

GOLD COAST CITY COUNCIL



LOCAL LAW POLICY No. 11

(ROADS AND MALLS)

REPEALED (GAZETTED 19/12/08)

**GOLD COAST CITY COUNCIL
LOCAL LAW POLICY NO. 11 (ROADS AND MALLS)**

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GOLD COAST CITY COUNCIL LOCAL LAW POLICY NO. 11 (ROADS AND MALLS)

PART 1 – ALTERATIONS & IMPROVEMENT TO COUNCIL ROADS

Division 1 – Other Information and materials

Purpose of Part:

To prescribe other information and materials required by Council when making a permit application to alter or improve a Council road;

Authorising provision of Local Law:

Section 21(e)

Other Information and materials

1. In addition to the other information and materials required under the Local Law applicants must: -

- (a) Use the prescribed form and attach any necessary drawings and specifications;
- (b) Supply any other relevant information requested.

Division 2 – Specify Criteria

Purpose of Part:

To specify criteria with which a proposed alteration or improvement to a Council road must comply.

Authorising provision of Local Law:

Section 22(2)

Criteria

2. (1) The criteria for assessing permit applications shall include but not be limited to -

- (a) That the alterations and/or improvements will not unduly obstruct pedestrian or vehicular traffic; and
- (b) That the alterations and/or improvements will not prejudice the safety of pedestrian or vehicular traffic; and
- (c) That the alterations and/or improvements will not prejudice the maintenance of a public road.

(2) Notwithstanding the above, Council may approve a permit application if it considers the alteration or improvement will substantially increase the commercial activity or the amenity of the area.

Division 3 – Prescribe Conditions

Purpose of Part:

To prescribe conditions that will ordinarily be imposed in a permit to alter or improve a Council road.

Authorising provision of Local Law:

Section 23(3)

Conditions

3. Conditions ordinarily imposed¹ may include but shall not be limited to:-

- (a) Specific precautions to prevent or minimise obstruction to traffic or risk of personal injury or damage to property including any precautions specified in the *Manual of Uniform Traffic Control Devices 1995* or any other requirements of Traffic Engineering Section of the Department of Main Roads or the like entity or authority and including the payment of any bond or security deposit;
- (b) Obligations on the holder of the permit to clear and maintain the road in the vicinity of the alterations and/or improvements for the duration of the period of alteration and improvement;
- (c) Obligations on the holder of the permit to maintain the altered or improved road in good order and ensure its safe use;
- (d) A requirement that the permit holder give the Council an indemnity in respect of all claims for damage to property and/or personal injury arising out of any activity for which the permit is granted;
- (e) A requirement that the permit holder shall effect and maintain in force at all times a Public Liability Insurance Policy noting Council's interests as an insured party in respect of the purpose for which the permit is granted. The Sum Insured of such Policy shall be not less than \$5,000,000 or such other amount as determined an authorised person.
- (f) Evidence of the Public Liability Insurance Policy and of Council's receipt of any bond or security deposit must be presented to the Authorised Person prior to the permit being granted.

PART 2 – PROHIBITED CONDUCT ON FOOTWAYS

Division 1 - Prohibitions & Exemptions

Purpose of Part:

To prohibit the riding or use of certain vehicles on particular footways¹ and to provide for particular circumstances where prohibitions do not apply.

¹ Section 38 of the Local Law prohibits the riding or use of toy vehicles in pedestrian malls and the riding or use of bicycles excepting where a bicycle is being walked to a bicycle rack.

Authorising provisions of Local Law:

Section 26(1) and (2)(c)

Power Assisted Vehicles

4 The riding or use of power assisted bicycles, tricycles or power-assisted cycles are prohibited on footways excepting where the vehicle is a motorised wheelchair conveying a disabled person.

Toy vehicles

5 The riding or use of toy vehicles is prohibited:-

- (a) on footways where a pedestrian is within 10 metres in any direction of the toy vehicle on the footway; and
- (b) on walls, gutters, stairs, furniture, fixtures or fittings.

Bicycles or tricycles

- 6 (1) The riding or use of bicycles or tricycles on footways shall be permitted (unless otherwise prohibited or restricted by official traffic sign) and riders must give way to pedestrians.
- (2) On footways where the riding or use of bicycles or tricycles is permitted but shared with other pedestrians, riders must give way to pedestrians.
- (3) On footways where the riding or use of bicycles or tricycles is permitted, rider shall not ride on walls, stairs, furniture, fixtures or fittings on or forming part of the footway (including gutters but excluding driveways).

PART 3 – REGULATED PURPOSES***Division 1 – Other Regulated Purposes Specified*****Purpose of Part:**

To specify regulated purposes in addition to those specified in Section 25 of *Local Law No. 11 (Roads and Malls)*.

Authorising provision of Local Law:

Section 28 (2)(e)

Additional regulated purposes

7. The following purposes are regulated purposes and are in addition to those specified in Section 25 of *Local Law No. 11 (Roads and Malls)*: -

- (a) placing of tables, chairs or dining apparatus on roads, footways or in malls or pedestrian malls;
- (b) human or animal powered vehicles carrying passengers;
- (c) performing, busking or promoting any form of entertainment with or without

- the playing of musical instruments;
- (d) lighting or keeping a fire on roads, footways or pedestrian malls;
 - (e) occupying or to sleeping or attempting to sleep in or on a road, footway or pedestrian mall and whether or not in a tent, caravan or vehicle;
 - (f) placing lines, cords, poles, or posts in a road, footway or in a pedestrian mall.

PART 4 – PERMIT APPLICATIONS – REGULATED PURPOSES GENERALLY

Division 1 - Other Information and materials

Purpose of Part:

To prescribe such other information and materials required accompanying all applications for permits to use a Council road for a regulated purpose

Authorising provision of Local Law:

Section 29(c)

Other information and materials

8. All applications for a regulated purpose permit shall be in writing using the prescribed form and shall include such other information or documents requested to substantiate the facts stated in the application.

Division 2 – Specify Criteria

Purpose of Part:

To specify criteria for the grant of all permits authorising the use of a Council road for a regulated purpose.

Authorising provision of Local Law:

Section 30 (2)

Criteria

9. (1) In assessing all applications for approval of a permit for any regulated purpose Council shall have regard to the following criteria: -

- (a) The probable effect and any particular effect on:
 - (i) Appearance and visual impact of an area;
 - (ii) Heritage significance of an area;
 - (iii) Streetscaping and vegetation (present or to be constructed or planted in the future);
 - (iv) Any possible risks to public safety that might arise;
 - (v) Possible interference with use of the road or access to adjoining properties;
 - (vi) Council's plans for development of the area;
 - (vii) Other aspects of the amenity of the area.

- (b) The number of tourists and visitors in the locality or area of the proposed activity;
- (c) The time of operation or trading hours of the applicant;
- (d) Where applicable, any licensing requirements under other laws;
- (e) Any comments and/or objections to the proposed regulated purpose;
- (f) Objections made or from the Department of Main Roads or any other governmental or statutory authority;
- (g) Any other relevant matters.

(2) Notwithstanding the above, Council may approve a permit application if it considers the regulated purpose will substantially increase the commercial activity or the amenity of the area.

PART 5 – STATIONERY ROADSIDE VENDING²

Division 1 – Other Information Materials – Stationery Roadside Vending

Purpose of Part

To prescribe such other information and materials required accompanying an application for a permit to use a Council road for the regulated purpose of stationery roadside vending.

Authorising Provision of Local Law:
Section 29(c)

Information and materials required

10. The following information and materials are required:

- (a) Details of the area within the City where it is proposed to erect or place the stationery roadside vending structure, vehicle or equipment;
- (b) If required, provide a plan and/or specifications of the stationery structure, vehicle or equipment and any vehicles associated with the stationery roadside vending activity.
- (c) Details of the type goods to be sold or services to be provided.

Division 2 – Specify Criteria – Stationery Roadside Vending

Purpose of Part:

To specify criteria for the grant of a permit authorising the use of a Council road for stationery roadside vending.

² “Roadside Vending” is defined in Section 9 of the Traffic Act to mean:

- (a) the commercial supply of goods or services from a place on a road; or
- (b) The setting upon, or bringing onto, a road of a stall, vehicle, equipment or other thing for the commercial supply of goods or services but does not include roadside vending for a religious, charitable, education or political purpose.

Authorising provision of Local Law:

Section 30(2) and subject to Section 30(3)

Criteria

11. (1) In assessing an application for the granting of a permit for the regulated purpose of stationery roadside vending Council shall have regard to the following criteria: -

- (a) Where food of any description is sold its possible contamination or spoiling from any source or cause whatsoever;
- (b) Objections from any person whose property may adjoin or be adjacent to the location of the proposed stationery roadside vending activity;
- (c) The suitability of the proposed stationery roadside vending activity having regard to the distance from any carriageway and entry and exit to the proposed location;
- (d) The type of goods to be sold or services to be provided.

(2) Notwithstanding the above, Council may approve a permit application if it considers the roadside vending will substantially increase the commercial activity or the amenity of the area.

Division 3 - Conditions - Stationery Roadside Vending

Purpose of Part:

To prescribe conditions that will ordinarily be imposed in a permit authorising the use of a Council road for the regulated purpose of stationery roadside vending.

Authorising provision of Local Law:

Section 31(3)

Conditions ordinarily imposed

12. The following conditions will ordinarily be imposed in a permit authorising the use of a Council road for the regulated purpose of stationary roadside vending.

- (a) No signs advertising the products to be sold shall be displayed on any road or on any land under the control of the Council unless approved under *Local Law and Local Law Policy No. 7 (Control of Advertising Devices)*;
- (b) Any structure, vehicle or equipment approved shall display the stationery roadside vending licence number legibly written on each external side thereof in numbers not less than 50mm in height;
- (c) No stationery roadside vending structure, vehicle or equipment shall be permitted to trade within 5 kilometres of a retail shop or other commercial premises selling or providing the same or similar products or services or within 5 kilometres of another stationery roadside vendor.

PART 6 – MOBILE ROADSIDE VENDING (WAVING DOWN)

Division 1 – Other Information and Materials – Mobile Roadside Vending (Waving Down)

Purpose of Part

To prescribe such other information and materials required accompanying an application for a permit to use a Council road for the regulated purpose of mobile roadside vending (waving down).

Authorising Provision of Local Law:

Section 29(c)

Information and materials required

13. The following information and materials are required:

- (a) Details of the area within the City in which it is proposed to conduct the mobile roadside vending (waving down);
- (b) Plan and specifications of vehicle, structure or equipment from which the roadside vending (waving down) activity is to be conducted;
- (c) Details of type of goods to be sold or services to be provided.

Division 2 - Specify Criteria- Mobile Roadside Vending (Waving Down)

Purpose of Part:

To specify criteria for the grant of a permit authorising the use of a Council road for mobile roadside vending (waving down)

Authorising provision of Local Law:

Section 30(2) and subject to Section 30(3)

Criteria

14. (1) In assessing an application for the granting of a permit for the regulated purpose of mobile roadside vending (waving down) Council shall have regard to the following criteria: -

- (a) Where food of any description is sold its possible contamination or spoiling from any source or cause whatsoever;
- (b) The impact on the availability of regulated parking for other road users;
- (c) Whether adequate warning will be given to other road users of the presence of children.

(2) Notwithstanding the above, Council may approve a permit application if it considers the mobile roadside vending (waving down) will substantially increase the commercial activity or the amenity of the area.

Division 3 - Conditions – Mobile Roadside Vending (Waving Down)

Purpose of Part:

To prescribe conditions that will ordinarily be imposed in a permit authorising the use of a Council road for the regulated purpose of mobile roadside vending (waving down)

Authorising provision of Local Law:

Section 31(3)

Condition ordinarily imposed

15. The following conditions that will ordinarily be imposed in a permit authorising the use of a Council road for the regulated purpose of roadside vending (waving down).

- (a) That the vehicle can only remain stationary for the duration of the sale of goods or provision of the services to consumers;
- (b) That no signs advertising the products to be sold or the services to be provided shall be displayed on any road or on any land under the control of the Council;
- (c) That any vehicle approved shall display the mobile roadside vending (waving down) licence number legibly written on each external side thereof in numbers not less than 50mm in height.
- (d) The customers must be served from the non-traffic or kerbside of the vehicle;
- (e) That approval given to one person or extending to a particular vehicle to operate as a mobile roadside vendor (waving down) shall not be transferable to another person, legal entity or vehicle without further application;
- (f) That no mobile roadside vendor (waving down) shall be permitted to trade within 500 metres of a retail shop selling the same or similar products or providing similar services.

PART 7 – TABLES & CHAIRS AREA PERMITS

Division 1 – Other Information and Materials – Area Permits

Purpose of Part:

To prescribe such other information and materials required and to accompany an application for an area permit to use a Council road for the regulated purpose of the placing of tables, chairs or dining apparatus on roads, footways or in malls or pedestrian malls.

Authorising provision of Local Law:

Section 29(c)

Other Information & Materials – Area Permits

16. The following information and materials are required to accompany an application for an area permit:

- (a) Full details of the area to be used for the placement of tables and chairs or dining apparatus;

- (b) Dimensions of the area, placement of tables and chairs and intended footways and including details of any public utilities, for example, street lighting, fire hydrants, access holes, inspection chambers, kerb ramps, pedestrian crossings;
- (c) Where on a declared road, a letter of approval from Queensland Transport;
- (d) Any other information relevant to public safety and convenience requested by an Authorised Person.

Division 2 - Conditions – Tables & Chairs Area Permits

Purpose of Part:

To prescribe conditions that will ordinarily be imposed in an area permit authorising the use of a Council road for the regulated purpose of the placing of tables, chairs or dining apparatus on roads, footways or in malls or pedestrian malls.

Authorising provision of Local Law:

Section 30(2)

Conditions – Safety and Ordinary

17. The following conditions that will be imposed in an area permit authorising the use of a Council road for the regulated purpose of the placing of tables, chairs or dining apparatus on roads, footways or in malls or pedestrian malls.

- (1) Safety Conditions:
 - (a) That a minimum clearance of 2 metres and in the case of Orchid Avenue, Surfers Paradise a minimum clearance of 2.3 metres is to be maintained and must be kept clear at all times;
 - (b) That the set back from any part of the kerb in all cases is to be a minimum of 500mm;
 - (c) Only the area delineated by pavement markers on the footway shall be used for the regulated purpose. The delineated area shall be located directly in front of that part of the ground floor of the building occupied by the applicant and be perpendicular to the front alignment of the occupied part of the building measured from the internal sidewalls. Where the application of this provision results in an unoccupied area of footway one half of the area may be allocated to the applicant applying for the permit;
 - (d) Any approved ancillary equipment must be of a satisfactory standard or maintained in good repair to the satisfaction of the Authorised Person;
 - (e) Any approved ancillary equipment must be removed from the footway at the end of the permitted time each day;
 - (f) No structure may be fixed to the pavement unless approved by the Department of Natural Resources and shall not be permitted unless evidence of the approval is provided in writing to an Authorised Person;

(g) Any approved ancillary equipment including any umbrella shall be suitably weighted to prevent becoming airborne and provide a minimum head clearance of 2.1 metres.

(2) Ordinarily Imposed Conditions:

(a) That the permit expires on the date specified unless sooner revoked or cancelled;

(b) That the area can only be occupied during the specified times;

(c) That payment of permit fees (calculated on a square metre area basis) shall be paid on or before the due date specified;

(d) That the permit area be kept clean, neat and litter free and in good condition at all times;

(e) That no goods or materials for sale shall be stored or displayed at any time;

(f) That the holder must not permit or cause:

(1) an environmental nuisance within the meaning of *Environmental Protection Act 1994*; or

(2) an unreasonable noise within the meaning of the *Environmental Protection (Noise) Policy 1999*;

(g) That live entertainment or amplified music systems not be permitted on or above the footpath or positioned so that the music is directed towards the footpath without prior approval of the Authorised Person;

(h) That any approved ancillary equipment or other thing must not inhibit the effectiveness of any traffic sign or control devices;

(i) That usage of the area approved shall not inhibit access to public utilities such as fire hydrants, access holes or inspection chambers and shall not inhibit access to kerb ramps or pedestrian crossings (including the path travelled to kerbs ramps or pedestrian crossings);

(j) That the Regulated Purpose Area Permit shall be clearly visible during the trading hours of the permit;

(k) That the approval be subject to any requirements that may be necessary in the event of construction or improvement to nearby roads;

(l) That the area permit holder shall be responsible for the costs of pavement repairs over and above the costs associated with normal wear and tear;

(m) A requirement that the permit holder give the Council an indemnity in respect of all claims for damage to property and/or personal injury arising out of any activity for which the permit is granted;

(n) A requirement that the permit holder shall effect and maintain in force at all times a Public Liability Insurance Policy noting Council's interests as an insured party in respect of the purpose for which the permit is granted. The Sum Insured of such

Policy shall be not less than \$5,000,000 or such other amount as determined by an authorised person;

- (o) Evidence of the Public Liability Insurance Policy must be presented to the Authorised Person prior to the permit being granted.

PART 8 – HUMAN OR ANIMAL POWERED VEHICLES CARRYING PASSENGERS

Division 1 - Other Information & Materials

Purpose of Part

To prescribe such other information and materials required accompanying all applications for a permit to use a Council road for the regulated purpose of a public passenger service provided by a human or animal powered vehicle.

Authorising Provision of Local Law:
Section 29(c)

Other information and materials

18. (1) The application must -

- (a) provide details of the vehicle including type, specifications and a statement by the owner that the vehicle complies with the provisions of either Part 4 or Part 5 of the *Traffic Regulation 1962*;
- (b) Provide details of the animal(s) to be used, including their condition and fitness supported by veterinary certificate(s) and details as to where the animal(s) are stabled and copies of the relevant approvals for the use of those premises as stables;
- (c) Specify the primary location for pick-up of passengers;
- (d) Hours of operation;
- (e) Provide details of the owner of the vehicle;
- (f) Provide the name, address and contact telephone number of the person or persons who will be driving the vehicle and provide details of their experience in operating such vehicle(s).

Division 2 – Specify Criteria – Human Or Animal Powered Vehicles Carrying Passengers

Purpose of Part:

To specify criteria for the grant of a permit authorising the use of a Council road for the regulated purpose of a public passenger service provided with a human or animal powered vehicle carrying passengers.

Authorising provision of Local Law:

Section 30(2)

Criteria

19. In assessing an application for approval for permits for public passenger service provided with human or animal powered vehicles Council shall have regard to the following criteria: -

- (a) Suitability of the vehicle(s) for the purpose and state of cleanliness or repair;
- (b) General condition and/or fitness of the vehicle and/or animal(s);
- (c) Condition of the person riding or controlling the vehicle or type of animal(s);
- (d) Any unreasonable adverse impact upon the amenity and efficiency of the City's roads, including the ability of business people, residents, tourists and visitors to enjoy, use and traverse such roads particularly having regard to the following:
 - (i) The existing and likely future nature and amenity of the area wherein the activity is proposed.
 - (ii) The existing and likely future level of pedestrian traffic, other human activity, number of tourists and visitors, the nature and number of businesses and people conducting business and any adverse impact upon the efficient operation of nearby commercial premises in the proposed locality.
 - (iii) The proposed route, hours of operation, adequacy of service including the need for the applicant, servant or agent to at all times to remain suitably attired and conduct themselves in a proper and polite manner.
- (e) Whether the applicant has any previous history or record of non compliance with the local law, any similar but now repealed local law or any similar law made in another jurisdiction, whether or not the applicant has been convicted of an offence under any such law.

(2) Notwithstanding the above, Council may approve a permit application if it considers the human or animal powered passenger service will substantially increase the commercial activity or the amenity of the area.

Division 3 - Conditions – Human or Animal Powered Passenger Vehicles

Purpose of Part:

To prescribe conditions that will ordinarily be imposed in a permit authorising the use of a Council road for the regulated purpose of a public passenger service provided with a human or animal powered vehicle.

Authorising provision of Local Law:
Section 31(3)

Ordinarily Imposed Conditions

20. These following conditions shall be ordinarily imposed:-

- (a) That the vehicle to be kept clean, safe and fit for the conveyance of passengers to the satisfaction of an Authorised Person.
- (b) Comply with all relevant statutes, local laws and local law policies at all times;
- (c) That a driver of a vehicle must not cause or allow any undue obstruction to vehicular or pedestrian traffic.
- (d) That the pick-up and set-down areas to be kept clean to the satisfaction of an Authorised Person;
- (e) That the driver of any animal drawn vehicle to:
 - (i) ensure that appropriate measures be taken to prevent manure dropping onto any road; and
 - (ii) remove any manure that drops onto a road;
- (f) That a schedule setting out the arrangements for pick-up and set-down of passengers and the location of pick-up and set-down areas be provided to an Authorised Person in writing;
- (g) That a driver be at all times within such a distance from the vehicle so as to be able to maintain adequate control over the vehicle and/or animal(s);
- (h) That animal(s) be in a fit condition and veterinary certificates verifying that the proposed operations are within the capabilities of the animal(s) be provided to an Authorised Person;
- (i) That the name, current address and telephone contact number of the owner and driver(s) be prominently displayed on both sides of the vehicle at all times;
- (j) That the permit be permanently displayed in a conspicuous location on the vehicle;
- (k) That the permit expires on the date specified unless sooner revoked or cancelled;
- (l) That any driver or person in control of the vehicle be the holder of a current Australian open licence;
- (m) A requirement that the permit holder give the Council an indemnity in respect of all claims for damage to property and/or personal injury arising out of any activity for which the permit is granted;
- (n) A requirement that the permit holder shall effect and maintain in force at all times a Public Liability Insurance Policy noting Council's interests as an insured party in respect of the purpose for which the permit is granted. The Sum Insured of such Policy shall be not less than \$5,000,000 or such other amount as determined by an authorised person.

- (o) Evidence of the Public Liability Insurance Policy must be presented to the Authorised Person prior to a permit being granted.

PART 9– PEDESTRIAN MALLS

Division 1 - Contents of Applications

Purpose of Part

To prescribe the contents of applications for approval of vehicles and the material to accompany such applications.

Authorising provisions of Local Law

Section 40(2) & (3)

Contents of Applications

21. An Application for an approved vehicle shall be in writing, in the prescribed form and contain the following:

- (a) the name, address and telephone contact number of the applicant and, if the applicant is a body corporate or a partnership, the name, address and telephone contact number of an individual who is authorised by the applicant to act on its behalf; and
- (b) full details of the proposed place or places for which approval is sought to be granted; and
- (c) in the case of delivery vehicles, evidence that the vehicle is regularly used to deliver goods or pick up goods from premises adjacent to a pedestrian mall; or
- (d) In the case of service vehicles, evidence that the vehicle is regularly used to provide services to premises adjacent to a pedestrian mall.
- (e) In the case of special vehicles, evidence that the vehicles are used for a special purpose in connection with premises adjacent to a pedestrian mall..

PART 10 – PERMITS FOR ANIMALS IN MALLS

Division 1 - Other Information & Materials

Purpose of Part:

To prescribe other information and materials required by Council when making an application for a permit to take or have in custody or control of an animal in a pedestrian mall.

Authorising provision of Local Law:

Section 45(2)(b)

Information Required

22. All applications for permits shall be in writing on the prescribed form supplied by Council together with the following information:

- (a) the name, address and telephone contact number of:
 - (1) the owner of the animal(s);
 - (2) the person or persons who will control the animal(s);
- (b) details of activities involving the animal(s);
- (c) Where applicable, evidence prior to a permit being granted must be produced to an authorised person, that the permit holder has effected and maintains Public Liability Insurance noting Council's interests as an insured party in respect of the purpose for which the permit is granted. The Sum Insured of such Policy shall not be less than \$5,000,000 or such other amount as determined by an authorised person.

PART 11 – PERMITS FOR CERTAIN CONDUCT IN PEDESTRIAN MALLS

Division 1 – Materials Required

Purpose of Part

To prescribe materials required in the making of an application for a permit for conduct in pedestrian malls.

Authorising provision of Local Law:
Section 48(1)

Applications

23. All applications for permits shall be in writing on the prescribed form supplied by Council together with the following:

- (a) the name, address and telephone contact number of the applicant and, if the applicant is a body corporate or a partnership, the name, address and telephone contact number of an individual who is authorised by the applicant to act on its behalf; and
- (b) full details of the proposed place or places for which approval is sought to be granted; and
- (c) details of activities;
- (d) Where applicable, evidence prior to a permit being granted must be produced to an authorised person, that the permit holder has effected and maintains Public Liability Insurance noting Council's interests as an insured party in respect of the purpose for which the permit is granted. The Sum Insured of such Policy shall not be less than \$5,000,000 or such other amount as determined by an authorised person.