

# Footpath Trading Policy



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# 1 Introduction

## (a) Purpose, aims and principals

This Footpath Trading Policy has been developed to provide the framework for the sustainable use and management of our footpath trading areas. Footpaths need to cater for a wide range of uses – the needs of tourists, public transport users, shoppers, delivery drivers, the elderly, those with particular mobility needs, children, pet owners and young families. Where permitted, footpaths can be used by local businesses for the display of goods, signs and outdoor eating areas, which can promote and enhance the vibrancy and diversity of the streetscape and area.

While the trading activities on the footpath referred to are important parts of the retail environment, the primary purpose of footpaths is to provide for safe pedestrian access and footpath trading activities must be regulated to ensure that access and safety can be maintained. In considering the options that may be available for footpath trading it is important to recognise that any commercial use of public space is not a right but a privilege which may be granted where access, community safety and amenity of the streetscape can be ensured.

As Council has a legal obligation to provide a safe and unobstructed footpath environment for all, this policy has been created to provide a deliberate strategy to ensure that pedestrians have unobstructed and safe access on our footpaths at all times, regardless of their mobility levels. The *City of Ballarat Footpath Trading Policy* has been developed to regulate all commercial activity on our footpaths by providing for a continuous accessible path of travel extending a specified distance from the building or property line.

The City of Ballarat is committed to supporting the continuing growth of local business as well as enhancing the streetscape with vibrant activity.

This policy requires those council officers responsible for the issue and enforcement of permits under provisions of Local Laws and other legislation to take certain matters into account when considering applications. Its aim is to establish an equitable basis by which applications for permits are considered and to establish clear parameters for applicants.

The following guiding principals have been used in developing this policy.

- Council aims to provide unobstructed and safe passage along footpaths at all times for pedestrians of all abilities in accordance with Council's Statutory responsibilities
- Footpath activity must make a positive contribution to the character and amenity of the area (and surrounding residential areas where applicable)
- There is a need for a clear policy for traders; and
- Recognition that the primary purpose of footpaths is safe pedestrian access, not trading.

This document supersedes the 'Footpath Trading Policy - 8<sup>th</sup> August 2007' and has been developed in accordance with the below other documents:

- ***Disability Discrimination Act 1992 (Federal)***
- ***Equal Opportunity Act 1995 (State)***
- ***Councils Disability Access Plan – Access for All***
- ***Footpaths Infrastructure Policy***
- ***Local Law No. 15 (as amended by Local Law 17)***

## 2 Definitions

<b>Advertising Sign</b>	means a portable sign that is used for the purposes of soliciting sales, provision of services or notifying people of an adjacent property where goods or services may be obtained. For the purposes of this policy, an Advertising Sign may include an A-Frame Sign or other free-standing portable advertising sign.
<b>Ancillary Items</b>	means Umbrellas, Barriers, Flower Planters, Heaters, etc
<b>Ancillary Activity</b>	includes Busking, Spruiking, Pavement Art, Barbeques, Raffles, Street Collections, Displays and any other activity that may be designated from time to time.
<b>Authorised Officer</b>	means an Authorised Officer appointed under section 224 of the Local Government Act 1989.
<b>Banner Sign</b>	means a sign formatted on “soft” materials eg linen or PVC etc
<b>Barrier Screen</b>	means the canvas/PVC type screens commonly provided by Coffee Companies.
<b>Clause</b>	means a clause of Ballarat City Council Community Local Law.
<b>Council</b>	means the City of Ballarat Council.
<b>Council Fixture</b>	means any infrastructure and includes any seat, sign or signpost, litter bin, tree or tree guard, parking meter, parking bay number inscribed on footpath, bicycle rack, fire hydrants or any other fixture.
<b>Exclusion Zone</b>	means the following: <ul style="list-style-type: none"><li>• A distance of 3m from an intersection</li><li>• A distance of 3m from a pedestrian crossing, traffic lights or school crossing</li><li>• A distance of 1.5m from any loading zone, bus zone, taxi zone, mail zone or Disabled Persons parking bay</li><li>• A distance of 1m from any Council Fixture, including any bicycle stand, fire hydrant, front or sides of public seating, litter bin, parking meter, etc</li></ul>
<b>Footpath</b>	means any path that is provided for the use of pedestrians only or that is regularly used by pedestrians and not vehicles, a pedestrian mall or that is a segregated footpath or shared footpath. It includes a footpath as defined in the Road Rules-Victoria 1999.
<b>Footpath Width</b>	means the distance from the face of the kerb line to the outside edge of the building line (property line).

<b>Footpath Trading Zone</b>	means the area between the Pedestrian Zone and the Kerbside Zone. It is only in this area of the footpath where goods, outdoor dining furniture, ancillary items and activities subject to this policy may be placed.
<b>Kerbside Zone</b>	means the area between the kerb line and the outer edge of a Trading Zone.
<b>Outdoor Dining Facility</b>	means any area of the footpath being used for the purposes of providing an outdoor dining area.
<b>Pedestrians</b>	means any person travelling along a footpath whether walking independently; is assisted by a guide dog; is assisted by a mobility aid such as a wheel chair, motorised scooter, walker, crutch or frame or any other aid to assist mobility or orientation. This includes a person who wheels a recreational vehicle, pram or stroller, shopping trolley or a delivery trolley.
<b>Pedestrian Zone</b>	means an area between the property line and the inner edge of the Trading Zone as provided in grid in Part A.
<b>Permit</b>	unless otherwise identified, “permit” means a permit issued by the City of Ballarat under a Local Law authorising a particular activity within the Trading Zone. <i>(Note: in certain areas, additional approvals may be required for any permanent alterations or additional works)</i>
<b>Permit Holder</b>	means the person named as the ‘applicant’ on the application form.
<b>Road</b>	has the same meaning as “Road” in the Local Government Act.
<b>Street</b>	has the same meaning as Road.
<b>Set Back</b>	is a distance of 0.5 metre in from each side boundary of a premise which must be kept free of items or furniture. Created to provide access points from the Pedestrian Zone to the Kerbside Zone.

### 3 Footpath Zones

Three zones have been introduced on the City's footpaths to ensure that sustainable footpath management standards are met. The need to consistently maintain a clear and unobstructed footpath influenced the creation of the three zones, namely

- **The Pedestrian Zone** – is an unobstructed pedestrian clearway which extends for a minimum of 1.8 metres out from the building line, shop front or premises. No items may be placed (or be allowed to remain) within this zone at any time.

Note: The width of this zone may be greater than 1.8m in some instances, refer to the table below

- **The Trading Zone** – is the only part of the footpath where any signs, goods, tables and chairs and ancillary items may be placed subject to this policy. The width of the Trading Zone varies from street to street – depending on the overall width of the footpath. Trader's items must be contained in this zone at all times. A Set Back of not less than 0.5 metre in from either side boundary must be maintained to ensure access points from the Pedestrian Zone to the road (or vice versa). Trader's items are not to be placed (or allowed to remain) in the set back areas. A further access area of 1.5 metres in width must be maintained in the centre of Trading Zones which extend for more than 10m in length.
- **The Kerbside Zone** – is the area between the kerb (or line of kerb) and the Trading Zone.

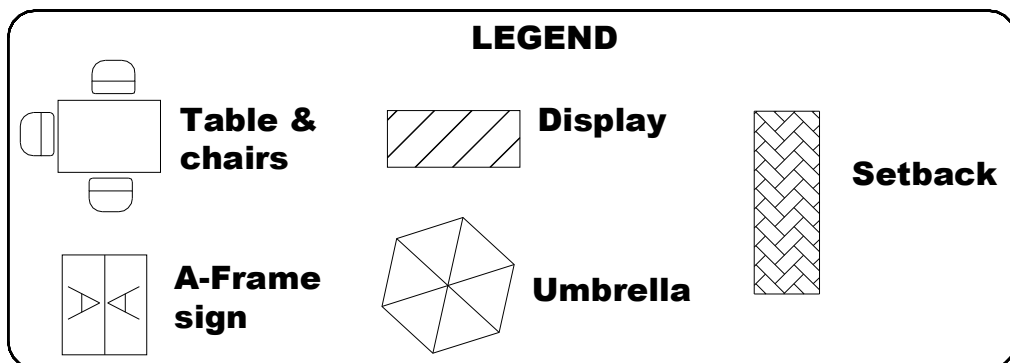
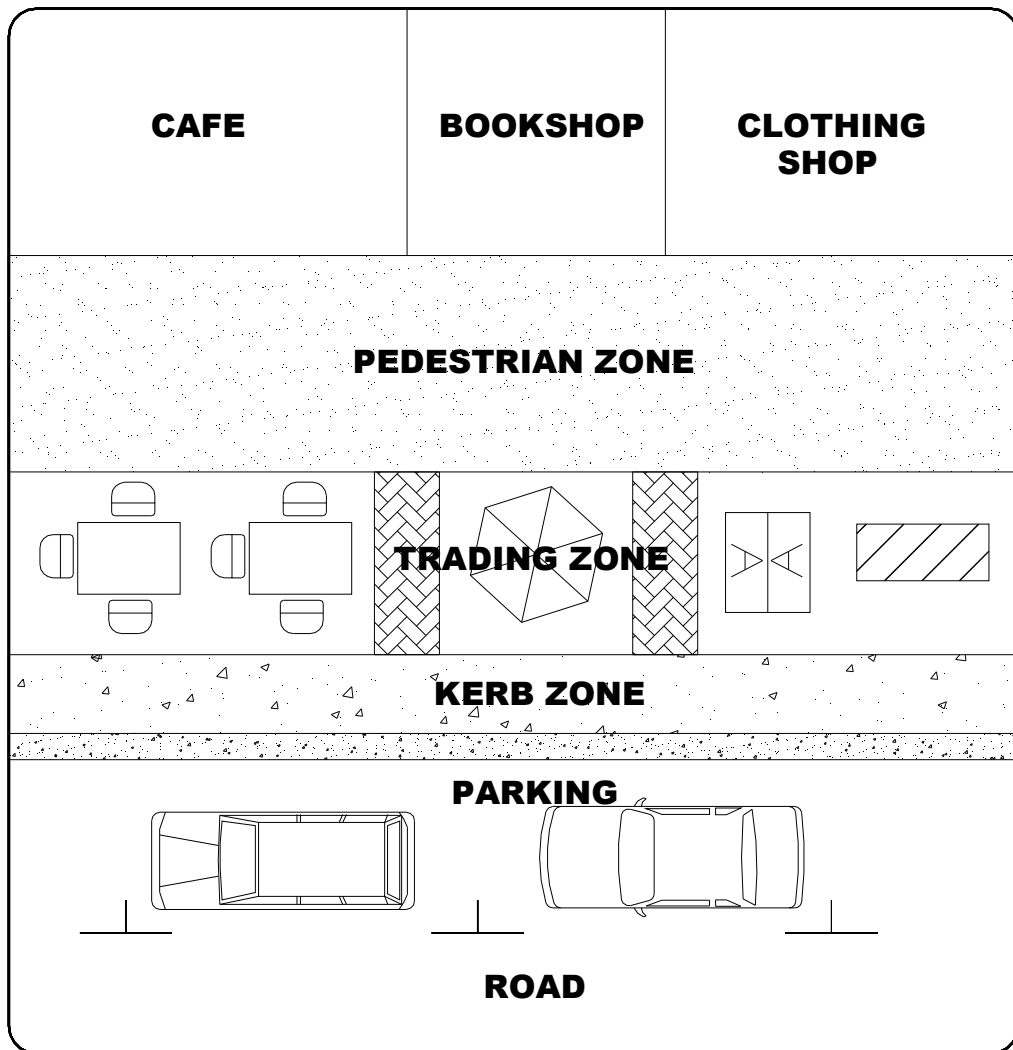
#### 3.1 Pedestrian Zone Requirements

Footpath width	*Pedestrian Zone Requirement
<i>Less than 3m</i>	<i>Footpath trading not permitted</i>
<i>3m - 3.5m</i>	<i>Minimum 1.8m (NB: only a single Advertising Sign permitted)</i>
<i>3.5m – 4.5m</i>	<i>1.8m or greater</i>
<i>4.5m or greater</i>	<i>2m or greater</i>

#### 3.2 Kerb Zone Requirements

Kerb Zone adjacent to -	*Kerb Zone Requirement
Angle Parking	1 m
Disabled Parking	1.5 m
Parallel Parking	1m
Bus & Taxi Zones	1.5m
Loading Zone	1.5m

### 3.3 Typical Footpath Zones



### 3.4 Existing Council Fixtures

Generally, Council will not relocate or remove existing fixtures at the request of traders. Traders should take into account the existence of fixtures or other infrastructure and relevant adjacent parking zones or conditions when proposing to apply for a permit. *(Note: requests to relocate existing fixtures may require additional approvals from Council officers other than Local Laws Officers and may incur costs by the applicant).*

### 3.5 Council Fixtures

Type of Fixture	*Required Clearances
Bicycle Racks	1m
Fire Hydrants	1m
Public Seating	1m
Litter Bins	1m
Parking Metres	1m
Electricity Poles	0.5m
Street Lights	0.5m
Trees or Tree Guards (surrounds)	0.5m
Parking bay numbers	0.3m

**\*Any distance other than a statutory requirement may be varied at the discretion of an Authorised Officer**



## 4 Outdoor Dining and Street Furniture

### 4.1 Outdoor Dining

(1) Local Law outdoor dining permits may be issued subject to:

Street Furniture and other ancillary items will only be permitted –

- (a) At premises which are registered to serve food and beverages under the Food Act 1984; and
  - (b) Where the applicant's premises has its own open and operational kitchen.
- (2) Where liquor is to be served at an outdoor dining area, the permit holder must -
- (a) be the holder of a liquor license that has been endorsed to include the footpath area.
  - (b) ensure that relevant planning permits have been obtained (where required)
- (3) All tables, chairs and ancillary items must be removed from the footpath by the time stipulated on the permit, or where no time is stipulated, by 11.00pm.
- (4) The proprietors of any Outdoor Dining facility must ensure that patron numbers do not exceed the total Maximum Occupancy permit numbers prescribed for that premises (*where defined by Building, Liquor Licensing, Health and/or Planning requirements*).
- (5) Staff engaged in the serving of food and beverages at Outdoor Dining facilities shall ensure all pedestrians and other footpath users enjoy free passage by giving them passing priority over their own movements to and from their premises. The positioning of tables and chairs must allow unobstructed access and circulation for patrons and staff.
- (6) Windproof ashtrays must be present on all tables at all times and must be emptied and cleaned on a regular basis. The trader is responsible for cigarette ash, butts and any other litter generated by patrons of a footpath eating area
- (7) Tables and chairs may only be displayed outside the premises to which they relate. Permission may be granted to extend the placement of tables and chairs to one adjacent premise, however a 0.5 metre setback must be provided between properties. Any application for such an extension must include a letter signed by the adjoining business holder giving approval for the tables and chairs to be positioned in front of their property.
- (8) Food and beverages must not be served to patrons who are standing on the footpath. Patrons should all be seated.
- (9) Separate cash registers, counter facilities or storage facilities are not permitted on the footpath.

The onus is placed on the permit holder to uphold all matters listed in Part H - Responsibilities (i) Permit Holder with relation to tidiness and cleanliness of the area, the monitoring and control of patrons, the proper placement of tables and chairs etc.

## 5 Tables and Chairs

- (a) Tables and chairs may only be placed on the footpath where the footpath is greater than 3.5 metres wide.
- (b) The number of tables and chairs permitted on the footpath is determined by the size of the available trading zone. Table dimensions and design should be specified in the application process. Bench style furniture the length from the kerb zone to the pedestrian zone is permitted, however bench seats must be freestanding, and a gap of 0.5m between each table setting must be maintained to allow unobstructed access and circulation for patrons and staff.
- (c) Tables and Chairs must be of a design approved by Council in particular:
- (d) must be of a style, appearance, materials, finishes and colours which are of a High standard, attractive, durable, shatterproof, unobtrusive and complement the character of the streetscape.
- (e) must be uniform in style and design for each premise;
- (f) must be portable, yet sturdy and windproof. The permit holder shall be responsible for any damage caused to people or property arising from the tables and chairs;
- (g) must have a minimum 3 cm diameter rubber pad on their legs to protect the pavement surface. It is the business owner's responsibility to maintain the base off all items and to ensure items placed on the footpath do not cause damage to the existing footpath or other public infrastructure. The cost of repairing any damage caused will be borne by the permit holder.
- (h) Tables and chairs must at all times be located within the designated "Trading Zone".
- (i) No tables or chairs are permitted on grassed areas/nature strips.
- (j) Bar style furniture is not permitted and will not be approved. A table should be between 0.7m to 0.9m in height. No form of advertising is permitted on tables and chairs.\
- (k) No table (including while in use) can be placed within 1.5 metres of a disabled parking bay.

***NB. The number of tables and/or chairs permitted will be determined by the Authorised Officer responsible for processing applications or issuing permits.***

## 6 Barrier Screens

All temporary and permanent barrier screens are subject to Council approval.

- **Low Barrier Screens:** These are predominantly made of canvas or vinyl and have a steel frame. Consideration can also be given for permanent screens made of clear materials such as safety glass
- **High Barrier Screens:** These are made of clear material such as safety glass and are fitted to the footpath by an in ground socket/lock-in devices. These may be permanent or temporary in nature (See section 9).

The form and construction of any barrier screen must be suitable for its functional requirements and location, taking into account prevailing weather conditions. In considering Barrier Screens emphasis will be placed on available space, urban character, existing street infrastructure and traffic conditions. Barrier screens should not adversely affect the openness, streetscape and heritage character of the area.

### 6.1 Low Barrier Screens:

- (a) must only be placed where there are tables and chairs and must be placed and kept within the Trading Zone.
- (b) may only be in place during the normal trading hours of the business to which they relate or time stipulated on the permit, unless these are approved permanent barrier screens.
- (c) barriers must not exceed 1.0 metre in height.
- (d) where screens extend over 10 metres in length, a break of 1 metre must be maintained in the middle to allow for pedestrian access from the kerbside.
- (e) no other item/structure (including plastic blinds, awnings, menu boards, etc.) can be attached to the screens at any time, except where transparent drop-down blinds may be attached subject to Council approval.
- (f) screens may vary in design but must complement the streetscape. All proposals will be assessed by Council to ensure that they do not detract from the surrounding area. Advertising on screens must be kept to a minimum. The name of the business or of the sponsor of the screen is generally acceptable.
- (g) barriers Screens must not be left on the footpath outside of trading hours or a time stipulated on the permit, unless these are approved permanent barrier screens; and
- (h) temporary barrier screens must be placed so that the screens are stable and secure or weighted so that they will not be moved by patrons or prevailing weather. This may be aided by the use of weights, interlocking screens or lock-in devices.
- (i) the fitting of any in ground socket/lock-in device requires an asset protection permit from Councils Asset Department in conjunction with approval from the Compliance Department.

## 6.2 High Barrier Screens:

- (a) must only be placed where there are tables and chairs and must be placed and kept within the Trading Zone.
- (b) temporary may only be in place during the normal trading hours of the business to which they relate or time stipulated on the permit.
- (c) must not be higher than 1.5m above the level of the footpath, be transparent and constructed of safety glass or heavy-duty plastic, and kept clean at all times;
- (d) must have a gap of 0.1m between the base of the glass panels and the ground;
- (e) must be fitted to the footpath with an in ground socket/lock-in device, temporary barrier screens are to be removed outside trading hours and permit conditions.
- (f) temporary must be removed after the normal trading hours of the business with which they are associated in order to facilitate street cleaning by vehicles.
- (g) A 1.0m break must be provided in the centre of an outdoor area that is 10m or greater in length
- (h) Advertising on glass screens is not permitted. Only the business/company logo can be displayed on every second panel and on the two ends closest to the pedestrian zone. All logos cannot be greater than 0.75m<sup>2</sup> (for example 15cm (h) x 50cm (w)).
- (i) Glass screens must be maintained to a safe standard for the public and any damage must be repaired immediately. Details of screens must be provided on the plans submitted with a permit application.
- (j) The fitting of any in ground socket/lock-in device into the footpath requires an asset protection permit from Councils Asset Department in conjunction with approval from the Compliance Department.

6.3 It must be clearly understood that Council has a preference for temporary structures in relation to street furniture. Permanent screens will be considered when each of the following criteria are met:

- (a) Documentation to explain why temporary barriers are not suitable in the business location.
- (b) Barriers should not be located within 3 metres of a taxi zone, disabled parking area or loading zone so that they do not inhibit access from those spaces to the footpath.
- (c) The business does not operate as a Nightclub or Tavern.
- (d) Materials are durable low maintenance and do not cause a public safety issue. Glass screens must be transparent, shatterproof and comply with Australian Standards.
- (e) The structure is compatible with the designs of the building and adjoining buildings and must not be more than 3 metres in continuous length. Adequate provision must be provided for pedestrian access to the footpath to the road (see attached illustration)..
- (f) The structure does not impede access by emergency services or the safe egress of occupants.
- (g) No advertising or other signage is permissible.
- (h) Once approved, a road opening permit is required for the installation of the structure and installation must be to the IDM standards.
- (i) Permanent barriers will not be considered within the Lydiard Street North or Lydiard Street South Heritage Precinct.

It is noted that the Street furniture trading policy requires that temporary barriers are to be removed at 11pm (unless otherwise stated by permit conditions) and there is discretion to extend this time on a case by case basis. This may be considered an option where the premises does not meet the requirement for permanent structures.

## 7 Transparent drop down blinds

Transparent drop-down blinds may be permitted, subject to a building permit from Council. Applications will be assessed on a case by case basis considering available space, prevailing urban character, existing street infrastructure, and traffic conditions. In certain situations drop down blinds can improve the dining experience in streets where there is poor protection from the elements.

- (a) Attaching a blind to a building or verandah requires a building permit.
- (b) Advertising is to be kept to a minimum and requires approval
- (c) Blinds must be UV resistant to avoid break down of the material and loss of transparency.
- (d) Plastic selected for blinds must be of maximum transparency.
- (e) Blinds may be attached to screens or to the footpath surface. In cases where attachment is made to the screen, the stability of the screen must not be compromised. This can be achieved by ensuring screens are secured to the footpath via an in ground socket/lock-in device.
- (f) If attached directly to the footpath all fixings must be fully concealed within the pavement and not create a trip hazard when not in use.
- (g) All blinds should be retractable and concealed within a pelmet.
- (h) Blinds must be kept clean at all times and maintained to a safe standard and any damage must be repaired immediately.
- (i) Blinds in a heritage overlay will be referred to the Council's heritage advisor for approval.
- (j) Council has the right to refuse a blind attached to a significant heritage building.
- (k) Blinds must not intrude into the pedestrian or kerb zone.
- (l) The use of blinds must not extend beyond the approved hours as stated in this policy or any permit conditions.
- (m) Details of blinds must be provided on the plans submitted with an application.
- (n) A footpath trading permit and building permit must be obtained prior to any construction and works.

## 8 Umbrellas

Umbrellas should only be used where existing shelter such as verandahs, canopies or trees do not provide sufficient protection from the elements. The use of umbrellas where existing awnings/verandah's are present gives a cluttered appearance and detracts from the building façade and appearance of the street

The following conditions apply for umbrellas:

- (a) Colour of umbrellas must be sympathetic to heritage values, the streetscape and the other outdoor furniture being used i.e. the barrier screens.
- (b) Umbrellas must be positioned in the "Trading Zone" only and must not extend in to the "Pedestrian Zone" or the "Kerbside Zone".
- (c) Umbrellas must be a minimum of 2.2 metres high at the lowest point.
- (d) All umbrellas must be securely fastened into the footpath with an in-ground socket/lock-in device to ensure public safety.
- (e) Umbrellas must be padlocked to the sockets to ensure they are not lifted by strong winds.
- (f) Umbrellas must not obstruct traffic signals.
- (g) Permit applications will be assessed on a case-by-case basis. Where an in ground socket/lock-in device is required to be inset into the footpath surface for the purpose of holding umbrellas, a specific road opening permit must be obtained from Council's Asset Protection Department.
- (h) Umbrellas take up space within a trading zone. This must be taken into account when considering your furniture layout.
- (i) Umbrellas are only permitted where approval for tables and chairs has been granted.
- (j) Umbrellas must be stable so that adverse weather conditions will not cause them to create a risk for pedestrians or other road users. The permit holder shall be responsible for any damage caused to people or property arising from the umbrellas.

## 9 In Ground Sockets/Lock-In Device

As an in ground socket/lock-in device is required to be inset into the footpath surface, a specific road opening permit must be obtained from Council's Asset Protection Department.

In ground sockets are compulsory for all umbrellas and for some barrier screens. The following design standards apply for in-ground sockets:

- (a) Sockets must be made of stainless steel and have an auto shut lid to prevent the lid staying open and creating a hazard on the footpath.
- (b) Sockets must be installed flush to the level of the footpath, and no parts should project above footpath level when not in use.
- (c) Sockets must be installed in accordance with manufacturer's specifications and any Council permit conditions.
- (d) Any damage to the footpath must be reported to Council by the applicant/permit holder. Rectification works are at the applicants/permit holders expense.

## 10 Heaters

Outdoor gas heaters should where possible be connected to a reticulated gas supply and be affixed to awnings/verandahs (so as to be off the footpath area). A building permit is required to undertake this activity. This should be discussed with the relevant Council officer prior to lodging a Local Law permit application.

If patio type heaters positioned on the footpath are to be used, they must be included on the application and must be specifically covered by the applicant's public liability insurance.

All heaters used must:

- (a) be placed within the Trading Zone.
- (b) carry the appropriate certification by the Australian Gas association and must be used in accordance with the manufacturer's instructions and any safety or technical advice available through the Office of Gas Safety.
- (c) be associated with the footpath for an outdoor dining facility.

Note: all heaters placed at ground level within the Trading Zone will reduce the area for trading.

## 11 Planter Boxes

Unless permitted by an Authorised Officer, Planter Boxes will only be allowed in the Trading Zone.

Planter Boxes:

- (a) Must provide a positive contribution to the visual amenity of the street. Permits that allow Planter Boxes require that they be well maintained with healthy plants and must be kept clean of litter. *(Note: If this is not adhered to, permission for the Planter Boxes will be revoked and the Planter Boxes will be removed by the permit holder).*
- (b) Must not exceed 1200mm in height above the footpath level (including plants) and be no wider at the base than 500mm.
- (c) Portable planter boxes must be removed from the footpath by the time stipulated on the permit, or by when no time is stipulated by 11:00pm, unless otherwise permitted.

## 12 Portable Advertising Signs

Local Law advertising sign permits may be issued subject to:

- (a) All Advertising Signs must be positioned within the “Trading Zone” (refer to grids under “Footpath Zones”) and must not be positioned in the “Pedestrian Zone” or the “Kerbside Zone”.
- (b) Despite part 2.1, where footpaths are less than 3.5 metres wide and Trading Zones do not exist, an Authorised Officer may exercise his discretion and give approval for an Advertising Sign to be placed in the Kerbside Zone.
- (c) A maximum of 2x Advertising Signs will be permitted for any business applying for a permit.
- (d) If an applicant has 2 advertising signs on the footpath, there must be at least a 2-metre space between them at all times.
- (e) An approved sign can only be placed on the footpath adjacent to the relevant business and during the operating hours of that business. (An Authorised Officer may at his or her discretion allow a sign to be placed in a position other than adjacent to the business premises.)
- (f) Any advertising sign must be weighted so that adverse weather conditions will not cause them to create a risk for pedestrians or other road users. The permit holder shall be responsible for any damage caused to people or property arising from the advertising sign.
- (g) Advertising signs must not be attached without the approval of an Authorised Officer to any Council sign, parking metre, rubbish container or other fixture controlled or owned by Council (Council Fixture)
- (h) An advertising sign can be no greater than 1 square metre in area and have no dimension greater than 1200mm. (An Authorised Officer may make an exception to this where an Advertising Sign is to be displayed in an Industrial type area.)
- (i) Advertising signs must not be placed within 1.5 metres of a disabled parking bay.
- (j) Signs must not be positioned on any road, median strip or roundabout at any time.
- (k) Inflatable signs, portable electric signs, illuminated, revolving, spinning or flashing signs or flags and banner signs are prohibited from the footpath, front of building or veranda posts.
- (l) All advertising signs placed on the footpath must be professionally written, however permission may be granted for the use of chalkboards to be used to advertise daily specials. A professionally written business logo or business name should be included on the chalkboard.



### 13 Goods For Sale or Hire

A Local Law Permit may be issued to display goods for sale or hire subject to:

- (a) Goods displayed for sale or hire may only be positioned within the 'Trading Zone'. No item or goods or any receptacle used to display such goods, can be placed within the "Pedestrian Zone" or "Kerbside Zone". Goods or receptacles must be placed in a position whereby people who are browsing do not encroach into the "Pedestrian Zone".
- (b) No item displayed for sale or hire or receptacle used to display such goods, can be greater than 800mm wide, 1.5 metres long and must not be greater than 1.5 metres high. There must be a 1m gap between goods being displayed. *(An Authorised Officer may at his or her discretion allow the display of goods of a greater dimension in Industrial type areas.)*
- (c) No item displayed for sale or hire, or receptacle used to display such goods, can be placed within 1.5 metres of a disabled parking bay.
- (d) Items for sale or hire can only be displayed where the footpath is greater than 3.5 metres wide.
- (e) The area used to display goods for sale or hire must not exceed 2 square metres.
- (f) Goods for sale or hire can only be placed on the footpath adjacent to the relevant business and during the operating hours of that business.
- (g) Goods for sale or hire must not be attached to any Council sign, Parking meter, rubbish container or other fixture controlled or owned by Council (Council Fixture).
- (h) Any goods for sale or hire must be weighted so that adverse weather conditions will not cause them to create a risk for pedestrians or other road users. The permit holder shall be responsible for any damage caused to people or property arising from goods for sale or hire.
- (i) No goods for sale or hire can be positioned on any road, median strip or roundabout at any time.

## 14 Application Process

- (a) Before submitting a formal application for a Footpath Trading Permit, prospective applicants are advised to read this policy thoroughly and familiarise themselves with all requirements, legal obligations, responsibilities and costs associated with Footpath Trading.
- (b) Failure to fully complete an application may delay the processing of that application or see the application refused.
- (c) Required information to be completed on the application includes –

- **Name of Applicant**

- **Name of business**

- **Address of premises where Footpath Trading is being requested**

- **Contact number/s & details**

- **Certificate of Currency of appropriate Public Liability insurance** – it is a requirement for the policy to note the Council's interest and be for the amount of no less than \$10 million. The policy must remain current and valid for the duration of the permit, and provide public liability insurance for the proposed footpath activity.

- **Signed Form of Indemnity** – this is a statement that indemnifies the Council against all claims of any kind arising from any negligent act either by the permit holder, the permit holder's agents or their cliental.

- **Details of Furniture** – in cases of new permits only, details of the proposed street furniture (including tables, chairs, barrier screens, umbrellas, etc) must be submitted with the application.

- **Plan** – plan including dimensions of proposed items to be placed on the footpath, with existing street infrastructure (poles, pits, seats, bins etc). The plan is to extend to a minimum of 2metres either side of the applicant's premises.

- (d) On receiving an application, the relevant officer will:

- Check that all relevant information has been submitted.

- Check that the footpath trading would be in keeping with the intent and requirements of Council's Community Local Law, the Footpath Trading Policy, Heritage demands and is of a use legally established under Statutes including the Planning and Environment Act 1987, Liquor Control Reform Act 1998 etc.

- Inspect the site for suitability of items applied for, including appropriate numbers of items, approval of street furniture to be used, approval of signage, etc

- Undertake an assessment of compliance with the requirements of this policy.
- Approve or refuse permit application.

**Note: No goods can be placed on the footpath until a permit is obtained.**

- 15 Display of permit registration label** – Permit holders must display the current permit registration label in a prominent and unobstructed location on the shopfront window or alternatively, on the Advertising Sign.
- 16 Amendments to an existing Permit** – a new application must be submitted where any amendment to an existing permit is requested.
- 17 Transfer of Ownership of Business** – A Footpath Trading Permit applies only to the original applicant and is not transferable. In the event of a business changing hands, the new proprietor must make fresh application for footpath trading.
- 18 Renewal of Permit** – permits for footpath trading must be renewed annually. They expire on the 31<sup>st</sup> March each year. While a renewal advice will be issued to all existing permit holders approximately one month prior to the expiration, it remains the responsibility of the permit holders to ensure that their permits are renewed prior to the end of April. Any alterations to the details on the permit being renewed must be noted on the returned renewal notice. The relevant fee must be remitted with the renewal.
- 19 Fee** – a fee is applicable for Local Law permits. The fees are set by Council and may be amended from time-to-time.

## **20 Responsibilities**

### **20.1 Permit Holder**

- (a) Daily management – it is the duty of the permit holder to ensure the appropriate management of their Footpath Trading permit and the following procedures must be closely monitored each day.
- (b) Operate in strict accordance with any “special” conditions as set out on the permit, with all aspects of the “Footpath Trading Policy” as issued and those provisions of the Local Law relevant to Footpath Trading.
- (c) Maintain access for all footpath users by ensuring permitted items are placed and remain within the Trading Zone (includes repositioning furniture when moved outside the zone by patrons).
- (d) Keep a constant check of the behaviour of patrons so as no interference is caused to other footpath users. Particular attention must be given to obligations relating to noise control, health and amenity matters and the responsible serving of alcohol.
- (e) Uphold the cleanliness of the footpath area, ensuring tables and chairs are kept clean and in good repair, ashtrays are frequently emptied and any litter including food and drink spillages is removed immediately from the street and deposited in litter receptacles kept inside the premises.
- (f) Remove all furniture at the end of the days trading or at any time specified on the issued Footpath Trading permit.
- (g) The permit holder will be responsible for reimbursing Council for any reinstatement works required to repair any damage to footpaths or any other council fixture caused by any table, chair, Advertising Sign, displayed goods or any ancillary item.

### **20.2 Council**

- (a) Maintenance of the footpath – the Council manages the maintenance of the footpath and reserves the right to reclaim access to the footpath and require the removal of any Footpath Trading furniture at any time to effect such maintenance. Where possible, reasonable notice of proposed works will be given to permit holders.
- (b) Service Authority Works and Special Events – Service Authorities including gas, water and sewerage, telecommunications and electricity must not be obstructed by furniture or trading activities permitted under any permit issued under this policy during their supply or servicing type operations. Permanent fixtures akin to umbrella bases, fixed screens, planter boxes, etc. must not interfere with underground services or drainage. On the occasion of a special event, Council may, after giving reasonable notice, require items or furniture to be removed from the street (or reduced in number or size).

- 20.3 Compensation and Loss of Trade** – Council will not be liable for payment of any compensation in respect of any inconvenience, loss of trade or any other concerns alleged when items or footpath furniture are removed from the street for activities contained in Parts 20.2(a)(b), and 20.5 of this policy.
- 20.4 Monitoring Footpath Trading and compliance with permit conditions** – Local Laws Officers will monitor all Footpath Trading practices and ensure that permit conditions and all requirements under this Footpath Policy and the Local Law are met.
- 20.5 Rejection, Revocation or Modification of a permit by an Authorised Officer** - an Authorised Officer has the right to reject an application, modify the conditions of a permit, or revoke a permit if:
- (a) the sight of pedestrians crossing at an intersection or crossing is interfered with so as to obscure oncoming traffic,
  - (b) permit requirements have not been met and there is continuing failure to comply with directions,
  - (c) the permit holder fails to maintain public liability insurance,
  - (d) under any other circumstance that the Authorised Officer believes will create a safety hazard to pedestrians, motorists or cyclists or cause a detriment to the amenity of the area.

### **Charter of Human Rights**

*It is considered that this policy does not impact on any human rights identified in the Charter of Human Rights Act 2007*

## **Form of Indemnity**

This indemnity is given the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_  
(Date) (Month) (Year)

By the \_\_\_\_\_  
(Company/person name)

Trading as \_\_\_\_\_ (hereinafter called "the indemnifier")  
(Trading name)

To the CITY OF BALLARAT (hereinafter called "the Council")

Whereas the indemnifier has applied to the Council for authority to use a portion of the road or other public area within the municipal district under the Council's Footway Policy 2007.

NOW THIS INDENTURE WITNESSES that in consideration of the Council granting such authority the indemnifier INDEMNIFIES and will KEEP the Council INDEMNIFIED against all actions, liabilities, proceedings, demands, losses, damages, fees, claims, costs and expenses whatsoever incurred or arising out of, or in connection with or in consequence of the use of the footpath for purposes associated with the use of the premises at ("the premises")

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### **(The premises)**

Whether such premises was operating or not at the relevant time by any person whosever, including the indemnifier or employee or agent or subcontractor or any customer of the indemnifier.

SIGNED SEALED AND DELIVERED )

By the said )

In Victoria in the presence of: )

OR

THE COMMON SEAL of )

Was hereunto affixed in accordance with )

Its Articles of Association in the presence of:)

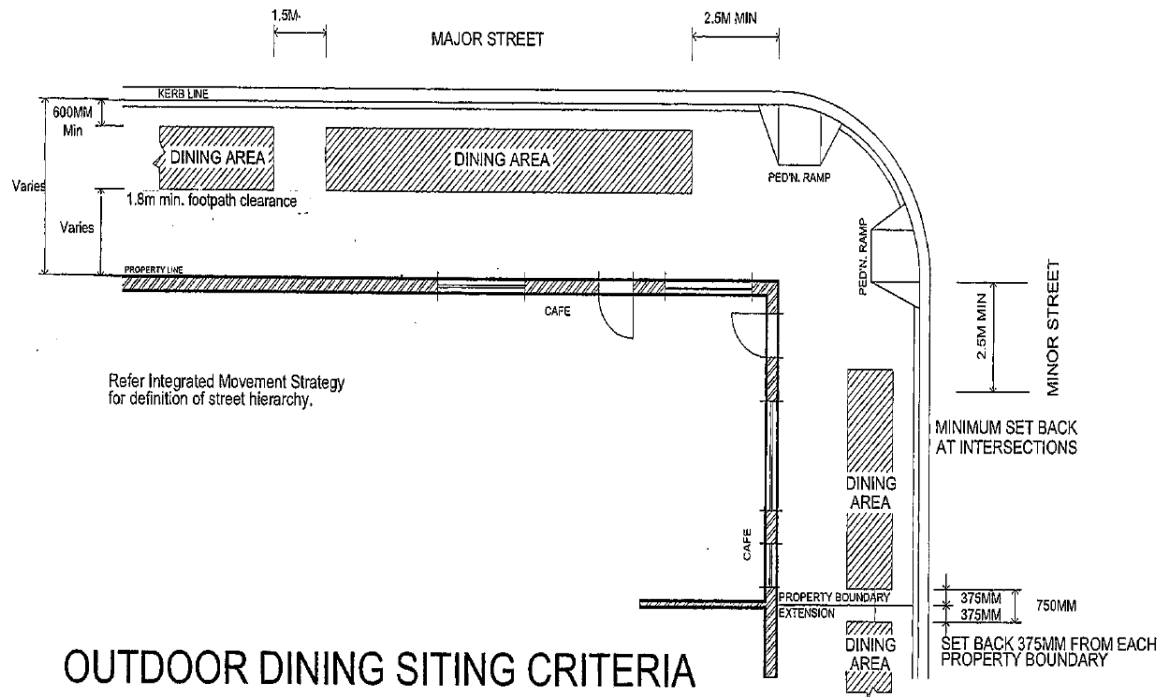
I am authorised by the company/ business entity/ business owner to make this declaration on its behalf.

**Director:** \_\_\_\_\_ **Secretary:** \_\_\_\_\_

Where Outdoor Dining exceeds 3.0m of continuous frontage to the street a 1.5m clear space is required in the centre of the dining area.

KERB SET BACKS  
600MM MINIMUM

MINIMUM SET BACK AT INTERSECTIONS  
3m at intersection of major/minor circulation routes  
2.5m on local street intersection with major/minor circulation route  
2m at local street intersections



Illustrations of Siting Criteria