

POL-C-095 Temporary Trading in Public Places

1. OBJECTIVE

- Designate appropriate public areas for temporary traders to operate.
- Support, attract and encourage opportunities for all types of local business development.
- Establish and coordinate an equitable and consistent approach for temporary traders and businesses.
- Activate underutilised public spaces to encourage community interaction.
- Support traders that complement existing businesses whilst managing competing needs and interests of others.
- To encourage unique and high-quality vending activities that contribute to the character and vibrancy of an area.
- Ensure public safety and amenity is not adversely impacted as a result of trading activities.

2. SCOPE

This Policy sets out the application requirements and assessment criteria for temporary traders in public places in accordance with the City's *Consolidated Local Laws 2005* and City's *Local Planning Scheme*.

3. DEFINITIONS

For the purposes of this policy:

Temporary Trader – refers to a trading activity of the selling or offering for sale of products or goods whereby the vendor operates from a non-permanent fixture such as a van, trailer or marquee which is set up and then removed from site at the conclusion of trading each day.

Itinerant Trader – refers to temporary traders which continually travel a district until flagged by a customer, stop, undertake the trade for a period of no longer than five minutes after serving the last customer and then continue moving on and not returning to any location for at least two hours (i.e. roaming ice cream van). Itinerant Trader is a form of Temporary Trader and requires registration under the *Food Act 2008* if selling food.

Public Place – includes a thoroughfare, way or place which the public are allowed to use, where the thoroughfare, carriageway or place is not on private owned land set apart for the use and enjoyment of the inhabitants and visitors of the City and includes all land vested in or under the care, control or management of the City.

Licence – refers to a *Street Trading Licence* required by the City of Swan under Part 6 of the City's *Consolidated Local Laws* relating to trading in public places. A Licence is an approval issued by the City which permits a person to conduct trading in a public place.

Development Application – an application made under the Local Planning Scheme or Metropolitan Region Scheme for development (planning) approval.

Established Premises – means a 'brick and mortar' premises such as restaurant, café, shop etc. which is within a permanent structure and operates as a permitted land use under the Local Planning Scheme.

Market – means premises used for the display and sale of goods from stalls by independent vendors.

Designated Locations - City owned and/or managed *Public Places* identified in Appendix 1 have been assessed and approved as suitable locations for temporary trading activities.

4. POLICY STATEMENT

4.1 Deemed Licences

The City will waive the requirement for obtaining a *Licence* if certain trading activities are undertaken in accordance with the City's *Consolidated Local Laws 2005* and comply with overarching conditions of a deemed licence (Part 4.2 of this policy). The City will 'deem' that you have a Licence if you operate according to one of the following business activities:

- a) **Deemed Licence – Public Events.** Individual Temporary Traders at organised fetes, shows, temporary markets, swap meets or other public events approved or acknowledged by the City under the *Health (Public Buildings) Regulations 1992* subject to the individual Temporary Trader obtaining the consent of the event organiser and adhering to any conditions of the overall Event Approval.
- b) **Deemed Licence – Newspaper sellers/charities.** Newspaper sellers and street collectors for charity or community groups that do not involve the use of a structure, signage or other equipment.
- c) **Deemed Licence - Personal Fitness Trainer.** Personal fitness trainers operating in public places such as parks, under separate approval from the City's Leisure Services who may require a booking space fee to be paid. Activities are not permitted to be carried out on footpaths, thoroughfares or any area that obstructs pedestrians.
- d) **Deemed Licence - Food Traders.** Operators which are registered under the *Food Act 2008* must trade at the City's Designated Locations at Appendix 1 subject to adhering to the trading conditions outlined in Part 4.2 Deemed Licence Conditions.
- e) **Deemed Licence - Flower Traders.** Operators which sell cut flowers and/or flower arrangements may trade at the City's Designated Locations at Appendix 1 subject to adhering to the trading conditions outlined in Part 4.2 Deemed Licence Conditions.
- f) **Deemed Licence - Guildford Footpaths.** Placement of merchandise for sale on the constructed footpath pavement of James Street, Guildford between Market and Meadow Streets, provided that a minimum 2 metre access way free of any obstructions be maintained immediately adjacent to the shopfronts in this locality and there being no other access, amenity or safety issue of concern in the opinion of the City.
- g) **Deemed Licence - Itinerant traders.** Itinerant traders may trade within public places provided that: trading is not carried out in the Midland Activity Centre area as identified in Appendix 2. Trading is not carried out in any part of a primary road i.e. highway or main road reserve under the control of the Main Roads Department and must comply with all WA road rules and traffic regulations.

4.2 Deemed Licence Conditions

Any person who wishes to undertake an activity permitted by this Licence ('the Licensee') and who complies with all the deemed licence conditions, is deemed to hold a Licence.

The Deemed Street Trading Licence conditions are as follows:

- The Licence does not authorise any *Temporary Trading* on any *Public Place* which might constitute a hazard to persons and any vehicles and does not authorise the placement of signs in any public place.
- The Licensee must comply with all relevant laws including the requirements of the *Environmental Protection (Noise) Regulations 1997*.

- For Designated Locations, Street Trading must not occur within 500 metres of existing established premises selling the same class of goods, except where the street trading is associated with and is managed by the established premises adjacent to the site.
- A Licence holder may not impede or obstruct the flow of vehicular or pedestrian traffic nor do any act that may constitute a hazard to persons or vehicles.
- The placement of any outdoor furniture which may encourage or allow the consumption of food or beverages from a food business by the customers of that business is not permitted.
- All stock-in-trade, equipment, signage, waste and vehicles must be removed at the conclusion of each day's trading.
- In the event of a breach of a law or condition, or where the City determines a significant traffic, nuisance, or other safety hazard exists, the City may terminate the deemed licence by giving written notice.
- A minimum of \$10 million Public Liability Insurance cover is required to be maintained at all times. Traders must produce a Certificate of Currency on demand.
- All Food Traders must comply with the requirements of the *Food Act 2008* in addition to any requirements under the Local Law or Local Planning Scheme. This includes registration of food businesses and notification of trading locations as required under the *Food Act 2008*.

An individual Street Trading Licence must be sought for any temporary trading outside of the scope and requirements of a 'deemed licence'.

4.3 Designated Locations

Designated Locations are exempt from the annual *Street Trading Licence* fee but subject to the City's permission (via Leisure Services Facilities Booking) and booking fees.

Traders are subject to adherence to any site specific conditions contained in Appendix 1 and the deemed licence conditions under Part 4.2 of this policy.

Trading places at individual sites are subject to the conditions and limited to the number of traders specified in Appendix 1. Trading spaces are to be allocated by the City's Facilities Booking team. Additional Designated Locations may be incorporated into this policy on a case-by-case basis, and will be assessed on individual merit. The City may also determine to remove or not accept any further bookings at any existing designation location at any time.

4.4 Undesignated Locations

Temporary traders that are not operating within a Designated Location and are not exempt from requirement for a Development Application under Schedule 5 (Temporary Sale of Foods or Other Goods) of the Local Planning Scheme will be required to submit a Development Application. They may also require a separate application for a Street Traders Licence.

4.5 Consideration of Temporary Trading within Public Areas

The following will be considered by the City in the determination of Development Applications (where required) and Street Trading Licence Applications.

- An Application shall not be supported where, in the opinion of the City, the number or type of street traders at specific locations is inappropriate.
- The City will not support activities where they are seen to cause obstruction to pedestrians, cyclists or vehicles, or in any way contribute to safety, access or parking problems or have insufficient access to toilet facilities.
- The City may approve two or more similar traders at the same location. It is not the role of the City to restrict competition between temporary traders.

- Access, car parking and traffic matters to consider include:
 - i. Sufficient customer parking and safe and defined access/egress shall be provided.
 - ii. Trading is not supported in a location that may have a material detriment to the amenity of the area or that would give rise to an unacceptable road safety risk.
 - iii. The placement of any outdoor furniture which may encourage or allow the consumption of food or beverages from a food business by the customers of that business is not permitted except under the specific conditions of a license issued by the City;
 - iv. The appropriate setback distance from the edge of the sealed carriageway and/or pedestrian path will be considered on merit, which may increase depending on road classification, location and traffic situation' and
 - v. Any signage shall be in accordance with the relevant City signage policy requirements.
- Separation distances:
 - i. Street Trading is not supported where it will result in temporary trading within 500 metres of existing established premises selling the same class of goods, except where the street trading is associated with and managed by the established premises adjacent to the site.
- A minimum of \$10 million Public Liability Insurance cover is required and its currency shall be maintained for the approved trading period. Traders must produce a Certificate of Currency on demand.

All Food Traders must comply with the requirements of the Food Act 2008 in addition to any requirements under the Local Law or Planning Scheme. This includes registration of food businesses and notification of trading locations as required under the Food Act.

5. Appendices

1. Designated Locations.
2. Midland Activity Centre map.

Document Control

Document Approvals:			
Version #	Council Adoption		
1.	Ordinary Meeting of Council - 27 July 2005 - adopted new policy.		
2.	Ordinary Meeting of Council - 28 April 2010 - adopted amended policy.		
3.	Ordinary Meeting of Council - 10 September 2014 - adopted amended policy.		
4.	Ordinary Meeting of Council - 3 July 2019 - adopted amended policy.		
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Strategic Community Plan:	E1.1 Actively support and develop local and new business G1.2 Promote the City of Swan as a place to live, work and visit		

Appendix 1: Designated Locations

***Site Plans are indicative only, on site confirmation of marked out trading site is required.**

1. Fish Market Reserve, Guildford



Conditions	
Max number of traders	3
Permitted Days	All days
Permitted trading hours	6am – 6pm

Other conditions/requirements/considerations to the site:

- site to be vacated by 7pm

*Subject to DBCA Permit

2. Noble Falls Park, Gidgegannup



Conditions	
Max number of traders	2
Permitted Days	All days
Permitted trading hours	6am – 6pm

*Subject to DBCA Permit

3. Middle Swan Reserve, West Swan



Conditions	
Max number of traders	3
Permitted Days	All days
Permitted trading hours	6am – 9:30pm

Other conditions/requirements/considerations to the site:

- site to be vacated by 10pm

*Subject to DBCA Permit

4. Lilac Hill (carpark south east), Caversham



Conditions	
Max number of traders	2
Permitted Days	All days
Permitted trading hours	6am – 9:30pm

Other conditions/requirements/considerations to the site:

- site to be vacated by 10pm

*Subject to DBCA Permit

5. Bells Rapids Park, Brigadoon



Conditions	
Max number of traders	3
Permitted Days	All days
Permitted trading hours	6am – 9:30pm

Other conditions/requirements/considerations to the site:

- site to be vacated by 10pm

*Subject to DPaW Permit

Appendix 2: Midland Activity Centre Map

