



**Cairns Regional Council
Local Law No. 4 (Advertising Devices) 2016**

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Cairns Regional Council

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 4 (Advertising Devices) 2016*.

2 Purposes and how they are to be achieved

The purpose of this local law is to enable the local government to prevent or regulate advertising devices not regulated by the Cairns Region Planning Scheme.

The purpose is to be achieved by:

- (1) identifying advertising devices that do not require a permit;
- (2) identifying advertising devices that are prohibited;
- (3) providing for an application and approval process for all other advertising devices; and
- (4) making it an offence to display advertising devices without a permit.

3 Relationship with other laws

This local law is:

- (a) to be read in conjunction with *Local Law No.1 (Administration) 2016* which contains provisions and definitions that apply to all local laws;
- (b) made under the Chapter 3 of the LGA and s.66 of the TORUM ACT;
- (c) not applicable to an advertising device on a State controlled road;
- (d) so far as it provides for development under the Planning Act, is in lieu of the process under the Planning Act for advertising devices other than:
 - (i) pylon signage;
 - (ii) billboard sign;
 - (iii) projecting sign;
 - (iv) illuminated sign; or
 - (v) for a brothel or adult storewhich are regulated by the planning scheme; save for appeal provisions provided under the Planning Act;
- (e) is subject to appeals in relation to advertising devices being dealt with under the Planning Act; and
- (f) otherwise in addition to, and does not derogate from, laws regulating land use planning and development assessment.

Part 2 Prescribed activity

4 Prescribed activity

The installation, erection or display of an advertising device, other than an advertising device that does not require a permit or is prohibited, is a category 1 prescribed activity.

5 Advertising devices that require a permit

(1) Advertising devices:

- (a) not regulated under the Cairns Region Planning Scheme;
 - (b) not prohibited under Part 3; or
 - (c) not permitted under Part 4,
- require a permit.

(2) To obtain a permit an application must be made to Council on the approved forms required under *Local Law No. 1 (Administration) 2016* and this local law.

6 Additional criteria for granting a permit

For an application for the installation, erection or display of an advertising device, the additional criteria are:

- (a) the advertising device is not prohibited in accordance with Part 3 or permitted in accordance with Part 4;
- (b) the advertising device must:
 - (i) be structurally sound;
 - (ii) have dimensions that bear a reasonable relationship to the dimensions of the building on which it is to be located, surrounding buildings and premises so that its presence is not unduly dominating or oppressive;
 - (iii) be consistent in appearance with the building and natural features of the environment in which it is to be situated;
 - (iv) be consistent with the character and values of the environment in which it is to be situated; and
 - (v) if advertising a place of business, or goods and services available from a business, that business must be located and be approved for the carrying out of that business, on the property where the advertising device is to be located.
- (c) The advertising device must not be likely to:
 - (i) harm public health or safety;
 - (ii) cause property damage to public infrastructure;

- (iii) cause a nuisance;
- (iv) cause the obstruction or distraction of pedestrian or vehicular traffic;
- (v) cause environmental harm;
- (vi) be a detrimental impact on the amenity of the area, by reason of its location, construction or design; or
- (vii) cause the obstruction of an existing view or vista from any premises.

7 Conditions that must be imposed on a permit

The following types of conditions must be imposed on a permit for an advertising device:

- (a) the advertising device must at all times be maintained in a safe condition so as to prevent personal injury or damage to property; and
- (b) when the advertising device is no longer needed for the purpose and in the circumstances in which it was permitted, it must be removed within one month of that event.

8 Conditions that will ordinarily be imposed on a permit

The conditions of an approval may require:

- (a) the display of the advertising device to be generally in accordance with the application submitted to and approved by the local government;
- (b) that the advertising device comply with any safety requirements specified in the approval;
- (c) the installation or erection of the advertising device to be:
 - (i) certified by a qualified person; and
 - (ii) securely fixed so as not to endanger public safety;
- (d) the advertising device to be constructed of durable materials and maintained in good condition and repair, free from graffiti at all times;
- (e) that the advertising device not protrude beyond or overhang the property boundary line into the footpath or road reserve;
- (f) that street numbers not already displayed on the premises are to be displayed on the advertising device;
- (g) the advertising device to be removed at the end of a stated period in the approval;
- (h) the advertising device to be restricted in its dimensions, content or location;
- (i) the permit holder to take specific measures to:

- (i) prevent the loss of amenity or nuisance resulting from the installation, erection or display of the advertising device; and
- (ii) ensure that the installation, erection or display of the advertising device does not cause unsafe movement or obstruction of pedestrian or vehicular traffic;
- (j) The permit holder its contractor or agent to:
 - (i) take out public liability insurance in the amount nominated by the local government and to name the local government as an interested party on the policy; and
 - (ii) indemnify the local government against claims for personal injury (including death) and damage to property (including economic loss) arising by, through, or in connection, with an advertising device.

Part 3 Prohibited advertising devices

9 Prohibited advertising devices

- (1) The following types of advertising devices are prohibited:
- (a) an advertising device that is a beacon light or a revolving or flashing light, but does not include electronic scrolling words or video imaging signs, and excludes emergency vehicles or other emergency devices authorised under a State Act;
 - (b) an advertising device affixed to, placed upon, or beside, a vehicle, apparently stopped on local government controlled area for the primary purpose of displaying the advertising device, but does not include:
 - (i) where the advertising device is permitted as an associated activity pursuant to a current local law permit for a prescribed activity;
 - (ii) where the advertisement is painted or affixed to a vehicle, and does not extend beyond the dimensions of the vehicle; or
For example – company logo painted on the panels of a company motor vehicle.
 - (iii) where the advertising device is affixed to the vehicle and projects from a vehicle and is authorised under a State Act.
For example – an advertising device that is affixed to the roof of a taxi and projects above the roof.
 - (c) off-site advertising except where undertaken on a not for profit basis, and in areas zoned as Community Facilities, Open Space, Specialised Centre or Sport and Recreation in the Cairns Region Planning Scheme;
 - (d) aerial advertising devices; and

- (e) a free-standing and moveable advertisement, that advertises goods or services of a commercial business, including A-frame or sandwich board advertising devices, if the device is:
 - (i) located on any local government controlled area or road within the CBD; or
 - (ii) located on any local government controlled area or road outside the CBD and exceeding more than one (1) device for each shop or business fronting a road.
- (2) It is an offence to install, erect or display a prohibited advertising device.
Maximum penalty – 50 penalty units.

Part 4 Advertising devices not requiring a permit

10 Type of advertising devices that do not require a permit

The following advertising devices are permitted:

- (a) the installation, erection or display of an advertising device that is visible from a road or other public place in accordance with section 11 below;
- (b) the installation, erection or display of the advertising device by, or on behalf of, the local government;
- (c) the installation, erection or display of an advertising device that is a public information notice; or
- (d) an advertising device approved under the planning scheme of the local government.

For example – Billboard signage, pylon signage, projecting signage or illuminated signage, approved as an advertising device under the planning scheme of the local government.

For example – a home based business advertising device approved as part of a development approval for home based business under the planning scheme of the local government.

11 Requirements for advertising devices without a permit

- (1) An advertising device installed, erected and displayed in accordance with the requirements in column 2 for the advertising device identified in column 1, does not require a permit.

Column 1 Advertising device	Column 2 Requirements
All advertising devices	(1) The activity being advertised on the advertisement device must be able to be lawfully conducted on the relevant premises. (2) An advertising device overhanging a local government

Column 1 Advertising device	Column 2 Requirements
	<p>controlled area, for example a footpath, must provide a minimum clearance of 2.5 metres between the ground or constructed footpath and the lowest part of the advertising device.</p> <p>(3) Street numbers if not already displayed on the premises must be displayed on the advertisement.</p> <p>(4) Must be consistent with the character of the surrounding area and reflect the architecture and style of any buildings on the site.</p> <p>(5) Must not emit excessive glare or reflection.</p> <p>(6) Must not be fixed to any tree, lighting standard, power pole or other infrastructure on any local government controlled area.</p> <p>(7) Must not be exhibited upon or over a road or any land or public place controlled by the local government (with the exception of election signs, portable advertisements, real estate advertisements or temporary advertisements, exhibited in accordance with the prescribed parameters below).</p>
Community organisation advertisement	<p>(1) Community organisation advertisements:-</p> <p>a) must have an advertisement area not exceeding 4m²; and</p> <p>b) must not be illuminated, flashing or revolving.</p>
Temporary advertisement	<p>(1) Is a temporary advertisement on private property which is intended to announce an event of a temporary nature, that:</p> <p>(a) is displayed for 14 consecutive days or less, within any 90 day period prior to the event advertised on the advertising device;</p> <p>(b) is removed within 24 hours after the event;</p> <p>(c) is not placed on any part of a local government controlled area or road including a footpath, median strip, traffic island or roundabout;</p> <p>(d) is fixed securely so as not to endanger public safety;</p>

Column 1 Advertising device	Column 2 Requirements
	<ul style="list-style-type: none"> (e) is displayed no more than 4 times per year for the same event; and (f) is not illuminated, flashing or revolving. <p>(2) Is a temporary advertisement on a local government controlled area or road, intended to announce an event of a temporary nature and is also a community organisation advertisement, or advertises a private garage sale, that:</p> <ul style="list-style-type: none"> (a) is displayed immediately preceding the event, being no more than 2 days prior to the event; and (b) is removed within 24 hours after the event; (c) has an advertisement area not exceeding 1m²; (d) is displayed within the vicinity of the event; (e) is fixed securely so as not to endanger public safety; (f) does not obstruct pedestrian movement or other uses of the local government controlled area where it is being displayed; and (g) is not illuminated, flashing or revolving.
Real estate advertisements	<p>(1) The real estate advertisement must:</p> <ul style="list-style-type: none"> (a) advertise an event for a real estate agency; (b) have an advertisement area no more than 6m²; (c) be limited to one advertisement per street frontage; (d) be limited to two signs with an advertisement area no more than 1.5m² per sign directing members of the public to the event being advertised, within a local government controlled area (such as a footpath); and (e) not be illuminated, flashing or revolving.
Commercial advertisements	<p>(1) The commercial advertisements on a building</p> <ul style="list-style-type: none"> (a) must be of a size and scale that bears a reasonable relationship to the dimensions of the building and tenancy where the advertisement is displayed;

Column 1 Advertising device	Column 2 Requirements
	<ul style="list-style-type: none"> (b) cannot be greater than 30% of the surface area of the street frontage elevation of the building measured above ground level; (c) any one advertisement may not be more than the area available as a consequence of the addition of the surface area of two floor levels of the street frontage elevation of the building; and (d) must not be unduly dominating. <p>(2) The commercial advertisement on a vehicle is painted or affixed to a vehicle and does not extend beyond the dimensions of the vehicle and is not otherwise in contradiction of a signage limit or number under another part of the local law.</p>
Directory advertisements	<p>(1) The directory advertisement;</p> <ul style="list-style-type: none"> (a) must not be affixed to the building; (b) must have an advertisement area no more than 4m in height and 2m in width; and (c) must not encroach on a footpath or other local government controlled area or road.
Flags	Must be a properly displayed national or state flag.
Portable Advertisements	<p>(1) For portable advertisements exhibited on a local government controlled footpath:</p> <ul style="list-style-type: none"> (a) limited to 1 per business outside the CBD; (b) advertisement area must not exceed 0.54m²; (c) must not obstruct pedestrian movement or other uses of the area where the advertising device is being displayed; (d) must be placed within 2 metres of the main public entry to the tenancy it is advertising; and (e) for portable advertisements which are also commercial advertisements, the advertiser must take out public liability insurance in the amount nominated by the local government and name the local government as an interested party on the

Column 1 Advertising device	Column 2 Requirements
	policy.
Moveable advertisements	1 only per business outside the CBD
Election signs	<p>The election sign:</p> <ul style="list-style-type: none"> (a) area must not exceed 0.6m²; (b) must not be erected prior to an election date being announced; and (c) must be removed within seven (7) days after an election; (d) must be temporary or portable; (e) where displayed on a local government controlled area or road, must not obstruct pedestrian movement or other uses of the area where the advertising device is being displayed.

- (2) The installation, erection and display must not be likely to:
- (a) harm public health and safety;
 - (b) cause property damage to public infrastructure;
 - (c) cause a nuisance;
 - (d) cause the distraction of pedestrian or vehicular traffic;
 - (e) obscure a motorists view in any way, particularly when an advertisement is proposed to be located on or near a street corner, intersection, medium strip or round-about;
 - (f) cause environmental harm;
 - (g) be a detrimental impact on the amenity of the area;
 - (h) cause the obstruction of an existing view or vista from any premises;
 - (i) the installation, erection or display must;
 - (j) be kept and maintained at all times in good order and free from graffiti; and
 - (k) be structurally sound.

Part 5 Removal of advertising devices

12 Immediate removal of advertising device

The Local Government may remove and dispose of an advertising device without prior notice to the owner, if:

- (a) an advertising device 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 advertising device immediately; or
- (b) an advertising device creates, in the opinion of the authorised person, an immediate risk to public safety or property.

adequate reasons include where the advertising device is likely to cause distraction of pedestrian or vehicular traffic.

13 Remedy, repair or removal of advertising device

(1) This section applies where an authorized person forms the opinion that an advertising device is:

- (a) not in good order;
- (b) in need of repair;
- (c) unsightly;
- (d) not permitted;
- (e) prohibited;
- (f) do not comply with terms of a permit; or
- (g) does not otherwise comply with the local law.

(2) The authorized person may, by compliance notice, given to the owner or responsible person for the advertising device, require the responsible person to:

- (a) repair it;
- (b) make it in good order;
- (c) remove it;
- (d) make an application for a permit or approval (where town planning approval is required) within a specified time; or
- (e) a combination of paragraphs (a) to (d).

CERTIFICATION

This and the preceding 10 pages bearing my initials is a certified copy of Cairns Regional Council *Local Law No. 4 (Advertising Devices) 2016* made in accordance with the provisions of the *Local Government Act 2009*, by Cairns Regional Council by resolution 27 January 2016.

Peter Tabulo
Chief Executive Officer
Cairns Regional Council