

COUNCIL POLICY NO: 101

Responsible Directorate	Planning and Development
Responsible Section	Regulatory Services
Responsible Officer	Manager Regulatory Services

OBJECTIVE:

One of the Council's highest priorities and objectives, as well as being a requirement under the *Disability Discrimination Act 1992 (Cth)*, is to provide an environment that is safe and easy for all pedestrians, including older persons or people with disabilities, who move through commercial areas of the Town.

Accordingly, the Council will be guided by the principle - *the use of public footpaths by business is not a right, but a privilege granted only where there is no adverse impact on pedestrian or public safety and where amenity can be preserved.*

Trading activities on the footpaths needs to be controlled and limited to locations where public safety and visual amenity can be maintained. Equity is addressed by the consistent enforcement of compliance with conditions of approval and the application of a reasonable permit fee on those conducting trading in a public place as part of a business.

The Town of Cambridge *Trading in Public Places Local Law 2016* allows for commercial activities in public places (including the display of advertising signs) to occur when approved. The purpose of this policy is to manage trading in public places by specifying appropriate controls and limits on commercial activities in public places.

SCOPE:

This policy applies to all Directorates of the Town of Cambridge.

This policy applies to all trading activities on local government and public property administered by the Town of Cambridge.

POLICY STATEMENT:

Business proprietors within the Town of Cambridge are permitted to conditionally display business/commercial advertising signs, goods or goods display in a public place or on public property outside their own premises in accordance with the Town of Cambridge *Trading in Public Places Local Law 2016* and conditions specified by Council Trading in Public Places Policy No. 101 and the Guidelines'.

DEFINITIONS:

Definitions are taken as those detailed in the *Local Government Act 1995* and associated legislation.

Document Control

Office Use Only:

Previous Policy No	Policy No. 4.4.5			
Statutory Legislation and Compliance	<i>Local Government Act 1995;</i>			
Related Documents/Legislation	<i>Disability Discrimination Act 1992 (Cth);</i>			
Date of Adoption by Council	Council Meeting – 25 October 2005			
Date Reviewed/Amended	22 April 2008 28 July 2020	27 May 2008	24 November 2015	22 May 2018
Next Review Date	April 2024			

GUIDELINES RELATING TO TRADING IN PUBLIC PLACES

Definitions:

The Town of Cambridge Local Laws prescribe the following:

'local government property' means anything which belongs to, is owned by or is under the care control or management of the local government and includes any flora and fauna thereon;

'public place' means any thoroughfare or place which the public are allowed to use, whether the thoroughfare or place is or is not on private property and includes, parklands, squares, reserves, beaches, and other lands set apart for the use and enjoyment of the public, including all lands which belong to or which are vested in or are under the care, control or management of the local government, but does not include premises on private property from which trading is lawfully conducted under a written law";

'public property' means any real property, land, lot, or reserve which is open and available for use by the public for public purposes, whether through payment of a fee or not, and includes any building, structure, flora or fauna thereon;

'sign' includes a notice, flag, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols;"

'trading' includes –

- (a) the selling or hiring of, the offering for sale or hire of, or the soliciting of orders for goods or services in a public place;
- (b) displaying goods in any public place for the purpose of –
 - (i) offering them for sale or hire;
 - (ii) inviting offers for their sale or hire;
 - (iii) soliciting orders for them; or
 - (iv) carrying out any other transaction in relation to them; and
- (c) the going from place to place, whether or not public places, and –
 - (i) offering goods or services for sale or hire;
 - (ii) inviting offers or soliciting orders for the sale or the hire of goods or services; or
 - (iii) carrying out any other transaction in relation to goods or services."

1. Application:

- 1.1 A person wishing to advertise or display a temporary sign, goods or goods display in a public place or on public property must submit their application on the prescribed form to the Town. The completed prescribed form must be accompanied by the required information, along with any additional information that may be relevant to the application and should be accompanied by the prescribed application fee.
- 1.2 If approved, the Applicant will be issued with an annual or three yearly renewable Permit for signs, goods and/or goods display. Outdoor eating areas will be subject to an annual Permit. All Permits will expire on 30 June in the following year, or 30 June three (3) years later.
- 1.3 The Town will not give approval for a sign, goods or a goods display which does not conform to the requirements set out in the *Town of Cambridge Trading in Public Places Local Law 2016* or this Policy.

2. Trading In Public Places:

- 2.1 Trading in public places and the display of goods, goods display may only be established in a commercial zone in conjunction with an existing approved use.
- 2.2 An application for a Permit to place goods or goods display outside a premises shall be submitted annually or three yearly by the proprietor of that business which fronts the footpath on which the goods, goods display or sign are intended to be placed. Public Liability insurance (in accordance with Section 9 of the policy) must be extended to include this situation of risk;
- 2.3 In order to provide consistent unobstructed pedestrian access, goods may only be displayed in the Trading Activity Zone, as detailed in Figure 1 and 1A of this policy;
- 2.4 Goods and display stands shall only be placed on the footpath during the normal hours of trade and must be removed on completion of the daily trading;
- 2.5 Small goods may be displayed on stands that are:
 - (a) readily portable, stable and sturdy construction with no sharp edges,
 - (b) able to withstand adverse weather conditions such as strong wind gusts,
 - (c) a maximum height of 1 metre and a maximum width of 600 millimetres,
 - (d) to be kept clean;
- 2.6 Display stands shall not create a risk to pedestrians or property, and shall not cause any damage to the footpath;
- 2.7 Goods displayed on stands shall not exceed a height of 1 metre or a width of 600 millimetres;
- 2.8 Goods will not be permitted on that part of a footpath where access to a loading zone or disabled parking bay will be impeded;
- 2.9 Displayed goods shall be at least 2 metres away from a truncation, crossover or street corner;
- 2.10 Displayed goods should have a contrasting colour to their background to assist the vision impaired;
- 2.11 Solicitation of customers by touting or the use of public address systems is prohibited;
- 2.12 Conducting business transactions in public places is prohibited.

3. Location of Goods Display:

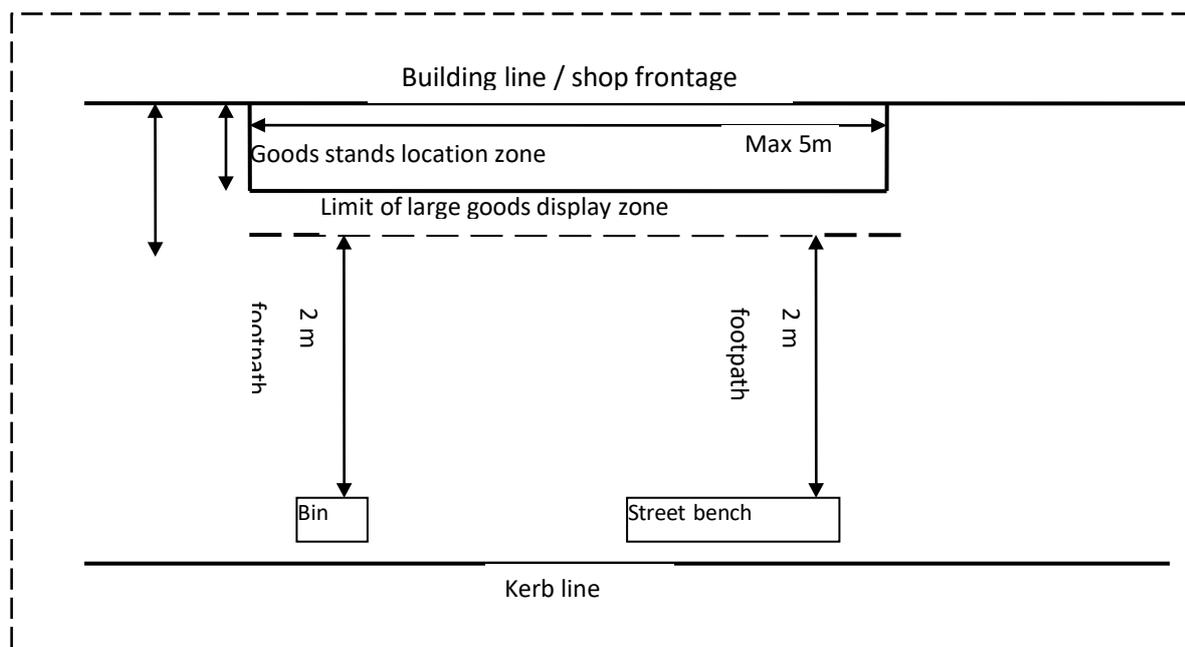
- 3.1 Subject to compliance with this Policy, the Town will permit the goods display to be located adjacent to the building line in the locations, as shown in Figure 1 and 1A. The Town may approve the display of goods, which is fully contained on an approved frame, which extends a maximum of 1 metre from the building line, to the outer face of the frame. Notwithstanding the above, the Town may also approve a goods display, where the combination of the goods on the frame and other stable goods, which have a minimum height of not less than 500millimetres, immediately in front of the frame and do not extend for more than 1 metre from the property boundary, in accordance with Figure 1A ;
- 3.2 A goods display adjacent to the building line shall maintain a 2 metre clear pedestrian access between the kerb line and the goods display, to accommodate existing structures such as litter bins, signs, posts, ticket machines and the like located adjacent the kerb line. (in exceptional circumstances, the Town may consider a lesser clearance, but in any case, a minimum clearance of not less than 1.5metres shall be provided).
- 3.3 Where a display stand is used, it shall be rigid fixed or moveable structure.

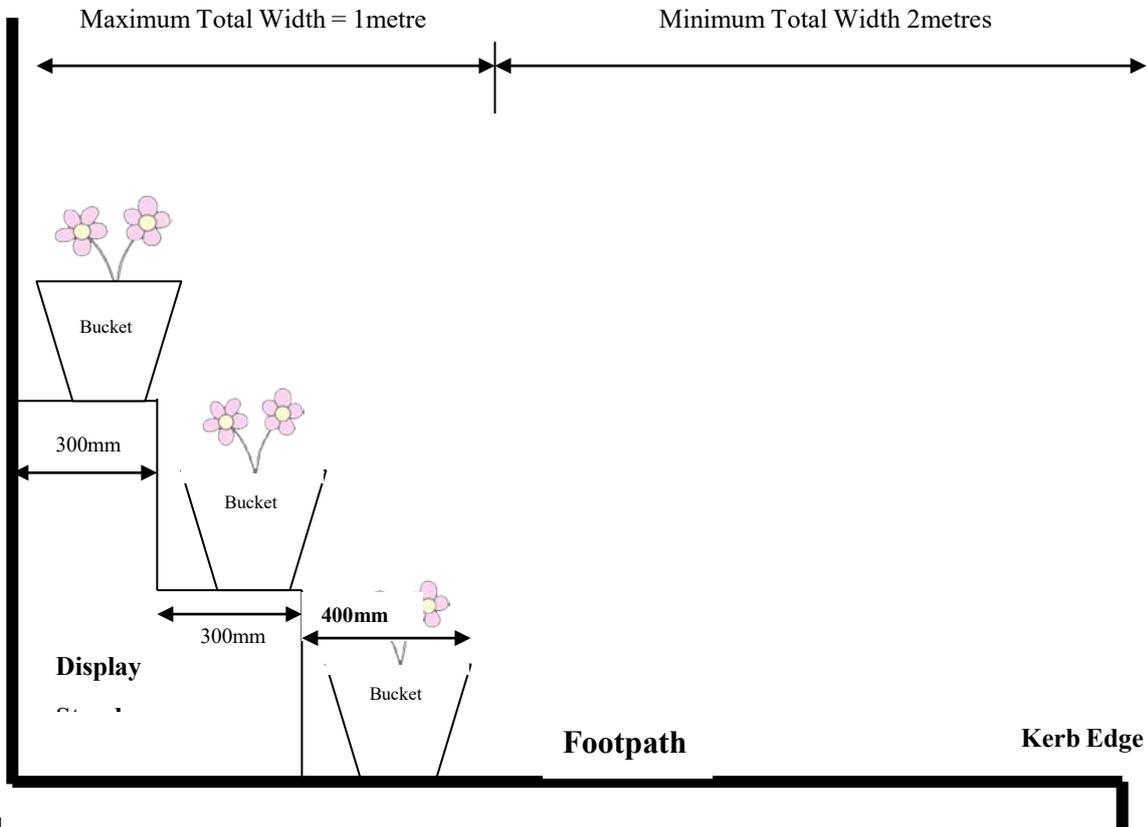
- 3.4 The frame used to display goods, or the goods themselves must have no sharp corners or protrusions, which could reasonably be expected to injure a person or damage clothing, etc. The applicant must ensure that the display frame is maintained in a condition that does not present a hazard.
- 3.5 All display structures must be removed from public areas at the close of each business day.
- 3.6 The Town may require that any furniture, barrier or other structure be removed at any time to allow street works, maintenance or cleaning to be undertaken.
- 3.7 Furniture must be maintained in good condition, and be aesthetically satisfactory and safe.

4. Trading Activity Zones:

- 4.1 Trading activity shall conform to the limits described in Figure 1 and 1A - Trading Activity Zone.
- 4.2 At all times, a minimum footpath width of 1.5 metres (and preferably 2 metres) shall be provided and maintained clear of all obstructions including light poles, parking and street signs, street bins and furniture, bus shelters, chairs, tables, pot plants and mail boxes;
- 4.3 A trading activity zone may extend to a maximum of 1 metre out from the premises boundary towards the kerb and for the width of the shop frontage up to 5 metres, excluding access doors or exits.
- 4.4 Premises having a shop frontages greater than 5 metres, excluding access doors or exits, shall be liable for an additional fee per metre per annum where an application for a permit to place goods outside a premises is for an area greater than 5 metres wide.
- 4.5 Uniformity must be maintained in sections of streets to maintain clear pedestrian access and aesthetic appeal.
- 4.6 The Town will not approve of goods or a goods display on the street frontage of adjacent business premises, unless it is provided with a copy of a written Agreement provided between the Owners/lessees of both premises.

Figure 1 – Trading Activity Zone





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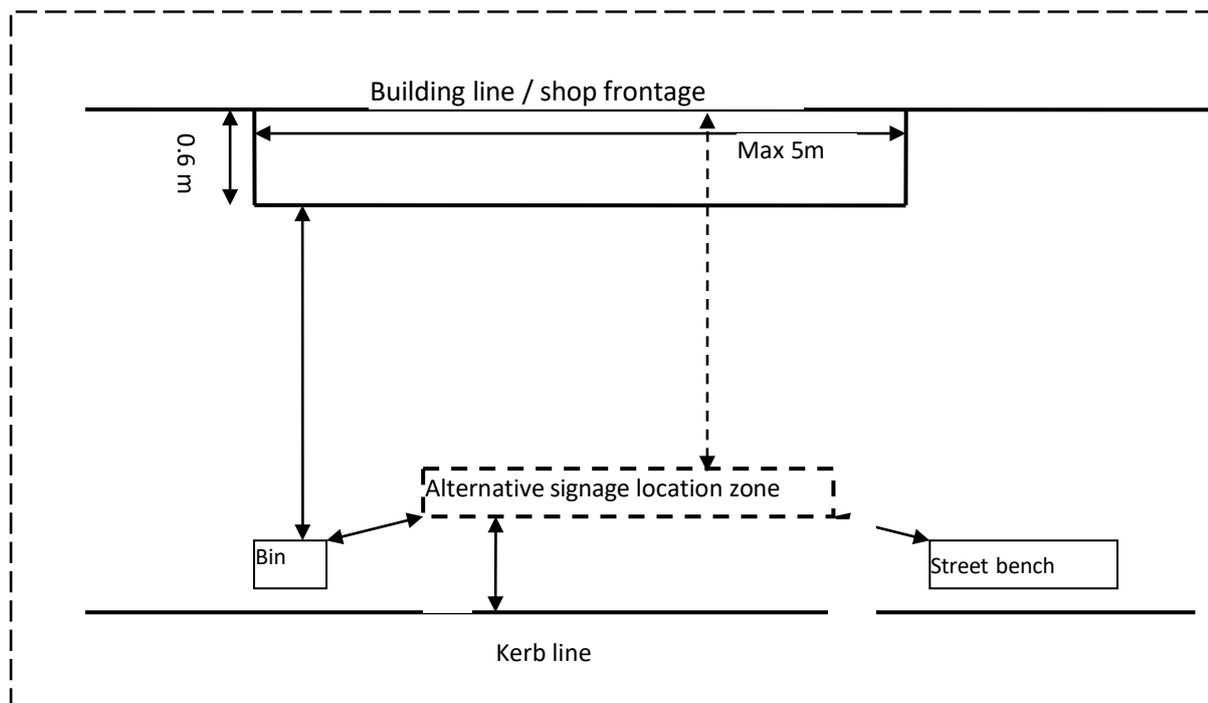
Figure 1A
Typical Goods Display with Structure

5. Advertising Signs:

- 5.1 An application for a Permit to place an advertising sign outside a business premises shall be submitted annually or three yearly (as applicable) by the proprietor of that business which fronts the footpath on which the sign is intended to be placed. Public liability insurance (in accordance with Section 9 of the policy) must be extended to include this situation of risk.
- 5.2 If approved, the Applicant will be issued with an annual or three yearly renewable Permit. All Permits will expire on 30 June in the following year, or 30 June three (3) years later.
- 5.3 In order to provide consistent unobstructed pedestrian access, advertising signs may only be displayed in the Signage Activity Zone, as detailed in Figure 2 of this policy.
- 5.4 All signs shall have a maximum size of 1 metre height and a width of 600 millimetres.
- 5.5 All permitted signs shall be readily portable, freestanding and stable, and shall not be secured to poles, trees or any other street fixture.
- 5.6 Inflatable; electrically operated or illuminated; revolving, spinning or flashing signs; flags or banners are not permitted on a footpath.
- 5.7 Advertising signs shall only be placed on the footpath outside the premises to which they relate during the normal hours of trade and must be removed on completion of trading.
- 5.8 Advertising signs shall be of a contrasting colour to their background to assist the vision impaired.

- 5.9 An advertising sign shall be at least 2 metres from a truncation, crossover or street corner.
- 5.10 Advertising signs will not be permitted on footpaths where access to a loading zone or disabled parking bay will be impeded.
- 5.11 The maximum number of signs permitted per premises is one (1). Where a business is located on a corner, one (1) sign per street frontage will be permitted.

Figure 2 – Signage Activity Zone



6. Signage Activity Zone

- 6.1 Advertising signs shall be located in conformity with the limits described in Figure 2 - Signage Activity Zone.
- 6.2 A 2 metre footpath clearance shall be provided and maintained clear of all obstructions including light poles, parking and street signs, street bins and furniture, bus shelters, chairs, tables, pot plants and mail boxes at all times (in exceptional circumstances, the Town may consider a lesser clearance, but in any case, a minimum clearance of not less than 1.5metres shall be provided).

7. Outdoor Dining

- 7.1 Outdoor dining shall only be established in conjunction with an existing approved restaurant, food premises, dining room or takeaway food business;
- 7.2 In all cases, *Council Policy 062 - Outdoor Eating Facilities (Alfresco Dining) Policy* will apply.

"Facility" means an outdoor eating facility or establishment on any part of a public place in which tables, chairs and other structures are provided for the purpose of the supply of food or drink to the public or the consumption of food";

8. Charitable Stalls, Street Appeals and Public Surveys

- 8.1 Approvals to conduct street appeals are issued by the Ministry of Fair Trading. Only official collectors shall conduct street appeals. They must produce their permit number when requested by an Authorised Person and are only permitted to collect on the day allocated;
- 8.2 A raffle, charitable stall, public survey or street appeal shall not be conducted in such a manner as to cause a nuisance or potential to create unreasonable noise or disturbance;
- 8.3 A raffle, charitable stall, public survey or street appeal shall not hinder, block or interfere with pedestrian or disabled access along any public place, or access to a place of business, or any other place.

9. Public Liability Insurance and Indemnity

- 9.1 Applicants for a Permit to display or erect a sign, goods or goods display in a public place or on public property shall provide proof of a current public liability insurance policy, noting the interests of the Council, for an amount of not less than \$10million. The policy must be able to meet any possible claim which may be sustained against the Permit holder or the Council in relation to the death or injury to any person or the damage to any property arising out of the display authorised by the Permit. A Permit holder shall maintain the required public liability insurance for the period of the permit;
- 9.2 Applicants for a Permit to display a sign, goods or goods display in a public place or on public property shall indemnify the Council against any suit, action, proceeding, judgement, claim, demand, cost, expense, loss or damage for which Council becomes or may become liable in relation to the death or injury to any person or the damage to any property caused by a display authorised by a Permit.

10. Fees and Charges

- 10.1 Fees and charges relating to the application for a Permit and the renewal of a Permit shall be set in accordance with the *Local Government Act 1995* and published in the Council's Annual Budget - Schedule of Fees and Charges.
- 10.2 Charity and 'not-for profit' organisations are fee exempt.

11. Enforcement

- 11.1 Compliance with the *Town of Cambridge Trading in Public Places Local Law 2016* will be enforced by the Town's Health and Compliance Section. Refer to Part 7, Offences and Penalties, and Schedule 1 of the *Town of Cambridge Trading in Public Places Local Law 2016* which details the modified penalties that may be issued by an Authorised Person in the event of an offence being created.
- 11.2 The Town is authorised to impound any signs, goods, goods display, outdoor eating areas furniture or other items found to be in contravention of the Town's Local Law or this Policy and/or impose an Infringement Notice and/or impose an impounding fee, as adopted by the Council in the Annual Fees and Charges, on the person or agent responsible.

- 11.3 In the event of non-compliance an Authorised Person may implement and/or recommend any of the following enforcement provisions:-
- (a) issue a written caution;
 - (b) issue an Infringement Notice;
 - (c) impound the sign, goods, goods display or other structures and/or impose an impounding fee;
 - (d) recommend that the Permit be cancelled;
 - (e) recommend a Notice be issued, requiring remedial action or works to remedy a breach of any provision of a Permit and may specify a time frame; or
 - (f) recommend that prosecution proceedings be implemented.