

WHITEHORSE CITY COUNCIL FOOTPATH TRADING GUIDELINES

1. BACKGROUND

Footpaths provide a wide variety of uses for different groups including shoppers, tourists, public transport users, delivery persons, elderly persons, those with mobility needs, pet owners, young families and children. Footpaths are also used by local businesses for the provision of outdoor eating areas, display of goods and signage.

There are many positive benefits enjoyed by the local community through the promotion of footpath trading activities including increased activity and diversity of street life. Footpath trading requires Council approval which will only be permitted in circumstances where pedestrian access, community safety and amenity is not compromised.

2. PURPOSE

The purpose of the Footpath Trading Guidelines is to:

- Support the footpath trading provision of Whitehorse City Council's Community Local Law 2014 (4.14).
- Encourage footpath activities that positively contribute to the amenity, vibrancy and viability of commercial areas.
- Explain the clear, safe and unobstructed footpath access requirements for pedestrians.
- Guide persons through the process for applying for a footpath trading permit.
- Enable equitable access for all as defined in the Disability Discrimination Act 1992.

3. Permit requirements

A permit is required to use any Council managed footpath for any trading activity. Applicants for a permit should note:

- 3.1 Permits are required for A-frame display boards, planter boxes, goods on display, tables, chairs, umbrellas and barriers or any other material.
- 3.2 Council will not allow the installation of permanent structures, including electrical lighting and sound systems.
- 3.3 Approved items such as café screens, retractable awnings and gas heaters attached to existing buildings or verandahs must be capable of removal or relocation within 24 hours.
- 3.4 Permits do not allow for exclusive use of an outdoor space and in some instances access may be required for a public event or permitted activity at Council's discretion.
- 3.5 Permits are for a maximum period of 12 months.
- 3.6 Permits are subject to annual renewal and payment of a renewal fee set by Council.
- 3.7 Permit holders must have current Public Liability Insurance during the permit period at a minimum of \$20 million cover, or as determined by Council.
- 3.8 The Public Liability Insurance Certificate must specify the insured items that will be placed on a footpath.
- 3.9 Separate permits and fees will be required for each item.
- 3.10 Permit applications that do not meet the requirements of these Guidelines will be rejected.
- 3.11 Permit holders should ensure disabled/accessible parking has a 2 meter clearance to avoid obstruction.

4. FOOTPATH ZONES

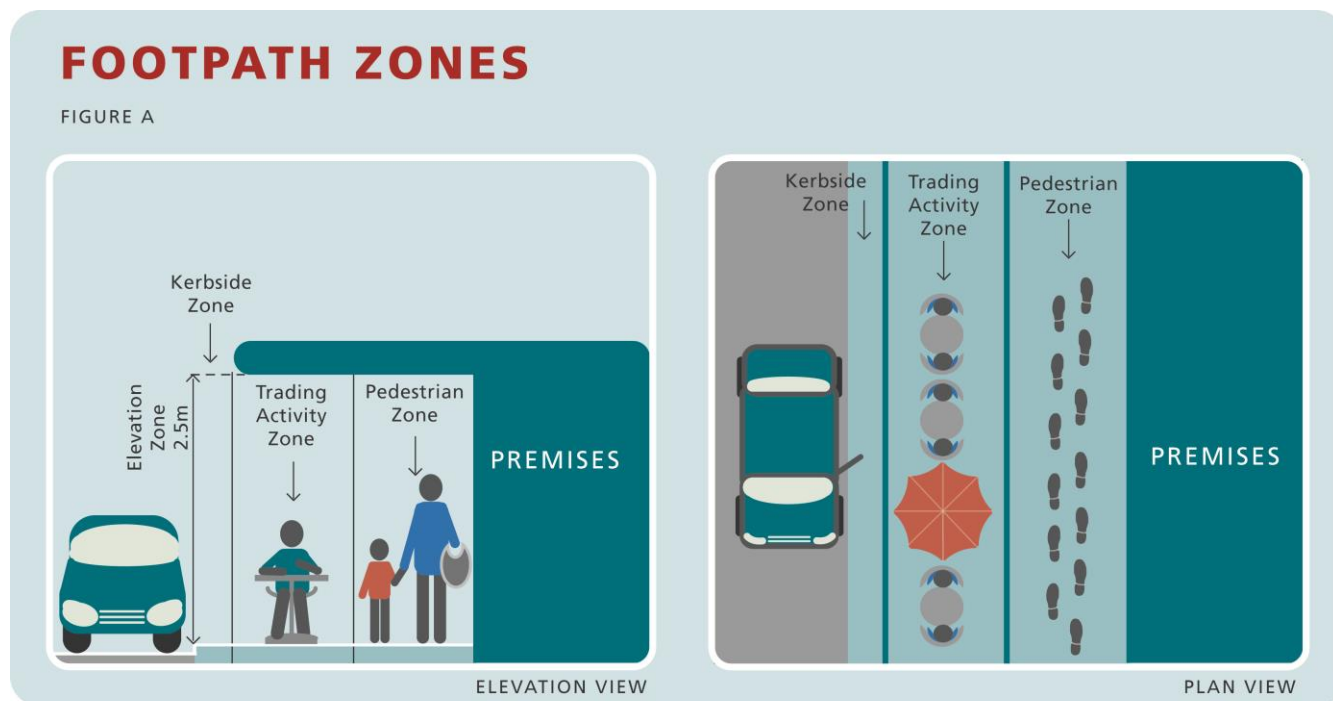
In order to provide unobstructed access for pedestrians, the following zones have been created:

- Pedestrian Zone
- Trading Activity Zone
- Kerbside Zone
- Exclusion Zone.

4.1 Pedestrian Zone

The Pedestrian Zone must have at least a **1.8 metre** minimum horizontal clearance from the building line to provide for unobstructed pedestrian access. No items or displays are permitted within the Pedestrian Zone at any time. An overhead clearance of at least **2.5 metres** must be maintained above the Pedestrian Zone at all times (see *Figures A & B*).

Figure A



4.2 Trading Activity Zone

The Trading Activity Zone is the area between the Pedestrian Zone and the Kerbside Zone and can vary in width from street to street depending on the existing width of the footpath.

No footpath trading activity is permitted in front of existing pedestrian crossings.

All furniture must be located within the designated Trading Activity Zone when on display.

4.3 Kerbside Zone

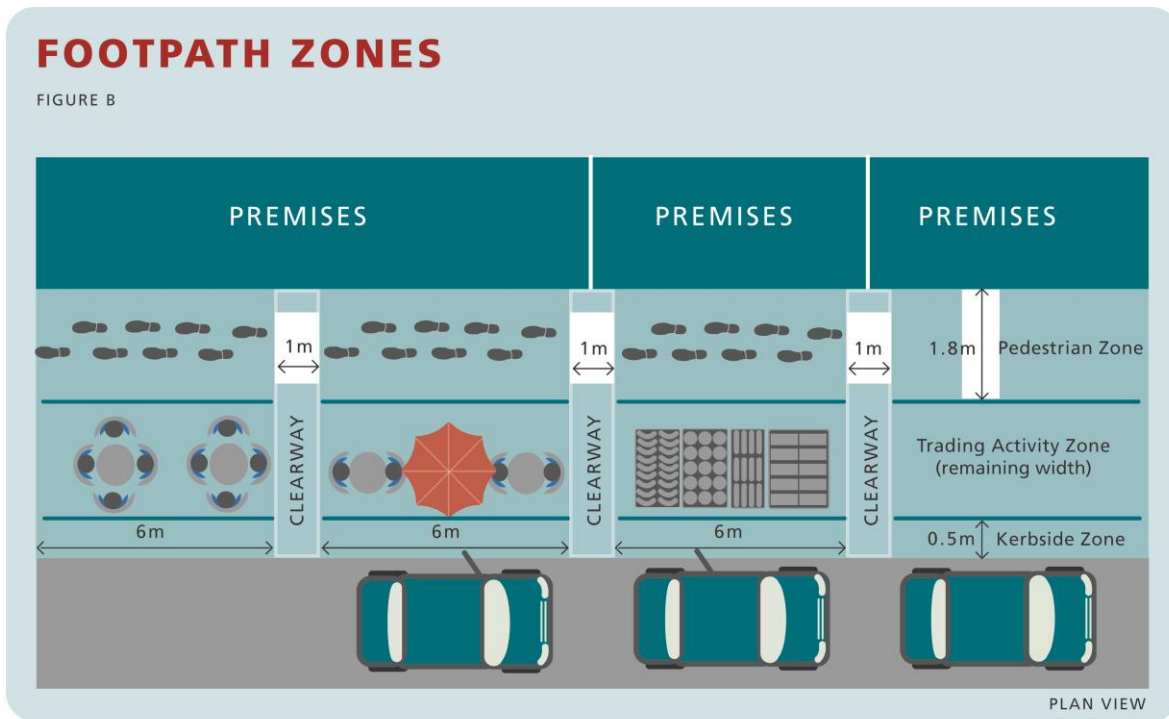
The Kerbside Zone is the area between the face of the kerb and the Trading Activity Zone. A 0.5 metre Kerbside Zone clearance width is required where the Trading Activity Zone is adjacent to a vehicle parking area (see *Figure B*).

4.4 Clearway Access

In order to provide regular access to and from the road for pedestrians and from parked cars, a **1 metre** wide Clearway access from the Kerbside Zone to the Pedestrian Zone must be provided in the Trading Activity Zone of each individual business at every **6 metres** (see *Figure B*).

Adjacent businesses with footpath trading occurring in the Trading Activity Zone, are to be setback 0.5 metres from their building boundary to form a **1 metre** wide access way from the Kerbside Zone to the Pedestrian Zone (see *Figure B*).

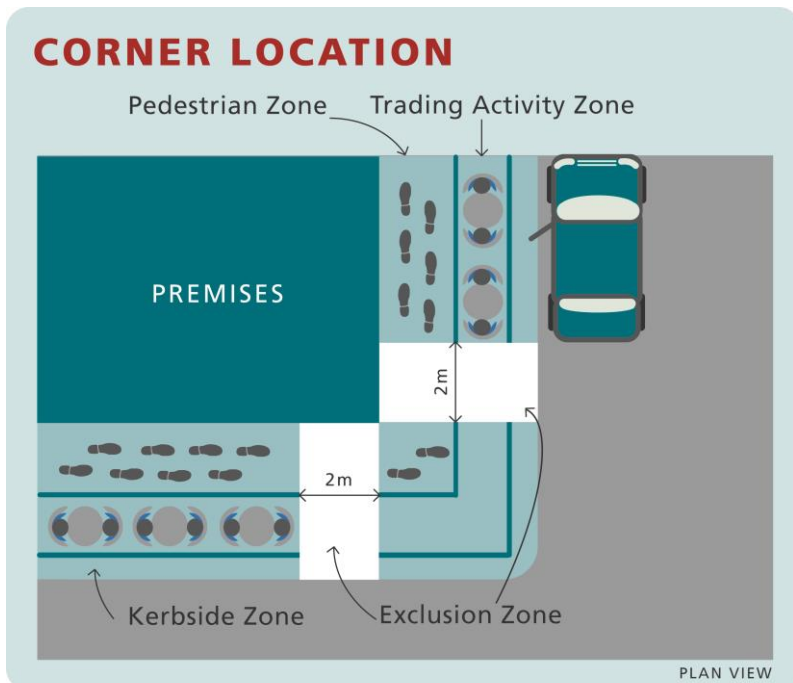
Figure B



4.5 Exclusion Zones (Intersection)

Footpath trading activity located close to intersections must be set back **2 metres** from the building boundary, forming an Exclusion Zone to allow for a clear line of sight for through traffic, turning vehicles and pedestrians (see Figure C).

Figure C



5. MANAGEMENT OF FOOTPATH TRADING ACTIVITIES

Footpath trading activities need to be carefully managed by the permit holder to ensure compliance with permit requirements

5.1 Safety and Accessibility

- 5.1.1 All required clearances and setbacks are to be maintained at all times.
- 5.1.2 A minimum clearance of **1.5 metres** is required at all times from existing public infrastructure. This clearance is required for access by Council's footpath cleaning equipment. Public infrastructure includes bins, street furniture, parking meters, bicycle hoops and fire hydrants. A minimum clearance of **0.5 metres** is required to each side of a street tree or garden bed.
- 5.1.3 Footpath trading activity located near intersections must be in accordance with clause 4.4.

5.2 Amenity

- 5.2.1 All temporary outdoor café furniture, planters, café screens, goods display stands and other associated furniture (excluding fixed café screens), must be removed from the footpath at the close of business as stated on the permit and stored inside the business premises.
- 5.2.2 Monitoring of the Trading Activity Zone and ensuring the appropriate use and behaviors of patrons is the responsibility of the permit holder.
- 5.2.3 The permit holder must ensure goods and services displayed are appropriate and to the satisfaction of Council.
- 5.2.4 The permit holder must ensure the Trading Activity Zone is visually appealing and avoids "clutter" to the satisfaction of Council.
- 5.2.5 Businesses are confined to the maximum number of tables and chairs as specified in the relevant planning permit. As the footpath trading permit is often granted after the planning permit, businesses must ensure the total number of table and chairs used indoor and in the Trading Activity Zone does not exceed the number specified in the planning permit.
- 5.2.6 A planning permit is required to serve liquor to patrons using the Trading Activity Zone. Whilst the business may have a planning permit for the consumption of liquor within the restaurant/cafe, an additional planning permit is required for the Trading Activity Zone.

5.3 Hygiene and Cleanliness

- 5.3.1 The permit holder must ensure that the Trading Activity Zone is maintained to the satisfaction of Council.
- 5.3.2 Litter, food scraps and rubbish are to be removed immediately.
- 5.3.3 No rubbish is to be swept onto the footpath, into the gutters, garden beds or deposited in public street litter bins.

5.4 Evidence of a Permit

- 5.4.1 The permit holder must display a permit sticker provided by Council in the window near the door of the premises at all times.

5.5 Existing Street Furniture and Infrastructure

- 5.5.1 In some circumstances, existing street furniture and infrastructure may impede upon a proposed footpath trading area, and Council will consider proposals to relocate assets owned by Council on a case by case basis.
- 5.5.2 All such relocation costs must be met by the permit holder.
- 5.5.3 The relocation of furniture will be in close proximity to its original location and permission from the adjacent trader where the furniture is to be placed will be required.
- 5.5.4 Assets owned by other authorities will not be considered for relocation by Council.

5.6 Adjacent Properties

- 5.6.1 A business must not extend the footpath trading area to the front of an adjacent property.

5.7 Transfer of Permit

- 5.7.1 Footpath trading permits are non - transferrable.
- 5.7.2 Upon the sale of a business, the permit will lapse and the new business owner will need to make a new application.

6. FOOTPATH TRADING EQUIPMENT CONSIDERATIONS

Footpath trading furniture and fixtures must be of a high standard in terms of design, appearance and style as well as being deemed appropriate and sympathetic to the streetscape. All items must be sturdy, reliable and suitable for their intended use. All footpath trading furniture and fixtures must be approved by Council.

6.1 Canvas Café Barriers

- 6.1.1 Must have a maximum height of **0.9 metres**.
- 6.1.2 Must comply with these Guidelines.
- 6.1.3 Can display advertising including the name of the business or relevant commercial products.
- 6.1.4 Barriers must be secure at all times when in use.

6.2 Planter Boxes

- 6.2.1 May be constructed from a suitable sturdy material and be either mobile with lockable castors or semi fixed to the ground with a Council approved socket and sleeve system.
- 6.2.2 Must be maintained in a professional manner by the permit holder.

6.3 Umbrellas

- 6.3.1 Must have a vertical clearance from the ground of at least **2.5 metres** from the lowest underside edge of the umbrella.
- 6.3.2 Must be secured to the footpath with a Council approved method of installation, noting it is recommended that umbrellas be secured to the footpath using a Council approved socket and sleeve system (the permit holder is responsible for all costs associated with the installation of umbrella sleeves).
- 6.3.3 Can display advertising including the name of the business or relevant commercial products.

6.4 A-Frame Signage

- 6.4.1 Will be assessed based on suitability of location and consideration of pedestrian movements and site constraints
- 6.4.2 Must not be greater than **0.6 metres** by **0.9 metres**
- 6.4.3 Must not contain flashing lights
- 6.4.4 Can display advertising including the name of the business or relevant commercial products
- 6.4.5 Only one A frame sign per property will be approved.

6.5 Screens

- 6.5.1 A screen must:
 - a) be in the range of **0.9 metres** and **1.5 metres** in height.
 - b) be certified by a structural engineer.
 - c) not be erected between the building line and the edge of the Trading Activity Zone.
 - d) not contain commercial advertising.
- 6.5.2 Screen inserts must:
 - a) be laminated safety glass with a minimum of thickness of **10.38 millimetres** and must not contain any sharp or abrasive edges.
 - b) Perspex or other appropriate material to the satisfaction to Council must have a similar approved strength.

- 6.5.3 Screen support posts must:
- a) Have a minimum diameter measurement of **48 millimetres**.
 - b) Be fixed into the ground with approved galvanized or stainless steel sockets.
 - c) Have a gap of 100 millimetres from the ground to the base of the panel to allow for street cleaning.

Note: If the screens and support posts can be removed within 24 hours and no permanent roof structure is in place, then the structure is deemed non-permanent and a Building Permit will not be required. For more information on building obligations, contact Council and request the document 'Building in Whitehorse: Understanding Obligations and Promoting Access'.

6.6 Retractable Awnings

- 6.6.1 Will only be permitted following a Council assessment of available space, urban character, street activities and traffic conditions.
- 6.6.2 Must have a vertical clearance from the ground of at least **2.5 metres** from the underside of the awning.
- 6.6.3 Must not be free standing.
- 6.6.4 A Building Permit is required prior to any building works (inclusive of retractable roof structures) and Local Law Permit for street furnishings etc. Contact Council's Building Unit Ph: 9262 6333.

6.7 Blinds

- 6.7.1 Full length plastic, transparent or rolled down screens from umbrellas and/or awnings are not permitted in an outdoor trading area.
- 6.7.2 Full length plastic and transparent or rolled down screens are permitted if they are attached to an overhead verandah.
- 6.7.3 Blinds that are approved for installation must be well maintained by the permit holder at all times.

6.8 Footpath Gas Heaters

- 6.8.1 Footpath gas heaters contribute to greenhouse gas emissions. Permit holders can assist the Council in achieving its target of reduced community greenhouse gas emissions by limiting the use of gas heaters.
- 6.8.2 Footpath gas heaters are a high risk of causing fire and explosion if not properly managed and maintained. Permit holders need to comply with manufacturer specifications.

6.9 Footpath Trading Furniture

- 6.9.1 Metal or timber frames are required for footpath dining furniture - plastic frames are not permitted.
- 6.9.2 Goods must be displayed on stands approved by Council and must be secure and stable to withstand adverse weather conditions.

7. APPLYING FOR A FOOTPATH TRADING PERMIT

7.1 Fees

The relevant fee must accompany a footpath trading permit application. Fees are applicable and must accompany a permit application.

Further fees may be applicable in relation to Planning Applications, Road Management requirements and/or required certifications.

7.2 Obtaining a Footpath Trading Permit Application Form

Footpath trading permit application forms can be obtained by contacting Council's Community Laws Department on 9262 6333 or can be downloaded from Council's website www.whitehorse.vic.gov.au.

7.3 Information to Accompany an Application

An applicant must complete an application form and provide the following information:

- 7.3.1 A copy of any current planning permit (if applicable).
- 7.3.2 A site plan of existing conditions at a scale of 1:100.
- 7.3.3 A site plan of proposed footpath trading area showing the associated items at a scale of 1:100.
- 7.3.4 Photos of existing site conditions.
- 7.3.5 Details of all furniture, screens, heaters, planters and associated items that form part of the permit application and its approval process.
- 7.3.6 An image and size details of any logos or advertising.
- 7.3.7 Evidence of Public Liability Insurance at a minimum of \$20 million cover, or as determined by Council, noting that indemnity is to extend to cover the subject area of this permit or "Anywhere within Australia".

7.4 Responsibilities of Permit Holder

- 7.4.1 The permit holder is responsible for complying with:
 - a) These Guidelines.
 - b) Conditions contained in the permit.
 - c) All laws (including Council's Local Laws and other legal requirements) relevant to the operation of a footpath trading area.
- 7.4.2 The permit holder is responsible for the removal of outdoor trading generated rubbish and must ensure clearance zones are adhered to, to enable footpath sweeping by Council.
- 7.4.3 It is the permit holder's responsibility to confirm whether they need a planning permit.
- 7.4.4 Structures requiring a building permit are not temporary and will not be approved.
- 7.4.5 The permit holder must maintain the cleanliness of any item subject to this permit application to Council's satisfaction.
- 7.4.6 Any damage caused to Council's assets requires the permit holder to replace/repair/reinstate to the original condition.
- 7.4.7 In the event of business closure, ceasing of business operation or change of business type, the footpath is to be reinstated to the original condition.

7.5 Responsibilities of Council

Council is responsible for the maintenance and regular cleaning of the footpath. Footpath trading furniture and fixtures must not impede Council's footpath cleaning and maintenance.

Council has the discretion to cancel or modify the requirements of a permit associated with the use of Council land and the permit holder will be notified in this instance.

8. Contact Details

Street Address:

Community Laws Department
Whitehorse City Council
379 – 397 Whitehorse Road
Nunawading VIC 3131

Postal Address:

Community Laws Department
Whitehorse City Council
Locked Bag 2
Nunawading Delivery Centre 3131

Phone: 9262 6333

Email: customer.service@whitehorse.vic.gov

Further information may be accessed at <https://www.whitehorse.vic.gov.au/community-local-law>.

9. GLOSSARY

'applicant' means the person, part, group or organisation who applies for the permit prior to be given the permit.

'awning' means a roof-like shelter extending from an existing building to provide protection from the outdoor weather conditions.

'Council' means Whitehorse City Council

'Council infrastructure assets' includes any road, drain, kerb and channel, nature strip, street tree, footpath or vehicle crossing, which is adjacent to a building site, or could be affected by building work.

'Council land' means any land vested in or under the control of Council, including reserves, watercourses, reservations and the like, and includes a road vested in or under the care and management of Council.

'Exclusion Zone' means the area as described in Clause 4.5.

'footpath trading area' means the area in which footpath trading furniture and fixtures are placed.

'footpath trading furniture and fixtures' includes A-frame boards, planter boxes, tables, chairs, umbrellas, barriers and signage.

'footpath trading permit' means a permit issued by Council for the provision of footpath trading activities.

'frontage' means a boundary between an allotment and an adjoining road. If an allotment adjoins more than one road, the frontage is the boundary between the allotment and the road to which the largest building on the allotment fronts.

'goods' includes but is not limited to produce, articles, items, tables, chairs, advertising signs, planter boxes, umbrellas and anything similar.

'Kerbside Zone' means the area as described in Clause 4.3.

'permit holder' is the successful applicant who has been granted permission to have a permit. The permit holder must be the applicant who manages the business on site.

'portable' means an object that is capable of being transported or easily carried away by hand.

'public places' means any Council managed land and asset in which any member of the public has access to.

'Pedestrian Area Zone' means the area as described in Clause 4.1.

'Trading Activity Zone' means the area as described in Clause 4.2.