



Western Australia

Planning and Development Act 2005 2

## **By-Laws For the Control of Hoardings**



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Planning and Development Act 2005 <sup>2</sup>

## **By-Laws For the Control of Hoardings**

## **Part I — Interpretation**

### **1. Interpretation**

In these By-laws, unless the context otherwise indicates —

**Advertising device** shall mean and include any advertisement, signboard, poster, or other sign, painted notice, electrical advertising device, or other illuminated sign.

**Land** includes land, hereditaments, tenements, and also houses, buildings, and other works and structures.

**Local sign** shall mean any advertising device, or other device or figure, carving, or design put up or affixed upon or to any land which shows, consists of, or indicates the name of or the trade, business or calling of the person in actual occupation of the said land, and which shows, consists of, or indicates nothing else whatever.

The term explicitly includes signs erected upon land indicating that the said land is to let or for sale and giving the names and addresses of the agents or vendors.

**Near to**— Any advertisement or sign so situated with relation to any road or any land as to be plainly visible to ordinary eyesight, when viewed from such road or such land, shall be deemed to be “near to” such road or such land.

**Person** shall mean and include any person or association of persons, firm, or body corporate.

**Put up** shall mean and include make, erect, put up, or operate, or suffer or cause to be or to remain made, erected, put up, or operated.

**Responsible officers** shall mean the Town Planning Commissioner or his Deputy and/or the officer of the Local Authority charged for the time being with the administration of these By-laws.

**Town Planning Commissioner**— Commissioner appointed under “The *Town Planning and Development Act 1928*,” or any person temporarily acting as the Commissioner.

***Town Planning Board***— The Board appointed under “The *Town Planning and Development Act 1928*.”

***Trade, business, and calling*** shall mean and include any trade, business, industry, calling, occupation, pursuit, pastime, operation, engagement, or activity of whatsoever sort carried on, undertaken, or engaged in by any person, whether the same be or be not carried on, undertaken, or engaged in for the purpose of profit.

## **Part II — General provisions**

### **2. Existing advertising devices to be made to comply**

Every existing advertising device, upon, over, or near to any road or footway or land under the control of any Local Authority which does not conform in all respects with the requirements and provisions of these By-laws shall be removed, obliterated, or taken down within the period of twelve months next after the date of the publication of these By-laws in the *Gazette*, or shall, within that period, be altered in construction or situation or by repainting or relettering or otherwise, so as to conform with the requirements of these By-laws.

Provided that subject to By-law 4A of these By-laws advertising hoardings licensed on the 24th day of September 1930, which require to be altered or removed by such By laws, shall be so altered or removed within a period of five years from the aforesaid date, the 24th day of September 1930.

*[By-law 2 amended: Gazette 4 August 1933 p.1134.]*

### **3. Advertising devices and hoardings to be securely constructed**

Every advertising device and every advertising hoarding shall be securely constructed and maintained to the satisfaction of the responsible officer.

### **4. Signs not to be a danger to traffic or to obstruct access**

- (1) No person shall put up or maintain any sign or advertisement in such a position which, in the opinion of the responsible officer, would create a danger to traffic by obstruction the view of persons in charge of vehicles or animals upon any road, or otherwise.
- (2) No person shall put up any signboard or advertisement so as to obstruct access to or from any window, door, or fire escape;

provided that this shall not include a window used for the display of goods or merchandise.

**4A. Dangerous devices or hoardings**

- (1) No person shall have or keep, or permit or suffer to be had or kept, on any land or building owned by him or under his control any advertising device or advertising hoarding in respect of which he has been served with notice from the responsible officer that in his opinion such device or hoarding is dangerous, either to property or to person, or is otherwise objectionable.
- (2) Every person upon whom a notice has been served under this By-law shall remove, or cause to be removed, such device or hoarding within the time specified in the notice.
- (3) If any person makes default in the due compliance with any notice served upon him under this By-law, the Local Authority, or the Responsible Officer, with its servants or agents, may enter upon such land or building and remove the advertising device or advertising hoarding referred to in such notice, and may recover the expenses incurred thereby from the person making default as aforesaid as a debt owing by him to the Local Authority, or the Responsible Officer, as the case may be, by acting in any court of competent jurisdiction.

*[By-law 4A inserted: Gazette 4 August 1933 p.1134.]*

**5. Duties of owners of advertising devices**

The owner of or other person using any advertising device shall —

- (1) maintain the same, and all things appertaining thereto, in a clean, tidy, and sightly condition;
- (2) required by the responsible officer by written notice, repaint or renovate the same;
- (3) forthwith, upon notice from the responsible officer that the same is against public decency, or morality, remove or obliterate the same;

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- (4) if the advertising device is put up over any road or footway, keep the same free from any accumulation of dust or other unsightly matter.

**6. Advertising signs etc not to overhang roads**

- (1) No person shall put up any swinging signboard or sign, or advertising device, or any advertising device constructed wholly or partly of calico, canvas, paper, or other flimsy material, so as to overhang or to be over any road or footway or land under the control of a Local Authority or the Main Roads Board.
- (2) The responsible officer may cause any such sign or signboard or advertising device to be removed, without notice, at the expense of the owner thereof.

**7. Advertising near Swan River or in residential streets**

- (1) No person shall put up or permit, or suffer to be put up on land under his control, any advertising device (not being a temporary local sign) near to the Swan River, or its tributaries from source to mouth, or any water front or lakeside within the boundary of any Local Authority; provided that this By-law shall not be deemed to prohibit the putting up of any advertising device which is so remote from the said Swan River and tributaries or other waters as to be inconspicuous when viewed therefrom; or put up, or permit, or suffer to be put up, any advertising device fronting any improved part or improved reserve; provided that, where there is a predominance of industrial or commercial buildings, this clause shall not apply.
- (2) No person shall put up or permit, or suffer to be put up, any advertising device on any land in a residential street, except to exhibit his name and trade or calling.

A residential street is one in which the greater part of the frontage to such street between two cross streets is occupied by residences; provided that this clause shall not apply to a gazetted shopping area, or to any section of any street which the responsible officer certifies to be a future shopping area.

**8. Advertising near roads or local authority land**

No person shall put up, or permit to be put up, near to any road, railroad, or land under control of a Local Authority, any advertising device or any advertising hoarding that shall obstruct any view from any public highway which, in the opinion of the responsible officer, should not be obstructed; or put up, write, or make any advertising device, notice, intimation, or quotation upon any road or footway under control of a Local Authority or Main Roads Board, or on any tree or other surface thereon, except as herein provided.

*[By-law 8 amended: Gazette 4 August 1933 p.1134.]*

**9. Use of advertising hoardings near roads**

- (1) No person shall, near to any road, footway, or land under the control of the Local Authority, put up any advertising device upon any advertising hoarding —
  - (a) unless such advertising hoarding is at least its own height from the building line of any street, thoroughfare, or footpath;
  - (b) such advertising hoarding is constructed in accordance with a design and specification approved by the Local Authority, consisting of an advertising panel or panels painted to the approval of the said Local Authority, and supported or surrounded by, or contained within, structural features of an ornamental or decorative character.

**10. Persons benefited by advertising taken to be responsible**

Subject as in this By-law herein provided, if any advertising device shall be put up on any land or upon any advertising hoarding or other hoarding, wall, fence or other structure, or rock, stone, tree, or other thing near to any road, footway, or land under the control of a Local Authority, in contravention of these By-laws, and the person putting up such advertising device is not known, then any person interested or benefited or

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capable of being interested in or benefited by the putting up of such advertising device shall be deemed to have committed and be held liable for the breach whereby these By-laws have been so contravened: Provided always, that these By-laws shall not apply in the case of any advertising device put up as aforesaid which the Local Authority in whose district the same is put up by resolution declares to be for a national, charitable, or religious purpose, but such advertising device shall be removed forthwith after the purpose for which it was put up shall have ceased to exist.

**11. Breach of by-laws an offence**

If any person shall, either by act or omission, contravene any of these By-laws, he shall be guilty of an offence under these By-laws, and on conviction for such offence shall be liable to a penalty not exceeding Ten pounds, and also, if such offence is in its nature a continuing offence, to a daily penalty not exceeding Two pounds during the continuance of the offence.

**12. Crown not bound**

These By-laws shall not apply to and shall not in any manner whatsoever bind the Crown, or any Government department, or Government instrumentality, or any State trading concern.

**13. Application of by-law 4A**

By-law 4A of these By-laws shall have the force of law in the District of every Local Authority in the State, as defined in the said Act; and these By-laws, other than By-law 4A aforesaid, shall have the force of law in the District of every such Local Authority, excepting the districts specified in the Schedule hereunder: —

Schedule

City of Perth  
City of Fremantle  
Municipality of South Perth

City of Subiaco  
Municipality of Northam  
Armadale — Kelmscott Road Board  
City of Nedlands  
Belmont Park Road Board  
Melville Road Board  
Town of Cottesloe  
Town of Claremont  
Shire of Gosnells  
Shire of Kalgoorlie  
Shire of Gascoyne — Minilya  
Shires of Busselton, Cockburn and Dundas  
Shires of Rockingham, Collie and Mundaring  
Shires of Balingup, Belmont, Esperance, Gnowangerup,  
Nangarin, and Swan — Guildford,  
Cunderdin, Dardanup, and Exmouth.

*[By-law 13 inserted: Gazette 4 August 1933 p.1134; amended:  
Gazette 6 April 1959 p.875; 12 June 1959 p.1546;  
11 September 1959 p.2297; 11 December 1959 p.3025;  
10 October 1961 p.2861; 27 February 1962 p.551;  
23 August 1962 p.2335; 8 November 1962 p.3655;  
18 October 1963 p.3164; 1 November 1963 p.3340;  
24 December 1963 p.3979; 15 May 1964 p.2174; 3 July 1964  
p.2615.]*

**Notes**

- <sup>1.</sup> This is a compilation of the *By-laws for Control of Hoardings* and includes the amendments made by the other written laws referred to in the following table.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>By-laws for Control of Hoardings</i>	27 Nov 1931 p. 2520-1	27 Nov 1931
	4 Aug 1933 p. 1134	4 Aug 1933
	6 Apr 1959 p. 875	6 Apr 1959
	12 Jun 1959 p. 1546	12 Jun 1959
	11 Sep 1959 p. 2297	11 Sep 1959
	11 Dec 1959 p. 3025	11 Dec 1959
	30 Mar 1961 p. 848-9	30 Mar 1961
	10 Oct 1961 p. 2861	10 Oct 1961
	27 Feb 1962 p. 551	27 Feb 1962
	23 Aug 1962 p. 2335	23 Aug 1962
	8 Nov 1962 p. 3655	8 Nov 1962
	18 Oct 1963 p. 3164	18 Oct 1963
	1 Nov 1963 p. 3340	1 Nov 1963
	24 Dec 1963 p. 3979	24 Dec 1963
	15 May 1964 p. 2174	15 May 1964
	3 Jul 1964 p. 2615	3 Jul 1964

<sup>2</sup> Formerly made under s. 30(1) of the *Town Planning and Development Act 1928*, continued under s. 262 of the *Planning and Development Act 2005*.

**Defined terms**

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
Advertising device .....	1
Land .....	1
Local sign.....	1
Near to .....	1
Person .....	1
Put up.....	1
Responsible officers.....	1
Town Planning Board .....	1
Town Planning Commissioner.....	1
Trade, business, and calling .....	1