



Footpath Trading Policy

Group Corporate Services	Responsible Manager Governance & Local Laws	Document No 15/75807	Approval Date 26 May 2015	Review Date May 2018
------------------------------------	---	--------------------------------	-------------------------------------	--------------------------------

TABLE OF CONTENTS

	Page
1. Background	3
2. Purpose	3
3. Scope	4
4. Definitions.....	4
5. Responsibility	4
6. Legislation	4
7. Policy.....	5
7.1 The footpath.....	5
7.1.1 Pedestrian zone	5
7.1.2 Kerb zone.....	5
7.1.3 Trading Zone	6
7.2 Footpath trading, parking and transport.....	7
7.3 Guidelines relating to specific activities on footpaths.....	7
7.3.1 Street activation.....	7
a) Public art.....	7
b) Pots and Planter Boxes.....	8
c) Children’s Rides.....	8
7.3.2 Display of goods.....	9
7.3.3 Advertising.....	9
a) Other Small Structures and Displays.....	9
b) Advertising signs.....	10
c) Nightclub Queues	10
7.3.4 Outdoor dining.....	11
a) Chairs and Tables.....	11
b) Umbrellas.....	12
c) Cafe Screens	12
d) Fixed Screens.....	12
e) Portable screens.....	13
f) Outdoor Heaters	14
7.4 Awnings.....	14
7.4.1 Design Guidelines for Awnings	15
7.4.2 Types of Awnings that are Supported by Council.....	15
7.4.3 Types of Awnings that are not Generally Supported by Council	15
8. Consultation.....	15
9. Related Documents	16

Group	Responsible Manager	Document No	Approval Date	Review Date
Corporate Services	Governance & Local Laws	15/75807	26 May 2015	May 2018

POLICY TITLE	Footpath Trading Policy
POLICY TYPE	Council
GROUP	Corporate Services

1. Background

Footpaths, as their primary purpose have a multitude of uses beyond being just a pavement and enabling safe, unobstructed access for pedestrians. Footpaths provide for a variety of amenities such as seating, bike racks and rubbish bins, important infrastructure such as telecommunications, power poles and the like, they can accommodate decorative items including bollards, landscaping and public art and also provide spaces for commercial purposes. Footpaths are important, functional public spaces where people like to be, stay, play and communicate.

Footpath trading can be a valuable use of public space. It can improve the look of our streets and add life and vibrancy to strip shopping centres. It supports the prosperity of the local economy and provides opportunities for businesses to engage with the community to market their business. It also provides opportunities to increase community interaction through socialisation in outdoor dining areas and contributes to the unique look and feel of a precinct.

Moonee Valley has a diverse range of strip shopping centres that attract local and regional visitors. This diversity provides for different conditions that may impact on the ability of some shopping centres in relation to footpath trading to ensure the needs of all uses is balanced.

2. Purpose

- 2.1 Council aims to support businesses by cutting red tape, reducing costs and supporting innovation that ultimately contributes to a health and vibrant economy. Through this Policy, Council will be able to respond to the changing needs of the community and traders to maintain this balance.
- 2.2 Council encourages creative and engaging examples of footpath trading however an annual Footpath Trading Permit is required for all trading and/or occupation of the footpath in accordance with the Council's General Purposes Local Law 2008 (Part 11). The permit holder is liable for any breach of the conditions set out in this Policy, including those committed by their staff or patrons.

Group Corporate Services	Responsible Manager Governance & Local Laws	Document No 15/75807	Approval Date 26 May 2015	Review Date May 2018
------------------------------------	---	--------------------------------	-------------------------------------	--------------------------------

2.3 Council aims to maintain that balance between pedestrian access and commercial purposes while ensuring social, economic, cultural and environmental benefits flow through our shopping centres.

2.4 The guiding principles for footpath trading are:

- a) Council aims to provide clean, attractive, safe and unobstructed access at all times for all abilities and uses in accordance with its statutory obligations.
- b) Council supports the long-term viability and financial sustainability of businesses in strip shopping centres.
- c) Council aims to ensure all footpath trading makes a positive contribution to the urban character and amenity of the Street including respect for heritage significance.
- d) Footpath trading is a privilege and not a right.

3. Scope

This policy extends to all individuals and businesses seeking to utilise footpaths for commercial purposes located within the municipality. The policy excludes activities that are required under Council's General Purposes Local Law 2008 such as busking and food sampling.

4. Definitions

Awnings:

- a) Horizontal awnings that are fixed to buildings and project over a footpath to form a verandah.
- b) Vertical drop-down awnings (including partial and full length) that are fixed to verandahs and project over a footpath.

5. Responsibility

5.1 The Governance & Local Laws Unit is responsible for the administration and enforcement of the policy guidelines.

5.2 The Economic Development Unit is responsible for communicating and supporting traders implementing the policy.

6. Legislation

In accordance with the Local Government Act 1989, Council will consider the broader implications of any application and the interests of the shopping centre as a whole, not just the individual trader.

Group	Responsible Manager	Document No	Approval Date	Review Date
Corporate Services	Governance & Local Laws	15/75807	26 May 2015	May 2018

Council has a responsibility to regulate the use of this public space and is necessary to adhere to the following legislation:

- Commonwealth Disability Discrimination Act 1992
- Charter of Human Rights and Responsibilities Act 2006
- Liquor Control reform Act 1998
- Tobacco Act 1987
- Planning and environment Act 1987

7. Policy

7.1 The footpath zones

In order to provide clean, attractive, safe, unobstructed access at all times for all abilities and commercial purposes Council describes the footpath in the following three zones:

7.1.1 Pedestrian zone

The pedestrian zone is the area that extends from the property line to the potential trading zone to allow for a continuous and accessible path of travel for footpath users. This area is for the exclusive use of pedestrians and must be kept free at all times.

A minimum 1.8 m clear pedestrian zone (measured from the building line) must be maintained at all times in major pedestrian arterials; Puckle Street and Mt Alexander Road in Moonee Ponds, Union Road Ascot Vale, Racecourse Road Flemington and Keilor Road Niddrie.

All other areas the minimum width will be 1.2m.

Note: The 1.8 m pedestrian zone is the minimum wide of AS 1428.2 that shows the minimum width required for 2 people using wheelchairs to pass each other. The policy takes the position that this is a broad pedestrian zone but relevant in shopping precincts to allow for pedestrian comfort and clear passage in circumstances that will also enable two prams to pass safety.

7.1.2 Kerb zone

The kerb zone is the area between the face of the kerb and the trading zone. This zone is important for the safety of pedestrians entering and exiting the road including access to and from parked vehicles, access to loading and delivery bays. The kerb zone must be kept free from any items or structures at all times.

Group	Responsible Manager	Document No	Approval Date	Review Date
Corporate Services	Governance & Local Laws	15/75807	26 May 2015	May 2018

The minimum distance between the face of the kerb and the trading zone is 500mm. Council may vary this setback dependent on pedestrian activity and parking restrictions adjacent to the area.

Instances where the kerb zone clearance distance may be increased (reducing the trading area) include where a shop front faces an existing or proposed loading zone, delivery bay, bus stop, tram stop and/or taxi rank or other infrastructure. Council will determine the appropriate clearance rates in these circumstances.

Parking spaces adjacent to a kerb help to protect footpath trading activity from moving traffic. Where there are no parking spaces next to a kerb, the footpath trading application may be referred to Council's Transport and Parking Department for consideration. In some instances, footpath trading will not be permitted on grounds of traffic and/or pedestrian safety.

7.1.3 Trading Zone

The potential trading zone is the only area of the footpath that allows for commercial activity (subject to an annual Footpath Trading Permit). The trading zone is the area left between the pedestrian zone and the kerb zone after these clearances are taken out. This zone will vary depending on the street the business trades in.

Approved items must remain within the trading zone at all times and must not intrude on the pedestrian or kerb zones. It is the permit holder's responsibility to ensure items remain within the trading zone. All footpath trading permit items must not present a tripping hazard to pedestrians. Fixture points which must be flush with the footpath surface.

A gap of one metre must be left between abutting property boundaries. This is to be achieved by a reduction of 0.5 metres at the side of each boundary. This is to ensure that adequate access is provided for pedestrian safety when crossing the road, to allow passengers who are exiting a vehicle to gain access to the Pedestrian Zone and to allow adequate access to litter bins.

If a Trading Zone extends greater than 10 metres in length a gap or opening of no less than one metre will be required to be created in the centre of the Trading Zone.

Important note:

A range of factors including street trees, street furniture, lighting and power infrastructure, urban character and the legislative constraints may in some instances mean that footpath trading will not be permitted and existing permits may be amended or not renewed.

Group	Responsible Manager	Document No	Approval Date	Review Date
Corporate Services	Governance & Local Laws	15/75807	26 May 2015	May 2018

The permit holder will be bound to comply with any directions relating to the footpath trading permit items by an authorised Council officer, failure to do so may result in cancellation of the permit.

If the permit holder requires to make any opening (excavation) in any part of Council infrastructure they are required to apply for 'Consent for Works' and pay a separate permit fee.

7.2 Footpath trading, parking and transport

Footpath trading has the potential to restrict the delivery of goods to the abutting properties, restrict passengers to access vehicles, impact on access to public transport and restrict driver visibility and impede safe driving.

Any application that has these potential effects will be referred to the Transport and Parking Department for assessment and may not be permitted or may be restricted.

7.3 Guidelines relating to specific activities on footpaths

Council has available the following four types of footpath trading permits:

7.3.1 Street activation

The footpath trading policy permits commercial activities that promote and support the positive contribution to the urban character and amenity of the Street. Commercial activities that support the principles of place making are encouraged and some typical examples may include planter boxes, public art and photo boards.

a) Public art

Public artworks, both historic and contemporary are an important part of our City's character. Council's Arts and Culture Plan 2014-18 supports public art in a variety of forms, including enlivening public spaces with arts and cultural activities.

Examples of precinct art could include:

- i) art work integrated into the fabric of a building;
- ii) a sculptural or decorative installation located in an open space;
- iii) text or poetry inscribed in a footpath or on public seating;
- iv) a mural, footpath design or wall relief including green walls;
- v) creative markers which reflect the historical character of the precinct; and
- vi) performance or multimedia presentations.

Group	Responsible Manager	Document No	Approval Date	Review Date
Corporate Services	Governance & Local Laws	15/75807	26 May 2015	May 2018

Important note:

Public art is considered to add value to the urban character of the street. If the installation contains the business name or any call to action such as a website or phone number the installation will be considered advertising.

b) Pots and Planter Boxes

Pot and planter boxes may be used in conjunction with chairs and tables, or simply to add to the urban forest of the street. Pots and planter boxes in outdoor-eating areas must comply with the following provisions:

- i) All planters shall be removed at sunset or at the close of business each day.
- ii) Planter boxes may be placed within the designated trading zone.
- iii) The applicant shall keep the planter boxes and the plants clean, healthy and in good repair at all times.
- iv) Signage and advertising on planter boxes is not permitted.
- v) Maximum height of plants and the planter box is to be 800mm.

c) Children's Rides

In the majority of cases, rides require access to electricity. As such rides can only be located immediately adjacent to the business. Minimum pedestrian access clearances apply in accordance section 7.1 The footpath zones. The location of children's rides on footpaths outside of business premises is permitted provided:

- i) Rides are to be removed at sunset or at the close of business each day.
- ii) Rides are clean, hygienic and in good repair at all times.
- iii) The area around the rides is maintained and litter free at all times.
- iv) Signage and advertising on rides is not permitted.
- v) Power must be supplied via overhead means.
- vi) No cabling on footpaths will be permitted.

Group	Responsible Manager	Document No	Approval Date	Review Date
Corporate Services	Governance & Local Laws	15/75807	26 May 2015	May 2018

7.3.2 Display of goods

The display of goods on footpaths is prohibited in the city of Moonee Valley with the exception of fresh fruit and vegetable stands and flower and plant stands which must comply with the following guidelines:

- a) Compliance with the footpath clearances as outlined in section 7.1 The footpath zones.
- b) Display structures must be secure, stable and portable as well as having a quality design. Stands must not be fixed to the footpath or any street sign pole or infrastructure.
- c) All goods and structures shall be removed at sunset or at the close of business each day. Displayed structures after sunset will require specific approval and will need to be adequately lit.

Consideration to the congestion around the display of goods permits will be applied during the application assessment with 'officer's discretion' to be applied to ensure equitable outcomes.

7.3.3 Advertising

The display of advertising tools is permitted and typically may include signage advertising the business name, products or suppliers.

A free standing advertising sign, board, notice, structure, sandwich board, A-frame, menu board, banner or other similar device that is used for the purposes of encouraging sales or notifying people of the presence of a business where goods or services may be obtained.

Consideration to the value of such advertising on footpaths should be made before applying for a footpath trading permit.

Contact Council's Economic Development Unit for further information on how to engage customers on strip shopping precincts on 9243 8888.

a) Other Small Structures and Displays

This applies to paper stands used by newsagencies, flags erected on the front of buildings, photo stands, baskets used by real estate agencies, newspaper baskets and bunting (collection of flags).

These structures and displays are permitted provided safety and access are maintained along the footpath and do not exceed 1.0m in height and removed at sunset or at the close of business each day.

Flags, signs or bunting are not to overhang a footpath at a height of less than 2.4m from the surface of the footpath as outlined in section 7.1 The footpath zones.

Baskets that are attached to buildings may require a building/planning permit.

Group	Responsible Manager	Document No	Approval Date	Review Date
Corporate Services	Governance & Local Laws	15/75807	26 May 2015	May 2018

b) Advertising signs

- i) Compliance with the footpath clearances as outlined in section 7.1 The footpath zones.
- ii) The sign or structure must be a suitably designed and constructed (no hand written signs) with no sharp edges, (Menu Boards Only may be hand written).
- iii) The design of the advertising sign or board should be compatible with street furniture and landscaping in the activity centre.
- iv) All signs must be removable and designed not to be blown over by wind or storms. Signs are not to be attached or placed against other structures e.g. poles, rubbish bins, bike parking etc.
- v) Signs must not have any further attachments such as flags or moving parts.
- vi) Only one such sign or structure shall be allowed on each frontage of a business.
- vii) The sign or structure may only be placed immediately in front of the business to which it relates (This does not apply to businesses within arcades or businesses sited above a property that abuts the footpath).
- viii) All signs and structures shall be removed at sunset or at the close of business each day. Signs and structures used after sunset shall be in adequately lit locations.
- ix) Signs shall not be internally illuminated, flashing, revolving, spinning or have reflective surfaces.

Regard must be had for the number of signs in the area and their impact on pedestrian safety and the amenity of the street. Signs and boards should be contained so that there is not a clutter of signs and messages on the footpaths.

c) Nightclub Queues

Where queues from nightclubs, bars and hotels obstruct the footpath, the clearances and guidelines outlined apply:

- i) Businesses may seek to obtain a permit to place pedestrian bollards or roping on the footpath during these times.
- ii) These structures must be of an appropriate quality and removed when no longer required or by the close of business.
- iii) The Trading Zone must be kept clean at all times.
- iv) Clear pedestrian access must be maintained at all times.

Group	Responsible Manager	Document No	Approval Date	Review Date
Corporate Services	Governance & Local Laws	15/75807	26 May 2015	May 2018

7.3.4 Outdoor dining

The commercial use of footpaths for outdoor dining is encouraged under the policy that supports leisure opportunities for socialisation. Outdoor dining permits include all the furniture and ancillary equipment that encourages the community to come together in a safe and comfortable environment.

a) Chairs and Tables

The provision of tables and chairs on a footpath to be used to extend business activities must be of commercial quality and conform to relevant Australian Standards.

- i) Compliance with the footpath clearances as outlined in section 7.1 The footpath zones.
- ii) Tables and chairs are to be placed immediately in front of the business to which they relate. They may be placed in front of an adjacent business if written agreement is received from the adjacent business owner and a permit is obtained from Council. Permits will not be granted for licensed venues outside their property boundary.
- iii) No table is to exceed 10m in length.
- iv) A current planning permit and liquor licence is required if liquor is to be sold, consumed or served within the footpath trading area. The footpath must be included as part of the 'licensed area' on the liquor licence.
- v) Other provisions:
 - Should a business apply for permits on more than one different Street fronts the fee will be applied for each Street area.
 - All tables and chairs are to be portable. No fixed or permanent tables are permitted.
 - The chair legs must not damage the pavement. If any of the items cause damage to the pavement, Council will repair the pavement and recover the cost from the permit holder.
 - All tables and chairs shall be removed at sunset or at the close of business each day, and stored by the business owner.
 - Tables and chairs designed to be used after sunset shall be in adequately lit locations.
 - The applicant shall keep the outdoor furniture clean, and in good repair at all times.

Group	Responsible Manager	Document No	Approval Date	Review Date
Corporate Services	Governance & Local Laws	15/75807	26 May 2015	May 2018

- The applicant shall keep the area around the tables and chairs tidy and litter free at all times.
- Signs and advertising is prohibited on tables and chairs unless integrated into the design, relate only to the business and are approved by Council.
- Employees waiting on outdoor cafes and their customers must give way to pedestrians at all times.
- Separate cash register and counter facilities are not permitted.
- Where ashtrays are provided, they must be of a windproof type.

b) Umbrellas

Umbrellas may be used in conjunction with displays or chairs and tables provided that:

- i) Compliance with the footpath clearances as outlined in section 7.1 The footpath zones.
- ii) The umbrellas are of a robust design and secured at all times.
- iii) The umbrellas are removed in times of high winds or storms.
- iv) The lip of the umbrella is not lower than 2.1m above the surface level of footpath.
- v) The umbrella is not to obstruct any footpath or vehicular movement or vision.

c) Cafe Screens

Cafe screens may be used in conjunction with chairs and tables. There are two styles of café screen considered appropriate for use in association with outdoor eating facilities fixed and portable screens.

d) Fixed Screens

Fixed screens or glass screens are permitted in special circumstances and may be approved on a case-by-case basis. They may be permitted subject to available space, urban character, and the existing street infrastructure and traffic conditions. They are not permitted if they adversely affect the openness or character of the streetscape.

Group	Responsible Manager	Document No	Approval Date	Review Date
Corporate Services	Governance & Local Laws	15/75807	26 May 2015	May 2018

- I. Compliance with the footpath clearances as outlined in section 7.1 The footpath zones.
- II. Fixed screens will only be considered if the premises is within a nominated centre, commercial or industrial zoning. Anchor points must be flush with the pavement level.
- III. Council is unlikely to permit glass screens where they create a cluster of continuous glass screens along the footpath.
- IV. Council encourages innovative and quality design for fixed screens. To avoid cluttering the street, fixed screens are to be simple in design and should appear as a decorative element.
- V. Fixed screening should be clear and transparent to ensure clear lines of sight and be free of advertising.
 - i. Responsibility for street cleaning where fixed screens are installed may become the responsibility of the footpath permit holder.

e) Portable screens

Canvas screens are the preferred by Council and may include canvas screens, decorative fencing or planter boxes. Portable screening assists Council to ensure the streets are clean and safe environments.

- a) Compliance with the footpath clearances as outlined in section 7.1 The footpath zones.
- b) All portable screens shall be removed at sunset or at the close of business each day, and stored by the business owner.
- c) Portable screens designed to be used after sunset shall be in adequately lit locations.
- d) The portable screen must have a lightweight frame and be securely anchored. The use of large sandbags, cement blocks and large containers is not permitted.

The applicant shall keep the screens clean, and in good repair at all times.

Business signage and advertising on portable canvas screens shall be limited to 30% of the total area.

Group	Responsible Manager	Document No	Approval Date	Review Date
Corporate Services	Governance & Local Laws	15/75807	26 May 2015	May 2018

f) Outdoor Heaters

Outdoor gas heaters are permitted in conjunction with outdoor eating facilities that have café screens and must comply with relevant Australian Standards.

Fixed gas heaters that are permanently connected to a mains pressure gas supply are safer and preferred by Council. Fixed gas heaters (or any part of) must be installed a minimum of 600mm from the kerb and within the Footpath Trading Zone.

In addition, there must be at least a 2.2 metre vertical clearance between the bottom of the heater and the ground level to prevent pedestrians from hitting the heater.

7.4 Awnings

Awnings can provide protection from the weather and can complement the streetscape when they are designed to respond to street elements such as street trees and street furniture. Awnings should be simple in style and appearance, and made of quality materials which are safe and durable.

The proposed awnings should not impede pedestrian traffic, car parking or any street trees (including at expected size of maturity). Awnings must not detract from pedestrian safety, the safety and efficiency of traffic movements, the operation of public transport services or access to loading bays.

Awnings should not form a continuous row along the footpath and must comply with the footpath clearances as outlined in section 7.1 The footpath zones.

Before considering awnings a Planning Permit may be required for awnings that are fixed to buildings – contact the Building or Statutory Planning Unit's on 9243 8888. Awnings should not form a continuous row (of awnings) along the footpath.

Group	Responsible Manager	Document No	Approval Date	Review Date
Corporate Services	Governance & Local Laws	15/75807	26 May 2015	May 2018

7.4.1 Design Guidelines for Awnings

Awnings should be designed to ensure that shop fronts are visible and to avoid clutter. If they are full length they should be transparent where possible to allow views for pedestrians.

Full length awnings are only to be used for a premises accompanied with outdoor dining or fresh produce which may be impacted on by weather conditions and should contain no advertising signage.

7.4.2 Types of Awnings that are Supported by Council

Horizontal awnings that are fixed to buildings to form a verandah.

Partial drop-down awnings which are at least 2.2 metres above the footpath level.

Full length drop- down awnings which are transparent, which may include a non-transparent section for the bottom one metre of the awning.

Drop-down awnings which are transparent and a reattached to a footpath trading barrier.

7.4.3 Types of Awnings that are not Generally Supported by Council

Full length drop-down awnings which are not transparent, and/or have signage.

Partial drop-down awnings or full length awnings with side wings.

8. Consultation

The framework for the sustainable use and management of footpaths in this policy was developed in consultation with the local community and permit holders.

Group	Responsible Manager	Document No	Approval Date	Review Date
Corporate Services	Governance & Local Laws	15/75807	26 May 2015	May 2018

9. Related Documents

Essential

- General Purposes Local Law 2008
- Footpath Trading Permit Application Form
- Permit Application Procedure

General

- Council Plan 2013-2017
- Moonee Valley Public Health and Wellbeing Plan
- Economic Development Strategy 2014
- Arts and Culture Plan 2014-18
- Disability Action Plan

Group	Responsible Manager	Document No	Approval Date	Review Date
Corporate Services	Governance & Local Laws	15/75807	26 May 2015	May 2018