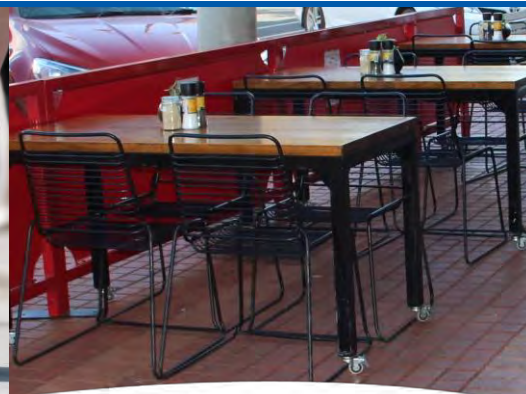




Trading Code of Practice



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1. Introduction

Swan Hill Rural City Council is committed to supporting the continuing growth of local businesses as well as enhancing the street life and village shopping experience.

Council's aim is to provide a balance between ensuring the safety of the community and managing the use of public footpaths for commercial activity.

1.1 Background

Footpath trading involves the use of public footpaths for commercial purposes. The footpath is provided for the use of pedestrians and is the area between the property boundary and the kerbside of a road.

Commercial purposes typically include the placement of advertising signs, displays of goods, tables, chairs and ancillary items such as umbrellas, heaters, planter boxes, screens and blinds.

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. 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 a public space is not a right but a privilege. Permits may only be granted where access, community safety and amenity of the streetscape can be ensured.

Council has a legal obligation in accordance with the Commonwealth Disability Discrimination Act (DDA) 1992 to provide a safe and unobstructed footpath environment for pedestrians, regardless of their mobility levels.

The Trading Code of Practice ('the Code') has been developed to regulate all commercial activity on our footpaths by providing for a continuous accessible path of travel from the building or property line.

The Code has been designed to ensure the shopping experience remains as enjoyable as possible for all who live, work and invest in the municipality. The Code provides guidance to traders on how they may use the public footpaths in an equitable and safe way.

1.2 Are there any changes to the existing Trading Code of Practice?

There are some changes to the existing Code. From 1 August 2017, changes to the Tobacco Act 1987, now mean that smoking is banned in outdoor dining areas in Victoria. Other changes are in line and incorporated with Council's Community Local Law No. 2 (2017).

1.3 Council's obligations

Council has an obligation to regulate and control activities and events on Council land to ensure no detriment is caused to the amenity of the neighborhood or cause a risk or nuisance to a person.

Council has developed the Code to ensure that all persons who require a permit before carrying out an activity or event on Council land understand the minimum acceptable standards under which they operate.

1.4 Objectives of the Trading Code of Practice

The objectives of this Code are:

- a) to maintain clear, safe and unobstructed access for pedestrians of all abilities on the municipality's footpaths, and;
- b) to encourage consistent footpath trading activities which contribute positively to the amenity, vibrancy and viability of commercial areas, and;
- c) to provide clear guidance for the consideration of applications for permits made pursuant to Council's Local Laws or the Planning Scheme (as applicable), for the placement of items associated with trading on footpaths within the municipality.

1.5 Scope of the Trading Code of Practice

The Code extends to all individuals and businesses seeking to utilise footpaths for commercial or other purposes within the Swan Hill municipality. Commercial purposes typically include the placement of:

Furniture type/ Trading category	Description
Moveable or temporary advertising signs	Moveable boards, placards, A-frame signs
Flags	Portable upright banners, advertising flags
Real estate signs	Any temporary signs relating to the sale, lease, or auction of real estate (includes directional/indicators/auction/inspection signs, property advertising boards, etc, but does not include signs outside the real estate business)
Goods for display	Tables, shelving, clothes racks, or other furniture items displaying goods (includes fundraising stalls/activities)
Tables and seats	Outdoor dining facilities
Dividing screens/barriers	Café screens, outdoor barriers

Furniture Type / Trading Category	Description
Umbrellas	Centre-post style umbrella, cantilever style umbrella
Heaters	Free-standing portable gas heaters
Outdoor planters	Pot plants, planter boxes, etc.
Fundraising stalls	A site temporarily set up to raise money for a community group, charity or not-for-profit organisation
Mobile traders	A trader who sets up a van, vehicle, stall or similar structure for the purpose of trading on a Council land or road.

This Code should be read in conjunction with Council's Community Local Law No. 2 (2017).

1.6 Related Legislation

The following legislation must be considered by Council with respect to footpath trading;

- Local Government Act 1989 (Victoria)
- Swan Hill Rural City Council Community Local Law No. 2 (2017)
- Liquor Reform Act 1998
- Road Management Act 2004
- Road Safety Act 2017 (Victoria)
- Disability Discrimination Act 1992 (Commonwealth)
- Equal Opportunity Act 2010 (Victoria)
- Tobacco Act 1987 (Victoria)
- Food Act 1984 (Victoria)
- Swan Hill Rural City Council Planning Scheme

1.7 How to contact us:

If you have any queries regarding this Code or wish to arrange an appointment with an Authorised Officer to attend your business please contact Regulatory Services on (03) 5036 2346.

2. Definitions

Any word or phrase defined in the Community Local Law No. 2 (2017) has the same meaning in this Code.

Advertising sign means a board, notice, banner or similar device used for the purposes of soliciting sales, notifying people where goods and services may be obtained, advising or directing people to an event or festival or promoting elections or political campaigns.

Amenity means a desirable or useful feature or facility of a building or place.

Authorised Officer means a Council officer appointed under section 224 of the *Local Government Act 1989*.

Council means Swan Hill Rural City Council.

Council land means land owned, occupied, or vested in the Council or in respect of which Council has the care and management and includes roadsides, parks and reserves and footpaths within Swan Hill Rural City Council.

Footpath zones includes pedestrian zone, trading zone and kerbside zone as defined in this Policy.

Kerbside zone is the area between the face of the kerb and the trading zone.

Local Law means Swan Hill Rural City Council Community Local Law No. 2 (2017).

Mobile trading any vehicle, caravan, trailer, table, stall or other similar structure for the purpose of selling or offering goods or services for sale, including any food and or drink (excluding alcoholic beverages).

Median strip means a dividing strip designed or developed to separate vehicles travelling in opposite directions;

Walkway zone is the area of the footpath that is measured from the property boundary and is for the exclusive use of pedestrians.

Permit in relation to a use or activity, means a permit issued under the Local Law which authorises that use or activity.

Public place means a reserve, public highway, mall, road, street, bridge, footway, footpath, court, alley, passage or thoroughfare, notwithstanding that it may be formed on private property and any other place to which the public may resort.

Road has the same meaning as the Local Government Act 1989 and applies to roads for which the Council has responsibility under the Road Management Act 2004 but does not include a State road under the Road Management Act unless a provision in the Local Law is expressly applied to a State road.

Trading zone is the area that the Council may permit for a trading use or activity. It is the area left between the walkway zone and kerbside zone after these clearances are accounted for.

Trading means:

- Selling or offering or exposing or promoting the sale, supply, exchange or hire of any goods, merchandise, commodity, article, thing or service; or
- Advertising for the purposes of soliciting sales, notifying people where goods and services may be obtained, or advertising or directing people to an event or festival; or
- A fundraising stall or activity operating to raise money for a community group, charity or not-for-profit organisation (excluding highway collections).

Trader means any person, business or organisation that carries out trading activities.

3. Footpath Use and activities

3.1 Footpath zones

In order to provide for clear and unobstructed access for pedestrians, three footpath zones are defined within the width of the footpath:

a) Walkway zone

The zone immediately adjacent to the building or property line and is the zone primarily used to facilitate pedestrian access and travel and includes pedestrian crossings and kerb crossings.

Walkway zone requirements:

Footpath width:	Walkway zone requirements:
2.5m – 3.5m	Minimum 1.8m
3.5m or greater	Minimum 2.0m (2.5m Heritage Areas)

In footpaths with an overall width greater than 3.5 metres, the walkway zone must be a minimum of 2 metres.

In any areas affected by the heritage overlay under the Swan Hill Planning Scheme the walkway zone must be a minimum of 2.5 metres. In footpaths with an overall width between 2.5 – 3.5 metres, the walkway must be a minimum of 1.8 metres.

b) Trading activity zone

The area of the footpath where goods, café furniture and ancillary items may be placed. It is the area between the walkway zone and kerbside zone and is the only area of the footpath where goods, café furniture and ancillary items may be placed.

A set back of 0.5 metres on either side is required from each property boundary to ensure a 1 metre access point between premises.

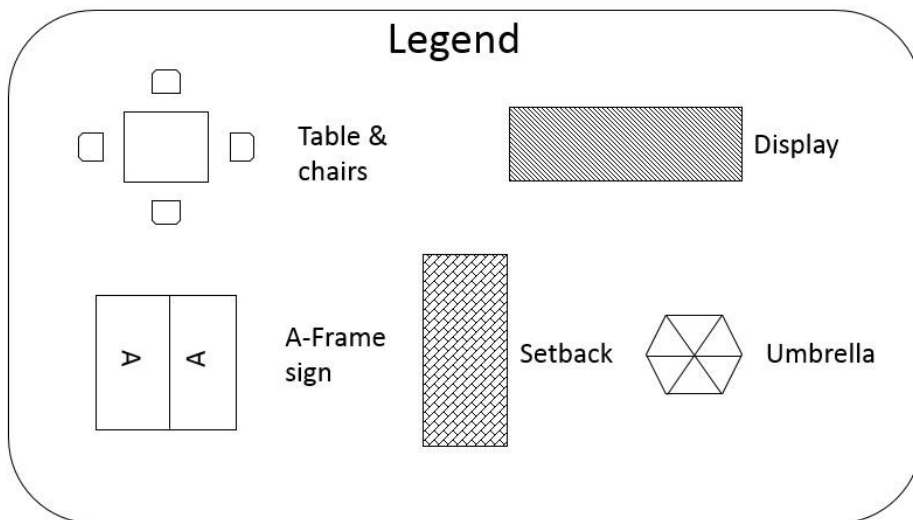
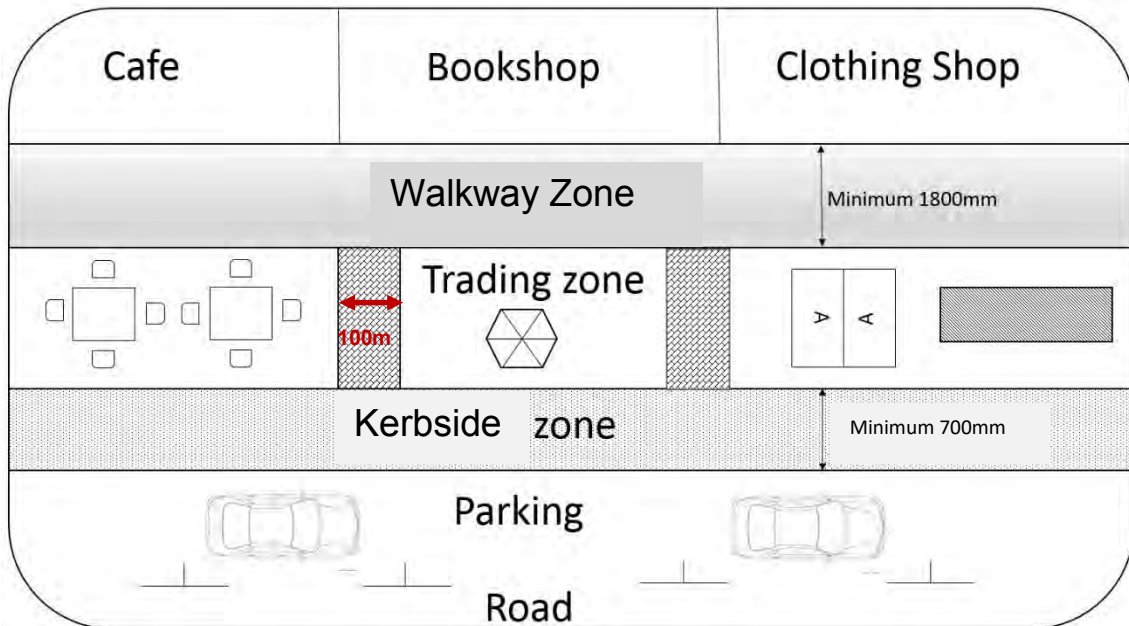
c) Kerbside zone

The area that extends from the kerb line or kerb invert and allows for vehicle overhang and access to and from parked vehicles.

In footpaths with an overall width between 2.5 - 3.5 metres, the kerbside zone extends for a minimum of 0.7 metres from the rear of the kerb. Where there is a disabled parking bay the setback from the kerb must be a minimum of 1.5 metres. Where there is a loading zone the setback from the kerb must be at least 0.7 metres.

Kerbside zone requirements:

Kerbside zone adjacent to:	Kerbside zone requirements:
Footpaths with overall width 2.5 – 3.5m	Minimum 0.7m
Disabled parking bay	Minimum 1.5m
Loading zone	Minimum 1.5m



4. Permit Requirements

4.1 Who requires a permit?

A person displaying advertising signs, banners, flags or goods or whom places street furniture or ancillary items on a road or municipal place must ensure that:

- a) A permit is applied for and issued prior to display
- b) The Code is complied with and
- c) The Disability Discrimination Act 1992 is complied with.

4.2 Why is a footpath trading permit required?

Obtaining a permit provides a formal administrative mechanism for which traders and Council are able to document and demonstrate compliance with the Code.

Permits expire on 30 June of each year.

4.3 How do I apply for and/or renew a footpath trading permit?

It is imperative you read through the Code if you are a local business trader interested in using the footpath for commercial activity.

When applying for and/or renewing a footpath trading permit, consideration must be given to the type of activity you intend to carry out.

For both new permits and permit renewals you must complete an application form, attach any relevant documentation and submit to Council accompanied by the appropriate fee.

The cost of a footpath trading permit will depend on the type of footpath trading permit being sought. Current permit costs will be consistent with the annual fee structure as approved and adopted by Council each year.

All Council fees and charges, including footpath trading permit fees, are subject to an annual review as part of Council's fees and charges review process.

4.4 Insurance requirements

All traders must ensure that they hold and maintain throughout the duration of the permit, in the name of the trader, a policy of insurance to the minimum value of \$20,000,000 against liability for possible personal injury, whether at common law or by virtue of any statute or liability for property damage which may arise or could be held to arise from any act allowed by the permit.

Please note: the insurance value is subject to change dependent on advice from Council's risk insurers or as directed by legislation.

The trader must provide proof of the insurance policy (i.e. a Certificate of Currency) to Council when applying for a permit or upon payment of the annual fee, and also at any time during the duration of the permit at the request of Council or an Authorised Officer.

4.5 Assessment process

In considering an application for a permit to place items on the footpath, an Authorised Officer will take the following into account, in addition to the conditions specified in Council's Local Law and this Code:

- a) the width of the footpath;
- b) the location of existing trees, street furniture or other public infrastructure;
- c) proximity to major roads, disabled parking bays, loading zones, clearways and angle parking;
- d) the likely number of pedestrians at particular times of day;
- e) the location of nearby residences;
- f) if the vision and access of drivers, cyclists or pedestrians is obstructed which may create a hazardous situation; and
- g) if there is likely to be detriment to the amenity of the area;

An Authorised Officer may cancel or amend a permit at any time if any permit conditions are not been complied with and/or there has been a failure to comply with a Notice to Comply served in accordance with Council's Local Law. Footpath trading will only be permitted until 11pm each day unless stated otherwise in the permit. The amenity, safety or access of nearby residences must not be affected.

5. Specific requirements for footpath trading activities

5.1 Advertising signs on Council land

The trader or any other person who has been permitted by Council to place an advertising sign on Council land must ensure that the advertising sign:

- a) is at least 600mm high and at least 400mm wide;
- b) no more than 1000mm high (measured from the ground) and 800mm wide;
- c) is portable and self-supporting and not attached to or leaned against any poles, trees, balustrades etc. Access to seats and other public facilities such as bins and ticket machines should not be obstructed;
- d) is only placed within the trading activity zone and not on carriageways, median strips or in parking areas;
- e) is not situated where it obstructs the vision of a driver, or causes any other traffic hazard;
- f) is of such material and construction to minimise the risk of being blown over or causing injury to any person;
- g) does not contain flashing lights or animations;
- h) does not spin or move around (excluding appropriately secured advertising flags);
- i) is maintained by the applicant to the satisfaction of Council;
- j) is only displayed during the applicant's normal hours of trade.

Permission may be granted to allow the placement of an advertising sign outside a premises not occupied by the trader. Any application must be accompanied by written permission from the proprietor of that business which fronts the Council land on which the items are intended to be placed. In this instance public liability insurance must be extended to include this situation of risk. In some cases, permission may not be granted depending on circumstances as determined by the Authorised Officer.

The maximum number of signs permitted per premises is two.

Traders must affix the permit label issued by Council to the front window or door of their business in a prominent position.

5.2 Display of goods on Council land

A trader must:

- a. only display goods in the trading activity zone, to provide a consistent and unobstructed walkway;
- b. only place goods, items and furniture on the footpath during the normal hours of trade, unless otherwise stated in the permit;
- c. ensure display stands and tables are in good stable condition, and be able to withstand adverse weather conditions and to not create a risk for pedestrians, property and passing traffic. Stands and tables should be aesthetically pleasing and not in a worn or decrepit state;
- d. ensure that stands and tables do not cause any damage to the footpath;
- e. ensure that stands and tables do not exceed a height of 1.5 metres, a length of 1.5 metres and a width of 0.75 metres.
- f. ensure that goods have a contrasting colour to their background to assist the vision impaired;
- g. ensure displays do not overhang either the kerb or walkway;
- h. ensure that a building permit is obtained for full-length shop awnings;
- i. ensure displayed goods do not impede access to a loading zone or disabled parking bay;

- j. ensure displayed goods do not cause any difficulty to pedestrians and people exiting or accessing parked vehicles, the footpath or any other Council asset, such as bins, seating and ticket machines.

5.3 Outdoor dining facilities on Council land

Café furniture and ancillary items are only permitted at premises which are registered under the Food Act 1984 to serve food and/or beverages, unless otherwise permitted by an Authorised Officer.

The trader is responsible for the conduct of patrons at tables and chairs in the outdoor dining area and must:

- a. ensure that patrons do not move tables and chairs and obstruct the footpath;
- b. ensure that patrons do not allow pets, prams, walking frames or other items to obstruct the footpath;
- c. not serve, cause or allow patrons to be served food or beverages whilst they are standing on the footpath, except for take away sales;
- d. ensure there is a clearance of 0.5 metres between each premises to allow pedestrian access points from the footpath to the parking bay and/or road;
- e. ensure access points of 1.0 metre wide are provided at every six angled parking bays. This applies to tables, bollards, ropes, chains, barrier screens or anything similar that would ordinarily obstruct movement of pedestrians;
- f. ensure that staff providing table service give all pedestrians passing priority over their own movements into and out of the outdoor dining area;
- g. maintain the outdoor dining area in a tidy manner. A permit may be cancelled or suspended if instances of littering or ongoing untidiness are noted;
- h. ensure that any item which is placed on the footpath is stable and of good design to prevent damage to the footpath. The trader must reimburse Council for any reinstatement works as a result of damage to footpaths caused by chairs, tables or the like;
- i. ensure that any tables and chairs have a contrasting colour to their background to assist the vision impaired;

A trader who proposes to serve alcohol on the footpath must have their Liquor License "licensed area" endorsed to include the footpath. The trader must also apply to Council for an additional permit to be allowed to serve alcohol in a public place.

5.4 Tobacco Act 1897

From 1 August 2017, changes to the Tobacco Act 1987 now means that smoking is banned in all commercial outdoor dining areas in Victoria. The introduction of smoke-free outdoor dining now means there are two types of outdoor areas for dining and drinking activities.

An outdoor area can be either:

- An outdoor dining area, or
- An outdoor drinking area.

Outdoor drinking areas:

Outdoor drinking areas include the following places if predominantly used for the consumption of drinks.

- A balcony or veranda
- A courtyard
- A rooftop
- A marquee
- A street or footpath
- Any similar outdoor area

Drinks can include both alcoholic and non-alcoholic drinks such as coffee.

Outdoor drinking areas within 4 metres of outdoor dining areas

To support smoke-free outdoor dining, from 1 August 2017, smoking is banned in an outdoor drinking area if any part of that area is within 4 metres of an outdoor dining area, unless separated by a wall at least 2.1 metres high.

This means that if any part of an outdoor drinking area is within 4 metres of an outdoor dining area at the same or neighbouring venue, the business owner or manager of an outdoor drinking area will need to ensure the outdoor drinking area is smoke-free, or separate the two areas by a 4 metre buffer zone, or a wall at least 2.1 metres high.

A neighbouring venue is a different venue that is located immediately next to your venue.

Customers can eat only snacks in outdoor drinking areas. A snack is a pre-packaged shelf-stable food that is sealed in the container or package in which the manufacturer intended it to be sold and does not require any preparation prior to serving. Shelf-stable food means food that can be stored safely for long periods (months), at room temperature.

Snacks also include uncut and unpeeled fruit. Examples of snacks include pre-packaged potato crisps, nuts and chocolate bars.

Pre-packaged sandwiches and hot chips are not snacks.

Signage

Venues must display acceptable 'No Smoking' signage to indicate smoke-free areas.

The signs must be displayed so they are visible to customers when entering, or within the outdoor drinking area. Signs can be obtained by contacting Council, or ordered free of charge from the Tobacco Reforms website.

5.4 Heritage areas

Advertising signage must be kept in line with the heritage nature of the area and be in a style that is neat and professional, as approved by Council.

5.5 Ancillary items

Ancillary items include, but are not limited to, umbrellas, enclosures, heaters and pot plants.

Unless approved by an Authorised Officer, ancillary items are only allowed in conjunction with café furniture, and only for premises that are registered to serve food and/or beverages under the Food Act 1984.

5.6 Outdoor speakers / amplification equipment

A trader must not use any sound amplification equipment or jukeboxes in the outdoor dining area unless authorised by Council.

Fixed speakers that a proprietor of a business proposes to install to a building or veranda may require a permit, please contact Council's Development Department. Where these items are fitted without permission, an Authorised Officer may direct the proprietor to remove the items.

5.7 Noise emission

A trader must take all necessary steps to ensure that no noise or other disturbance emanates from the outdoor dining area which creates a nuisance to others or causes detriment to the amenity of the area.

5.8 Heaters

Outdoor heaters should, wherever possible, be affixed to the awnings or verandas in order to be located off the footpath. A permit may be required to undertake this activity, please contact Council's Development Department.

Free standing patio heaters which have a base on the footpath can be used; however it must be a certified gas appliance with a maker's warranty. This is to be included as an ancillary item on your permit and covered by the traders' public liability insurance.

A trader must ensure that any outdoor gas heater used in conjunction with their permit complies with any safety standards specified by Energy Safe Victoria.

5.9 Umbrellas

The trader must ensure that any umbrella is placed only in the trading activity zone.

Any umbrella used must be no higher than 2.2 metres and must not protrude over the kerb. During inclement weather, water from large umbrellas should be discharged in areas outside the pedestrians' walking path.

Umbrellas should be secured to the footpath by a lock-in device. Lock-in devices will only be approved when the device lies flush with the footpath when umbrellas are not displayed.

Umbrella plans and specifications are required to be lodged with Council prior to any umbrella being placed with a lock-in device. Approval for a lock-in device will only be given upon special application to Council's Development Department.

If a lock-in device is fitted without prior Council approval, an Authorised Officer must require that the lock-in device is removed and the footpath is reinstated to its original condition. Traders are responsible for any damage will be invoiced for any repairs.

Where a lock-in device is not used, any umbrella must be secured to the satisfaction of Council's Engineering Services Department.

5.10 Barrier screens

For safety reasons a trader must ensure that screens or screening devices are used when there are tables and chairs.

There are several types of screens approved by Council:

- a. Temporary canvas screens – the type commonly provided by coffee companies;
- b. High barrier screens – made of safety glass or heavy duty opaque plastic and fitted to the footpath with a locking device; and
- c. Full-length awnings/blinds attached from veranda to the footpath – A building permit required, please contact Council's Development Department.

5.11 Temporary canvas screens

A trader must ensure that any temporary canvas screen is placed only in the trading activity zone. A set back of 0.5 metres is required from each property boundary to ensure a 1 metre access point between premises.

Temporary canvas barrier screens must be placed so that the screens are stable and secured or weighted to prevent being moved by patrons or in adverse weather conditions. Barriers must be removed from the trading activity zone at the close of business each day.

5.12 High barrier screens

High barrier screens can be used but are not limited to opaque/clear fitted, with a lock-in device to the footpath.

A trader must gain approval to install high barrier screens by application to Council's Engineering Services Department. Any engineering design must comply with all relevant Australian Standards and the trader must provide an assessment for all proposed structures in relation to their safety and impact on Council assets before they will be considered for approval.

Guidelines for specifications will be available upon request. Screens must be fitted to the footpath with a lock-in device, but be removable if required and have side portions that fold back or are removable. Side portions must be removed during non-trading hours to facilitate street cleaning vehicles.

A set back of 0.5 metres is required from each property boundary to ensure a 1 metre access point between premises. This will apply even if there are currently no food premises adjacent, to avoid the need to reposition the lock-in device in the event that another food premises opens next door.

High barrier screens must be at least 1.5 metres in height, be transparent and constructed of safety glass or heavy-duty plastic. Each screen must have writing or symbols between 1.0 and 1.5 metres from the footpath to provide a visual guide to pedestrians.

High barrier screens must not be used as an opportunity for advertising. Only the name of the business or an appropriate design may be used on the screens. Products, specials or sales must not be displayed on the screens.

If a lock-in device is fitted without prior Council approval and required specifications are not met, an Authorised Officer will require that the lock-in device is removed and the footpath is reinstated to its original condition. The trader must comply with that requirement.

If a premises changes hands and the future trader will not be using the screens, the current or future trader will be deemed responsible for reinstating the footpath to its original condition, to the satisfaction of the Authorised Officer.

Any permit for a structure on the corner (intersection) must comply with the relevant building regulations, not higher than 1.2m within 9m from building line and must be assessed by the Council's Engineers to ensure that it will not cause any safety concerns.

5.13 Full length verandah awnings / blinds

A trader must ensure that any veranda awning or blinds are fitted in accordance with direction and approval from Council.

5.14 Ancillary items owned by business remaining on the footpath on a semi permanent basis

Semi-permanent café furniture that is fixed with lock in devices will be allowed subject to Council approval.

Lock-in screen and umbrellas, plans and specifications must be lodged with Councils Engineering Department for approval.

Painting lines or placing markers on the footpath in the business precinct to clearly indicate the footpath trading zone is prohibited, except as specified below.

Council reserves the right to place markers along the footpath when deemed necessary to ensure appropriate minimum pedestrian corridors are maintained at all times. Premises that breach the minimum required clearance may have the footpath marked as part of enforcement action.

5.15 Permanent fixtures on the footpath

Bike racks, benches, bins, pedestrian crossings, fire hydrants, other emergency assets, parking meter/ticket machines, traffic signal boxes, public transport shelters and other permanent fixtures placed on the footpath are public assets and have priority over commercial interests.

A minimum clearance of 1 metre or greater, if deemed appropriate by an Authorised Officer, will be required on either side of any asset permanently affixed to the footpath.

Failure to maintain this clearance will constitute a breach of permit and may result in infringement penalties and/or possible cancellation of the permit, in accordance with Section 12 of the Community Local Law No 2.

Items must not be placed directly in front of parking meters/ticket machines and the walkway zone. Rubbish bins, parking meters and any other Council assets will not be relocated at the request of traders as part of their trading activities unless approved by Council. Traders should take this into account when selecting a site. Any request must be in writing and submitted to Councils Engineering Department. The request must include a plan showing the site of the proposed relocation and a letter signed by the trader outside whose premises the Council asset exists. Council may charge traders for the cost of relocation of public assets.

6. Enforcement provisions

Council Authorised Officers will check compliance with this Code and with the conditions of relevant permits on a regular basis.

Upon detection of a non-compliance, an Authorised Officer will take action in accordance with Council's Local Laws or the Planning Scheme, as applicable.

Enforcement action may include:

- a. a verbal direction to comply
- b. a written notice to comply
- c. an infringement notice and the
- d. an Authorised Officer may impound the items on the footpath that do not comply with the Local Law, this Code or the conditions placed on any permit.

Section 44 - Commercial activity on Council land

1. The Code:
 - a) has been adopted by the Council for the purposes of this Council's Community Local Law No. 2 (2017);
 - b) has the objective of providing for the peace, order, wellbeing and safety of people and the amenity of public places in the municipality; and
 - c) is available for inspection at the Council's offices and service centres during business hours.
2. The whole of the Code is incorporated into and forms part of this Local Law.
3. Council may amend the Code from time to time in accordance with the provisions contained in the Code.
4. An amendment does not take effect until notice of the Council's decision to amend the Code is published in the Victoria Government Gazette.
5. A person on whom an obligation is imposed by the Code must ensure that:
 - a. where under the Code a permit is necessary, that permit is obtained; and
 - b. the Code is complied with.

Section 45 - Trading activities on roads and in a municipal place

1. Without a permit, a person must not trade on a road or in a municipal place and may not:
 - a) place any advertising sign, banner or flag
 - b) display any goods
 - c) place any outdoor dining furniture or associated facilities
 - d) place any structure for the purpose of selling or offering to sell any goods or services
 - e) place goods or services carried out or placed on the person or any other moveable thing do so from land adjacent to a road or a municipal place
 - f) solicit or collect any waste materials, gifts of money, subscriptions, or do so from premises to premises adjacent to a road
 - g) busk
 - h) hold a street festival or event, other than a funeral.

Penalty: 3 Penalty units

Note: For processions or festivals on roads controlled by VicRoads, prior consent must be obtained from the Chief Commissioner of Victoria Police and VicRoads.

2. A person displaying advertising signs, banners or flags, placing street furniture and/or displaying goods on a road or municipal place must ensure that:
 - a) A permit is applied for and issued prior to display; and
 - b) The Code is complied with; and
 - c) The Disability Discrimination Act 1992 is complied with.

3. In considering an application for a permit under sub-clause (1), Council must have regard to the requirements of:
 - a) The Code
 - b) The Disability Discrimination Act 1992
 - c) Permits required by the Public Health and Wellbeing Act 2008, Food Act 1984 or any other legislation have been obtained
 - d) The activity will disturb, annoy or disrupt adjacent property owners or occupiers
 - e) The activity will be detrimental to the amenity of the area
 - f) The safety of road users or the passage of vehicles will be affected by the placement
 - g) Waste water disposal, litter and garbage, lighting and advertising signs
 - h) Any other matter relevant to the circumstances of the application.
4. When an advertising sign, banner flag or good is placed or displayed contrary to this Local Law or in contravention of any permit conditions, a Notice to Comply may be issued by an Authorised Officer.
5. Failure to comply with a Notice to Comply may result in the advertising sign, banner, flag or the good being removed by an Authorised Officer and impounded.
6. Council may determine a fee that must be paid by the owner of any impounded advertising sign, banner, flag or good before the Council releases the impounded item.
7. Advertising signs, banners, flags or goods that have been impounded by Council for more than one month may be disposed of by Council by tender or public auction, or may be transferred to the municipal landfill or given away. Where perishable goods have been impounded, the Council may dispose of the goods as soon as reasonably appropriate.
8. A person must not, without a permit, erect or place on any road, roadside or municipal place, a vehicle, caravan, trailer, table, stall or similar structure for the purpose of selling or offering for sale any goods or service or conducting a raffle or lottery.
9. A person must not, without a permit, sell or offer for sale on any road, roadside or municipal place, any goods carried about on a person or animal.
10. A person must not without a permit, engage in spruiking or promoting goods or services or permit another person to engage in spruiking or promoting goods or service on any road or municipal place.
11. A person must not without a permit, give or offer to the public on any road or municipal place, any pamphlet or brochure advertising goods, services or events.