Advertisements**

### **5 Classification of advertisements**

- (1) The Council may, by subordinate local law—
  - (a) classify advertisements by reference to criteria stated in the subordinate local law 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 area classification 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;

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- (e) other criteria stated in the relevant subordinate local law.

## **6 Conditions on which advertisements are classified as permitted advertisements**

- (1) The Council may, by subordinate local law, 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 Council 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 Council be affixed to the advertisement for as long as it is exhibited.

## **7 Compliance with conditions of classification**

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**

## **8 Unlawful exhibition of advertisements**

- (1) An advertisement must not be exhibited in the area unless—
  - (a) the advertisement is a permitted advertisement; or
  - (b) Council has given written approval for the exhibition of the advertisement.
- (2) If an advertisement is exhibited in contravention of subsection (1), the advertiser is guilty of an offence.

Maximum penalty—50 penalty units.

## **9 Application for Council's approval**

- (1) An application for the Council'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 is required for the advertisement, the application must be accompanied by evidence of the relevant approval.

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- (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.

## **9A New application on change of advertising media**

- (1) A change to the advertising media of an existing advertisement, either in part or in whole, requires a new application to Council under section 9.

*Examples—*

*An approved billboard sign which previously utilised a paper skin which is converted in part or entirely to an LED or LCD display is a change of advertising medium of the sign and requires a new approval.*

- (2) An advertisement exhibited following a change of its advertising medium without an approval is a contravention of this local law and enforcement action may be taken under Part 4.
- (3) Subsections (1) and (2) do not apply provided—
- (a) the change to the advertising media of the existing advertisement complies with all the requirements of a low impact electronic display component prescribed in the subordinate local law; and
  - (b) there is no change to the total area of the advertisement; and
  - (c) Council is given notification of the change within 10 business days of the date the media of the advertisement is changed.

## **10 Criteria to guide Council's discretion**

- (1) In deciding whether to approve the exhibition of an advertisement, the Council must have regard to—
- (a) any relevant advice it sees fit to obtain from suitably qualified experts; and
  - (b) the public interest; and
  - (c) relevant Commonwealth, State or Council plans, proposals or agreements affecting the part of the area in which the advertisement is to be situated; and
  - (d) criteria and conditions prescribed by a subordinate local law.
- (2) The Council may only approve the exhibition of an advertisement if—
- (a) the advertisement is structurally sound<sup>1</sup>; and
  - (b) the advertisement causes no significant obstruction of, or distraction to, vehicular or pedestrian traffic; and
  - (c) 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

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<sup>1</sup> 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.

- (ii) it does not unreasonably obstruct existing views; and
  - (d) the advertisement complements, or at least does not unreasonably detract from desirable characteristics of the natural and built environment in which the advertisement is exhibited; and
  - (e) the approval is consistent with the subordinate local law.
- (3) The Council may, by subordinate local law—
- (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; or
  - (c) classify advertisements as requiring approval or generally inappropriate in certain city environments and conditions on which such advertisements may be approved.

## **11 Term of approval**

- (1) An approval<sup>2</sup> is granted for a term specified in the approval.
- (2) The Council 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 subordinate local law, or as decided by the Council when it grants or renews the approval.

## **12 Conditions of approval**

- (1) An approval may be granted on conditions the Council 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 Council may, by subordinate local law, prescribe conditions that must be imposed on an approval or that will ordinarily be imposed on an approval.

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<sup>2</sup> This refers only to the approval to exhibit the advertisement under the local law. If approval for the structural elements of the advertisement has been given under the *Sustainable Planning Act 2009* or *Building Act 1975*, that approval is unaffected by this section.



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

### **13 Compliance with conditions of approval**

The advertiser must ensure that the conditions of an approval are complied with.  
Maximum penalty—20 penalty units.

## **Part 3A Review of Approvals**

### **13A Application for Review**

- (1) A person who is given an approval subject to conditions, or who is refused approval may apply to Council for a review of the decision under this part.
- (2) The application (a *review application*) must be made within 20 business days of the day the person is given notice of the decision about the application, or such longer period as may be agreed.
- (3) The review application must be in writing and—
  - (a) accompanied by a statement of the grounds on which the person seeks the review of the decision; and
  - (b) supported by enough information to enable Council to decide the application; and
  - (c) accompanied by the prescribed fee for the application if any provided.
- (4) The review application does not stay the original decision.
- (5) Council may impose a fee for an application for review under this section.

### **13B Review**

- (1) Council must within 15 business days after receiving the application make a decision (the *review decision*) to—
  - (a) confirm or revoke the original decision; or
  - (b) vary the original decision in a way Council considers appropriate.
- (2) The review application must be dealt with by—
  - (a) a person other than the person who made the original decision; and
  - (b) a person holding no less senior office than the person who made the original decision.
- (3) Within 10 business days after making the review decision, Council must give written notice of the decision to the applicant.
- (4) The notice must include the reasons for the review decision.

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## **Part 4                    Enforcement**

### **14      Obligation to maintain**

- (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.

### **15      Removal of advertisements unlawfully exhibited**

- (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 Council 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.

### **16      Notice to remove in other cases**

- (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;the Council 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.

## **17 Council's powers on default**

- (1) If a person fails to comply with a notice under this Part within the time allowed in the notice, the Council may remove and dispose of the advertisement.
- (2) An authorised person acting on the Council's instructions may carry out demolition or other work that may be necessary to remove the advertisement.

## **18 Removal without notice**

- (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;the Council may remove and dispose of the advertisement.
- (2) An authorised person acting on the Council's instructions may carry out demolition or other work that may be necessary to remove the advertisement.

# **Part 5 Miscellaneous**

## **19 Giving of notice**

- (1) Whenever this local law requires written notice to be given to an advertiser the notice may be given personally or by post and, provided the advertiser has supplied Council with an email address, then also electronically.
- (2) If the notice is given by post, the provisions of the *Acts Interpretation Act 1954* section 39 — Service of Documents, and section 39A — Meaning of service by post etc, will apply to the giving of the notice.
- (3) If the notice is given electronically, the provisions of the *Electronic Transactions (Queensland) Act 2001* will apply to the time and place of despatch and receipt.

## **20 Council advertisements**

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

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## 21 Interference with Council advertisements

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

Maximum penalty—50 penalty units.

## 22 General defence to charge of unlawful exhibition of advertisement

- (1) Subject to subsection (2), 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.
- (2) For an Event Organiser to satisfy subsection (1)—

Any Event Organiser who authorises the distribution of advertisements for their events must prove that they have taken all reasonable steps to ensure that these advertisements are not illegally exhibited under Section 8 of this local law.

*Example for subsection (2)—*

*A Fly Poster Sign is a prohibited advertisement unless located on a wall sign as specified in the subordinate local law.*

- (3) For the purpose of this section—
  - (a) **Event Organiser** means—
    - (i) the person who is primarily responsible for the staging of any event; or
    - (ii) the person who authorises the distribution of advertisements for that event;
  - (b) the term “reasonable steps” does not include simply placing a condition in the relevant distribution contract entered into by the Event Organiser.

## 23 Subordinate local laws

- (1) The Council may make subordinate local laws about—
  - (a) classifying advertisements as permitted advertisements, and the conditions on which advertisements are classified as permitted advertisements;<sup>3</sup> 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;<sup>4</sup> or
  - (c) specifying classes of advertisements that are prohibited or circumstances in which the exhibition of advertisements is prohibited; or
  - (d) other matters about which this local law specifically allows for the making of subordinate local laws.

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<sup>3</sup> See sections 5 and 6.

<sup>4</sup> See sections 10 – 12.

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## **24 Transitional provision**

- (1) In this section “amending local laws” means the *Advertisements Amending Local Law 2013* and the *Advertisements Amending Subordinate Local Law 2013*.
- (2) Any advertisement lawfully exhibited as either permitted or approved before the commencement of the amending local laws continues as a permitted or approved advertisement after the commencement of the amending local laws.
- (3) Any advertisement continuing as permitted or approved under subsection (2) continues—
  - (a) on the same terms and conditions as previously applied to it; and
  - (b) until its term of approval expires; and
  - (c) as though it was permitted or approved after the commencement of the amending local laws.
- (4) After the term of approval of an advertisement expires in accordance with (3)(b) then an application for renewal may be made under the law that applies at the time of the application.

## Endnotes

### List of amendments

#### **PART 1 PRELIMINARY**

##### *Citation*

s 1 amd *Advertisements Amending Local Law 2013 s 4*

##### *Objects*

s 2(b) amd *Advertisements Amending Local Law 2013 s 5*

#### **Section 3 Definitions**

def	“approved advertisement”	ins	<i>Advertisements Amending Local Law 2013 s 6</i>
def	“authorised person”	amd	<i>Advertisements Amending Local Law 2013 s 16</i>
def	“Council”	ins	<i>Advertisements Amending Local Law 2013 s 6</i>
def	“environmental protection policy”	om	<i>Advertisements Amending Local Law 2013 s 6</i>
def	“generally inappropriate advertisement”	ins	<i>Advertisements Amending Local Law 2013 s 6</i>
def	“permitted advertisement”	amd	<i>Advertisements Amending Local Law 2013 s 6</i>
def	“Planning Act”	ins	<i>Advertisements Amending Local Law 2013 s 6</i>
def	“planning approval”	amd	<i>Advertisements Amending Local Law 2013 s 6</i>
def	“prohibited advertisement”	ins	<i>Advertisements Amending Local Law 2013 s 6</i>
def	“public place”	ins	<i>Advertisements Amending Local Law 2013 s 6</i>
def	“review application”	ins	<i>Advertisements Amending Local Law 2013 s 6</i>
def	“review decision”	ins	<i>Advertisements Amending Local Law 2013 s 6</i>

##### *Interaction between this local law and other local laws*

s 4 om *Advertisements Amending Local Law 2013 s 7*

#### **PART 2 PERMITTED ADVERTISEMENTS**

##### *Classification of Advertisements*

s 5(1)	amd	<i>Advertisements Amending Local Law 2013 s 16(1) and 17(1)</i>
s 5(1)(a)	amd	<i>Advertisements Amending Local Law 2013 s 17(1)</i>
s 5(1)(e)	amd	<i>Advertisements Amending Local Law 2013 s 17(1)</i>
s 5(2)(c)	amd	<i>Advertisements Amending Local Law 2013 s 8</i>
s 5(2)(e)	amd	<i>Advertisements Amending Local Law 2013 s 8 and 17(1)</i>

##### *Conditions of which advertisements are classified as permitted advertisements*

s 6(1)	amd	<i>Advertisements Amending Local Law 2013 s 16(1) and 17(1)</i>
s 6(2)(a)	amd	<i>Advertisements Amending Local Law 2013 s 16(1)</i>
s 6(2)(b)	amd	<i>Advertisements Amending Local Law 2013 s 16(1)</i>

#### **PART 3 EXHIBITION OF ADVERTISEMENTS**

##### *Unlawful exhibition of advertisements*

s 8(1)(b) amd *Advertisements Amending Local Law 2013 s 16(1)*

##### *Application for Council’s approval*

s 9(1)	amd	<i>Advertisements Amending Local Law 2013 s 16(2)</i>
s 9(2)	amd	<i>Advertisements Amending Local Law 2013 s 10</i>

##### *New application on change of advertising media*

s 9A ins *Advertisements Amending Local Law 2013 s 11*

##### *Criteria to guide Council’s discretion*

s 10(1)	amd	<i>Advertisements Amending Local Law 2013 s 12(1)</i>
s 10(1)(a)	amd	<i>Advertisements Amending Local Law 2013 s 16(2)</i>
s 10(1)(c)	amd	<i>Advertisements Amending Local Law 2013 s 16(1)</i>
s 10(1)(d)	ins	<i>Advertisements Amending Local Law 2013 s 12(2)</i>

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s 10(2)	amd	<i>Advertisements Amending Local Law 2013 s 16(1)</i>
s(10)2(a)(ft.2)	amd	<i>Advertisements Amending Local Law 2013 s 18(1)</i>
s 10(2)(c)	omt	<i>Advertisements Amending Local Law 2013 s 12(3)</i>
s 10(2)(d)	amd	<i>Advertisements Amending Local Law 2013 s 12(4)</i>
s 10(2)(e)	amd	<i>Advertisements Amending Local Law 2013 s 12(5)</i>
s 10(2)(f)	om	<i>Advertisements Amending Local Law 2013 s 12(6)</i>
s 10(2)(g)	amd	<i>Advertisements Amending Local Law 2013 s 12(7) and 17(2)</i>
s 10(3)	amd	<i>Advertisements Amending Local Law 2013 s 16(1) and 17(1)</i>
s 10(3)(b)	amd	<i>Advertisements Amending Local Law 2013 s 12(8)</i>

***Term of Approval***

s 11(1)(ft.3)	amd	<i>Advertisements Amending Local Law 2013 s 18(2)</i>
s 11(2)	amd	<i>Advertisements Amending Local Law 2013 s 16(1)</i>
s 11(3)	amd	<i>Advertisements Amending Local Law 2013 s 16(1) and 17(1)</i>

***Conditions of approval***

s 12(1)	amd	<i>Advertisements Amending Local Law 2013 s 16(1)</i>
s 12(3)	amd	<i>Advertisements Amending Local Law 2013 s 16(1) and 17(1)</i>

**PART 3A REVIEW OF APPROVALS**

***Application for review***

s 13A	ins	<i>Advertisements Amending Local Law 2013 s 13</i>
s 13B	ins	<i>Advertisements Amending Local Law 2013 s 13</i>

**PART 4 ENFORCEMENT**

***Removal of advertisements unlawfully exhibited***

s 15(2)	amd	<i>Advertisements Amending Local Law 2013 s 16(1)</i>
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***Notice to remove in other cases***

s 16(1)	amd	<i>Advertisements Amending Local Law 2013 s 16(1)</i>
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***Council's powers on default***

s 17(1)	amd	<i>Advertisements Amending Local Law 2013 s 16(1)</i>
s 17(2)	amd	<i>Advertisements Amending Local Law 2013 s 16(2)</i>

***Removal without notice***

s 18(1)	amd	<i>Advertisements Amending Local Law 2013 s 16(1)</i>
s 18(2)	amd	<i>Advertisements Amending Local Law 2013 s 16(2)</i>

***Powers of entry and cost recovery***

s 19	om	<i>Advertisements Amending Local Law 2013 s 14</i>
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**PART 5 MISCELLANEOUS**

***Giving notice***

s 19	ins	<i>Advertisements Amending Local Law 2013 s 15</i>
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***Council advertisements***

s 20	amd	<i>Advertisements Amending Local Law 2013 s 16(1)</i>
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***Interference with Council advertisements***

s 21	amd	<i>Advertisements Amending Local Law 2013 s 16(1)</i>
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***General defence to charge of unlawful exhibition of advertisement***

s 22	amd	<i>Advertisements Amending Local Law 2013 s 19</i>
s 22(c)	amd	<i>Advertisements Amending Local Law 2013 s 19(6)</i>

***Subordinate local laws***

s 23	amd	<i>Advertisements Amending Local Law 2013 s 16(1)</i>
s 23(ft.6)	om	<i>Advertisements Amending Local Law 2013 s 18(3)</i>

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s 23(a)(ft.7)	amd	<i>Advertisements Amending Local Law 2013 s 18(4)</i>
s 23(b)(ft.8)	amd	<i>Advertisements Amending Local Law 2013 s 18(5)</i>
s 23(1)	amd	<i>Advertisements Amending Local Law 2013 s 17(2)</i>
s 23(1)(d)	amd	<i>Advertisements Amending Local Law 2013 s 17(2)</i>

***Transitional provision***

s 24	ins	<i>Advertisements Amending Local Law 2013 s 20</i>
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