

# **COMMERCIAL USE OF FOOTPATHS POLICY**

## **1.0 Introduction**

The Dunedin City Council is committed to supporting and enhancing local business and an active street life. The use of footpaths for commercial purposes helps create a vibrant atmosphere in the city, however, the primary purpose of a footpath remains that as a place on which pedestrians can walk. This policy has been developed to allow businesses to utilise footpath space in a controlled and orderly manner while ensuring there is always a safe and unobstructed passage for pedestrians of all abilities and to ensure the visual amenity of our streetscapes is not detrimentally affected.

It is important to acknowledge that any commercial use of the public space is a privilege, not a right.

The policy will apply throughout the DCC geographical area wherever a formed, sealed footpath or road exists and should be read alongside the Roding Bylaw. It applies to all objects placed on the footpath or suspended over it up to a **height of 2.6 metres**. It does not apply to mobile traders.

## **2.0 Objective**

To allow the use of Dunedin's footpaths for commercial purposes while maintaining a safe and unobstructed passage for pedestrians.

## **3.0 Allowable Activities**

The following use of a footpath is allowable:

- Placement of portable signs,
- Display of goods and produce,
- Placement of tables and chairs and planter boxes.

## **4.0 General Principles**

- 4.1 The safety of all pedestrians, motorists, cyclists and other footpath and road users must be protected at all times.
- 4.2 A continuous accessible path of travel must be maintained 0.5 m out from, and in line with, the front of the buildings to ensure a consistent reference for all users. Applications will be referred to the Planning, Transportation Planning and/or Architectural and Urban Design departments when there is concern about the width of the pedestrian corridor.
- 4.3 Objects shall generally be placed in close proximity to the kerb, and where appropriate, in line with other permanent obstructions on the footpath, e.g., lamp posts, rubbish receptacles.
- 4.4 No object in support of a commercial activity shall be placed on a footpath without prior, written approval from the Dunedin City Council.
- 4.5 All objects shall be constructed, fixed and placed in a manner so that they do not pose a danger to property or the public. This is the responsibility of the owner.

- 4.6 No object shall:
- a) be attached to any tree, pole, street furniture or other public utility,
  - b) obstruct the line of sight of any corner, bend or intersection,
  - c) obstruct, obscure or impair the view of any traffic signal or sign,
  - d) resemble, or likely to be confused with, any traffic signal or sign,
  - e) use reflective materials that may interfere with a road user's vision,
  - f) use flashing or revolving lights.
- 4.7 No object shall be placed in such a manner as to:
- a) obstruct access to or egress from any building,
  - b) obstruct any taxi stand, bus stop, loading zone or car park space,
  - c) obstruct the opening of car doors,
  - d) be placed within 2 metres of any road corner or intersection.
- 4.8 Signs less than **1.0 m x 0.5 m** in dimension may be secured against the front face of a building provided that they do not project onto or over the public footpath. These will be exempt from charges and approval.
- 4.9 A permit will be issued and must be displayed as agreed with DCC.
- 4.10 All objects shall be removed from the public place when the business with which they are associated is closed. Refunds will be considered at the discretion of Council.
- 4.11 Objects that are found to cause a nuisance may be required to be removed in the interests of public safety.
- 4.12 The provisions of this policy **will not apply** where community group applications for events such as market days are approved.

## **5.0 Specific Provisions for Portable Signs**

- 5.1 Portable signs will be limited to one displayed on any street per business.
- 5.2 The approved location for portable signs shall be outside the premises to which they relate, **in close proximity to the kerb** and, where appropriate, in line with other permanent obstructions on the footpath, e.g., lamp standards, rubbish receptacles.
- 5.3 Approval may be granted for signs to be located on the premises side of the footpath in exceptional circumstances. The sign **must** be displayed in the approved location.
- 5.4 The maximum size for any sign shall be **0.8 m high by 0.6 m wide** (0.5 m wide if approval is granted to place the sign on the building side of the footpath).
- 5.5 New signs shall have a maximum surface area of **0.5 m<sup>2</sup>**.
- 5.6 All signs must have a stable, solid base that extends to at least the outer edges of the sign.
- 5.7 Applicants wishing to place a portable sign relating to a premises that does not have a street frontage may be granted a permit for such sign if the application

is accompanied by the written permission of the adjoining premises occupier outside which the sign will be placed.

## **6.0 Specific Provisions for the Display of Goods**

- 6.1 As an alternative to signs the display of goods may be used.
- 6.2 Approval may be given to display goods on a stand that is no wider than 0.5 m and is **attached** to the front of the premises. A stand must be no higher than 1.8 m and have a solid base extending to the outer edges of the display.
- 6.3 Applications will be assessed on a case-by-case basis.
- 6.4 An unobstructed pedestrian corridor 0.5 m out from the premises front must be retained along the footpath parallel to the building line to ensure a continuous, accessible path for all people.
- 6.5 Goods may only be displayed outside the premises to which they relate.
- 6.6 Food displays must comply with any requirements of the Council's Environmental Health Department and the Food Hygiene Regulations 1974.

## **7.0 Specific Provisions for Tables and Chairs and Planter Boxes**

- 7.1 Tables and chairs and planter boxes must be contained in the zone in front of the applicant premises at all times.
- 7.2 Furniture and boxes must be designed and maintained in a safe condition, be easily removed and not damage the existing footpath.
- 7.3 Tables must be no larger than to allow a maximum of four chairs around each table at any time.
- 7.4 It is the responsibility of the operator to ensure any items placed on the footpath do not cause damage to the Council assets.
- 7.5 The maximum number of tables and chairs approved will be determined by the available space in front of the premises.
- 7.6 The maximum size of planter boxes shall be determined by the Council staff after assessing the location of the proposed boxes in relation to footpath width and pedestrian density.
- 7.7 Applications for the use of tables and chairs on a footpath shall be determined by the Council's Planning, Transportation Planning and/or Architectural and Urban Design departments after considering footpath width and pedestrian density to ensure there is an accessible, unobstructed pedestrian corridor retained along the footpath parallel to the premises' building line.
- 7.8 The owner of the premises is solely responsible for ensuring the tables and chairs and planter boxes remain placed in accordance with the approved plan. Non-complying placement of tables and chairs and planter boxes will be deemed to be 'non-complying objects'.
- 7.9 Premises licensed pursuant to the Sale of Liquor Act 1989 may use tables and chairs as an extension of the licensed area at the discretion of the District Licensing Agency so long as there is no reported problem with this use. Such pleasure will be withdrawn immediately if a problem is brought to the attention of the District Licensing Agency.

## **8.0 Removal of Non-complying Objects**

- 8.1 Monitoring of this policy is the responsibility of the Development Services Manager.
- 8.2 Premises' occupiers with objects placed on the footpath that are not permitted or are non-complying will be served with a notice to remove the non-complying object within two hours of the notice being issued.
- 8.3 Where any occupier fails to comply with the notice an officer of the Council may have the object removed. The cost incurred in removing the object shall be recovered as a debt against the owner.
- 8.4 Premises occupiers who repeatedly place non-complying objects on the footpath will be deemed to have failed to comply with the notice and the objects will be removed.
- 8.5 Any object removed will be released to the occupier on payment of the costs incurred in its removal and storage.
- 8.6 Objects unclaimed after one month from the time of removal may be sold or otherwise disposed of by the Council. If sold, any proceeds of the sale in excess of the costs of removal and storage shall be paid to the owner.
- 8.7 The Council may dispose of any perishable goods not claimed within 24 hours.

## **9.0 Application for Permit**

- 9.1 All applications for permits must be made to the Customer Services Agency at the Dunedin City Council on the prescribed form and accompanied by the fee set from time to time by the Council.
- 9.2 Applications are approved by the Development Services Manager.
- 9.3 A 'Deed of Indemnity' will accompany all applications.
- 9.4 A site plan indicating the proposed location of the sign, display or tables and chairs must be provided.
- 9.5 All permits for signboards, display stands and planter boxes shall expire after **five** calendar years or whenever a premises changes ownership, whichever is the sooner.
- 9.6 All permits for tables and chairs shall expire after **one** calendar year or whenever a premises changes ownership, whichever is the sooner.
- 9.7 Permits may be renewed by application to the Council. The renewal process will remind applicants of their obligations and responsibilities regarding the use of the footpath for commercial purposes.
- 9.7 Permits can be renewed on the prescribed form and must be accompanied by the fee set from time to time by the Council. A reminder notice will be issued approx one month before expiry dates.
- 9.8 Applications for requests falling outside the policy will be referred to the Planning Department, Transportation Planning and/or the Architectural and Urban Design Departments for consideration.

- 9.9 Businesses changing location may transfer permits for signboards, display stands and tables and chairs by making new application to the Council free of charge. The expiry date of the transferred permit will be retained.

#### **10.0 Fees**

- 10.1 The application fee for signboards, the display of goods and planter boxes shall be \$100.00 and is renewable every **five** years.
- 10.2 The application fee for tables and chairs shall be \$100.00 **per table** and is renewable every **12 months**.

#### **11.0 Deed of Indemnity**

- 11.1 The management of the objects placed on the footpath is the sole responsibility of the permit holder.
- 11.2 All applicants must submit a signed “Deed of Indemnity”.
- 11.3 The Deed of Indemnity indemnifies the Council against all actions, liabilities, proceedings, demands, losses, damages, fees, claims, costs and expenses whatsoever incurred or arising out of, or in conjunction with or in consequence of the use of the footpath for the commercial purposes described in this policy.