

REDLAND SHIRE COUNCIL

LOCAL LAW NO.11 (CONTROL OF SIGNS)

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LOCAL LAW POLICY NO.11 (CONTROL OF SIGNS)

REDLAND SHIRE COUNCIL (CONTROL OF SIGNS) LOCAL LAW

PART 1 - PRELIMINARY

Citation

1. This local law may be cited as the Redland Shire Council (Control of Signs) Local Law.

Objects

2. The objects of this local law are to ensure that signs and associated structures:-
- (a) are constructed and maintained to essential standards of public safety;
 - (b) complement the desirable characteristics of the built and natural environment in which the signs are exhibited; and
 - (c) are of high quality and are innovatively designed so as to effectively communicate the information contained.

Definitions

3. In this local law:-

“**advertiser**” means a person:-

- (a) by whom a sign is exhibited; or
- (b) whose business or place of business is advertised by a sign; or
- (c) who manages and controls or has power to manage and control the place in which a sign is exhibited; or
- (d) the owner of a place on which a sign is exhibited; or
- (e) the occupier of a place on which a sign is exhibited; or
- (f) the owner of a vehicle on which a sign is exhibited.

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

“**Chapter 7**” means the previous Advertising Signs By-law for the local government which was published in the Queensland Government Gazette on 10 November, 1990.

“**enforcement notice**” means a notice given under sections 20, 21 or 22.

“**exempt sign**” means, subject to section 6(3), a sign classified as an exempt sign under Part 2.

“**exhibit**” includes the doing of any act with respect to the erection, painting, operation, or alteration of a sign.

“**motorway**” means a declared motorway in accordance with section 25 of the Transport Infrastructure Act.

“**public place**” includes any place that the public is entitled to use, is open to the public, or used by the public, whether or not on payment of money.

“**sign**” means a structure or device that is visible from a road or other public place and which conveys information or directions of any kind (other than a sign or device exhibited pursuant to the authority or requirements of an Act). The term includes any structure forming part of the sign or to which the sign is attached or on which it is exhibited. This includes a vehicle that is advertised or displayed for sale.

“**Town Plan**” means the Town Planning Scheme for the Shire of Redland as amended from time to time.

“**vehicle**” has the meaning as in the Traffic Act 1949. The term also includes a trailer or trolley.

Interaction between this local law and other laws

4. (1) This local law is in addition to, and does not derogate from:-
 - (a) the Integrated Planning Act 1998;
 - (b) the Building Act 1975;
 - (c) the Transport Infrastructure Act 1994; and
 - (d) the Town Plan.
- (2) This local law does not apply to signs that are the subject of a permit issued pursuant to section 126 or section 126B of the Traffic Regulations 1962.
- (3) On the date of commencement of this local law, an existing licence (issued pursuant to Chapter 7) for an existing sign shall be deemed to be licensed pursuant to this local law for the remaining period of the existing licence.
- (4) On expiry of the existing licence, application must be made for a licence pursuant to this local law.

PART 2 - CLASSIFICATION OF SIGNS

Classification by policy

5. (1) The local government may by local law policy:-
 - (a) classify signs, by reference to criteria stated in the policy, as exempt signs;
 - (b) vary or revoke an earlier classification under this section.
- (2) The classification of signs may be based on one or more of the following criteria:-
 - (a) the natural dimensions, design structural form or other physical characteristics of the sign;
 - (b) the content of the sign;
 - (c) the part of the area in which the sign is to be exhibited;
 - (d) the positioning of the sign in relation to:-
 - (i) an allotment boundary;
 - (ii) a building;
 - (iii) a road, footpath or other thoroughfare; or
 - (iv) another physically identifiable point or line;
 - (e) other criteria stated in the local law policy.
- (3) A local law policy may also prescribe conditions on which signs of a particular class are classified as exempt signs.
- (4) A sign in respect of which conditions are prescribed under this section which is exhibited otherwise than in full compliance with the conditions is not an exempt sign.

Compliance with conditions of classification

6. If an exempt sign is exhibited, and a condition on which the sign is classified as an exempt sign is not complied with, the advertiser is guilty of an offence.

Maximum Penalty - 20 penalty units

PART 3 - CONTROL OF SIGNS

When exhibition permitted

7. (1) A sign must not be exhibited in the area unless:-
 - (a) the sign is an exempt sign; or
 - (b) the exhibition of the sign is licensed by the local government.
- (2) If a sign is exhibited in contravention of subsection (1), the advertiser is guilty of an offence.

Maximum penalty - 50 penalty units

Application for licence

8. (1) An application for a licence for the proposed exhibition of a sign must set out:-
 - (a) full details of the sign, including its content, its design, its dimensions, and its method and materials of construction; and
 - (b) full details of when, where and how the sign is to be exhibited;
 - (c) certification of its structural adequacy in compliance with the Building Act and Building Code of Australia; and
 - (d) such other information as may be prescribed by local law policy.
- (2) The application is to be accompanied by such fees as may be fixed by the local government by resolution.
- (3) If approval for the construction or exhibition of the sign is required under any other law, the application must be accompanied by evidence of that approval.
- (4) If the sign is to be exhibited in a place that is not owned by the advertiser, the application must be accompanied by the written consent of the owner of the place.
- (5) If the sign is to be exhibited in a place that is visible from a Motorway and where that device would be reasonably likely to create a traffic hazard for Motorway traffic the application must be accompanied by the written consent of the chief executive of the department which administers chapter 5 of the Transport Infrastructure Act 1994¹.

Criteria for approval

9. (1) In deciding whether to approve the exhibition of a sign, the local government must have regard to the following criteria:-
 - (a) the structural soundness of the sign;
 - (b) whether the sign will cause obstruction of, or distraction to, vehicular or pedestrian traffic;
 - (c) the dimensions of the sign are to bear a reasonable relationship to the size of surrounding buildings and allotments so that:-
 - (i) its presence is not unduly dominant or oppressive; and
 - (ii) it does not unreasonably obstruct existing views;
 - (d) the sign must be consistent, in colour and appearance, with buildings and natural features of the environment in which it is situated;
 - (e) the sign must be consistent with the character and values of the environment in which it is to be situated; and

¹ Signs located on Motorways do not require a local government licence.

- (f) other criteria prescribed by local law policy.
- (2) The local government may, by local law policy,:-
 - (a) prescribe criteria for the granting or refusal of approvals for the exhibition of signs; or
 - (b) prohibit specified classes for signs, or prohibit the exhibition of signs in specified circumstances or classes of circumstances.

Term of licence

- 10. (1) A licence is granted for a term specified in the licence.
- (2) The local government may, on application by the advertiser, renew a licence for a further term.
- (3) The term for which a licence is granted must be a term specified in a local law policy or decided by the local government when it grants or renews the licence.

Conditions of licence

- 11. (1) A licence may be granted on conditions the local government considers appropriate.
- (2) The conditions may, for example and without limitation:-
 - (a) regulate the materials of construction of the sign;
 - (b) regulate the dimensions of the signs;
 - (c) require painting or other external treatment of the sign either at the stage of construction, at any later time or periodically;
 - (d) prescribe how the sign is to be affixed to the soil or to another building or other structure;
 - (e) regulate the positioning of the sign in relation to the boundaries of land or a building on which it is situated or a road, water body or other public place;
 - (f) regulate how the sign is to be illuminated and the intensity of illumination;
 - (g) regulate the maximum and minimum projections of a sign above, outward from, or below any building or other structure;
 - (h) regulate the maximum and minimum heights of a sign from ground level or any other level fixed by reference to a building or other structure.
 - (i) in the case where it is intended by the advertiser to alter (at regular intervals) the message displayed on a sign, regulate the frequency of alteration of the sign and the function of the altered sign
- (3) A local law policy may prescribe conditions which:-
 - (a) must be imposed; or
 - (b) will ordinarily be imposed,
on a licence generally or on licences given for particular circumstances or on licences for particular types of signs.

Compliance with conditions

- 12. The advertiser must ensure that the conditions of a licence are complied with.
Maximum Penalty - 20 penalty units

PART 4 - APPEALS

Appeals by applicants

13. An applicant for a licence for the proposed exhibition of a sign may appeal to the Planning and Environment Court against any of the following –
- (1) Refusal of a licence for the proposed exhibition of a sign application;
 - (2) a matter stated in a licence for the proposed exhibition of a sign including any condition applying to the licence;
 - (3) the length of the term for which a licence is granted.

Time of appeal

14. An appeal under section 13 must be started within 20 business days (the “applicant’s appeal period”) after the day the notice of the decision on the application is given to the applicant.

Appeals against enforcement notices

15. (1) A person who is given an enforcement notice may appeal to the court against the giving of the notice.
- (2) The appeal must be started within 20 business days after the day notice is given to the person.

Stay of operation of enforcement notice

16. (1) The lodging of a notice of appeal about an enforcement notice stays the operation of the enforcement notice until –
- (a) the court, on the application of the entity issuing the notice, decides otherwise; or
 - (b) the appeal is withdrawn; or
 - (c) the appeal is dismissed.
- (2) However, section (1) does not apply if the enforcement notice states that the local government believes that the matter to which the notice relates is a danger to persons or a risk to public health.

Procedure

17. An appeal is to be instituted and conducted in the same way as if it were:
- (1) an appeal in respect of a decision on a development application under the Integrated Planning Act; or, as the case requires,
 - (2) an appeal against the giving of an enforcement notice under the Integrated Planning Act.

Powers of the Court on an appeal

18. (1) In deciding an appeal (under section 13 or section 15), the court may:-
- (a) confirm the decision appealed against,
 - (b) change the decision appealed against, or
 - (c) set aside the decision appealed against, and make a decision replacing the decision set aside.

- (2) However, the court's decision must be made in a way which advances the objects of this local law.
- (3) If, in an appeal under section 15, the court's decision is that an enforcement notice should or may be given (whether in the terms of the notice given by the local government, or in changed or new terms), the court's decision must state a period within which the requirements of the enforcement notice are required to be carried out.
- (4) The court's decision is taken, for this local law (other than this section), to be the decision of the local government.

PART 5 - ENFORCEMENT

Obligation to maintain

19. (1) If an authorised person is of the opinion that a sign is not maintained in good order and repair, or is unsightly, the authorised person may, by written notice, require the advertiser to carry out specified work to put the sign into good order or repair or to remedy the unsightly conditions of the sign.
- (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 and destroys the sign within the time allowed in the notice, the advertiser is taken to have complied with the notice.

Removal of unlawful signs

20. (1) If a sign is being 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 sign within the time specified in the notice.
- (2) The local government must withdraw a notice under subsection (1) if, within the time allowed for removal of the sign, the advertiser obtains the necessary approval for exhibition of the sign or takes other necessary action to ensure that the sign is lawfully exhibited.
- (3) An advertiser must comply with a notice under subsection (1) within the time specified in the notice.
Maximum penalty - 50 penalty units

Notice to remove in other cases

21. (1) If:-
 - (a) the character of a locality changes as a result of commercial or residential development or another reason and the exhibition of a sign is no longer consistent with the character of the relevant part of the area; or
 - (b) a sign is exhibited in a particular part of the area and the sign, in conjunction with other signs exhibited by the same or other advertisers, seriously detracts from the character of the relevant part of the area;the local government may, by written notice, require the advertiser to remove the sign.

- (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

22. (1) Subject (where relevant) to the provisions of the Act relating to "Performing work for owner or occupier", where the requirements of a notice given under this Part are not complied with within the time allowed in the notice, an authorised person may remove and dispose of the sign or take such action that may be necessary to paint out any painted sign.
- (2) The authorised person may carry out demolition or other work that may be necessary to remove the sign.

Removal without notice

23. (1) If:-
- (a) a sign is exhibited in contravention of this local law, or any condition imposed under this local law and there are, in the opinion of an authorised person, adequate reasons for removing the sign immediately; or
 - (b) a sign creates, in the opinion of an authorised person, a risk to life or property;
 - (c) a sign is exhibited on a public place or land under the control of local government, without the approval of local government, or in contravention of any conditions of an approval by the local government;
- the authorised person may remove and dispose of the sign.
- (2) The authorised person may carry out demolition or other work that may be necessary to remove the sign.
- (3) An authorised person may remove a vehicle (with or without current registration) whether containing a sign or being advertised for sale itself, which is on land or a road under the control of the local government and further the vehicle and sign may be removed or disposed of in accordance with sections 19 and 20.

Recovery of costs

24. (1) If an authorised person removes and disposes of a sign under this Part, the amount properly and reasonably incurred by the local government in performing the work is a debt payable to the local government by the advertiser.
- (2) The authorised person must give the advertiser an account for which the advertiser is liable under subsection (1).
- (3) If the account is not paid on or before the date for payment fixed in the account, the local government may recover the amount (together with interest under subsection (5)) as a liquidated debt.
- (4) In addition, if the advertiser is the owner of the land on which the sign was exhibited, the local government may recover the amount as if the amount (together with interest under subsection (5)):-
- (a) were an overdue rate properly levied by the local government on the advertiser in respect of the land on which the sign was exhibited; and
 - (b) became payable to the local government on the date for payment fixed in the account.

- (5) The amount payable to the local government bears interest commencing on the day after the date for payment fixed in the account as if it were an amount of overdue rates payable to the local government.

Dealing with Materials

25. Where the local government comes into possession of a sign, vehicle, goods or demolition materials as a result of the exercise of any power given by this Part:
 - (1) the sign, vehicle, goods or materials and all appurtenant things must be taken to and held in a place of storage selected by the local government and must not be released to any person until all costs and expenses incurred by the local government (including costs and expenses of storage and release) are paid;
 - (2) upon the costs referred to in section 19(1) being paid in full, the local government must release the sign, vehicle, goods or materials held, to the person who appears to an authorised person to be entitled thereto;
 - (3) no claim may be brought against the local government or an authorised person or other employee or agent of the local government in relation to the release of a sign, vehicle, goods or materials pursuant to section 19(2) to a person not in fact entitled to possession thereof unless it is shown by the claimant that the authorised person has acted otherwise than in good faith on the basis of information provided to the authorised person;
 - 4) in the event that a sign, vehicle, goods or materials referred to in section 19(1) has not been released pursuant to section 19(2) within two (2) calendar months from the date of removal of the sign, vehicle, goods or materials, the sign, vehicle, goods or materials become the absolute property of the local government which may dispose of the same in such manner as it sees fit (by way of sale or otherwise).

PART 6 - MISCELLANEOUS

Identity of advertiser

26.
 - (1) Where under this local law an obligation is imposed on the advertiser the obligation is imposed, jointly and severally, on each of the persons who is the advertiser in respect of the particular sign.
 - (2) Where under this local law a notice may be given to the advertiser, the notice may be given to all or any one or more of the persons who is the advertiser in respect of the particular sign, and the obligation to comply with the notice is imposed, jointly and severally, on each person who received the notice.
 - (3) 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 subsections (1) and (2).
 - (4) The local government may, by a single action or successive actions, recover costs under Part 4 from any one or more of the persons who are an advertiser in respect of the relevant sign, but the total amount recovered must not exceed the amount properly and reasonably incurred by the local government.

Interference with Local Government signs

27. A person must not remove, alter, deface or otherwise interfere with a sign exhibited by the local government.

Maximum Penalty - 50 Penalty Units

Prohibition on obstructing or impeding removal by authorised person

28. A person must not obstruct or impede the removal of an unlawful sign by an authorised person pursuant to this local law.

Maximum Penalty - 50 Penalty Units

Local Law policies

29. The local government may make local law policies about:-

- (1) prescribing criteria so as to classify signs as exempt signs (section 5(1) and (2));
- (2) conditions upon which signs of a particular class are classified as exempt signs (section 5(3));
- (3) information to be contained in an application for a licence (section 8(1));
- (4) criteria to have regard to when deciding to approve or refuse an application for a licence (section 9(1) and (2));
- (5) specifying classes of prohibited signs or prohibiting the exhibition of signs in specified circumstances (section 9(2));
- (6) the term for which a licence is granted (section 10(3));
- (7) the conditions which must be imposed or will ordinarily be imposed on a licence (section 11(3)); and
- (8) other matters about which this local law specifically allows for the making of local law policies.