

**IPSWICH CITY COUNCIL
LOCAL LAW NO. 20 (COMMERCIAL USE OF ROADS)**

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PART 1 – PRELIMINARY

Citation

1. This local law may be cited as Local Law No.20 (Commercial Use of Roads).

Objects

2. The objects of this local law are to:
 - (a) regulate soliciting of business on roads and associated public places; and
 - (b) regulate the use of roads and associated public places for the conduct of business.

Definitions

3. In this local law:

‘**authorised person**’ means a person authorised by the local government to exercise the powers of an authorised person under this local law.

‘**business**’ means the supply of goods or services (including food or drink or both) whether on one occasion or more than one occasion but does not include the supply of goods or services for a religious, charitable, educational or political purpose¹.

‘**permit**’ means a permit under Part 2.

‘**road**’ includes:

- (a) a State-controlled road under the Transport Infrastructure Act 1994; or
- (b) a square, court or other place under the local government’s control that is declared under the subordinate local law to be subject to this local law.

‘**solicit**’ includes:

- (a) an invitation to treat including displaying or advertising goods or services for sale, exchange or hire; or
- (b) offering goods or services for sale, exchange or hire; or
- (c) touting; or

¹ Compare the definition of ‘roadside vending’ in schedule 4 of the *Transport Operations (Road Use Management) Act 1995*.

- (d) busking for reward.

PART 2 - PERMITS

Requirement to hold permit²

- 4.(1) A person must not solicit for business on a road unless authorised by a permit.

Maximum penalty - 50 penalty units.

- (2) A person must not carry on business on a road unless authorised by a permit.

Maximum penalty - 50 penalty units.

- (3) However, a permit is not required under this local law if:

- (a) the person carrying on the business is authorised by a permit under the *Land Act 1994* to occupy the relevant part of the road for carrying on the business³; or
- (b) the activity is exempt from requiring a permit under a subordinate local law of the local government; or
- (c) the activity is a sign to which *Local Law No. 50 (Control of Advertisements)* applies.

Examples of section 4(1)—

*Goods displayed on the footpath outside a shop with or without process on them;
Touting;
Displaying a motor vehicle on a road with “For Sale” or similar signs on it whether a private sale or in association with a business.*

Examples of section 4(2) —

*A pie vendor or fruit seller selling goods on the road;
A busker.*

² A person who carries on business as a hawker will need a licence under the Hawkers Act 1984 as well as a permit under this local law. (See section 66(5) of the *Transport Operations (Road Use Management) Act 1995*.)

³ See section 177 of the Land Act 1994.

Application for permit

5. An application for a permit must include or be accompanied by:
- (a) details of the nature, time and place of the proposed activities for which the permit is sought; and
 - (b) if the applicant wants to use a particular part of a road for serving food or drink or for other business purposes - a plan showing the relevant part of the road; and
 - (c) other information and material required under subordinate local laws.

Grant of permit

- 6.(1) The local government may grant a permit if satisfied that:
- (a) the activities for which the permit is sought would not unduly interfere with the proper use of a road; and
 - (b) if criteria for the grant of a permit have been laid down under subordinate local laws - the grant of the permit is consistent with the relevant criteria.
- (2) A subordinate local law may specify criteria for the grant of a permit.
- (3) A permit cannot be granted for a State-controlled road unless the chief executive of the department which administers of the Transport Infrastructure Act 1994 agrees in writing.
- (4) If a road is vested in the State under section 95⁴ of the Land Act 1994, a permit under this local law cannot give the holder of the permit the right to erect a permanent building or structure on the road or make other structural changes to the road⁵.
- (5) Despite any other provisions of this local law, or any section of the subordinate local law other than matters relating to State issues in sections 4(3)(a), 6(3) and 6(4) of the local law, the local government may refuse a permit or issue a permit with or without conditions.

⁴ Section 95 of the Land Act 1994 provides that ‘the land in all roads dedicated and opened for public use under the following Acts vests in, or remains vested in, the State:

(a) this Act (ie the Land Act 1994), or an Act repealed by this Act or repealed by the repealed Act;

(b) the Land Title Act 1994.’

⁵ In this case, the necessary authorisation to establish the business and make the necessary structural alterations and additions would need to be obtained under the Land Act 1994.

Term of permit

- 7.(1) A permit may be granted for a specified occasion or for a specified term.
- (2) If a permit is granted for a specified term, the local government may, from time to time, on application by the holder of the permit, renew the permit.
- (3) A term for which a permit is granted or renewed must be fixed as required by a relevant subordinate local law, or as decided by the local government when it grants the permit or renewal.

Conditions of permit

- 8.(1) A permit may be granted on conditions the local government considers appropriate.
- (2) The conditions of a permit may, for example:
 - (a) limit the activities authorised by the permit to a single specified location or to a specified area;
 - (b) require the holder of the permit to display the permit in a specified position or to produce the permit for inspection on demand by an authorised person;
 - (c) require the holder of the permit to take specified measures to protect the safety of persons who may be involved in, or affected by, the activities authorised by the permit;
 - (d) require the holder of the permit to take out insurance against personal injury or property damage resulting from activities authorised by the permit;
 - (e) require the holder of the permit to take specified measures to ensure that the activities authorised by the permit do not cause a nuisance;
 - (f) if the permit authorises the holder of the permit to use a specified part of a road for carrying on a business - require the holder of the permit to pay specified rental to the local government at specified intervals.

Example of a condition under subsection (2)(e):

If a permit authorises use of a road for serving food or drink, the condition could, for example, require the holder of the permit to provide and maintain receptacles for waste and to clean the area thoroughly at the conclusion of business on each day.

- (3) The local government may, by subordinate local law, prescribe matters about which conditions must be imposed in a permit or will ordinarily be imposed in a permit.

Power to change conditions of permit

- 9.(1) The local government may, by written notice given to the holder of a permit, change⁶ the conditions of the permit.
- (2) However, the local government may only change the conditions of a permit if:
- (a) the holder of the permit agrees to the proposed change; or
 - (b) the change is urgently necessary in the interests of safety or to prevent a nuisance; or
 - (c) the change is necessary to allow for roadworks; or
 - (d) the local government:
 - (i) gives the holder of the permit written notice of the proposed change inviting the holder to make written representations about the proposed change within a reasonable time fixed in the notice; and
 - (ii) if the holder of the permit makes written representations within the time allowed in the notice - takes the representations into account.

Compliance with conditions of a permit

10. The holder of a permit must ensure that the conditions of a permit are complied with.

Maximum penalty - 50 penalty units.

Transfer of permit

- 11.(1) The holder of a permit may, with the local government's approval, transfer the permit to another person.
- (2) The local government may impose conditions on the transfer of a permit.
- (3) However, the local government cannot:
- (a) unreasonably refuse to approve the transfer of a permit; or
 - (b) impose unreasonable conditions on the transfer of a permit.

⁶ A 'change' to the conditions of a permit includes a change by omission, substitution or addition. (See Acts Interpretation Act 1954, s. 36)

Chief executive may give directions

12. The local government must comply with directions and guidelines issued by the chief executive of the department which administers Chapter 5 of the Transport Infrastructure Act 1994 about the exercise of its powers under this local law over permits for State-controlled roads.

PART 3 - ENFORCEMENT

Division 1 - Compliance notices

Compliance notices

- 13.(1) If a person contravenes this local law or a condition of a permit, an authorised person may give the person a written notice (a '**compliance notice**') requiring the person to stop the contravention.
- (2) A compliance notice may also require the person to whom it is given to take specified action, within a specified time, to remedy the contravention.
- (3) Immediate action to remedy a contravention may be required if it is necessary to avoid a risk to public safety.
- (4) A person to whom a compliance notice is given must comply with the notice.

Maximum penalty - 50 penalty units.

Power to remove structures etc

14. If a person has brought a structure or other thing onto a road for an activity that is a contravention of this local law, an authorised person may remove and dispose of the structure or other thing if:
- (a) it gives rise to a risk to public safety; or
- (b) it is not removed from the road as required by a compliance notice.

Division 2 - Suspension or cancellation of permit

Suspension or cancellation of permit

- 15.(1) If the holder of a permit contravenes this local law or a condition of the permit, the local government may, by written notice to the holder, suspend or cancel the permit.

- (2) However, the local government may only suspend or cancel a permit if:
- (a) the suspension or cancellation is urgently necessary in the interests of safety or to prevent a nuisance; or
 - (b) the suspension or cancellation is necessary to allow for roadworks; or
 - (c) the local government:
 - (i) gives the holder of the permit written notice of the proposed suspension or cancellation inviting the holder to make written representations about the proposed action within a reasonable time fixed in the notice; and
 - (ii) if the holder of the permit makes written representations with the time allowed in the notice - takes the representations into account.

PART 4 – SUBORDINATE LOCAL LAWS

Subordinate Local Laws

16. The local government may make subordinate local laws about:
- (a) permits⁷; or
 - (b) other matters about which this local law specifically allows for the making of subordinate local laws.

⁷ See Part 2.