

# TOWNSVILLE CITY COUNCIL

## LOCAL LAW NO. 14

### SIGNS AND ADVERTISEMENTS

#### Interpretation

1. In this Chapter, unless the context otherwise indicates or requires, the terms undermentioned have the meaning set against each of them respectively, that is to say:

"Advertising Device" includes any word, character, representation, drawing, delineation, painting, photograph, reproduction, structure, erection, handbill, poster, placard, notice, signboard, or sign of any kind whatsoever of the nature of an advertisement, or which draws or is likely to draw attention -to any person, place, goods, words, merchandise, trade business or calling, event, activity or other thing or happening whatsoever or which conveys or, purports to convey any exhortation, direction, or advice to do or to refrain from doing any act or thing or which advocates or deprecates or draws attention to or purports to advocate or deprecate or to draw attention to any state of .affairs or to any cause whether political, religious or of any other kind whatsoever, and which is or is not illuminated, and includes any framework; board, or other structure whatsoever, which is used or is. capable of being used, or is adapted to be used far the purpose of affixing thereto or supporting any such advertising device, design, poster., placard, notice, signboard, or sign. The term does not include

- (a) any advertising device as hereinbefore defined. which is inside .a shop; the term "shop" having the same meaning as is assigned. to such term in the Town Planning Scheme of the. Council;
- (b) an Advertising Hoarding;

"Advertising Hoarding"-Any structure - (but exclusive of any advertising device displayed therein or thereon) within the meaning of the "Standard Building By-laws 1975" erected under and in accordance, with an approval given under those -By-laws or which is otherwise liable to be dealt with under the provisions of the Building Act 1975 or the "Standard Building By-laws 1975" and which, is used or is capable of being used or designed or. apparently designed for the display thereon of any advertising device;

"Business Sign"

- (a) any advertising device put up upon any. land, building; or premises, which shows; consists of, or indicates the, name of, and/or the trade, business or calling of the person in actual occupation of the said land, building, or premises, and which shows, consists of, or indicates nothing else whatsoever; and
- (b) any advertising device erected upon, land, or premises indicating, that the said land or premises is or are to let or for sale and: giving the names and addresses of the. agents or vendors: and, in the case of land or premises to be auctioned, giving the time, date and venue of the sale and showing, indicating or consisting of nothing else whatsoever;

"Council"-The Council of the City of Townsville;

"Election Sign"-means any advertising device that relates or refers or draws attention to or purports to relate or refer or draw attention to

- (a) any election for members of or to any by-election for a member of the Parliament of Australia or the Parliament of any Australian, State or any Local Authority; or
- (b) any candidate for any such election or by election; or
- (c) any referendum or poll; or
- (d) any political party or group or any group claiming, or apparently claiming to have an organised politic;, or
- (e) any cause or issue arising upon or associated with any such election; by-election, referendum or poll.

The term includes an advertising device which displays the words "Vote Yes" or "Vote No" or "Vote (1)" (or some other number);

"Illuminated Advertising Device" includes any advertising device illuminated, or designed for illumination by electricity or any other means of artificial illumination. The term does not include any advertising device illuminated by phosphorescence or other similar means or by some reflective material reflecting light from a source not upon or within the advertising device;

"License"-A .license under this Chapter;

"Licensee"-The holder of a license granted under this Chapter;

"Near To"-Any advertising device so situated with relation to any road or any land or stream as to be plainly visible to a person having normal vision when viewed from such road or such land or stream, shall be deemed to be "near to" such road or such land or such stream;

"Prescribed Fee"-The relevant fee in accordance with the scale of fees from time to time determined by the Council by resolution;

"Put Up" includes write, mark, paint, chalk, make, erect, construct., affix to, place, put up, display, or operate, or suffer or cause to be or to remain written; marked' painted, chalked, made, erected, constructed, affixed to, placed, put up, displayed, or operated and, shall refer to any advertising device of any description;

"Road" includes a bridge;

"Rules""-The Rules Relating to Advertising Devices as adopted, amended or altered by the Council pursuant to this Chapter;

"Standard Advertising Sign"-An advertising device referring only to goods manufactured or for sale on the land or premises on which the advertising device is put up: and/or to services rendered at such land or premises, and which advertising device conforms in size, type and design to the appropriate standard advertising device approved for the time being by the Council by resolution, and available for inspection without fee at the office of the City Architect;

"Stream" includes the Ross River and any other stream flowing into Cleveland Bay, and any tributary of such river or stream as aforesaid;

"Sky Sign"-Any illuminated advertising device put up, upon a building and any part of which is higher than the parapet, or eaves of the building on which the device is put, up upon;

"The Officer"-The Officer of the Council for the time being charged with the Administration of the By-laws or any of them contained in this Chapter; "Trade, Business, or Calling"-includes any profession, trade; business, industry, calling, occupations, 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 or gains.

### **Non-conforming Existing Advertising Devices**

2. If an advertising device existing at the coming into force of this Chapter does not comply with a provision of this Chapter, the Council may direct that it be removed or taken down or altered so as to comply with all the provisions of this Chapter within a period determined by the Council. Until the advertising device is so removed or taken down or altered within the said period, the Council may, upon application being made, license it if in the opinion of the Council it is neither dangerous nor unsightly notwithstanding that it does not comply with a provision of this Chapter, but such license shall not continue or be continued beyond the expiration of the said period.

### **Advertising Devices to be as Licensed**

3. It shall be a condition of every license, on breach whereof such license may be revoked, that any advertising device put up pursuant thereto shall be put up in a proper, secure and workmanlike manner, in the locality and position mentioned in the license, and in conformity with the detailed drawings submitted with the application and/or any condition stipulated in the license, and shall at all times have painted or printed in a conspicuous place at the bottom right-hand corner the manufacturer's name, the month and year of putting up, and the Council's license number.

### **Absolute Prohibitions**

4. Notwithstanding anything contained in this Chapter, a person shall not put up an advertising device
  - (a) upon the pavement or surface of a road or footway; or

- (b) upon any rock, stone or tree or the face of any embankment or cutting, in or upon or near to a road; or
- (c) upon any curtain, shade or blind permitted by the Council pursuant to By-law 92 of the By-laws or pursuant to the "Standard Building By-laws 1975".

### **Advertising Devices to be Licensed**

5. (1) Subject to By-law 4 of this Chapter and except as herein provided, and whether such advertising device was lawfully put up prior to the coming into force of this Chapter or not, a person shall not, unless in pursuance of a license granted under this Chapter, put up any advertising device on or upon the surface of or over or near to any road or footway upon, over or near to any land owned or held in trust by or under the control of, the Council, or upon any tree, post, pole, or structure or thing of whatever kind in or on any road or footway or any land owned or held in trust by or under the control of, the Council, or near to any stream or upon or over any land, building, or premises, or upon any awning, blind, or other thing whatsoever attached to any building or premises, or upon any wall, fence, or other structure, or upon any rock, stone, tree, or other thing whatsoever: Provided that in the case of a standard advertising sign which is not an illuminated advertising sign, a person may put it up after he has lodged application for a license therefor and paid the fee payable on such an application, but if the Council refuses the application the sign shall thereupon be deemed to have been put up in breach of the provision of this paragraph.
- (2) The provisions of the preceding paragraph shall not apply to any of the following advertising devices, that is to say:
- (a) Any advertising device which the Council by resolution declares to be of a national, charitable, or religious nature; or
  - (b) Any advertising device which the Council by resolution declares to be of a public advantage or convenience; or
  - (c) One advertising device only for each agent, put up on any land or premises and not projecting beyond the road alignment thereof indicating only that the said land or premises is or are to let or for sale and giving the name and address of the agent or vendor and, in the case of land or premises to be auctioned, giving the time, date, and venue of the sale, and, in all cases mentioned in this subparagraph, not exceeding 2 square metres in area; or
  - (d) Business signs other than of the type described in the previous subparagraph, which do not project beyond the alignment of any road or any land owned or held in trust by, or under the control of, the Council, and which do not exceed 2 square metres in area, provided such signs are not illuminated advertising devices; or
  - (e) Business signs painted on the fascias of footway awnings or ends of footway awnings; or

- (f) Any advertising device authorised or required by law; or
  - (g) Any advertising device or class of advertising device which the Council may, upon such conditions as it sees fit, declare to be exempt.
- (3) Any advertising device to which the provisions of paragraph (1) of this By-law do not apply shall be deemed to remain put up at the pleasure of the Council only, and if the Council requires it to be painted out or removed the Council may give notice of its requirements to one or more of the following persons namely:
- (a) The person who put it up;
  - (b) Any person shown by the advertising device to be interested or benefited or capable of being interested or benefited in or by the putting up of it;
  - (c) The occupier of the premises;
  - (d) The owner of the premises;

and if the advertising device is not painted out or removed as required and in the time stated by the Council, such advertising device shall be deemed to be put up in breach of the provisions of the said paragraph (1).

- (4) If any advertising device for which a license has been issued is not put up and completed to the satisfaction of the Officer within six months after the date of issue of such license, the license shall thereupon lapse.
- (5) In a case of a breach of the provisions of paragraph (1) of this By-law, in addition to the person by whom the breach was committed each of the following persons shall be deemed to have committed the offence, namely, any person shown by the advertising device to be interested or benefited or capable of being interested or benefited in or by the putting up of the advertising device.

### **Application for License**

6. A person who desires to obtain a license shall make application in writing therefor on the form provided for that purpose by the town clerk. Such application shall be lodged at the office of the Officer and shall be accompanied by the prescribed fee and, where required by the Officer, by two copies of a drawing to scale showing clearly the size and design and the method of fixing of the proposed advertising device, the relation if any of the advertising device to the land, building or premises or thing on which it is to be put up, and a site plan showing clearly the location of the proposed advertising device in relation to the nearest road or the nearest land owned or held in trust by, or under the control of, the Council, or the nearest stream.

### **Discretion as to Licenses**

7. (1) Subject to By-law 4 of this Chapter, the Council may if it appears from the application that the proposed advertising device complies grant an application for a license and otherwise it may refuse the application and it may, at any time, revoke

any license including any permit or license granted under the By-laws repealed by this Chapter for any reason deemed by it to be sufficient; notice of such revocation shall be given to the licensee and to the owner and to the occupier of the land, building, premises, or thing upon which the advertising device is put up. In granting a license the Council may grant it on such conditions as it may think fit.

- (2) Notwithstanding the previous paragraph, the Council may from time to time approve types of advertising devices which cannot be put up in all respects in conformity with this Chapter. When the Council has approved any type of advertising device, licenses may, subject to the previous paragraph hereof, be granted in respect of advertising devices of such type, but it shall be a condition of any such license, on breach of which the Council may revoke the license, that in every respect in which in the opinion of the Officer such device can be put up in conformity with this Chapter and the Rules, it shall be so put up. The Council may from time to time withdraw its approval of any type of advertising device.
- (3) Notwithstanding that an advertising device complies with the requirements of this Chapter and the Rules the Council may refuse to grant a license therefor if the Council is of the opinion that such advertising device will be injurious or detrimental to the amenity or natural beauty of the locality.

### **Notices to Licensees**

8. Any notice to be given to a licensee under this Chapter may be given by posting it in a prepaid letter addressed to him at the address given in his latest communication relating to a license or to any other address for the purpose of the giving of such a notice of which the Council may have had subsequent notice from him.

### **Period of Licenses**

9. Every license in respect of an advertising device granted after the coming into force of this Chapter shall, unless otherwise specified by the Council and subject to the provisions of By-law 18 of this Chapter and unless it shall sooner have been revoked, remain in force until the thirty-first day of December then next, and, if a further annual fee for the time being payable for such license shall have been paid by the licensee during the month of December, shall unless sooner revoked continue in force until the next following thirty-first day of December, and so from year to year.

### **Registered Design**

10. Any person proposing to use any standard or proprietary design from time to time at various positions but of uniform type may register such design as a Registered design by depositing with the Council a complete set of plans and specifications of such design. The Council shall file and record such plans and specifications under a serial number and such plans and specifications shall thereafter be referred to by such serial number in connection with any application so as to absolve the applicant from the submission of a separate plan and specification in each case, except that it will be necessary to submit a drawing showing the location and the relation of the advertising device to any building on which it is proposed to be put up and to the road or any land owned or held in trust by, or under the control of, the Council, immediately adjacent to such advertising device.

## **License Fees**

11. The fees to be paid for licenses under this Chapter or in respect of the approval of advertising hoardings, shall be computed according to the scale of fees from time to time determined by the Council by resolution and for the time being in force. Such fees in the case of licenses shall be per annum except where a license is expressly granted for a period less than one year, and such scale shall be on such basis or bases as the Council may in any such resolution determine.

Such resolution may provide for a reduced fee to be paid in respect of the first year of any licenses according as such license is for a period commencing after the expiration of the first, second, or third quarter of the licensing year. If a license is granted, the Council shall retain the fee paid with the application therefor but if any such application is refused the Council shall retain the whole of the fee if less than five dollars, and if such fee be greater than five dollars, the sum of five dollars.

## **Method of Computing Areas**

12. License fees under this Part shall be based upon the areas of the respective advertising devices and for the purpose of computing the amount of license fees to be paid in respect of any advertising device, the area of such device shall be taken to be the area of a rectangular figure exactly enclosing the advertising device, the base line of the rectangle being horizontal.

The area of every advertising device having two or more faces shall be measured by adding together the area of the faces thereof. Any fraction of a square metre shall be counted as a square metre.

## **Power of Council to Demolish Unlicensed Advertising Devices**

13. (1) Without prejudice to any other remedy which the Council may have, the town clerk may by notice in writing call upon any one or more of the following persons to paint out any painted advertising device or to take down and remove any other type of advertising device put up on any land or premises or over any road if such advertising device is put up in breach of the provisions of paragraph (1) of By-law 5 of this Chapter namely:
  - (a) The person who put it up;
  - (b) Any person shown by the advertising device to be interested or benefited or capable of being interested or benefited in or by the putting up of the advertising device;
  - (c) The occupier of such land or premises;
  - (d) The owner of such land or premises.

- (2) Any person who receives such a notice shall obey the terms thereof, within the time set out in the notice, and for that purpose may enter and do all things necessary. No person shall prevent or hinder him from obeying the terms of the notice.
- (3) If the terms of any such notice are not obeyed within the time allowed by the notice, then in addition to any other remedy which the Council may have, the town clerk may cause the terms of the notice to be carried out by workmen or contractors of the Council who for that purpose shall have power to enter and do all things necessary. No person shall prevent or hinder any such workman or contractor from carrying out the terms of such notice. The expense incurred by the Council in causing the terms of the notice to be carried out may be recovered in any Court of competent jurisdiction as a debt from the person to whom the notice was addressed.
- (4) Without prejudice to any other remedy which the Council may have, any advertising device over any road or any land owned or held in trust by, or under the control of, the Council, or on any tree, post, pole, or structure or thing of whatever kind in or on any road or any land owned or held in trust by, or under the control, of the Council, which is put up in breach of the provisions of paragraph (1) of By-law 5 of this Chapter may without any notice be taken down, painted out or removed by any officer of the Council.

### **Recovery of Penalties**

14. Proceedings for the recovery of any penalty or other moneys payable in respect of any breach of this Chapter may be had and taken by the Council.

### **Security of Advertising Devices**

15. If, in the opinion of the Officer, any advertising device is not securely constructed and/or is not securely fixed in position, he may give to the licensee notice requiring him to make such structural improvements or otherwise to take such action as will ensure that such device is securely constructed or securely fixed, within a time to be stated in such notice, or if the condition of such advertising device is in the opinion of the Officer dangerous to persons or property in the neighbourhood and in his opinion warrants immediate taking down, the Officer or any person authorised by him, may enter the land or premises where such advertising device is put up and take down such advertising device and the expense thereof shall be a debt due by the licensee to the Council. In addition, if a licensee who has been given notice by the Officer under this By-law does not comply with such notice, the Council may revoke the license in respect of such advertising device.
16. Any person who interferes with any public sign or notice erected by the Council or under its direction shall be guilty of an offence.

### **Maintenance of Advertising Devices**

17. The licensee in regard to any advertising device shall
  - (a) maintain the same and all things appertaining thereto in a clean, tidy and sightly condition;

- (b) whenever required by the Officer by written notice, repair or renovate the same;
- (c) if the advertising device is put up over any road or footway thereof, keep the same free from any accumulation of dust or other unsightly matter.

### **Flimsy Advertising Device**

18. (1) A person shall not put up any swinging 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 thereof or over any land owned or held in trust by, or under the control of, the Council.
- (2) Without prejudice to any proceedings which may be taken against any person with respect to a contravention of this By-law, the Officer may cause any such advertising device to be removed, and the person who put it up or any person shown by the advertising device to be interested or benefited or capable of being interested or benefited in or by the putting up of it, shall, upon demand made upon him by the Council, pay to the Council the expense incurred in such removal, and the amount of such expense, if not paid, may be recovered as a debt.
- (3) Provided that the Council may, upon payment of the prescribed fee, grant a license for the putting up of a temporary advertising device constructed of calico, canvas, paper or similar material, but such license shall not be granted for a period greater than three months, and shall be subject to the conditions expressed in the license.

### **Further Powers of Council in Relation to Advertising Devices**

19. (1) If at any time in the opinion of the Council, the character of the neighbourhood in which an advertising device whether erected before or after the coming into force of this Chapter is put up has changed, as a result of residential development or for any other cause or if an advertising device has become in the opinion of the Officer dangerous, unsightly, or objectionable by reason of dilapidation or otherwise, the Council may by notice in writing to the owner or the occupier of the land upon which the advertising hoarding is situate require him to take down and remove such advertising hoarding within the time to be stated within the notice.
- (2) If the requirement of the Council is not complied with the advertising device shall thereupon be deemed to be an advertising device put up in breach of paragraph (1) of By-law 5 and the provisions of By-law 13 shall apply with respect thereto as in the case of such an advertising device.

### **Advertising Hoardings**

20. (1) A person shall not, near to any road or any land owned or held in trust by, or under the control of, the Council, or to any stream, erect any advertising hoarding unless he shall have first obtained the approval of the Council under this Chapter (which shall be in addition to any approval given pursuant to the "Standard Building By-laws 1975") for the erection of such advertising hoarding and shall erect such advertising hoarding in all respects in accordance with the I terms and conditions of such approval.

- (2) A person desiring to obtain the approval of the Council for the erection of an advertising hoarding shall submit an application therefor on the form provided by the town clerk. Such application shall be delivered to the Officer and shall be accompanied by the prescribed fee and by a site plan showing clearly its location with respect to adjacent lands, roads and streams.
- (3) The Council may grant or refuse any approval sought under this By-law or may grant it subject to such terms and conditions as it thinks fit. The following shall be deemed to be conditions of every approval given for the erection of an advertising hoarding:
  - (a) That the construction of the advertising hoarding shall be in accordance with the approval given under the "Standard Building By-laws 1975" and the approval given under this By-law;
  - (b) That the advertising hoarding shall be maintained and kept in good order and repair, to the satisfaction of the Officer, and shall, if the Officer so requires it, be painted once in every three years; and
  - (c) That the approval shall lapse unless the advertising hoarding shall have been erected within 'one year from the date on which advice of such Approval was sent by past to the applicant at `the address given by him in his application.

### **Rules Relating to Advertising Devices**

21. (1) The Council may from time to time, by resolution, adopt, amend, alter or rescind "Rules Relating to Advertising Devices", herein in this Chapter referred to as "the Rules", wherein shall be prescribed rules relating to 'the -design, size, method of fixing and position of and other matters relating to advertising devices with different rules for different types of advertising devices.
- (2) A copy of the rules shall be open for inspection by the public without fee at the office of the Council during the Council's normal business hours and a copy- of the rules shall be supplied to any person requiring same upon payment of the prescribed fee.
- (3) A copy of the rules certified under the hand of the town clerk to be a true copy of the rules of which it purports to be a copy shall be admissible in evidence in any proceedings wherein proof of such rules 'is relevant and in the absence of proof to the contrary shall be conclusive proof of the rules.
- (4) In any proceedings a signature purporting to 'be that of the town clerk shall be taken to be the signature it purports to be until .the contrary is proved.
- (5) It shall be a condition of every license granted -in respect of an advertising device, on breach of which condition the Council may revoke the license, that 'the advertising device shall in all respects comply with the rules or such of them .as may be applicable to the -particular advertising devices.

22. It shall not be lawful for any person to increase or decrease the size of or make any structural alteration to any advertising device lawfully put up prior to the time of the coming into force of this Chapter unless such increase or decrease or alteration is in conformity with the requirements of this Chapter and unless an application under this Chapter has been submitted for such increase or decrease or alteration and the application approved by the Council.
23. (a) For the purposes of this Chapter a person shall be deemed to be interested or -benefited in or by the putting up of an advertising device if the advertising -device bears, contains or shows -
- (i) his name, whether in full or in some abbreviated form, or a name or title by which he is commonly known; or
  - (ii) his image or a reproduction thereof capable of being reasonably identified as such; or
  - (iii) the name and/or address of any land or premises whereon or wherein the person carries on or proposes to carry on any trade, business ,or calling; or
  - (iv) the name, description, image or other means .of identification of any thing which thing is commonly associated with the person.
- (b) The provisions of the previous paragraph shall apply notwithstanding that the advertising device may have -been put up without the approval of the person concerned.

**24. Any person who -**

- (a) puts up an advertising device upon any land, building, premises, post, pole or other structure or thing whatsoever without the consent ,(proof whereof shall rest upon the person alleging that consent was given,) of the owner, occupier or other person having the lawful control of such land, building, premises, post, pole or other structure or thing whereon the advertising device is put up; or
- (b) permits or suffers an advertising device which is not the subject of a license- granted. pursuant .to this Chapter to 'be put up On any land, building, premises, post, pole .or other structure or thing whatsoever owned or occupied by him or otherwise under his lawful control; or
- (c) puts up an advertising device whether pursuant to a license granted under this Chapter or not in such a manner as to obscure or partly obscure the view of any official traffic sign or street name sign or as to obstruct or impede -access to or from any doorway or fire escape;

shall be guilty of an offence.

**Election Signs**

25. Notwithstanding anything contained in this Chapter, a license in respect of an election sign shall not be granted -
- (a) if the applicant for such license does not have a permanent place of residence within the Local Authority Area of Townsville; or
  - (b) if, in the opinion of the Council, the advertising device contravenes any law relating to elections, by-elections, referenda or polls or advertising devices in respect thereof; or
  - (c) unless -the security deposit hereinafter referred to has been paid to the fawn clerk.
26. In addition to any conditions .the Council may see fit to impose, a license in respect of an election sign shall be subject .to the following conditions, on breach of which conditions the Council may revoke the license, that is to say:
- (a) that the advertising device shall at all times conform with all -laws relating to elections, by-elections, referenda or .palls, as the case may be, or advertising devices in respect thereof;
  - (b) that the advertising device shall be put up in such a manner as to be easily removed;
  - (c) that the advertising device shall not be written, painted or chalked upon nor shall it be glued or stuck by means of any form of adhesive material to the surface of any building, premises, structure, pale, post or other permanent object;
  - (d) that the advertising device shall at all times conform with the provision of this Chapter and the Rules.
27. (1) A license in respect of an election sign shall come into force on the date of issue thereof or from the forty second day immediately preceding .the .day of the poll in respect of the relevant election, by-election, referendum or poll, whichever date shall be the .later, and shall remain in force until the day next following the day of the poll as aforesaid, but no longer.
- (2) (a) The applicant in respect of a license for an election sign and any person interested or benefited in or by the putting up of an election sign shall each be responsible for the taking down of any election sign put up pursuant to such license within seven days from ;the day of .the poll as aforesaid.
  - (b) The applicant in respect of a license for an election sign and any person interested or benefited in or by the putting up of an election sign who fails to take down any election sign put up pursuant to such license within seven days from the day of the poll as aforesaid shall each be guilty of an offence.
28. (1) The applicant for a license in respect of an election sign shall before any such license is granted deposit with the town clerk a security deposit in the sum of \$200.00 for .the taking down of election signs put up pursuant 2o such license within the time hereinbefore prescribed.

- (2) It shall be a condition of the said deposit that the amount of the security deposit shall be repaid to the applicant if all the election signs put up pursuant to the said license (excluding any advertising hoarding on which an election sign is put up) are taken down to the satisfaction of the town clerk within seven days from the day of the poll as aforesaid.
- (3) If any election sign (but excluding the advertising hoarding on which an election sign is put up) put up pursuant to a license remains put up after seven days from the day of the poll as aforesaid, the Council may, -without notice to any person, and without prejudice to any other remedy including proceedings as for an offence against this Chapter which the Council may have, take down such election signs and retain and apply the security deposit in or towards payment of the costs and expenses of so doing and if the said costs and expenses exceed the amount of the security deposit the Council may recover from the said applicant as a debt due by the applicant to the Council the amount by which the said costs and expenses exceed the security deposit and if the said costs and expenses are less than the said security deposit the Council shall refund to the applicant the amount by which the security deposit exceeds the said costs and expenses.

## **Evidence**

29. (a) In any proceedings for a breach of or for an offence against the provisions of this Chapter, every allegation or averment contained in the Complaint shall be prima facie evidence of the matter so alleged or averred and without limiting the generality of the foregoing the allegation or averment in any complaint that:
  - (i) any person is or is not or was or was not at any time or date mentioned in the complaint a licensee;
  - (ii) any advertising device is or was put up on or upon or over or near to any land, stream, road, footway, building, structure or other thing whatsoever mentioned in the complaint;
  - (iii) any person is or was interested or benefited in or by the putting up of an advertising device;shall be evidence of the matter or matters so alleged or averred, and in the absence of evidence in rebuttal thereof, shall be conclusive evidence of such matter or matters although -
  - (iv) evidence in support of such matter or any other matter is given; or
  - (v) any matter so alleged or averred is a mixed quotation of law and fact, but in that case the allegation or averment shall be evidence of the fact only.
- (b) Any evidence given in support or rebuttal of a matter so alleged or averred shall be considered on its merits, and the credibility and probative value of such evidence shall be neither increased nor diminished by reason of this By-law.

(c) This By-law shall not lessen or affect any onus of proof otherwise falling on the defendant."