

**Gladstone Regional Council
Commercial Use of Local Government Controlled Areas
and Roads (Amendment) Subordinate Local Law (No. 1)
2016**

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Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Commercial Use of Local Government Controlled Areas and Roads (Amendment) Subordinate Local Law (No. 1) 2016*.

2 Subordinate local law amended

This subordinate local law amends *Subordinate Local Law No. 1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011*.

Part 2 Amendments to subordinate local law

3 Amendment of sch1 (Commercial use of local government controlled areas and roads)

- (1) Schedule 1, section 2, 'No activity stated.'—

omit, insert—


- '(1) Section 6(2) of the authorising local law does not apply to the prescribed activity if—

- (a) the prescribed activity is limited to footpath dining; and
- (b) the undertaking of the prescribed activity complies with the minimum standards prescribed in subsection (2).

- (2) A person who undertakes the prescribed activity of footpath dining at a place which is a footpath must—

- (a) limit the undertaking of the activity to a place which is contiguous to, or in the vicinity of, a registered cafe, restaurant, takeaway food shop or similar premises which are operated by the person undertaking the prescribed activity (*principal premises*); and
- (b) keep and maintain, at the place, a clear unobstructed pedestrian corridor having a width of not less than 1.5m; and
- (c) remove all tables, chairs, fixtures and fittings from the place when the principal premises are not open for business; and
- (d) keep and maintain the place utilised for footpath dining purposes, including all tables, chairs, fixtures, fittings and equipment used in the undertaking of the footpath dining at all times in a clean, sanitary and tidy condition; and
- (e) keep and maintain in and about the place used for footpath dining, adequate waste disposal facilities, for example, bins, and be responsible for the removal of all waste from the waste disposal facilities so as to ensure that the waste disposal facilities do not overflow at any time; and
- (f) only use furniture at the place which is—

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- (i) in an aesthetically acceptable condition; and
 - (ii) kept in a proper state of repair; and
 - (g) regularly clean the place which is used for footpath dining purposes—
 - (i) during business hours for the principal premises; and
 - (ii) daily, after the close of business of the principal premises; and
 - (h) not use an umbrella within the place which is used for footpath dining unless the umbrella—
 - (i) has a clearance of not less than 2m above ground level adjacent to the umbrella; and
 - (ii) is securely anchored to the ground; and
 - (i) take out and maintain, in respect of the undertaking of the prescribed activity at the place—
 - (i) a public liability insurance policy which provides indemnity for each individual occurrence in an amount of not less than \$20 million; and
 - (ii) a policy of insurance against property damage; and
 - (j) ensure that each policy of insurance—
 - (i) insures the local government as a third party beneficiary, not merely a party with an insurable interest; and
 - (ii) is issued by an entity licensed under the *Insurance Act 1973* to conduct general insurance business; and
 - (k) produce a copy of each insurance policy on demand by an authorised person; and
 - (l) ensure that the undertaking of the prescribed activity of footpath dining does not—
 - (i) cause a nuisance; or
 - (ii) create a road safety risk; or
 - (iii) interfere with the use, enjoyment or personal comfort of any user of the place at which the prescribed activity is undertaken.
 - (3) Also, section 6(2) of the authorising local law does not apply to the prescribed activity if—
 - (a) the prescribed activity is limited to the display of goods for sale on a footpath; and
 - (b) the undertaking of the prescribed activity complies with the minimum standards prescribed in subsection (4).
 - (4) A person who undertakes the prescribed activity of the display of goods for sale on a footpath at a place which is a footpath must—

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- (a) limit the undertaking of the activity to a place on a footpath which is contiguous to, or in the vicinity of, retail premises which are operated by the person undertaking the prescribed activity (also *principal premises*); and
 - (b) keep and maintain, at the place, a clear unobstructed pedestrian corridor having a width of not less than 1.5m; and
 - (c) only use, for the purposes of the display of goods for sale, a structure which is—
 - (i) of safe construction; and
 - (ii) in good condition and repair; and
 - (d) only display goods for sale if the goods are in an orderly and sightly condition; and
 - (e) remove from the place all goods, and any structure designed for the display of the goods for sale, when the principal premises are not open for business; and
 - (f) take out and maintain, in respect of the undertaking of the prescribed activity at the place—
 - (i) a public liability insurance policy which provides indemnity for each individual occurrence in an amount of not less than \$20 million; and
 - (ii) a policy of insurance against property damage; and
 - (g) ensure that each policy of insurance—
 - (i) insures the local government as a third party beneficiary, not merely a party with an insurable interest; and
 - (ii) is issued by an entity licensed under the *Insurance Act 1973* to conduct general insurance business; and
 - (h) produce a copy of each insurance policy on demand by an authorised person; and
 - (i) ensure that the undertaking of the prescribed activity does not cause—
 - (i) a nuisance; or
 - (ii) a road safety risk.
- (5) Also, section 6(2) of the authorising local law does not apply to the prescribed activity if—
- (a) the prescribed activity is limited to the undertaking of busking at a place which is a footpath; and
 - (b) the undertaking of the prescribed activity complies with the minimum standards prescribed in subsection (6).
- (6) A person who undertakes the prescribed activity of busking at a place which is a footpath must—
- (a) take all measures reasonably necessary to protect the safety of
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- persons who may be involved in, or affected by, the undertaking of the busking; and
- (b) take all measures reasonably necessary to ensure that the undertaking of the busking does not—
 - (i) cause a nuisance; or
 - (ii) create a traffic nuisance; or
 - (iii) increase an existing traffic nuisance; or
 - (iv) detrimentally affect the efficiency of the road network in which the activity is undertaken; or
 - (v) detrimentally affect the amenity of the neighbourhood in which the busking is undertaken; or
 - (vi) create a road safety risk; and
 - (c) ensure that all facilities and equipment used in the undertaking of the busking are, at all times, maintained—
 - (i) in good working order and condition; and
 - (ii) in a clean and sanitary condition; and
 - (d) not use an amplification device in conjunction with the undertaking of the busking if the use of the amplification device causes a nuisance; and
 - (e) ensure that the noise level from the undertaking of the busking does not unreasonably intrude into nearby shops or interrupt the trade of any local business; and
 - (f) ensure that the undertaking of the busking is not conducted—
 - (i) in a manner which obstructs the use by pedestrians of the footpath; or
 - (ii) within 10m of an intersection or a pedestrian crossing; or
 - (iii) in a manner which unreasonably interferes with pedestrian flow or public amenities, or causes an obstruction to any delivery vehicle; and
 - (g) ensure that the persons undertaking the busking at the place—
 - (i) maintain the place in a neat and tidy condition at all times; and
 - (ii) leave the place in a neat and tidy condition after the undertaking of the busking at the place; and
 - (h) ensure that signage is not displayed in conjunction with the undertaking of the busking; and
 - (i) ensure that goods or services are not offered for sale or displayed in conjunction with the undertaking of the busking; and
 - (j) ensure that street furniture is not used in conjunction with the undertaking of the busking; and



- (k) ensure that each person undertaking the busking is dressed in a clean and presentable manner; and
 - (l) ensure that, in the undertaking of the busking—
 - (i) no dangerous goods or dangerous instruments are used; and
 - (ii) no animal, reptile or bird is used; and
 - (iii) the person undertaking the busking does not mimic, upset or offend any member of the public; and
 - (iv) the person undertaking the busking is not abusive, or offensive, and does not behave in an indecent or abusive manner; and
 - (m) if the person undertaking the busking is under the age of 15 years—ensure that the person undertaking the busking is supervised by an adult at all times; and
 - (n) if the person undertaking the busking is aged from 15 to 17 years—ensure that the person undertaking the busking is supervised by an adult between 6:00pm and 10:00pm.’.
- (2) Schedule 1, section 4(7)—
omit.

4 Amendment of sch4 (Dictionary)

- (1) Schedule 4, Dictionary, definition *principal premises*, ‘, section 6(3)(a) and 4(a)’—
omit.
- (2) Schedule 4, Dictionary, definitions, *urban area* and *urban district*—
omit.
- (3) Schedule 4, Dictionary—
insert—

‘busking means a public performance at a place which is a footpath for voluntary donations from the public including each of the following—

- (a) playing a musical instrument;
- (b) a drama or theatrical performance;
- (c) dancing;
- (d) singing;
- (e) acts of a similar nature.’.

This and the preceding 6 pages bearing my initials is a certified copy of *Commercial Use of Local Government Controlled Areas and Roads (Amendment) Subordinate Local Law (No. 1) 2016* made in accordance with the provisions of the *Local Government Act 2009* by Gladstone Regional Council by resolution dated the 6th day of December 2016.



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Chief Executive Officer