



# The Flemish Publicity Regulation: new rules of the game as of 2024

*news  
legal,*

*25 October 2023*

Have you ever placed roadside advertising for your business or association? Then this blog post is definitely a must-read. As of January 1, 2024, the new Flemish Advertising Ordinance will come into effect. This regulation breathes fresh air into the outdated rules of the 1930s and 1950s regarding the placing of advertising along public roads. With it, the Flemish Government is pursuing two important goals: promoting good spatial planning and ensuring traffic safety.

## *Scope*

The Publicity Ordinance applies to the placement or installation of publicity devices whose message is clearly visible from public roads and requires an environmental permit or notification act. Unlike the old regulations that did not apply everywhere, this ordinance applies along all public roads.

What exactly is a "publicity fixture"? A publicity fixture is any visual device and construction with the purpose of communicating a publicity message to the public in a fixed location. One might think of the distinctive wooden signs of local youth movements announcing their upcoming events, the iconic "M" logo guiding you to the nearest McDonald's but also the signs along highways urging us to drive safely.

To judge whether a structure can be considered a publicity device, the finality of the design and its message is critical. This is best illustrated by the example of lighting atop a yard crane. If the purpose of the crane's placement is to be active at a yard, it does not qualify as a publicity device under the regulation. If the crane is not used for its proper purpose but as publicity for the company operating at the yard, for example, then it does qualify under the regulation.

## *What should you pay attention to?*

The system of the regulation is that it must first be determined whether the operation in question falls within its scope. If that is the case, then when assessing an application for a permit or notification, the general requirements of the regulation must be considered. These

come into play regardless of the nature of the publicity device or message. Then either the provisions for "business-related publicity establishments" or those for "non-business-related publicity establishments" must be applied. When all conditions are met, the permit can in principle be granted.

### ***General obligations***

All publicity falling under the aforementioned scope must comply with the general obligations. I cite some examples here.

The publicity message must not have a negative impact on road safety and must not obstruct the visibility of road signs. For example, a roadside advertising sign with a design similar to a road sign is not permitted.

In terms of lighting, there are also clear rules. Publicity devices may only be internally or externally illuminated if this does not blind the road user. To this end, the brightness must be adjustable to the ambient light. For blinking or flashing publicity messages, there are restrictions on location. They are only allowed on public roads where no or only limited motorized traffic is allowed. Flashing signs therefore only belong in, for example, shopping streets or during an event when the public road is temporarily closed to traffic.

### ***Division by nature***

The distinction between "business-related" and "non-business-related" lies in the nature of the publicity message.

In the case of a "business-related publicity device," it involves publicity messages aimed at identifying, publicizing or promoting a business, product or activity. Consequently, finality and the link between the publicity message and the business at that location must be considered.

The term "business" is defined broadly. It refers to a business, commercial, hospitality, association, organization, government agency, liberal profession or service. In particular, it refers to the display of the name, logo, mention of the activity or mention of the products or services offered on the premises. For example, displaying the name of a beverage brand at a pub is a "business-related publicity message," provided that that brand is available at the pub. If that same beverage brand is mentioned at a supermarket, it is not a 'business-related publicity message' since the brand is only one of hundreds of products offered.

What about the former "signboard" from the old regulations? It is placed under the category of 'business-related publicity device' in the new regulation. The term 'signboard' used to be interpreted very strictly which only involved the business name and logo. The broadening to the category of 'business-related publicity establishment' meets the need for commercial establishments, companies, associations and the like to communicate the economic activities, products or activities associated with the location. In contrast to the term 'signboard', it is no longer about the business located there but about the activities and products offered or traded

at the location.

For the placement of "business-related publicity devices," several requirements must be met. These requirements are there to prevent publicity on location of the business from being a nuisance to the surrounding area and traffic on public roads. For example, when placing a menu board at the front door of his business, a hospitality operator must take into account the distance from the public road and the area the board occupies.

For "non-business-related publicity fixtures," among other things, it is important to include the name and contact information of the natural or legal person who has installed or caused the publicity fixture to be installed. There are also requirements around placement and area taken up.

### ***Local requirements***

Although the Publicity Ordinance establishes the general framework, it is important to note that both municipalities and provinces can impose stricter regulations. They now have 24 months to bring their municipal urban publicity ordinance into compliance with the regional provisions. There is no such thing as an absolute right to permit. Municipalities can still refuse applications for publicity that comply with the ordinance if they believe there are valid reasons for doing so. For a trouble-free permit application, it is therefore wise to obtain additional information from the municipality to avoid unexpected rejections.

### ***Transitional law***

Have you recently placed advertising along public roads that does not meet the requirements set? Don't worry. Under the new guidelines, existing publicity fixtures that were in compliance with the previous rules prior to the implementation of this regulation may remain in place.

This means that if your current advertising conformed to the standards in effect at the time, you do not need to take any action. However, should you have plans for future advertising efforts, it is wise to keep in mind the updated regulations to avoid potential problems. Stay on top of recent developments and stay alert to any changes to keep your advertising efforts in compliance with the new legislation.



Silke Rogiers *advisor legal*  
s.rogiers@atern.io

Check [atern.io/en/news](https://atern.io/en/news) for more finance, tax and legal news.

aternio