

Guidelines for real estate advertising boards on footpaths

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1. Introduction

Real estate advertising boards erected on public roads have been identified as a risk with potential to impact on the City. Council has established these Guidelines to regulate the placement of real estate advertising boards on a public road so as to protect public safety and amenity.

The Guidelines set out the conditions for the placement of real estate advertising boards on public roads within the City of West Torrens and provide a framework for assessing applications and managing a system of permits for such advertising boards.

2. Statutory requirements

2.1 Local Government Act, 1999

In accordance with Section 222 of the Local Government Act 1999, any person wanting to place a real estate advertising board on the footpath area of any road, street or public place under the care and control of Council, for the purpose of advertising a property for sale or lease, is required to obtain a permit from Council.

Under Section 224 of the Act Council may attached conditions to the granting of such a permit and under Section 225 Council may, by notice in writing, cancel a permit for breach of a condition.

Under Section 242 an application for the Council's authorisation to use a road for a business purpose must be decided within two months after the relevant date and, if not decided in this time, will be taken to have been refused.

2.2 Development Act, 1993

The Development Regulations carry specific exemptions for real estate signs on private property. Wherever possible, real estate advertising boards should be placed on the vendor's or owner's property in accordance with these exemptions.

3. Definitions

'Council' includes Council members, employees and agents.

'Applicant' means all persons named in the application form for a permit, all of whom will be bound by the conditions of the permit. All references to persons include a corporation.

'Authorised officer' means a person authorised under the Local Government Act 1999 or person authorised under another relevant Act dealing with the safety of public roads.

'Permit' means a permit for the placement of a real estate advertising board on the footpath within the City of West Torrens.

'Real estate advertising board' means an advertising board affixed to a property (either within the property boundary or on Council footpath) which contains a notice that the property is for sale or lease together with the particulars of the sale or leasing.

'Road' extends from the property boundary to property boundary and includes the carriageway, footpaths and verges owned or under care and control of Council.

4. Permits

4.1 The permit

A permit for the placement of a real estate advertising board on a public road entitles the permit holder to place a real estate advertising board on a footpath adjacent to and affixed to a property for sale or for lease for the purposes of providing information on that property and the particulars of the sale or lease.

The permit will be:

- issued in the name of the applicant
- non transferable
- valid only for the times and dates on the permit
- valid only for the area stipulated on the permit
- valid only for the activity described on the permit
- subject to fees and charges set out in the City of West Torrens Fees and Charges Schedule, as endorsed by Council
- subject to the conditions set out in these Guidelines
- subject to any other directions made by Council.

Council may amend the permit conditions at any time with or without the consultation of the permit holder and add or remove directions to the permit in addition to conditions at any time.

Council reserves the right to cancel or suspend a permit at any time.

4.2 Permit applications

An application for a permit must be made on the approved Council application form.

Applications will be considered on their merits and assessed against conditions in the guidelines.

Applications must be accompanied with documentation to enable Council to assess whether the conditions of issue have been met. This documentation is specified at Section 6.

Permits will be issued for one year and expire on the anniversary of issue. Applications for renewal of the permit must be returned to Council one month prior to expiry.

For companies there is provision to seek a blanket permit for the City.

4.3 Activation of permits

The permit will not commence to operate and no advertising boards are to be placed in the defined area until payment of all fees is received.

The permit holder will not commence any activity associated with this permit until a Certificate of Currency showing the required level of Public Liability Insurance is returned to the Council endorsed by the permit holder's insurer.

4.4 Responsibilities of permit holder

The permit holder will ensure that the activities specified in the permit are undertaken in accordance with the details submitted with the application and comply with the conditions of these guidelines and with Council policy and by-laws.

Permit holders will be responsible for meeting the following standard conditions for the term of a permit:

- To comply with all applicable industry standards, health or safety standards, current standards of Standards Australia or any applicable codes of practice.
- To comply with relevant Council by-laws and policy and with the attached Guidelines for Real Estate Advertising Boards on Footpaths
- To comply with state and federal legislation. The issue of the permit does not absolve the permit holder or their agents from any overriding legislation.
- To maintain in good condition and to recognised standards all structures erected or installed on or over the road. Such structures remain the property of the applicant pursuant to Section 209 of the Local Government Act, 1999.
- To indemnify and to keep indemnified the Council its employees, servants and agents and each of them from and against all actions, costs, claims, damages, charges and expenses whatsoever which may be brought or made or claimed against them or any of them arising out of or in relation to the issuing and granting of the permit.
- To maintain a current public risk insurance policy in the name of the permit holder insuring the permit holder for the minimum sum of TWENTY MILLION DOLLARS (\$20,000,000) in the terms set out below.
- To accept total responsibility to make good any damage that occurs to Council roads or to public infrastructure as a result of the erection or installation of structures by the permit holder.
- To provide proof, upon the request of Council, of current public liability insurance at any time.
- To not assign or otherwise transfer a permit without first obtaining the consent of the Council in writing.
- To notify Council and obtain prior approval for any changes to the approved activity contained in the permit. (Changes to the activity may cause conditions to the permit to be altered. If this is the case a new permit will be issued).
- To notify Council within 14 days of any changes to circumstances that would affect the validity of the permit (eg. change of ownership of a company).
- To make the permit available for inspection upon request by an authorised officer or police officer.
- At the expiration or earlier termination of this permit to remove, if so directed by the Council, any structure or object erected or installed on the road and to reinstate the road to the satisfaction of the Council.

In the event that the permit holder has failed to comply with any of the conditions of the permit or for any other justifiable circumstance, including reinstatement, maintenance, repair or removal, the Council may revoke the permit.

A permit does not confer on the applicant any exclusive right, entitlement or interest in the road (unless specifically provided pursuant to Section 223 of the Local Government Act, 1999) and does not derogate from the Council's powers arising under the Act.

Insurance

The permit holder will agree to indemnify and to keep indemnified the Council, its employees, servants and agents and each of them from and against all actions, costs, claims, damages, charges and expenses whatsoever which may be brought or made or claimed against them or any of them arising out of or in relation to the issuing and granting of the permit.

Notwithstanding the above, the permit holder shall not be rendered liable for personal injury to or the death of any person or loss of or damage to any property resulting from any breach by the Council of any provision of this permit or any negligent act or omission of the Council or its employees, servants and agents.

The permit holder will maintain a current public risk insurance policy in the name of the permit holder insuring the permit holder for the minimum sum of TWENTY MILLION DOLLARS (\$20,000,000) against all actions, costs, claims, damages, charges and expenses whatsoever which may be brought or made or claimed against the permit holder in relation to the activity.

The permit holder will provide confirmation of insurance to Council in the form of a certificate of currency. Such a certificate will bear the endorsement of the Insurer indicating that the Insurer accepts the indemnity given by the permit holder and any excess payable for each claim.

The permit holder, where appropriate, will ensure that it is licensed or registered to carry out the activity authorised by the issuing of this permit.

The permit will become immediately invalid if the permit holder ceases to have current public liability insurance as set out above.

5. Special conditions of permits

5.1 Construction

The applicant must ensure that the advertising boards are:

- no larger than 1050mm and 2300mm in height or width
- made of solid construction from either metal, wood or plastic
- constructed in such a manner that there are no sharp edges, protuberances or other design feature that would endanger public safety
- designed to be securely attached to the property wall and into the ground at four separate points
- designed so as to be stable during adverse weather conditions
- not designed to rotate, have flashing lights or be illuminated either internally or externally by any means
- not erected with balloons, flags (except for open inspections), streamers or other things attached to it.

5.2 Location and erection of boards

The applicant must ensure that advertising boards are:

- securely fixed into the ground at two points so as to prevent the signs from moving
- securely attached to the property fence or wall at two points so as to prevent the sign from moving
- placed flat against the property fence or wall with the advertising area facing outwards
- placed within 500mm of the property boundaries
- not placed within 10 metres of an intersection or in any other manner so as to restrict the vision of motorists
- not placed in such a manner so as to damage, destroy or interfere with any infrastructure including pipes, wires, cables, fixtures, fittings, posts and other objects which are the property of the Electricity Trust of South Australia, Telstra, SA Water, United Water, Boral Ltd or other federal, state, or local government department or authority or other infrastructure owner. (It is the responsibility of a permit holder to check for the location of underground infrastructure with relevant public utilities before erecting an advertising board.)

- placed in a manner that does not restrict pedestrian access in any way and that maintains a minimum 1.8 metre wide, straight, continuous path of travel for pedestrians.

5.3 Other special conditions

The permit holder must ensure that:

- all boards are of approved construction
- all boards are placed in the approved manner
- only one board is used for advertising a property
- boards are placed on footpaths only where there is no option to place them on the property itself and are placed immediately in front of the property being advertised
- the content of the advertising is restricted to information about the sale / lease of the property and no other advertising messages are placed on the board
- all boards are kept in good condition and repair
- all boards display the owners details including their contact address and telephone number,
- the placement of boards have the approval of property owners and are removed immediately if this approval is withdrawn
- the boards are removed within fourteen days of the sale completion (or finalisation of the lease) or immediately on expiration of the permit
- all boards and accessories are removed from the footpath
- the costs of any reinstatement work (as a result of the removal of the boards and other accessories) are met.

Additional conditions specific to the placement site may also be imposed by Council for safety or access requirements.

Council may add or remove directions in addition to conditions at any time. Failure to comply with directions will be taken as failing to comply with a condition of the permit.

Council may also amend permit conditions at any time. Permit holders will be notified in writing of the changes

6. Documents to be submitted to Council

Applications for permits must be accompanied with documentation to enable Council to assess whether the conditions of issue have been met. This documentation will include:

- Certificate of currency of public liability insurance, as specified in 4.4 above.
- Photographs / drawings specifying the dimensions of the real estate advertising boards, construction materials and method of fixture and showing the proposed location of boards in relation to buildings, fences and footpaths.

7. Advertising

Council will not authorise directional signs for directing people to property that is available for purchase or lease.

Council does not permit signs or advertising to be attached or fixed to street trees, street signs, Council poles, street furniture and public services infrastructure such as post and telephone boxes.

Open for inspection signs are permitted in accordance with Section 226 of the Local Government Act 1999 which allows a person to place and maintain a moveable sign on a road without authorisation or permit in order to direct people to the open inspection of any land or building that is available for purchase or lease.

8. Compliance

8.1 Monitoring

Authorised Officers (of Council) will monitor the placement of signs and the permit holder is required to comply with any direction provided by such officer.

8.2 Breaches of permit

If the permit holder breaches a provision of a permit, Council will give the permit holder written notice to remedy the breach. (In cases where urgent action is required, contact may initially be by phone with follow up in writing.)

Repeated breaches of authorisation will result in the cancellation of the permit without refund, as follows:

- first breach of the authorisation – a verbal warning will be issued (with note on permit file), with compliance to be achieved within 14 days
- second breach of the authorisation – a written notice will be issued with compliance to be achieved within 14 days
- third breach - cancellation of the permit.

8.3 Revocation or suspension of a permit

A permit may be revoked or suspended by the Council at any time by written notice to the permit holder under Section 225 of the Local Government Act 1999. The revocation or suspension of the permit by the Council, shall not give rise to any claim for damages on any basis by the permit holder.

Should a permit be revoked or suspended, any signage and other accessories affixed to the footpath following the expiration of 14 clear days (calculated from the date of service of the written notice of termination) will be removed by Council and be disposed of as it deems fit.

8.4 Damage to the footpath

Any damage whether unintentionally or negligently resulting from the placement of an advertising board will be recovered under the provisions of Section 233 of the Local Government Act 1999.

Where damage is caused to the footpath and reinstatement work is necessary, Council will carry out the reinstatement work at the permit holder's expense.