

**HOBSONS**  
**BAY** CITY  
COUNCIL

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# **FOOTPATH FURNITURE TRADING CODE OF PRACTICE**

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## **1. Purpose of the Code of Practice**

- 1.1. Hobsons Bay City Council (Council) is committed to ensuring that everyone in our community is able to enjoy the many social, cultural and business benefits of living and working in Hobsons Bay.
- 1.2. While Council supports street trading , we must be mindful that footpaths are available for everyone and it is critical that we understand commercial use of public space is a privilege, not a right. Council expects that business operators will also recognise adequate controls need to be established and enforced, to ensure that public safety is not compromised and that pedestrians, including people with disabilities, can move freely and safely along footpaths/walkways and other public areas, as required by the Commonwealth Disability Discrimination Act 1992 (the DDA).
- 1.3. This Code has been developed to assist traders in understanding how they can make use of footpaths and other public space, for the purpose of improving or enhancing their business activities. The types of activities covered by the Code include:
  - Outdoor dining areas
  - Goods displays
  - A-Frame signs (including real estate Auction/OFI signs)
  - Planter boxes
- 1.4. To meet legislative and amenity requirements, this Code is prescriptive in relation to a range of matters. Permit applicants may however develop proposals that vary from the Code, in response to site-specific challenges or that suit the function of their business and the design of the street. Provided the principles of this Code are met, Council will consider such proposals.

## **2. Background**

This Code has been developed to ensure that the City of Hobsons Bay has attractive, functional streetscapes which present a balance between the needs of pedestrians and businesses, whilst also meeting Council's obligations under Federal Disability Discrimination legislation.

## **3. Scope**

- 3.1. This Code applies to any person wishing to conduct commercial activity on footpaths within the City of Hobsons Bay. It also applies to all Council Officers involved in the issuing of permits under the Local Law or enforcement there-of.
- 3.2. The Code should be read in conjunction with Part 10 of the Local Law, which can be found at [www.hobsonsbay.vic.gov.au](http://www.hobsonsbay.vic.gov.au) under Local Laws.

## 4. References

- Disability Discrimination Act 1992 (Federal Act)
- Road Management Act 2004
- Local Government Act 1989
- Local Government Act 2020
- Hobsons Bay City Council Community Local Law 2025
- Tobacco Act 1987

## 5. Definitions

In this Code:

**“Authorised Officer”** means a person appointed by Council under section 224(1) of the *Local Government Act 1989*.

**“Hotel”** has the same meaning as in the City of Hobsons Bay Planning Scheme.

**“Liquor”** has the same meaning as in the Liquor Control Reform Act 1998.

**“Licence”** has the same meaning as in the Liquor Control Reform Act 1998.

**“The Local Law”** means the Hobsons Bay City Council Community Local Law 2025

**“Outdoor dining area”** has the same meaning as in the *Local Law*.

**“Outdoor drinking area”** has the same meaning as in the Tobacco Act 1987.

**“Permit”** means a permit issued under the Local Laws of the City of Hobsons Bay.

**“Restaurant”** has the same meaning as in the City of Hobsons Bay Planning Scheme.

## 6. Principles

This Code is developed based on the following principles:

- 6.1. The primary purpose of footpaths and related public space is to provide for the safe, free and dignified movement and interaction of pedestrians.
- 6.2. Other activities allowed on footpaths and related public space should not unreasonably restrict pedestrian activity.
- 6.3. Commercial footpath activity should enhance the amenity, vibrancy and attractiveness of an area.
- 6.4. Commercial footpath activity should contribute to improved perceptions of safety and security.

## 7. Permits required

- 7.1. A permit is required before engaging in any footpath trading activity, including the placing of advertising signs, display of goods, tables with chairs, benchseats, heaters, screens, planter boxes and street furniture on footpaths.
- 7.2. A person who fails to obtain a **permit** for a footpath activity is guilty of an offence under the Local Law.
- 7.3. This Code is incorporated into the Local Law. Failure to comply with any of its provisions is also an offence.
- 7.4. Part 8 of the Local Law sets out matters Council will take into account when considering permit applications.
- 7.5. Information on how to apply for a permit is included at Section 19 of this Code.

## 8. Code Objectives:

- 8.1. To provide clear guidance to traders considering footpath activity and/or making application for permits;
- 8.2. To ensure that footpath activity reflects the streetscape, amenity and diversity of the specific area of the City where it occurs;
- 8.3. To ensure that pedestrian and vehicle access to public areas is not unreasonably constrained by footpath activity;
- 8.4. To maximise public safety; and
- 8.5. To clearly define responsibilities of Authorised Officers in determining whether permits should be granted for footpath activity.

## 9. Footpath management standards

- 9.1. A number of footpath management standards have been developed to ensure that safety, accessibility, community amenity, quality design, hygiene and cleanliness are maintained on the footpath at all times.

### **Safety and accessibility.**

- 9.2. The following standards apply to ensure that safe and unobstructed access to the footpath area is available:
  - a) There must be a continuous accessible path of travel along the building line, not less than 1.8 metres in width (an absolute minimum walkway width of 1.5 metres will be allowed in areas where the footpath is narrow, and only if the need can be clearly demonstrated).
  - b) Footpath activity located in close proximity to intersections must not:

- I. limit visibility or otherwise adversely affect the movement or safe operations of vehicular traffic along a road or intersection;
- II. limit visibility or lines of sight for pedestrians at an intersection of a road (or private access).
- c) Required clearances and setbacks must be maintained at all times.
- d) The footpath area must be maintained in a clean and safe condition at all times during use for trading.
- e) The owner/operator of any business holding a footpath activity permit must ensure that patrons do not congregate at entrances or exits onto a public footpath, thereby impeding the flow of pedestrian traffic.

## 10. Community amenity

- 10.1. To ensure the amenity of the footpath and adjacent areas is protected and enhanced, the following standards apply:
- a) Compliance with the Environment Protection Act and Regulations and the Local Law, in respect to noise. Further details can be found at [www.hobsonsbay.vic.gov.au](http://www.hobsonsbay.vic.gov.au) and [www.epa.vic.gov.au](http://www.epa.vic.gov.au).
  - b) Avoiding obstructive footpath trading furniture, excessive signage or displays of goods which create a hazard for users, including people with physical or vision impairments.
  - c) Subject to Clause 11.2 and unless otherwise approved in a **permit**, Footpath trading is to cease by **11pm** for hotels and bars, and **1am** for restaurants and cafes. If a planning permit applies to the business and specifies an earlier closing time, that earlier time applies.
  - d) Unless otherwise approved in a **permit**, at the close of a day's trade, all items must be removed and the footpath kept clear to facilitate street cleansing by Council.

## 11. Liquor Licences

- 11.1. Businesses holding Outdoor Eating permits allowing sale and consumption of liquor must obtain and maintain an appropriate liquor licence, before sale or consumption commences.
- 11.2. Where an Outdoor Eating permit allows consumption of liquor, service of liquor must cease 1 hour before the activity is required to cease. For example, if outdoor eating finishes at 11pm, service of liquor must finish at 10pm.
- 11.3. Any liquor licence referred to in Clause 11.1 must contain operating hours in respect of the Outdoor Eating permit, that match those set out in this Code.
- 11.4. Outdoor Eating permits allowing sale and consumption of liquor on Council land will only be granted in respect of businesses operating as restaurants and hotels, where liquor is served in conjunction with food service.

## **12. Smoke-free outdoor dining**

- 12.1. Amendments to the Tobacco Act 1987 now prohibit smoking in all outdoor dining areas. Smoking restrictions also apply under certain conditions in outdoor drinking areas.
- 12.2. Further information on smoke-free outdoor dining can be found online at: [Outdoor dining: smoke-free and vape-free](#) .
- 12.3. All businesses are encouraged to make their venues smoke free. In areas where smoking is permitted, smokeless ashtrays must be provided for customer use.

## **13. Design considerations**

- 13.1. To ensure the appearance of any structures associated with footpath activity are appropriate and in keeping with Council's Urban Design and Heritage controls for an area, the following standards apply:
  - a) the feet or wheels of all items placed on the footpath should be covered with a suitable rubber stopper/tyre or other device to protect the pavement surface from damage. Permit holders are responsible for ensuring that their items do not cause damage to Council assets.
  - b) any proposed structures within a Heritage Overlay will be referred to Council's Heritage Advisor. Structures that impede views to significant heritage frontages will not be supported.
  - c) Any proposed structures will be referred to Council's Statutory Planning Unit and City Strategy Unit to determine whether the structures are appropriate to the streetscape and/or require planning permits.
  - d) Structures associated with footpath trading shall not enclose public spaces or adversely affect the openness of our public footpaths. Screens exceeding 1.2 metres in height, attached to buildings or enclosing a space by roofing over are unlikely to be approved by Council.
  - e) the colour of any structures should be consistent with the heritage objectives of the location.
- 13.2. For further information, refer to the Hobsons Bay Planning Scheme at [www.hobsonsbay.vic.gov.au](http://www.hobsonsbay.vic.gov.au) or telephone the Urban Planning Department on 9932 1000.

## 14. Hygiene and cleanliness

- 14.1. To ensure the hygiene and cleanliness of footpath areas is maintained, the following standards apply:
- a) Permit holders must keep their allocated space in a clean condition and clear away any litter, waste, food scraps, cigarette butts, chewing gum and any other rubbish left on the site and deposit it within their own bins, kept inside the premises.
  - b) The permit holder must ensure the Outdoor Eating area and surrounds are kept in a clean and hygienic state at all times, including collecting and removing used plates, utensils, drink containers, food packaging, cigarette butt and chewing gum waste.

For more information, visit [www.foodsafety.vic.gov.au](http://www.foodsafety.vic.gov.au) or contact Council's Public Health Unit on 9932 1000.

## **FOOTPATH ZONES**

## 15. Footpath trading zones

- 15.1. To ensure footpath management standards are met, three footpath trading zones apply:

- Pedestrian Zone
- Trading Zone
- Kerb Zone

- 15.2. Existing trees, artwork, street furniture, public infrastructure and the width of the footpath, may prohibit or limit footpath trading activity.

## 16. Pedestrian Zone

- 16.1. Subject to Clause 16.2, the pedestrian zone is an unobstructed pedestrian footpath corridor not less than 1.8 metres in width.
- 16.2. On streets with narrower footpaths, the pedestrian zone may be reduced to 1.5 metres, provided that sufficient passing points for wheelchairs prams etc can be provided. Passing points must be shown on submitted plans.
- 16.3. To ensure a continuous and accessible path of travel, no furniture, signage or displays of goods are permitted within the pedestrian zone, at any time.

## 17. Trading Zone

- 17.1. The trading zone is the space between the pedestrian zone and the kerb zone. The trading zone varies in width from street to street depending on the overall width of the footpath.
- 17.2. The footpath trading furniture, signage, display of goods, planter boxes or screens must be contained within this zone at all times. There must be a minimum of 1 metre between each adjoining trading zone.
- 17.3. To ensure adequate access between the road and the pedestrian zone, a 1.5 metre space must be provided at the centre of trading zones greater than 10 metres in length.

## 18. Kerb Zone

- 18.1. The kerb zone is the area between the gutter and the trading zone - the kerb zone is typically 0.7 metres from the gutter.



## Existing public infrastructure

18.2. Clearance is required from public infrastructure at all times. The following standards apply:

Types of infrastructure	Required clearances
Bus stops	2 metres
Pedestrian crossing	2 metres
Vehicle crossing	2 metres
Bicycle stands	1 metre
Fire hydrants	1 metre
Front/sides of public seating	1 metre
Litter bins	1 metre
Parking ticket machines/meters	1 metre
Back of public seating	0.5 metre
Bollards	0.5 metre
Electricity poles	0.5 metre
Street lights	0.5 metre
Traffic poles	0.5 metre
Tree pits	0.5 metre

18.3. Existing public street furniture and infrastructure must not be used for any trading purposes, including for business signage or displays.

18.4. Existing public street furniture or infrastructure may only be moved if an appropriate alternative location can be found and if the permit applicant pays all costs to have the infrastructure moved or replaced.

18.5. Council may also reserve the right to replace the item with a new item, in accordance with Council's Urban Design Manual.

## 19. Adjacent premises

19.1. Tables and chairs and display of goods/services are permitted only outside the premises to which they relate and must be contained within the property line with the required set back, unless with the agreement of any affected adjacent trader and approval of Council.

19.2. Should a trader seek to extend their trading zone across adjoining premises, written permission is required from the trader occupying the adjacent premises and remains subject to Council review and approval. A copy of the written permission must be submitted with a permit application.

- 19.3. As with the normal permit process, this agreement needs to be reviewed annually and must be clearly marked on plans submitted with a permit application.
- 19.4. This agreement would run with the owner of the adjacent business and not with the land/premises. Thus the agreement would be nullified if the business were to close, change ownership or be revoked by the owner of the adjacent business.

## **DESIGN STANDARDS**

### **20. Outdoor Eating Area**

#### **Tables and chairs**

- 20.1. All tables and chairs must remain within the trading zone for the duration of their use.
- 20.2. Street furniture must comply with the relevant Australian Standards, ([www.standards.com.au](http://www.standards.com.au)) be of a high standard in appearance and durable in nature. Council must approve all furniture before use.
- 20.3. The views of Council's City Image Team, Statutory Planning Unit and/or Heritage Advisor may be sought when Council considers how appropriate proposed Outdoor Eating street furniture/structures are, in the relevant streetscape context.
- 20.4. Tables and chairs need to be portable, strong and windproof.
- 20.5. It is the responsibility of the permit holder to ensure that no chairs, tables or other items permitted on the footpath are moved by patrons and obstruct the pedestrian zone.
- 20.6. Where possible, tables and chairs should have a contrasting colour to their background, to assist the vision impaired in locating them.
- 20.7. Table and chair legs should not extend on an angle that would create tripping points for pedestrians.
- 20.8. For safety reasons, where the trading zone is narrow (1 metre in width), chairs should not back onto the pedestrian zone.
- 20.9. A side set back of 0.5 metres is required from each side boundary of a premises to ensure access points from the footpath to the road are retained, between each premises.

#### **Screens**

- 20.10. To preserve the general openness of the streetscape, the maximum height for screens is 1.2 metres high across the frontage of the business, provided there is a 1 metre break/gap for pedestrian access at the side boundary between businesses.

- 20.11. All screens must be secured, preferably fixed into a Council approved socket and sleeve system (lock-in device) in the footpath. Weighting of screens may also be an acceptable means of securing them.
- 20.12. Council encourages the use of screens in areas with angle parking.

### **Umbrellas**

- 20.13. Umbrellas are permitted on footpaths 4 metres or greater in width. Safety should always be the first consideration in selection and placement of umbrellas. The following conditions apply:
- a) Umbrellas are only to be used where there are no existing verandahs or canopies overhead or where the use of the umbrella will not interfere with or damage existing items.
  - b) The width of the umbrella must be the same or less than the width of the prevailing trading zone and must be placed so that it does not protrude outside of the trading zone.
  - c) There must be minimum clearance of **2.2 metres** from the underside of the umbrella to the footpath.
  - d) Umbrellas must be secure, preferably fixed into a Council approved lock-in device to ensure public safety. Weighting of umbrellas may also be acceptable as a means of securing them.
  - e) All umbrellas must be removed or closed in times of strong winds or storms.
  - f) Applicants may feature the name of their business premises or relevant product names on umbrellas, planter boxes or screens. Details of any proposed signage on screens, umbrellas or other furniture must be submitted with applications and is subject to approval by an Authorised Officer. See **Section 13** for further information.

### **Heaters**

- 20.14. Any gas heating device must be certified by the Australian Gas Association. For further details, please call the Office of Gas Safety on 1800 069 588.
- 20.15. All heating devices should only be used in accordance with the manufacturer's instructions, particularly in relation to required clearances from other combustible objects.
- 20.16. Free standing heaters must only be located within the trading zone and must be removed at the close of business each day.
- 20.17. Any heaters that are part of an Outdoor Eating or other Footpath Trading permit must be covered by the trader's public liability insurance.
- 20.18. For heaters fixed to building walls, verandahs or awnings, a planning permit may be required. A separate planning permit application will be required.

## 21. Fixed Infrastructure standards

### Purpose

- 21.1. The purpose of this section is to provide guidance on the installation of fixed infrastructure in footpaths across Hobsons Bay.

### Background

- 21.2. This section has been prepared as part of the Hobsons Bay outdoor trading framework 2023. It has been developed to provide simple guidelines for businesses in regard to low risk fixed infrastructure options for undertaking or planning outdoor trading.
- 21.3. Design specifications in this section have been drawn from existing outdoor trading guidelines prepared by other Councils in Victoria such as the City of Melbourne Outdoor Eating Guide and the City of Merri-bek Parklet Program guidelines. Information has been modified where applicable to reflect Hobsons Bay current requirements.

### Scope

- 21.4. This section covers the following fixed infrastructure:
- Fixed Screens
  - Fixed Lighting
  - Umbrella Sockets.

## 22. Design Criteria and Specifications

### 22.1. *Fixed Screens*

**Objective:** *To enable the installation of high-quality fixed screens that are easily maintained and align with or improve the amenity of the streetscape.*

Fixed screens should meet the following considerations and specifications:

- a) Screens should not adversely affect the openness and streetscape of the area or the heritage character of heritage precincts
- b) Glass screens are the preferred material, rather than steel fences or other non-transparent structures, to enable openness and minimise amenity impacts
- c) Council is unlikely to permit glass screens where they create a cluster of continuous glass screens along the footpath
- d) Council encourages innovative and quality design for fixed glass screens.
- e) To avoid cluttering the street, glass screens are to be simple in design and should appear as a decorative element
- f) The use of 1200 – 1500 mm high screens is recommended
- g) Screens in heritage precincts will be subject to additional considerations to ensure impacts on the heritage significance of the precinct are considered, and will be assessed on a case-by-case basis, and may require input from Council's heritage advisor.

- h) The design and construction of glass screens should conform to the specifications below.

#### 22.2. **Specifications**

- a) Laminated glass must be used for glass screens with a minimum thickness of 10.38mm in accordance with standard safety requirements specified under building regulations.
- b) Poles must be 48mm diameter extruded aluminium and finished in clear anodised aluminium.
- c) A base should be constructed of aluminium.
- d) Poles that support glass screens must be fixed into the ground with an approved socket.
- e) A gap of 100mm is required from the ground to the base of the glass panel.
- f) No other structure can be attached to the glass screens at any time.

#### 22.3. **Placement and Storage**

- a) Screens are not permitted between the building line and the edge of the outdoor area.
- b) The side of the outdoor trading area facing the building should remain open.
- c) A clearance is required between neighbouring Outdoor Eating boundaries, where furniture such as screens are fixed in place. A minimum of 375mm clearance is required from the boundary of each Outdoor Eating giving a total of 750mm.
- d) A 1500mm break must be provided in the centre of an Outdoor Eating that has a total length of 12 metres or greater.
- e) If an applicant wants to install glass screens next to an existing business with glass screens, and the total screen length exceeds 12 metres, that applicant is required to reduce the length of the screens by 1500mm.
- f) At no time can screens extend beyond the property boundary.
- g) Glass screens must be semi-fixed to the pavement via a socket or sleeve system
- h) Glass screens are generally not required to be removed from the public place at the end of permit trading hours.
- i) No other structures can be attached to the glass screens at any time.

#### 22.4. **Approvals**

- Details of screens must be provided on the plans submitted with an application.
- Glass screens must be certified by a structural engineer particularly in relation to fixing and impact loads (comparable to AS 1170.1 balustrading).

#### 22.5. **Lighting**

**Objective:** *To provide guidance for the installation of high quality temporary lighting within outdoor trading areas.*

If an outdoor area is deemed suitable for electrical lighting, the following criteria must be met:

- the existing power supply is to be checked to ensure it has sufficient capacity.
- the electrical installation is to be undertaken by a qualified electrician and a certificate of electrical safety is to be provided.
- lighting must be metered.
- lighting installation must be approved by local power provider.

#### 22.6. **Specifications:**

The selected lighting will need to comply with the following requirements:

- The lighting used will need to be water and dust proof to a rating of IP65.
- The lighting is not permitted to cast focused light upwards.
- No lighting is permitted to be present in, or attached to, trees.
- The illuminance of the lighting is not allowed to exceed 5 lux.
- The connection between the lighting solution and power outlet is not permitted to be accessible by patrons or other non-authorised personnel.
- When using solar panels to power lights, ensure they are attached to a pole or on top of appropriate furniture that is sturdy and durable, and will not fail under common weather conditions.
- When using lighting with wiring required to be at ground-level, ensure the wiring is buried to a minimum depth of 600mm and is traceable.
- Lighting proposals within a residential area must not significantly impact amenity.

#### 22.7. **Lock-in-devices (sockets and sleeves)**

**Objective:** *Sockets are compulsory for some furniture items (e.g., umbrellas and fixed screens) some removable screens.*

##### **Considerations:**

- All lock-in devices must be approved by Council
- If a lock-in device is fitted without prior Council approval and the required specifications are not met, an authorised officer will require that the lock-in device be removed and the footpath be re-instated to its original condition at the traders expense
- All lock-in devices must be maintained and repaired by the current trader using that device
- If a premises changes ownership, and the future operator will not be using the lock-in devices, the current trader will be responsible for re-instating the footpath to its original condition, to the satisfaction of the authorised officer prior to vacating the premises
- The integrity of the footpath is the installer's responsibility and any damage must be reported to Council
- The installer must check for underground services
- The installer must ensure underground services are not damaged during installation
- The permit holder is responsible for the ongoing maintenance and condition of the sockets

## 22.8. **Specifications:**

- 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.
- Sockets must be installed in a concrete slab to ensure that if any footpath rehabilitation is required sockets are not removed.
- For concrete footpaths the concrete slab is to be a saw-cut joint.
- Sockets must be installed flush to the level of the footpath, and no parts should project above footpath level when not in use.
- Sockets must be installed in accordance with manufacturer's specifications.
- All lock-in devices must be approved by Council's Engineering department before a Footpath Trading permit can be granted.
- A Civil Works permit **must** be obtained prior to the installation of the device. Permit applications can be lodged here: [Assets - Hobsons Bay](#)
- If a lock-in device is fitted without prior Council approval and the required specifications are not met, an authorised officer will require that the lock-in device be removed and the footpath be re-instated to its original condition at the trader's expense.
- All lock-in devices must be maintained and repaired by the current permit holder using that device.
- If a business/premises changes ownership, and the future operator will not be using the lock-in devices, the existing permit holder or property owner will be responsible for re-instating the footpath to its original condition, to the satisfaction of the authorised officer, prior to vacating the premises.

## 23. Advertising

23.1. Council understands the need for businesses to engage in marketing and advertising. As such, Council allows for identification and promotion signs that meet the needs of the business. When assessing proposed advertising, Council will also consider the amenity of the area and streetscape appearance for the whole community. Conditions include:

- a) the name or logo of a business may be displayed on every alternate panel of a café screen or umbrella within the trading zone.
- b) Screens or umbrellas within the trading zone may have commercial advertising (such as the name of the screen provider or business supplier) on alternate panels only.  
**NOTE:** a maximum of 50 per cent of a screen or umbrella may be used for advertising as described above.
- c) Details of any proposed signage on furniture must be submitted with any application to trade on the footpath.
- d) No café or commercial advertising is allowed on chairs or tables. Labelling furniture with business name for identification purposes is permitted. Such labelling must be located in an unobtrusive manner.
- e) If a permit holder has advertising on any surface, over the allowed indicated level, that information should be submitted with the application for review. Each application will be reviewed on a case-by-case basis.
- f) Advertising on any awnings or blinds which are affixed to the building may require a planning permit, via a separate application process.

## 24. Footpath advertising signs (A-boards)

**Note:** Real Estate Agent auction/open for inspection boards are subject to different/additional conditions, please see **Section 18** for further information.

- 24.1. Strict conditions govern the size and location of footpath advertising signs to ensure that they do not create safety hazards, an obstruction, or an eyesore, including:
- a) Signs may only be displayed within the trading zone adjacent to the subject business and must be securely weighted to avoid causing damage in windy conditions.
  - b) Portable electric, illuminated or flashing, revolving/spinning signs are prohibited at all times.
  - c) Signs must not exceed a height of 1 metre or a width of 0.7 metres, they should be constructed of quality materials.
  - d) Signs can only be displayed during the business's normal hours of operation and must be removed at the close of business each day.
  - e) Only **one sign** per premises will be permitted.

- f) Signs must not be affixed to any footpath, building, street furniture, pole or other structure.
- g) Signs must not be placed within the pedestrian zone under any circumstances.

**NOTE:** A-boards not on footpath areas may require a planning permit.

## 25. Planter boxes

- 25.1. Planter boxes will only be allowed within the designated trading zone.
- 25.2. Planter boxes must be no higher than 1.0 metre and no longer than 1.8 metres. They must not be affixed to any footpath, building, street furniture, pole or other structure.
- 25.3. Planter boxes must provide a positive contribution to the visual amenity of the street and must be well maintained with healthy plants.
- 25.4. Planter boxes should be removed at the close of business each day however Council will consider requests to waive this requirement, where applicants can demonstrate that there is no detriment to streetscape, amenity or street cleansing activities.
- 25.5. Permission to allow the leaving of planter boxes on Council land will be subject to the requirement that permit holders can remove them immediately, upon request from an authorised officer, police or emergency services.

## 26. Display of goods

- 26.1. A 0.5 metre wide customer space must be provided within the trading zone to allow customers to access goods displays.
- 26.2. Stands to display goods must be constructed of a high standard in appearance and style, and made of quality materials, with finishes that are safe, durable, attractive and in keeping with the amenity of the area,
- 26.3. Specific conditions will apply to goods display permits, including:
  - a) Goods must only be placed on the footpath in appropriate display stands.
  - b) Goods for sale or display must be located within the trading zone.
  - c) Goods stands must only be placed on the footpath during hours of operation of the business and must be removed from the footpath at the close of business each day.
  - d) All goods stands must be suitable for the product displayed and approved by Council.
  - e) Goods display stands must not be affixed to any footpath, building, street furniture, pole or other structure.
  - f) Goods display stands can have a maximum height of 1.5 metres; width of 1 metre and depth of 0.75 metres.
  - g) Displays of goods must **NOT** be placed within the pedestrian zone under any circumstances.

- h) Goods display stands should have a contrasting colour to their background to assist the vision impaired.
- i) Food displays must comply with any requirements of the Food Act 1984 and Food Safety Standards ANZ. Further information can be found at these websites:
  - [Homepage | Food Standards Australia New Zealand](#);
  - [The Food Act 1984](#).

## **27. Permit holder's general responsibilities**

### **Daily management**

- 27.1. It is the permit holder's responsibility to ensure the appropriate management of the footpath trading permit. Permit holders are required to:
- a) operate in accordance with the conditions of the permit, endorsed plans and the requirements and objectives outlined within these guidelines
  - b) monitor the trading zone, i.e. observe patrons at all times and respond to behaviour that may interfere with the use, enjoyment and personal comfort of others using the footpath area
  - c) observe all Local Law provisions relating to footpath trading, including noise, responsible serving of alcohol, safety, health and amenity
  - d) maintain access for all users in and around the footpath at all times, re-positioning furniture when moved outside the trading zone by patrons
  - e) uphold the cleanliness of the footpath area, ensuring tables and chairs are kept clean and waste/litter is removed and deposited in bins kept inside the premises
  - f) remove all approved furniture signage etc from the footpath area at the close of business each day, to enable Council services to clean the footpath.

## **28. Restitution of a public place**

- 28.1. Following the expiration, cancellation or termination of a Footpath Trading Permit, it is the responsibility of the former permit holder to remove all fixed and non-fixed furniture, signage etc from the public space.
- 28.2. Where applicable, the former permit holder must, at their own cost, return the pavement to its original condition, to Council's satisfaction.
- 28.3. All furniture and fittings are to be removed from the footpath area within 1 working day of notification that a permit is cancelled.
- 28.4. The re-instatement of a public space includes the removal of sockets and fittings so that there is no visible trace of the fixture.
- 28.5. If the furniture is not removed and the public space is not re-instated to its original condition within a period specified by Council, then works will be carried out at the permit holder's expense.

## 29. Real estate Auction or Open for Inspection (OFI) signs

- 29.1. Strict conditions govern the size and location of these signs to ensure they do not create a safety hazard, an obstruction, or an eyesore.
- 29.2. The following conditions apply, where a permit-holder intends to display *OFI* or *auction* signs:
- a) signs must not exceed a height of 1 metre or a width of 0.7 metres and should be constructed of quality materials.
  - b) Only one sign will be permitted at either end of the street in which the *OFI* or *auction* is taking place, and another in front of the property – these signs must be placed within the nature strip.
  - c) No signs will be permitted within any roundabout.
  - d) No signs will be permitted within central median strips.
  - e) No signs will be permitted on a footpath.
  - f) Signs must not be placed on light structures.
  - g) Signs are not to be placed so as to cause obstructions or danger to pedestrians or traffic.
  - h) Pointer boards or banners are not permitted to be used.
  - i) Flags can be used, but may only be placed on the property that is the subject of the *OFI* or *auction*.
  - j) If a flag is being used and overhangs the footpath or any other public space a 2.2 metre clearance from the bottom of the flag to the footpath or space must be achieved, to facilitate safe pedestrian access.
  - k) Signs will only be permitted when an agent is in attendance at a property, during the advertised inspection or auction times.
  - l) Signs may only display the following information:
    - I. Open for inspection or Auction*
    - II. Time/s property will be open or time of Auction*
    - III. Address of advertised property*
    - IV. Agency contact details*
- 29.3. Signs are to be removed at the request of an Authorised Officer or a member of the Victoria Police.
- 29.4. A **TWENTY MILLION DOLLAR (\$20,000,000)** Public Liability Insurance cover must be maintained, with the City of Hobsons Bay shown as jointly insured for this risk.

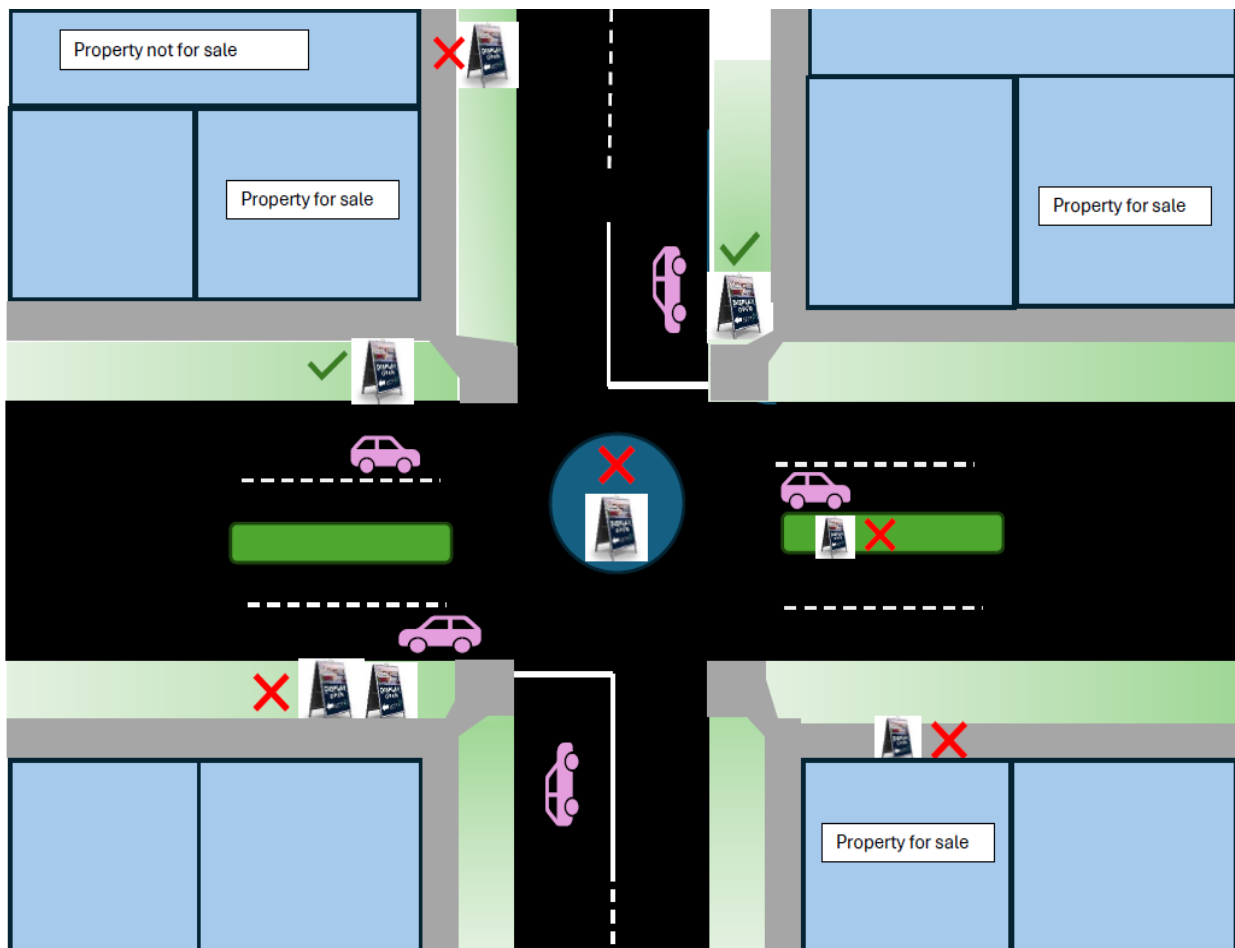
**NOTE:** Permits may be cancelled/suspended should the permit-holder, on more than **THREE** occasions throughout the permit year, fail to comply with any of the conditions outlined in this permit.

A permit holder will be provided the opportunity to present a written or oral submission outlining why Council should not cancel their permit for the remainder of the permit period.

Should a permit be cancelled/suspended, a permit holder will be required to show cause as to why a permit should be reinstated at the conclusion of the suspension period.

See **Diagram A** below, for further information on signage placement

### DIAGRAM A – Real Estate Auction/OFI signage placement examples



# APPLICATION PROCESS

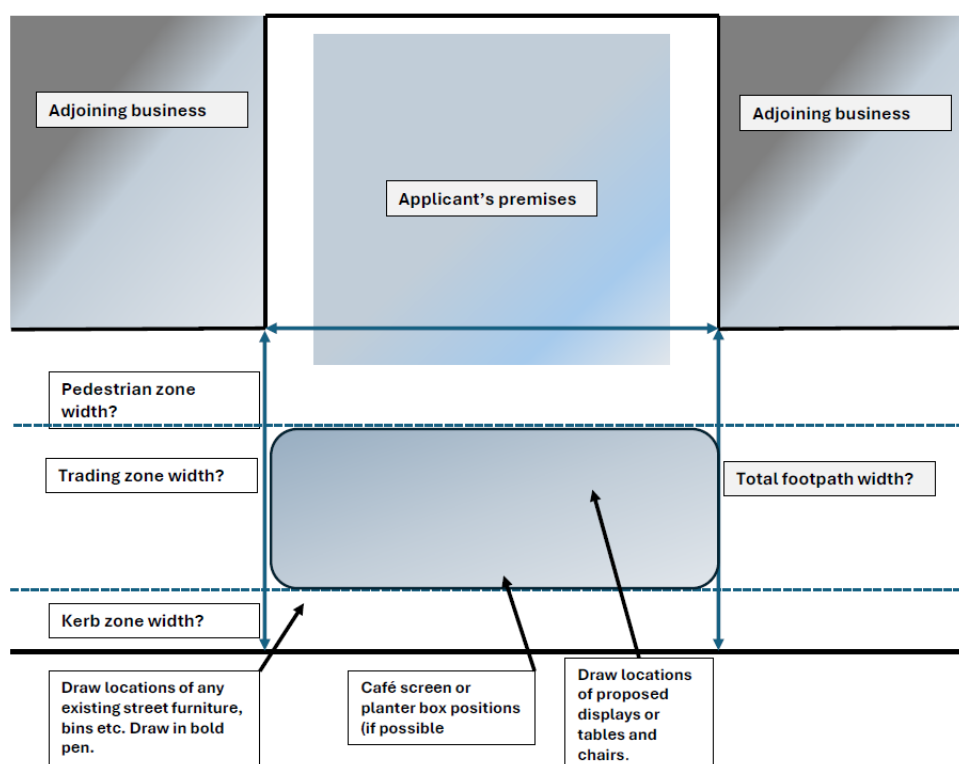
## 30. Applying for a Footpath Trading Permit

30.1. Applicants are advised to read and familiarise themselves with these guidelines prior to any formal application being made to Council. It is important to understand the design requirements, legal obligations, costs and responsibilities involved in managing the footpath area. Failure to submit the required information may result in delays in processing the application or a refusal of the application.

30.2. The following information is required from the applicant when submitting an application form:

- a) **Site plan of proposed footpath trading activity:** a plan at scale 1:100 accurately showing the area and layout of the proposed footpath activity. This includes the proposed location of chairs, tables, screens, heaters, umbrellas, advertising signs, etc. Existing trees, light poles, signs, existing street furniture, pits, fire hydrants, car parking and other features should be shown.

### DIAGRAM B – Footpath Trading permit application plan - example



- b) **Public Liability Insurance:** Council requires the policy to note Council's interest and be for the amount of no less than \$20,000,000 in respect of any single occurrence. Public liability insurance must remain current and valid for the life of the permit and **must** be produced annually.

- c) **Letter of consent – adjoining business:** from the owner and/or occupier if the applicant wishes to operate from in front of any adjacent property. This permission must be submitted to Council each year, with permit renewal application.
- d) **Application fee:** Cash, cheque, money order or credit card can be utilised for payment of this permit and must be made at the time of lodgement with your application, when an inspection is required.
- e) Permits are valid from the date of issue to 31 August, after which they may be renewed annually.
- f) Permit applications can be made on-line. Please have digital copies of required documents ready to upload with your application: [Footpath Trading - Hobsons Bay](#)

## 31. Council assessment and consideration

31.1. On receiving an application Council will:

- check that all relevant information has been received
- confirm that footpath trading is permitted for the type of business and specific location
- check the application to ensure that what it proposes complies with the requirements of this Code, the Local Law and where applicable, liquor licensing requirements.
- inspect the site to check accuracy and suitability of application plans as submitted
- approve or refuse permit application
- notify applicant of outcome and appeal rights, if applicable.

31.2. Fees paid are for the financial year 1 September to 31 August. A footpath trading permit applies to the premises for which it is issued and fees are non-refundable.

## 32. Display of permit registration

Permit holders will be issued with a permit registration sticker each year. The current permit registration sticker must be displayed clearly and legibly on the business's front window.

## 33. Amendments to an existing permit

- 33.1. Permit holders must submit an application in writing for any amendment to their existing permit. Amendments may include changing furniture design, adding furniture or increasing advertising.
- 33.2. Council will notify the permit holder at their earliest convenience of the decision on the amendment applied for.

## 34. Transfer of ownership

A footpath trading permit applies only to the premises for which it is issued and is not transferable from one premises to another. A new permit holder of a premises with an existing footpath trading permit must apply for a transfer of ownership to maintain the permit and continue to trade on the footpath. Similarly, if a trader relocates their business to another address, a new permit will be required.

**NOTE:** The permit fee is non-refundable

## 35. Renewal of an existing permit

- 35.1. A renewal notification will be sent to all current permit holders prior to expiry. Notwithstanding this, it is the responsibility of the permit holder to ensure they apply for renewal before the 31 August expiry date, every year.
- 35.2. Provided that all required renewal details including public liability, amendments and fees and their application is forwarded to the Council before August 31, permit renewals will be issued promptly.
- 35.3. Failure to provide all renewal documentation and fees by the due date will result in the cancellation of the permit until all requirements are met.
- 35.4. Any business failing to renew their permit that continues to trade without a permit or is found to be in breach of the permit conditions may incur an infringement notice.

**Infringement Penalty: 3 Penalty Units**

**Maximum Court Penalty: 10 Penalty Units**

To download an application form for an amendment or transfer of ownership, go to: [Footpath Trading - Hobsons Bay](#).

