

BRISBANE CITY COUNCIL

LOCAL LAW

(ENTERTAINMENT VENUES & EVENTS) 1999

SUMMARY OF PROVISIONS

PART 1: PRELIMINARY

1. Citation
2. Objects
3. Definitions
4. Application

PART 2: CONTROL OF ENTERTAINMENT VENUES AND EVENTS

5. Requirement to Hold Permit
6. Application for Permit
7. Approval of Application
8. Criteria for Approval of Application
9. Subject Matter for Conditions
10. Conditions and Prohibitions of Permit by Policy
11. Term of Permit
12. Variation of Conditions of Permit
13. Compliance with Conditions of Permit
14. Renewal of Permit
15. Report on Condition of Premises
16. Transfer of Permit
17. Surrender of Permit
18. Notice of Ceasing Activity to which Permit Relates
19. Revocation of Permit

PART 3: ENFORCEMENT

Division 1 - Inspection

20. Inspection

Division 2 - Compliance Notices

21. Compliance Notice
22. Council's Power to Have Work Carried Out
23. Recovery of Cost of Work
24. Closure of Premises
25. Summary Closure to Prevent Serious Risk
26. Identity of Owner

PART 4: REPEAL

27. Repeal

PART 1: PRELIMINARY

Citation

1. This local law may be cited as Local Law (Entertainment Venues and Events) 1999.

Objects

2. The objects of this local law are to:
 - (a) ensure that entertainment venues and events are properly operated and maintained;
 - (b) safeguard the health safety and amenity of patrons of those entertainment venues and events and of the community; and
 - (c) safeguard the environment in which the entertainment venue or event is situated.

Definitions

3. In this local law:

"the Act" means the Local Government Act 1993;

"advertise" means to represent to the public by any recognised advertising medium that an entertainment venue is open or will be open for business or that an entertainment event is proposed;

"authorised officer" means a person authorised by Council to give the certificate referred to in section 23;

"authorised person" includes:-

- (a) a person authorised by Council to exercise the powers of an authorised person under this local law; and
- (b) an authorised person within the meaning of the Act;

"costs" in section 23 includes:-

- (a) the amount of any damage or expense incurred by Council through the act or default constituting the failure to comply with an obligation imposed by this local law;
- (b) all fees, rates, charges, fares, rents, dues and other amounts, the omission to pay which was an element in or was in any way related to such failure to comply with an obligation imposed by this local law;

"Council" means the Brisbane City Council established under the City of Brisbane Act 1924;

"development approval" includes a development permit or a continuing approval under the Integrated Planning Act 1997;

"entertainment" includes sporting, recreation, religious and amusement activities;

"event" means an event at which entertainment is provided to the public on an one off or irregular basis whether from an entertainment venue or from some other place;

Examples may include:

- (a) *sporting activities whether conducted in an enclosed or unenclosed ground;*
- (b) *one off events such as religious meetings held in parks/sporting venues, Rock Concerts, Promotional events etc;*
- (c) *live performances and concerts;*
- (d) *festivals;*

"entertainment venue" means a place that is open to the public for entertainment and includes any place defined as an entertainment venue in a local law policy;

A place is taken to be open to the public:

- (a) whether or not a charge for admission is made; and
- (b) whether or not the person who controls admission to the place reserves a right to refuse admission;

Examples may include:

- (a) *a cinema;*
- (b) *a theatre;*
- (c) *an entertainment hall;*
- (d) *a night club;*
- (e) *a reception lounge;*
- (f) *a billiard saloon;*
- (g) *an amusement arcade;*
- (h) *a fitness centres and gymnasiums;*
- (i) *an indoor sports centre (including a bowling alley);*
- (j) *a swimming pool;*
- (k) *a circus;*
- (l) *a bazaar or flea market; and*
- (m) *a fairground.*

"licensed premises" means premises for which a licence is in force under the Liquor Act 1992;

"operate" means to advertise, keep or cause to be kept open to the public an entertainment venue or event;

"Owner" means:

- (a) the permit holder;

- (b) the registered proprietor of the land upon which the entertainment venue or event is situated whether by way of freehold or leasehold title or the trustee of a reserve under the Land Act 1994;
- (c) the person who keeps or causes to be kept open to the public the entertainment venue or event;
- (d) any person who manages the entertainment venue or event; or
- (e) the promoter of the event.

"prescribed fee" means a fee prescribed under Section 50 of the City of Brisbane Act 1924 for the purposes of this local law;

"prescribed form" means a form prescribed by Council for the purposes of this local law.

Application

- 4. This law applies to entertainment venues and events in the City of Brisbane.

PART 2: CONTROL OF ENTERTAINMENT VENUES AND EVENTS

Requirement to Hold Permit

- 5. (1) A person must not establish, operate or advertise an entertainment venue or event unless a permit for the entertainment venue or event has been issued by Council under this Part or an exemption under section 10 applies.

Maximum penalty - 500 penalty units.

- (2) The provisions of this local law or its policies do not apply to a bona fide private party provided no charge is made for admission or for holding the event.

Application for Permit

- 6. (1) A person must apply for a permit to operate an entertainment venue or event by lodging with Council:
 - (a) an application in writing made in the prescribed form;
 - (b) a plan of the entertainment venue or place where the event is to be held;
 - (c) details and drawings of buildings and other structural elements of the entertainment venue or event;
 - (d) a detailed statement of the nature of the entertainment to be provided at the entertainment venue or event and the dates and hours of when the entertainment venue or event is to be open to the public;
 - (e) an estimate of the number of people anticipated to be accommodated at or attending the entertainment venue or event accompanied by an emergency

medical service and evacuation plan endorsed by the Queensland Ambulance Service;

- (f) if the applicant is not the registered proprietor of the land upon which the entertainment venue or event is situated, the written consent of the registered proprietor;
 - (g) if approval of anything to be done under the permit is required under another law a certified copy or other appropriate evidence of the approval must be produced if required by a local law policy;
 - (h) the prescribed fees; and
 - (i) any other relevant matters in accordance with the specific requirements of a local law policy.
- (2) The applicant must, if Council so requires, furnish any further information or documents that Council may require to decide the application.
 - (3) An application for a permit must be made within the time specified in a local law policy.
 - (4) An application for a permit is not duly made until the applicant has complied with all the requirements of this section.
 - (5) An applicant who provides information of a false or misleading nature with their application commits an offence against this local law.

Maximum penalty - 100 penalty units

Approval of Application

- 7. (1) Council may:-
 - (a) approve the application;
 - (b) approve the application subject to conditions;
 - (c) refuse the application.
- (2) If Council approves the application under either sub-section (1)(a) or sub-section(1)(b), it will issue a permit in the prescribed form.
- (3) If Council refuses the application under sub-section (1)(c), it will advise the applicant in writing of the grounds for refusal.

Criteria for Approval of Application

- 8. Council must consider every application having regard to:-
 - (1) whether the entertainment venue has appropriate development approval to enable it to be lawfully used for the purpose specified in the application;

- (2) whether the design and construction of the entertainment venue is safe and appropriate to the nature of entertainment proposed and the number of people expected to attend the venue or event;
- (3) whether the entertainment venue or event, or its operation, would not unreasonably detract from the amenity of the area in which the entertainment venue or event is, or is to be, established;
- (4) the level of noise, dust or light pollution or other significantly adverse effects on the surrounding neighbourhood;
- (5) sanitary conveniences and refuse collection facilities being provided, complying with standards and requirements imposed by Council, for the use of the public;
- (6) the security, traffic, crowd controls and emergency procedures, necessary to ensure the safety, protection and convenience of patrons, nearby residents and the public using or affected by the operation of the entertainment venue or event;
- (7) any applicable Commonwealth, State or local government plans, standards, agreements or requirements;
- (8) the public interest; and
- (9) any additional criteria specified in a local law policy.

Subject Matter for Conditions

9. (1) Without limiting the power to impose conditions on a permit conferred by section 7(1)(b), Council may impose conditions relating to the following examples:-

Examples:

- (a) *the layout, design, construction, and external appearance of the entertainment venue or event (including requirements to make changes to existing buildings and structures);*
- (b) *maintenance or improvement of the entertainment venue or event;*
- (c) *the provision of specified equipment, and the taking of specified measures, for the safety of the public;*
- (d) *disposal and recycling of refuse generated by the use of the entertainment venue or the event;*
- (e) *the provision of specified facilities and amenities;*
- (f) *hours of operation of entertainment venue or event;*
- (g) *illumination of the entertainment venue or event and light spillage from the entertainment venue or event;*

- (h) *noise emission from the entertainment venue or event;*
- (i) *the provision of specified equipment to reduce adverse effects of activities in the entertainment venue or event on the surrounding neighbourhood to acceptable levels;*
- (j) *the imposition of security deposits and the retention of such security deposits if the conditions of the permit are contravened.*
- (k) *operation of the entertainment venue or event in a specified manner which may include a management plan.*

Conditions and Prohibitions of Permit by Policy

10. Council may in a local law policy specify:-

(1) conditions which:-

- (a) must be imposed; or
- (b) will ordinarily be imposed;

on a permit generally or in particular circumstances or on the permits of particular types of entertainment activities or events;

(2) particular types of premises for which, or in particular circumstances in which:-

- (a) a permit must not be issued;
- (b) a permit will not ordinarily be issued;

(3) exemption from the requirements of this local law and any local law policy either generally or in particular circumstances.

Term of Permit

11. A permit commences and terminates on the date or dates specified in the permit.

Variation of Conditions of Permit

12. (1) Council may by notice¹ in writing to the holder of a permit under this Part, add to, vary or revoke a permit condition whenever Council considers it necessary or appropriate.
- (2) When giving a notice under sub-section(1), Council must allow the permit holder a period stated in the notice to make written representations to Council about the proposed variation of permit condition;
- (3) Upon consideration of the representations made under sub-section(2) Council may decide to add to, vary or revoke a permit condition as appropriate by

¹ See Acts Interpretation Act 1954 s. 39 - Service of Documents and s. 39A - Meaning of Service by Post etc.

notice to the permit holder;

- (4) An addition, variation or revocation takes effect from the time specified in the notice.

Compliance with Conditions of Permit

13. (1) The holder of a permit issued under this Part must comply with every condition of that permit.
- (2) Where a permit is issued in respect of premises subject to this local law, that permit must be kept at that premises and produced upon demand to an authorised person.
- (3) A permit holder who fails to ensure that permit conditions are complied with is guilty of an offence.

Maximum penalty - 50 penalty units.

Renewal of Permit

14. (1) The holder of a permit to operate an entertainment venue under this local law must apply to have that permit renewed for a further term from one day after the date of expiry of the current permit.
- (2) Renewal will not be granted unless the prescribed application form and the prescribed fee are lodged with Council at least five working days prior to expiry of the current permit.
- (3) Failure to renew a permit and to continue to operate an entertainment venue without a permit is an offence against this local law.

Maximum penalty - 500 penalty units.

Report on Condition of Premises

15. (1) A person may apply to Council for a Certificate that the premises specified in the application are in a fit condition to be granted a permit or a renewal of a permit under this Part, or are in a fit condition to be granted a permit or a renewal of a permit subject to compliance with conditions.
- (2) The application must be made in the prescribed form and must be accompanied by:-
 - (a) consent in writing of the registered proprietor of that property if the applicant is not the registered proprietor;
 - (b) consent in writing of the Owner of that property if the applicant is not the Owner; and
 - (c) the prescribed fee.
- (3) Upon receipt of the application, an authorised person will inspect the premises the subject of the application and report in writing as soon as practicable, whether or not

those premises are in a fit condition to be granted a permit or a renewal of a permit under this Part, or are in a fit condition to be granted a permit or a renewal of a permit subject to compliance with conditions, and if not, why not.

- (4) If the authorised person reports that premises are in a fit condition to be granted a permit or a renewal of a permit under this Part, Council will issue a Certificate to the person who made the application certifying that, at the inspection date specified in the certificate, the premises were in a fit condition to be granted a permit or a renewal of a permit under this Part.

Transfer of Permit

16. An application for the transfer of a permit must:-

- (1) be made in writing by the purchaser in the prescribed form and be accompanied by:-
 - (a) any certificate issued under section 15 not more than 21 days previously certifying that the premises were in a fit condition to be granted a permit under this local law; and
 - (b) the prescribed fee;
 - (c) evidence of ownership.
- (2) Council may:-
 - (a) approve the application;
 - (b) approve the application subject to conditions;
 - (c) refuse the application.
- (3) If Council approves the application under either sub-section(2)(a) or sub-section(2)(b), it will transfer the permit.
- (4) If Council refuses the application under section 16(2)(c), it will advise the applicant in writing of the grounds for refusal.

Surrender of Permit

17. (1) A permit holder may at any time surrender the permit by written notice to Council in the prescribed form.
- (2) The surrender of the permit will take effect -
 - (a) on the day in which the notice is given; or
 - (b) if a later date is specified in the notice - on the later date.

Notice of Ceasing Activity to which Permit Relates

18. Within 14 days after ceasing to operate an entertainment venue to which a permit relates, the permit holder must give written notice in the prescribed form of the ceasing of the activity.

Maximum penalty - 35 penalty units.

Revocation of Permit

19. (1) Council may, at any time, revoke a permit for any reason which, in the opinion of Council, justifies the revocation.
- (2) Without limiting the generality of clause 19 (1), Council may revoke a permit upon any one or more of the following grounds:-
- (a) that the entertainment venue or event has not, to the satisfaction of Council, been kept in a clean, sanitary and safe condition;
 - (b) that the permit holder has -
 - (i) been convicted of an offence against this local law in respect of an entertainment venue or event;
 - (ii) not complied with a requirement of this local law; or
 - (iii) not complied with a permit condition;
 - (c) that, by reason of alterations or additions or neglect to repair or renovate, the condition of the entertainment venue is such as to render it, in the opinion of Council, unfit to be granted a permit.
- (3) However, before revoking a permit, Council must:
- (a) give written notice to the permit holder of the proposed revocation; and
 - (b) allow the permit holder a period stated in the notice (which must be at least 14 days from when the notice is given) to make written representations to Council about the proposed revocation; and
 - (c) consider representations made by the permit holder in response to the notice.
- (4) Whenever Council revokes a permit, it must give the permit holder notice of the revocation and the permit will be revoked as from the time on which the notice is served on the permit holder.

PART 3: ENFORCEMENT

Division 1 - Inspection

Inspection

20. (1) An authorised person may inspect any premises² to which this local law applies to investigate whether the premises comply with:
- (a) the requirements of this local law and relevant local law policies;
 - (b) if a permit is in force for the entertainment venue or the event, the conditions of the permit.
- (2) An authorised person may request production of records for inspection that are required to be kept under this local law and any relevant local law policy.
- (3) The authorised person may request entry to the premises for inspection of those premises as required under this local law.
- (4) A person must not refuse or fail to comply with a requirement under subsection (2).
- Maximum penalty - 35 penalty units.
- (5) All entertainment venues and events must at all reasonable times, and particularly during setup, performance and pull-down be open for admission of, and inspection by, an authorised person.
- Maximum penalty - 35 penalty units.

Division 2 - Compliance Notices

Compliance Notices

21. (1) If:-
- (a) a person operates an entertainment venue or event without a permit as required by this local law; or
 - (b) a requirement of this local law or a permit condition under this local law is contravened;
- an authorised person may give to the Owner a notice (a "compliance notice") under this section.
- (2) A compliance notice may:-
- (a) if the contravention is of a continuing or recurrent nature require the Owner to stop the contravention;
 - (b) whether or not the contravention is of a continuing or recurrent nature, require the Owner to take specified action, within a time specified in the notice, to remedy the contravention;

² To enter the premises, the authorised person must comply with Chapter 15, Part 5, Division 6 of the Local Government Act 1993. Council may also institute an approved inspection programme under Chapter 15, Part 5, Division 7 of the Local Government Act 1993.

- (c) require the Owner to pay, within the time specified in the notice, the re-inspection fee specified in the notice.
- (3) The Owner must comply with a notice under this section.

Maximum penalty - 200 penalty units

Council's Power to Have Work Carried Out

22. (1) If:-
- (a) an authorised person considers it appropriate to issue a compliance notice to a person under this Division; and
 - (b) that person fails to comply with the compliance notice;
- the authorised person may take all necessary action to ensure compliance with that notice.³

Recovery of Cost of Work

23. (1) Subject to section 26(2), the Owner is liable to Council for:-
- (a) the costs and expenses incurred by Council in securing compliance with the notice, including those associated with additional inspections required to gain or confirm compliance with the notice;
 - (b) any fees, charges, rents, dues, and other amounts, the omission to pay which was an element in or was in any way related to non-compliance with the notice.
- (2) Council must give the Owner an account for the amount for which the Owner is liable under subsection (1).
- (3) If the amount is not paid on or before a date for payment fixed in the account, Council may recover the amount, as well as any fees payable in respect of additional inspections required to gain or confirm compliance with the notice, from the Owner as a debt, with interest, pursuant to sections 1066, 1067 and 1068 of the Act.
- (4) A certificate signed by an authorised officer and stating any of the following matters is evidence of the matter⁴:-
- (a) the carrying out of the work by Council under this Part;
 - (b) the cost of the work;
 - (c) the delivery of the account required by sub-section(2);
 - (d) the amount of any costs and fees unpaid at the date of the certificate.

³ See sections 1066 and 1093 of the Local Government Act 1993.

⁴ See section 1117 of the Local Government Act 1993.

- (5) The procedure for recovery of costs and expenses in this section is in addition to and not in derogation of any right to costs or compensation available under any other law.

Closure of Premises

24. (1) If:-
- (a) an entertainment venue for which a permit is not in force under this local law is being used to provide entertainment to which this local law applies; or
 - (b) an Owner fails to comply with a compliance notice within the time allowed in the notice;

Council may, by written notice given to the Owner, prohibit use of the entertainment venue for providing entertainment to which this local law applies.

- (2) When giving a notice under sub-section(1), Council must allow the Owner a period stated in the notice (to be at least 48 hours) to make written representations to Council about that prohibition and must consider those representations.
- (3) The notice under sub-section(1) will take effect -
- (a) on the day in which the notice is given; or
 - (b) if a later date is specified in the notice - on the later date;
- whichever is the later.
- (4) If an event to which this local law applies is being conducted without a permit under this local law, Council may, by written notice given to the Owner, prohibit the conducting of the event.
- (5) If a permit was in force for the entertainment venue or event, a notice under this section automatically revokes that permit.
- (6) A person must not operate an entertainment venue or event to which this section applies.

Maximum penalty - 500 penalty units.

- (7) However, if Council revokes the notice under this section and grants a permit upon proper application being made under this local law, the entertainment venue may be again used to provide entertainment to which this local law applies or the event may be conducted.

Summary Closure to Prevent Serious Risk

25. (1) If, in Council's opinion⁵, it is urgently necessary to stop the use of the entertainment venue or event to which this local law applies because of a serious risk to health or safety or

⁵ Under s. 8 of the Public Safety Preservation Act, 1986, the incident co-ordinator, and, under s. 25 of the State Counter-Disaster Organisation Act, 1975, authorised persons, may direct the evacuation of premises and the closure of any road or public place.

to abate a public nuisance, Council may, by written notice given to the Owner, prohibit use of the premises for providing entertainment or conducting an event to which this local law applies.⁶

- (2) If a permit was in force for the entertainment venue or event, a notice under this section cancels that permit.
- (3) A person must not operate an entertainment venue or event to which this section applies.

Maximum penalty - 500 penalty units.

Identity of Owner

26. (1) Where under this local law an obligation is imposed on an Owner, the obligation is imposed, jointly and severally on each of the persons who is the Owner of the premises concerned.
- (2) Where under this local law, a notice may be given to the Owner, the Notice may be given to all or any one or more of the persons who is the Owner and the obligation to comply is imposed, jointly and severally, on each person who receives the notice.
- (3) (a) Proceedings for an offence may be taken against any one or more of the persons who fail to comply with an obligation referred to in sub-section (1);
(b) a person may not be convicted more than once in respect of a particular offence simply because that person meets the definition of Owner in more than one capacity;
(c) persons who meet the definition of Owner may be separately convicted of the same offence.
- (4) Council may, by a single action or successive actions, recover costs under this local law from any one or more of the persons who fail to comply with an obligation referred to in sub-section (1).

PART 4: REPEAL

Repeal

27. This local law repeals Part 2 of the Permits and Licenses Local Law.

⁶ Under s. 86 of the Police Powers and Responsibilities Act, 1997, Council may apply to the Minister for the declaration of a stated area as a notified area to be controlled by police officers.