

14 April 2009

HORSE-DRAWN CARRIAGE CODE OF PRACTICE

Division Sustainability and Regulatory Services

Presenter Gordon Duncan, Principal Engineer Infrastructure

Purpose

1. To seek endorsement of the Code of Practice for the Operation of Horse-Drawn Vehicles within the City of Melbourne, and to recommend that compliance with the Code is made a mandatory condition of Horse-Drawn vehicle permits.

Recommendation from Management

2. That the People and Creative City Committee:
 - 2.1. endorses the Code of Practice for the Operation of Horse-Drawn Vehicles; and
 - 2.2. resolve that compliance with the Code of Practice becomes a mandatory condition of all Horse-Drawn Vehicle permits issued by the Melbourne City Council.

Background

3. The City of Melbourne is a vital, inclusive and engaging city representing a diversity of activities, cultures and people. One such activity which enhances the city precincts and encourages tourism is the availability of Horse-Drawn Vehicles (“HDV”) to transport visitors and sightseers around the streets of Melbourne.
4. Issues of animal welfare, carriage safety and responsible operation are significant risks to the Council if not managed properly.
5. The operation of HDV rides from public space is regulated by the Council under the provisions of local law 5.3 of the *Activities Local Law 1999* (“the Local Law”) so as to prohibit the sale of services unless permitted by Council. Operators of commercial HDV activities must hold a permit issued under part 5 of the Local Law. There are currently nine HDV permit holders trading within the city.
6. The current permit system was approved by Council in March 2004. The following four permit conditions were approved:
 - 6.1. manure bags to be fitted to all horses;
 - 6.2. appropriate insurance for all carriages and drivers;
 - 6.3. written permission for Bourke Street Mall access; and
 - 6.4. assurance that the area of trading does not unduly compromise the amenity of the surrounding area.

Key Issues

7. Concerns have been raised, particularly by members of the public and the RSPCA, regarding the operation of HDVs within the city, primarily with respect to the welfare and treatment of the horses.
8. On receipt of these concerns, Council Administration initiated discussions between HDV operators and other key stakeholders to review all aspects of the HDV operations in the city, and formed the Horse-Drawn Vehicle Policy Review Working Committee, comprising the Victorian Horse-Drawn Carriage Association ("VHDCA"), RSPCA, Victoria Police Mounted Branch, Department of Primary Industries (Bureau of Animal Welfare), Victorian Horse Council and other carriage operators.
9. As a result of these discussions, and as facilitated by Council Administration, the attached Code of Practice for the Operation of Horse-Drawn Vehicles ("Code") has been developed by the VHDCA in conjunction with these key stakeholders.
10. The Code promotes critical elements not covered in the four standard conditions previously approved by Council. The essential features of the Code cover best practice responsibilities for carriage operators including safety and animal welfare.
11. The Code contains fifteen standards relating to animal welfare. This includes an agreement by the VHDCA to ensure that all horses associated with a permit issued by MCC are implanted with a permanent identification device as prescribed under the *Domestic (Feral and Nuisance) Animals Regulations 2005*. The RSPCA and VHDCA are working together independently to implement the roll out of this program.
12. Due to public sympathy and support, the RSPCA has been advocating tougher animal welfare standards to be included in the Code. However, in the absence of any regulatory framework the RSPCA has supported the adoption of the Code in principle.

Time Frame

13. The proposed timeframe for the implementation of the recommendation, including any statutory timeframes is 1 July 2009.

Relation to Council Policy

14. The current Council policy requires operators of commercial horse-drawn vehicle activities to hold a permit issued under Part 5 of the Local Law ("a permit"). Operators, their employees and agents must comply with any permit and all stipulated conditions.
15. The endorsement of the Code will help to improve the amenity of the city and environment by requiring that all operators engage an appropriate waste collection service to deal with expelled waste. The Code also requires operators to immediately clean any waste expelled in a public place. It is an offence under the Local Law for an operator to allow any waste (including manure) to be deposited on the road or public space. Historically, the littering of horse manure in city streets has been a cause for concern.

Consultation

16. Council Administration facilitated a series of meetings with key stakeholders throughout 2008 and formed the Horse-Drawn Vehicle Policy Review Working Committee.

17. The process of formulating the content within the Code involved reliance on, and intense consultation with, recognised experts who have an interest in industry best practice, animal welfare and general road safety in the public place.
18. Consultation occurred through the active engagement of the Working Committee comprising the Victorian Horse-Drawn Carriage Association, RSPCA, Victoria Police Mounted Branch, Department of Primary Industries (Bureau of Animal Welfare), Victorian Horse Council and other carriage operators.

Finance

19. There are no financial implications arising from the recommendations of this report.

Legal

20. Part 5 of the Local Law controls street trading and special events. Local Law 5.3 prohibits a person selling goods or services from a public place (which includes a road) without a permit.
21. Part 12 of the Local Law relates to permits, and local law 12.2 prescribes that the Council may grant a permit subject to such conditions as it thinks fit.

Comments

22. The current permit system is devoid of any standards for protecting the welfare and decent treatment of horses and other key operator responsibilities.
 23. The HDV operators have expressed willingness to improve the perception of their industry. The VHDCA has undertaken to make the adoption of the Code mandatory for all its members.
 24. The RSPCA will play a key role as the responsible enforcement agency for the mistreatment of horses pursuant to the *Prevention of Cruelty to Animals Act 1986*. All complaints relating to the mistreatment of horses will be investigated by the RSPCA, with the assistance of Council.
 25. It is recommended the Code forms a mandatory condition of all current and future permits issued under the Local Law. The Code recognises the importance of protecting the welfare and decent treatment of horses. Ultimately this will lead to a safe and positive experience for tourists, visitors, carriage operators and their horses in our city.
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Attachment:

1. Code of Practice : Operation of Horse-Drawn Carriages within the City of Melbourne

Code of Practice

Operation of Horse-Drawn Carriages within City Of Melbourne

2009

Developed by the Victorian Horse-Drawn Carriage Association in conjunction with the Melbourne City Council, Victorian Horse Council, RSPCA, Victorian Department of Primary Industries (Bureau of Animal Welfare), and the Victoria Police Mounted Branch.

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1. Introduction

In order to promote and maintain excellence of commercial horse drawn carriages in the City of Melbourne and in the state of Victoria the following Code of Practice (the 'Code') has been prepared to assist Association members in the operation of their carriage business. It is the intention of the Association that the code be regarded as mandatory for all its members. The Association wishes to recognise the contribution made by the Melbourne City Council, Victoria Police Mounted Branch, Victorian Horse Council, the R.S.P.C.A and the Codes of Practice produced by the Victorian Department of Primary Industries (Agriculture) in relation to horses and adopts the general principles outlined in those Codes.

2. Definitions

This Code of Practice or these definitions in no way limit the power conferred upon any individual or organisation under any Act or Regulations whether Local, State or Federal.

- 2.1 "VHDCA" means the Victorian Horse-Drawn Carriage Association.
- 2.2 "HDV" means Horse-Drawn Vehicle.
- 2.3 "Horse" means any animal of the genus Equus.
- 2.4 "Carriage" means any device in or upon which any person is or may be transported or drawn, designed to be or capable of being drawn by a horse or horses.
- 2.5 "Person" means an individual, company, partnership, corporation, association, or other legal entity
- 2.6 "Stable" means any place, establishment or facility where one or more horses are housed and maintained.
- 2.7 "Veterinarian" means a registered Veterinarian practitioner.
- 2.8 "Work" means when a horse is at its carriage stand or place of hire. Work ends when the horse is unharnessed and removed from the carriage.

- 2.9 “Driver” means a person in charge of a horse-drawn carriage for hire.
- 2.10 “Authorised Officer” means an Officer of the Melbourne City Council or a member of the Victorian Police authorised under the Melbourne City Council Activities Local Law 1999.

3. Responsibilities of Victorian Horse-Drawn Carriage Association Members and permit holders

- 3.1 Members, permit holders, and any operator or driver of HDV within the municipality of the City of Melbourne must comply with all conditions of the HDV permit issued pursuant to the Melbourne City Council Activities Local Law 1999 and the provisions of this Code.
- 3.2 Members and permit holders must ensure manure bags are fitted to all horses.
- 3.3 Members and permit holders must not enter the Bourke Street Mall with a horse-drawn carriage unless prior written permission is obtained from the Melbourne City Council.
- 3.4 Members and permit holders must obtain a Pedestrian Area Access Permit issued by the Melbourne City Council to enter Swanston Street between Latrobe Street and Flinders Street.
- 3.5 Members and permit holders operating a carriage within the City of Melbourne shall display a current horse drawn vehicle number plate on the carriage, which shall be plainly visible from the pedestrian pavement and shall comply with the licence requirements of the city.
- 3.6 Members and permit holders must maintain appropriate insurance for all carriages and drivers.
- 3.7 Members and permit holders shall ensure that the area of trading does not unduly compromise the amenity of the surrounding area.
- 3.8 Members, permit holders and drivers shall immediately and effectively clean any expelled animal waste and disperse the waste with clean water.
- 3.9 Members and permit holders shall engage the services of a waste management contractor for the collection of horse manure at an approved collection point within the City of Melbourne.
- 3.10 Members, permit holders and drivers shall maintain the emergency procedure and protocol package set by the VHDCA.
- 3.11 Members shall ensure that in the case of road accidents a Victorian Horse Council Road Incident Report is completed and returned to the VHDCA.

- 3.12 Members and permit holders shall ensure that all persons employed in carriage operations are covered by Victorian Work Cover Insurance.
- 3.13 Members and permit holders shall provide protective equipment to persons employed in carriage operations during the months of September to April to protect against radiation from the sun.
- 3.14 Members, permit holders and drivers are required to maintain their carriages in a clean and roadworthy condition.
- 3.15 Members and permit holders shall ensure that a driver in charge of their carriage holds a current certificate of accreditation issued by the VHDCA.
- 3.16 Should any members perceive drivers, other members or permit holders breaching the Code of Practice, they may put a complaint in writing to the VHDCA committee. The VHDCA committee shall address this concern within 30 days of the complaint being made, and if not resolved, will seek assistance from the council.
- 3.17 Members and permit holders shall ensure that all horses associated with a Horse-Drawn Vehicle Permit issued by the Melbourne City Council are implanted with a permanent identification device as prescribed under the Domestic, Feral and Nuisance Animals Regulations 2005.

4. Responsibilities of carriage drivers

- 4.1 Drivers shall comply with and have a thorough knowledge of the Victorian Road Safety (Road Rules) Regulations 1999.
- 4.2 Drivers shall not operate or be in charge of any horse drawn carriage while under the influence of alcohol or narcotic drugs.
- 4.3 Drivers shall ensure that the front and tail lamps of the carriage are illuminated during periods of poor visibility or darkness.
- 4.4 Drivers shall not permit the speed of the horse drawn carriage being driven to exceed a slow trot.
- 4.5 Drivers in charge of a carriage shall not permit another person to drive except an apprentice under training or a holder of a VHDCA accreditation certificate.
- 4.6 Drivers shall not permit more passengers into a carriage than the license allows.
- 4.7 Drivers shall ensure that all passengers are seated within the carriage while it is in motion.
- 4.8 Drivers shall be responsible for the proper and humane care and treatment of the horses under his or her direct supervision and control.

- 4.9 Drivers shall be dressed neatly and cleanly in accordance with the instructions of the carriage owners.
- 4.10 Drivers shall produce their VHDCA accreditation certificate when requested by an Authorised Officer.

5. Carriage Driver Qualifications

- 5.1 Each driver shall be over 18 years of age.
- 5.2 New drivers shall be trained and serve as an apprentice to a proficient qualified Driver
- 5.3 New drivers shall remain under training for sufficient time to enable them to become proficient in the tasks of grooming, cleaning the harness and padding, fitting the bridle bit and harness to the horse, hitching the horse to the carriage and driving the carriage upon city streets in a safe and humane manner.

6. Welfare of Horses - members, permit holders and drivers Responsibility

- 6.1 Members, permit holders and drivers adopt and agree to adhere to the Victorian Code of Practice for the Welfare of Horses, Code of Practice for the Land Transport of Horses (Victoria), and the Victorian Code of Practice for the Welfare of Horses at Horse Hire Establishments, and each of the following additional items specifically relevant to the horse-drawn vehicle industry.
- 6.2 Members and permit holders shall supply Council with documentation showing that a particular veterinary practice is willing and in a position to supply emergency veterinary treatment to the horses under his control when requested to do so.
- 6.3 Only suitable horses or combination of horses with adequate draft ability shall be used to draw horse drawn vehicles. Horses should be over four years of age and exceed 14.2 hands in height.
- 6.4 Mares shall not be used for carriage operations after 120 days into pregnancy.
- 6.5 Mares shall not be used for carriage operations within the first three months after giving birth to a foal, unless the foal has died, or has been weaned from the mare within this three-month period or while she has a foal at foot.
- 6.6 Members, permit holders and drivers shall ensure that their horses are not in work more than 12 hours in any 24-hour period or more than 38 hours in any 7 day period and shall allow a twenty-minute rest period in the standing position after two hours continuous work.

- 6.7 Working horses shall be appropriately shod on all four (4) feet and not have any loose shoes. Shoes that are designed to prevent slipping or absorb shock should be utilised when working on hard paved surfaces. A horse that loses a shoe or is not appropriately shod shall be taken out of service until such time that the shoe is replaced or the problem is cured.
- 6.8 Members, permit holders and drivers shall ensure that no horse is worked beyond its level of fitness, nutrition, health and soundness.
- 6.9 A working horse that becomes unfit for work as a result of injury, illness or disease shall be removed from service until it is examined by a qualified veterinarian and is deemed fit to resume work.
- 6.10 When temperatures exceed thirty (30) degrees Celsius with no cloud cover, horses shall be provided with adequate shade during rest periods.
- 6.11 No horse shall work in temperatures exceeding thirty-seven (37) degrees Celsius. On days of high humidity and temperature, horses should be provided with adequate shade and water.
- 6.12 Only bits that are in good order shall be used for controlling horses. If a horse appears to be in distress, the bits may be inspected by an authorised officer or qualified equine veterinarian or Inspector authorised under the Prevention of Cruelty to Animals Act 1986 and the driver may be directed to have the bits changed. Horses shall not be tethered or secured in any way with reins or other items directly attached to the horses' bits.
- 6.13 Harness and Gear - every part of the harness being used in relation to the horse-drawn vehicle under the permit, shall be kept in good order and repair and fit properly so as to prevent injury to the horse and ensure the horse is securely attached to the horse-drawn vehicle. If any horse is displaying signs of injuries or sores from the use of the harness, they are to be withdrawn from work until the injury or sores are healed.
- 6.14 Melbourne City Council may refuse to issue a permit for a horse-drawn vehicle to any person who has been found guilty of an offence under the Prevention of Cruelty to Animals Act 1986 (Victoria) or similar Act in another State or Territory of Australia.
- 6.15 Melbourne City Council may suspend or revoke a permit for a horse-drawn vehicle if the proprietor, member or person holding the permit has been found guilty of an offence under the Prevention of Cruelty to Animals Act 1986 (Victoria) or similar Act in another State or Territory of Australia.
- 6.16 A person who has been found guilty of an offence under the Prevention of Cruelty to Animals Act 1986 (Victoria) or similar Act in another State or Territory of Australia within the preceding five (5) years shall not drive or convey a horse-drawn vehicle.

FINANCE ATTACHMENT

HORSE-DRAWN CARRIAGE CODE OF PRACTICE

There are no financial implications arising from the recommendations of this report.

Joe Groher
Manager Financial Services

LEGAL ATTACHMENT

HORSE-DRAWN CARRIAGE CODE OF PRACTICE

The *Activities Local Law 1999* (“Local Law”) provides a number of offences arising from activities in public places. Part 5 of the Local Laws controls street trading and special events.

The relevant law for the purpose of the report is:

“Permit Required for selling in a public place

5.3 Unless in accordance with a permit, a person must not sell any good or service on or in a public place”.

Part 12 of the Local Law further provides that:

“12.2 The Council may grant a permit subject to such conditions as it thinks fit”.

The subject matter and recommendations of this report are within the powers and functions of the Council.

Kim Wood
Manager Financial Services