

## CONDITIONS FOR COMMERCIAL USE OF FOOTPATHS

### PURPOSE

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, footpaths are primarily where pedestrians can walk. These conditions ensure there is always a safe and unobstructed passage for pedestrians of all abilities. They also aim to ensure there is no negative effect on the look and feel of the city's streets.

Any commercial use of the public space is a privilege, not a right.

### GENERAL

The Council may approve a permit which supports these purposes, based on but not limited to the following conditions. Permits may be granted only in respect of property which the Council controls. All permit holders must also comply with all relevant legislation and bylaws including the Health and Safety at Work Act, Sale and Supply of Alcohol Act, Building Act and Dunedin City District Plan (2GP).

No person shall, without the consent of the Council, leave anything on any road or footpath other than things lawfully approved.

### 1. CONDITIONS FOR COMMERCIAL USE OF FOOTPATHS

- 1.1. These conditions have been developed in accordance with the Dunedin City District Plan (2GP), the Trading in Public Places Bylaw, Roading Bylaw 2020 and other relevant legislation to allow the controlled use of Dunedin's footpaths for commercial purposes while maintaining safe and efficient pedestrian movement.
- 1.2. The Council may amend these conditions from time to time at its discretion. All applications are to be made in writing using approved forms.

### 2. APPLICABILITY

- 2.1. The conditions in this document do not apply to mobile shop trading. For mobile shop trading, see the Mobile Shop Trading Conditions.
- 2.2. These conditions apply to all objects placed on the footpath or suspended over it up to a height of 2.6 metres.
- 2.3. The conditions do not apply where community group applications for events such as market days are approved.
- 2.4. Use of footpath space is allowable for the following activities:
  - 2.4.1. Placement of portable signs
  - 2.4.2. Display of goods and produce
  - 2.4.3. Placement of tables, chairs, screens, planter boxes and other approved objects.

### 3. GENERAL CONDITIONS

- 3.1. The display of a sign, screens or goods in support of a commercial activity is permitted with compliance to these conditions and written approval from the Council.

- 3.2. The permit issued by the Council must be displayed in a visible place.
- 3.3. All objects shall be removed from the public place before 9pm unless permission is granted by the Council.
- 3.4. With respect to any permitted object, the permit holder is responsible for the safety of all road and footpath users, including pedestrians, motorists and cyclists.
- 3.5. It is the responsibility of the permit holder to construct, fix and place the object in a manner that it does not pose a danger, in the opinion of the Council, to property or the public.
- 3.6. Objects that, in the opinion of the Council, cause or may cause a nuisance will be required to be removed in the interests of public safety.
- 3.7. The permit holder must make sure that pedestrian access is maintained in public places at all times and that signage does not block footpaths, doorways, bus stops, fire escapes or roads.
- 3.8. Public amenities temporary signs and portable freestanding signs located on public footpaths must provide a minimum width of unobstructed area for pedestrian movement as follows:
  - 3.8.1. 3m in the central business district zone; and
  - 3.8.2. 1.5m in all other zones.
- 3.9. Objects shall be placed near the kerb and where appropriate and possible, in line with other permanent objects on the footpath, e.g. lamp posts, rubbish receptacles.
- 3.10. Smokefree and vape-free must be promoted at outdoor hospitality areas.

#### **4. GENERAL RESTRICTIONS:**

- 4.1. No object shall:
  - 4.1.1. be attached to any tree, pole, street furniture or other public utility.
  - 4.1.2. obstruct the line of sight of any corner, bend or intersection.
  - 4.1.3. obstruct, obscure or impair the view of any traffic signal or sign.
  - 4.1.4. resemble, or likely to be confused with, any traffic signal or sign.
  - 4.1.5. use reflective materials that may interfere with a road user's vision.
  - 4.1.6. use flashing or revolving lights.
  - 4.1.7. be painted, drawn, chalked or otherwise created on the surface of any footpath.
- 4.2. No object shall be placed in a way that:
  - 4.2.1. obstructs access to or egress from any building.
  - 4.2.2. obstructs any taxi stand, bus stop, authorised vehicle only zone, loading zone or car park space.
  - 4.2.3. obstructs the opening of car doors.

- 4.2.4. sits within 2 metres of any road corner or intersection.
- 4.2.5. obstructs the visibility of any traffic control device.
- 4.2.6. compromises sightlines from road intersections and vehicle entrances.

## **5. SPECIFIC CONDITIONS FOR PORTABLE SIGNS AND SCREENS**

- 5.1. Portable signs and screens must comply with both the general and specific conditions.
- 5.2. Businesses that are approved to display a portable sign or screen may display only one per business.
- 5.3. Portable signs and screens shall be displayed outside the premises to which they relate, in close proximity to the kerb and where appropriate, in line with other permanent objects on the footpath.
- 5.4. Signage may only be on two objects, either a portable sign and one screen or two screens
- 5.5. The Council may, at its discretion, grant approval for signs and screens to be located on the premises side of the footpath. In this case the sign or screen must be displayed in the location approved.
- 5.6. Permission to place a portable sign and screens relating to a premise that does not have a street frontage may be granted if the application is accompanied by the written permission of the occupiers of the premises the sign will be placed outside.

### **SIGNS**

- 5.7. All signs must have a stable, solid base that extends to at least the outer edges of the sign.
- 5.8. Dimensions of the sign shall not exceed 0.9m high by 0.6m wide.
- 5.9. New signs shall have a maximum surface area of 0.5m<sup>2</sup>.
- 5.10. Signs smaller than 1.0m x 0.5m 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.

### **SCREENS**

- 5.11. If tables and chairs are placed near the kerb where there is either kerb side parking, taxi stand/small passenger vehicle parks, bus stops or authorised vehicle parks, then a screen must be used. A 1m gap must be maintained between the screen and the kerb.
- 5.12. Only the approved metal and canvas type screen may be placed on the footpath.
- 5.13. Screens must be the same colour as existing street furniture Black Bean BS5252 or black.
- 5.14. The maximum height of a screen is 1 metre and the minimum height is 0.8m, the maximum length of a screen is 2 metres, the minimum length is 1 metre.
- 5.15. Screens may display the name or logo of the business on either or both sides of the screen provided the signage does not exceed 0.5 square metres. No product advertising is permitted.

- 5.16. The number of screens permitted per premises is the minimum required to define the extent of the area.
- 5.17. Screens may be placed along the kerb edge in areas where there is no kerb side parking, provided a 1 metre gap is maintained between any two screens where the overall length exceeds 10m.
- 5.18. Screens may be placed at right angles to screens placed at the kerb provided they do not encroach on the pedestrian corridor.

## **6. SPECIFIC PROVISIONS FOR THE DISPLAY OF GOODS**

- 6.1. The display of goods for sale may be used as an alternative to a sign.
- 6.2. Goods shall be displayed on a stand no wider than 0.5m and no higher than 1.8m. It must have a solid base extending to the outer edges of the display and be attached to the front of the premises.
- 6.3. Applications will be assessed on a case-by-case basis.
- 6.4. Permit holders must make sure that pedestrian access is maintained in public places at all times and that displays do not block footpaths, doorways, bus stops, fire escapes or roads.
- 6.5. Public amenities, temporary signs and portable freestanding signs located on public footpaths must provide minimum widths of unobstructed areas for pedestrian movement as follows:
  - 6.5.1. 3m in the central business district zone; and
  - 6.5.2. 1.5m in all other zones.
- 6.6. Goods may only be displayed outside the premises to which they relate.
- 6.7. Food displays must comply with any requirements of the Council's Environmental Health Department and the Food Act.

## **7. SPECIFIC PROVISIONS FOR TABLES, CHAIRS, BAR LEANERS AND PLANTER BOXES**

- 7.1. It is the responsibility of the permit holder to ensure any items placed on the footpath do not cause damage to Council assets.
- 7.2. Tables, chairs, bar leaners and planter boxes must be contained in the area in front of the permit holder's premises at all times, unless otherwise permitted by the Council.
- 7.3. The permit holder is solely responsible for ensuring the items remain placed in accordance with the approved plan. Non-complying placement of tables, chairs, bar leaners and planter boxes will be deemed to be "non-complying objects".
- 7.4. Furniture and boxes must be designed and maintained in a safe condition, be easily removed and not damage the existing footpath.
- 7.5. Tables must be no larger than to allow a maximum of four chairs around each table at any time.
- 7.6. The maximum number of tables and chairs approved will be determined by the available space and the ablution facilities at the premises.

- 7.7. The total occupancy, as determined by the Building Warrant of Fitness, may not be exceeded. Total occupancy includes any space occupied by patrons on the footpath.
- 7.8. 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.
- 7.9. Premises licensed pursuant to the Sale and Supply of Alcohol Act 2012 may use tables and chairs as an extension of the licensed area at the discretion of the District Licensing Committee.

## **8. REMOVAL OF NON-COMPLYING OBJECTS**

- 8.1. Where an object is placed on the footpath without permission or is non-complying with the permit, the permit holder will be served with a notice to remove the non-complying object within two hours of the notice being issued.
- 8.2. Where any permit holder 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 permit holder.
- 8.3. Permit holders 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.
- 8.4. Any object removed will be released to the permit holder on payment of the costs incurred in its removal and storage.
- 8.5. Objects unclaimed after one month from the time of removal may be sold or otherwise disposed of by the DCC. If sold, any proceeds of the sale in excess of the costs of removal and storage shall be paid to the permit holder.
- 8.6. The Council may dispose of any perishable goods not claimed within 24 hours.

## **9. FEES**

- 9.1. Fees are reviewed annually.
- 9.2. For fee information, refer to the list of Council's "Fees and Charges" at [www.dunedin.govt.nz](http://www.dunedin.govt.nz).
- 9.3. If fees are not paid within the period specified on the application, the object may be removed, and the cost of removal shall be recovered as a debt from the permit holder.

## **10. LIABILITY**

- 10.1. The management of the objects placed on the footpath is the sole responsibility of the permit holder.
- 10.2. On application, all applicants must indemnify the Council in writing against all liabilities, demands, fees, claims, costs and expenses incurred or arising out of, or in connection with the use of the footpath for the commercial purposes described under these conditions.

## **11. RIGHT OF REVIEW**

- 11.1. Any applicant who is dissatisfied with a Council decision made in relation to the applicant under these conditions may appeal the decision under the terms stated in the Trading in Public Places Bylaw.