

Outdoor Dining Permit

Use of a Public Road for Business Purposes
Pursuant to section 222 of the *Local Government Act 1999*

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www.victor.sa.gov.au

Please complete this form in **BLOCK LETTERS** and return to the City of Victor Harbor by:

Post: PO Box 11, Victor Harbor SA 5211
Email: localgov@victor.sa.gov.au
In person: 1 Bay Road, Victor Harbor

To avoid delays, please ensure the application form is completed with all requested documentation attached and **payment of the \$35.00 application / renewal fee** plus cost per table and chair is received.

Outdoor Dining Permits are issued on an annual basis from 1 September to the following 31 August.

Please select applicable option (✓): **New Application** **Renewal Application**

Applicant Details

Applicant Name: _____
(Title) (First Name) (Last Name)

Postal Address: _____

Contact Details: Phone: _____ Email: _____

Permit Details

Business Name: _____ ABN: _____

Business Address: _____ Business Phone: _____

Is Liquor being served? Yes No If yes, do you have a Liquor Licence Yes No

Customer seating capacity inside the premises: _____ Are toilets available for patrons: Yes No

Operating Times	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Opening Time							
Closing Time							

Number of proposed Structures -

Tables- moveable @ \$24.50 each	Tables – fixed @ \$24.50 each	Chair – moveable @ \$13.50 each	Chairs – fixed @ \$13.50 each	Umbrellas	Planters inc dimensions

Other outdoor dining objects: _____

Please provide support documentation that includes (basic site plan included on page 5 to assist with identifying the following details):

- A site plan that identifies the proposed street, footpath clearances and setbacks
- Graphic representation (photograph or drawing) of proposed furniture including number of structure/s.
- Dimensions of furniture such as height, width & depth

Any other details required by the Council

Development approval may be required for new or any extension to existing areas.

Outdoor Dining Permit Terms & Conditions

1. Permitted Use

The Permit authorises the Applicant named above (the 'Permit Holder'), in connection with the Business named above, to undertake Outdoor Dining on a Council footpath, subject to these terms and conditions.

2. Permit Area

The Permit applies in relation to the public footpath area as described in the Outdoor Dining / Street Trading Policy & Outdoor Dining Guidelines and the specific area approved as provided on the supporting site plan.

3. Nature of Permit

3.1. The Permit does not take effect until:

- 3.1.1. the Permit has been approved and signed by the Council and a copy returned to the Permit Holder; and
- 3.1.2. all Permit fees have been paid by the Permit Holder; and
- 3.1.3. the Permit Holder has provided a copy of a current certificate of public liability insurance for the sum of \$20,000,000.

3.2. The permit period will expire on the 31 August. Subsequent Permits will be issued on an annual basis for the period 1 September to 31 August the following year.

3.3. The Permit applies in relation to the hours that the business premises is open to the public, and must not be outside trading hours.

3.4. The Permit does not confer on the Permit Holder any exclusive right, entitlement or proprietary interest in the Permit Area and does not derogate from the Council's powers under the *Local Government Act 1999* or any other legislation.

3.5. The Permit is personal to the Permit Holder and is not transferrable.

3.6. The Council may vary the Permit Conditions at any time by notice in writing to the Permit Holder.

4. Expiry

4.1. Subject to clause 6, the Permit expires on the earliest of the following dates:

- 4.1.1. the 31 August of each year;
- 4.1.2. the date that the Permit Holder ceases to hold an insurance policy as required by clause 7; or
- 4.1.3. the date that the Permit Holder, by notice in writing to the Council, surrenders this Permit.

- 4.2. In the event the Permit is cancelled by the Council prior to its expiration or the Permit Holder ceases using the Permit Area for outdoor dining (for any reason whatsoever), there shall be no adjustment, reduction or refund by the Council of the Permit fees paid.

5. Permit Fee

- 5.1. The Permit Holder shall pay the Permit Fee as per Council's schedule of fees & charges. ***Permit fee includes application / renewal fee of \$35.00 plus amount per table and chair.***

6. Cancellation

- 6.1. Pursuant to section 225 of the *Local Government Act 1999*, the Council may, by notice in writing to the Permit Holder, cancel the Permit for any breach of these Terms and Conditions. The Council will give at least one month's notice to the Permit Holder of a proposed cancellation (unless a shorter timeframe is required to protect the health or safety of the public or to protect the public interest) and will have regard to any comments from the Permit Holder regarding the proposed cancellation.
- 6.2. Within 14 days of the cancellation or surrender of the Permit all infrastructure including but not limited to fixtures, fittings and furniture associated with the outdoor dining area must be removed and the Permit Area reinstated to the Council's satisfaction at the Permit Holder's expense. In the event the Permit Holder fails to comply with the Permit Holder's obligation under this clause, the Council may remove fixtures, fittings and furniture and undertake the necessary reinstatement works and recover the costs and expenses incurred as a debt from the Permit Holder.

7. Insurance

- 7.1. The Permit Holder must take out and maintain during the term of the Permit a public liability insurance policy for a minimum amount of twenty million dollars (\$20,000,000.00) per claim.
- 7.2. The policy must be in respect of injury, loss or damage occurring in connection with the Permit Holder's use and/or occupation of the Permit Area and must note the Council's rights and interest as owner of the Permit Area and the indemnities provided by the Permit Holder in favour of the Council.
- 7.3. The Permit Holder must provide a copy of the Permit Holder's current certificate of insurance evidencing compliance with this clause within 48 hours of a request by the Council.

8. Indemnity

- 8.1. As a continuing obligation and except to the extent caused by the Council's negligence, the Permit Holder indemnifies and will keep indemnified the Council (including its employees, servants and agents) from and against all actions, costs, claims, damages, charges and expenses whatsoever that may be brought, made or claimed against or otherwise incurred by the Council (or its employees, servants and agents) arising out of or in relation to the Permit having been issued by the Council and/or the actions or omissions of the Permit Holder and/or the Permit Holder's agents, contractors, employees and invitees in the Permit Area.
- 8.2. The Permit Holder releases the Council from any liability or claim resulting directly or indirectly from any accident, damage or injury occurring as a result of the Permit Holder's use of the Permit Area or the use of the Permit Area by the Permit Holder's agents, contractors, employees and invitees

9. Permit Holder's Obligations

- 9.1. The Permit Holder must, at the Permit Holder's cost and expense in all things, comply with all applicable laws and all Council directions in relation to the Permit Holder's use of the Permit Area. This includes (but is not limited to) a direction from a Council officer to remove furniture and other items from the Permit Area to enable the Council to undertake any maintenance or repair works.
- 9.2. The Permit must be made available for inspection upon request by a Council officer.
- 9.3. The Permit Holder must not cause, suffer or permit any damage to Council land or property. The Permit Holder is liable to pay to the Council the costs of making good any damage caused to Council land or property in connection with the outdoor dining activities authorised by this Permit. This includes the cost of any pavement repairs or cleaning that the Council considers to be necessary by reason of the Permit Holder's use of the Permit Area, which costs the Council may recover as a debt from the Permit Holder
- 9.4. All structure, fittings and furniture used in connection with the Permitted Use must be approved by the Council and must be positioned in accordance with any written directions issued to the Permit Holder by the Council.
- 9.5. The Permit Holder must not make alterations to the Permit Area (including but not limited to by fixing furniture to the road and/or installing café screens, blinds, awnings or similar structures) without the prior written consent of the Council.
- 9.6. The preparation of food and/or drink must not occur in the Permit Area.
- 9.7. The Permit Holder must ensure that at all times:
 - 9.7.1. all food and drink supplied in the Permit Area is only served to patrons who are seated at tables (unless exempt through Permit Holders Liquor Licence);
 - 9.7.2. all patrons consuming food and drink in the Permit Area are seated (unless exempt through Permit Holders Liquor Licence); and
 - 9.7.3. crockery, cutlery and glassware is only provided to patrons in the Permit Area in connection with the service of food and/or drink and that such crockery cutlery and/or glassware is removed immediately upon the departure of the patron.
- 9.8. The Permit Holder must not cause any unreasonable disturbances or nuisance to users of land adjacent to the permit area or to vehicles or pedestrians using the permit area.
- 9.9. The Permit Holder must maintain the Permit Area in a clean and tidy state that is free from rubbish throughout the day and at the close of business each day.

10. Alcohol

Subject to the *Liquor Licensing Act 1997*, the Permit Holder must not sell or serve alcohol in the Permit Area without the prior written consent of the Council and a current liquor licence.

11. Smoking

From 1 July 2016, smoking is banned in outdoor dining areas in South Australia under section 52 of the *Tobacco Products Regulation Act 1997*. This includes outdoor dining areas at venues such as pubs, cafes, restaurants, fast food outlets and temporary eateries at events.

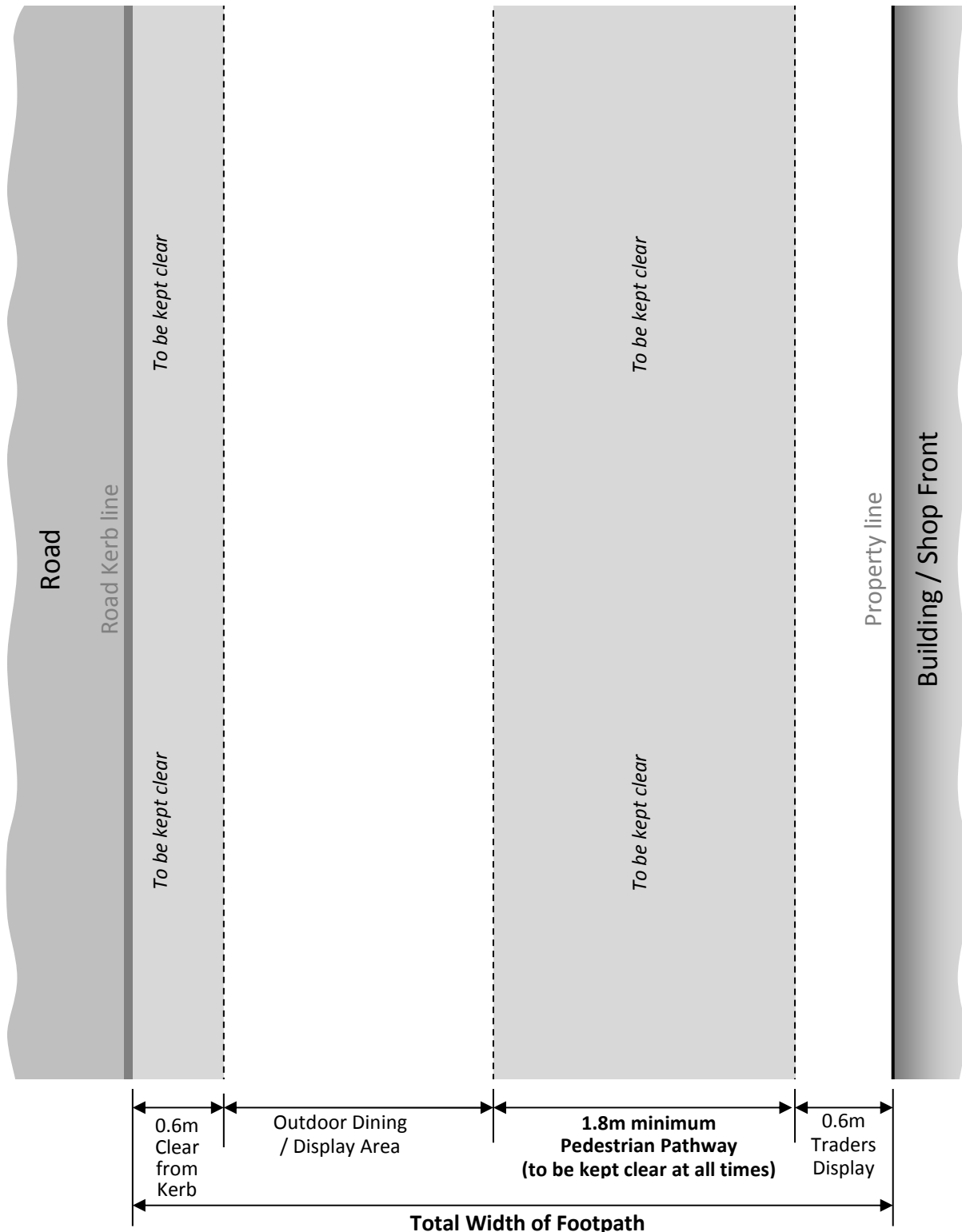
Under this legislation *no smoking* signage must be displayed in such numbers and positions of prominence that are likely to be seen by people within the area.

Supporting Information

Please include:

- Completed site plan identifying the proposed street, footpath clearances and setbacks
- Graphic representation (photograph or drawing) of proposed furniture including number of structure/s.
- Dimensions of furniture such as height, width & depth

Site Plan



12. Legislation

Using the footpath for business purposes without a Permit issued by Council is an offence under the Local Government Act 1999 that carries a maximum penalty of \$2,500 or an expiation fee of \$210. Should you use part of the footpath for business purposes that is outside your approved Permit boundaries shown on your approved plan you have committed an offence (no Permit).

Applicant Acknowledgement

I/We agree and acknowledge that:

- **The above information is true and correct and I/we have read, understand and agree to be bound by the Council's Outdoor Dining / Street Trading Policy and the Permit Terms & Conditions set out herein including any Development conditions relating to this application; and**
- **A copy of a current certificate of public liability insurance for a sum of \$20,000,000 (twenty million dollars) in respect of a policy that complies with the requirements of clause 7 of the Permit Terms & Conditions is attached.**
- **The Permit Holder takes responsibility for safety and compliance with the Disability Discrimination Act 1992.**
- **I/we understand that development approval may be required for new or increased outdoor dining areas.**

Sign: _____ **Print name:** _____

Position Held: _____ **Date:** _____

<i>Office Use Only</i>	GL 68097 - 830
Council hereby grants a Permit to the Applicant subject to the Terms and Conditions herein.	
Permit valid:	From: <u>1/9/2020</u> to: <u>31/8/2021</u> Permit # _____
Fee paid date:	_____ Amount paid: _____ Receipt number _____
Supporting Documents Received including D/A approval (if required):	<input type="checkbox"/> Yes <input type="checkbox"/> No
Special conditions:	_____ _____
Approved by the Chief Executive Officer or Delegate	
Signature:	_____ Date: _____