

Temporary Trading on City of Swan Managed Land

Information Fact Sheet



What is Temporary Trading?

Trading means the selling or hiring of goods, wares, merchandise or services or carrying out any transactions therein, in a street or other land either owned or under the control of the City of Swan. Whether it be for only one day or the whole year, businesses wishing to trade from a temporary stall, van or vehicle must obtain an approval to do so. This is to allow an assessment of the suitability of the location for the intended activity.

City Policy

The City has developed a Temporary Trading in Public Places Policy (POL-C-095) which is to apply to all trading activities on City owned or managed land. This is available on the City's website:

www.swan.wa.gov.au

This policy establishes a number of guiding principles designed to streamline the process whilst at the same time providing safeguards to ensure public safety and amenity is not adversely impacted and measures are in place to protect existing established businesses.

Deemed Licences

There are a number of different scenarios in which operators of listed activities will be considered to have a 'deemed licence' without the need to lodge an application or pay licence fees and provided certain conditions are adhered to. These activities include;

- Traders at an approved Public Event
- Newspaper sellers and collectors for charity or community groups
- Personal Fitness Trainers operating on City parks subject to approval from the City's Leisure Services
- Food traders operating at one of the City's designated locations
- Flower traders operating at one of the City's designated locations
- Merchandise for sale on James Street footpath, Guildford from adjacent business
- Itinerant traders

An operator in the above situations will need to adhere to specific licence conditions in order for the 'deemed licence' to remain valid. Failure to adhere to these conditions will render the 'deemed licence' to be invalid and continued trading would be an offence. For more information on the conditions applicable please refer to the Temporary Trading in Public Places Policy.

Designated Locations

In order to streamline the process the City has approved a number of locations which have been assessed as suitable locations for temporary trading activities. As such, these pre approved locations do not require a licence application or licence fees but are subject to a booking arrangement and booking fee through Leisure Services Facility Booking.

www.swan.wa.gov.au/explore-and-do/parks-venues-and-facilities/facility-hire-booking-enquiry

The list of designated sites includes the following locations;

- Fish Market Reserve, Guildford
- Noble Falls Park, Gidgegannup
- Middle Swan Reserve, West Swan
- Lilac Hill (carpark south east), Caversham
- Bells Rapids, Brigadoon

In order to operate at a designated location traders must make a booking and adhere to the deemed licence conditions as well as the site specific conditions for that location as per the Policy.

Undesignated Locations

Temporary traders that are not subject to a 'Deemed Licence' or operating within a 'Designated Location' are required to seek approval to trade at that location. This will require a business to submit a licence application but may also require a Development Application to be submitted as well depending on the zoning of the area in question. A licence application form is available at:

www.swan.wa.gov.au/services-and-community/public-health/health-services-forms-and-guidelines

Applications for new licences will be carefully considered to ensure the selected location is suitable for the intended activity. Applications assessed as being not suitable, posing a risk to public or inconsistent with stated objectives will not be supported. In addition to this licence it may also be necessary to obtain separate Planning approval. To find out if a Planning approval is also required contact the City on 9267 9267.

Trading may be for only one day or may be for a longer period. The desired trading period will effect the required licence fee. The licence fee comprises an application fee applicable to all applications plus a duration fee component and is required to be renewed annually. The duration component has been divided into 4 types. These are;

- Daily fee
- Every weekend and public holiday
- Per month
- Per year

Applicants should select the combination which is most beneficial to their situation.

The Application Process

The submission of a licence application does not guarantee approval will be granted. An assessment of the proposed sites suitability will be undertaken taking into consideration such factors as traffic management, public safety, amenity issues and proximity to existing established businesses selling similar goods and other factors.

It should be noted the City does not support temporary trading activities on City land within 500m of an existing established premises or 300m within a school zone during school days.

This restriction does not apply where it can be demonstrated that the existing premises are unlikely to cope with additional demand as a result of an event being held or that patrons of the event are most likely to remain at the event and to which the 'Deemed Licences' provisions of the policy prevail.

Street Trading licences will not be permitted in any part of a highway or main road reserve under control of Main Roads Western Australia or any other road deemed unsafe to allow street trading.

The City may approve two or more similar traders at the same location. It is not the role of the City to restrict competition in general. Restrictions on the number of traders may be applied for other reasons, such as a lack of parking in an area which would make it unsuitable for more than a set number of traders. Where a restriction in the number of traders is deemed appropriate, preference will be given to the initial applicant.

Public Liability Insurance

When trading on City owned land, a copy of the current public liability insurance to a minimum value of \$10 million must also be provided and maintained.

Responsibility of Licensee

The Licensee shall:

- Keep any stall, stand, table, structure or vehicle specified in the licence in a clean, safe condition and in good repair.
- Keep the location specified in the licence free from rubbish from their customers.
- Adhere to all conditions imposed by the City to the trading licence or as per the Policy.
- Have the licence (unless deemed licence is applicable) available at all times when trading and produce the licence to any Authorised Person or Police Officer when requested.

The Licensee shall not:

- Engage in or permit any trading in any goods or wares, merchandise or services other than those specified in the licence.
- Cause or create any nuisance.
- Obstruct the free passage of pedestrians on any footpath or pedestrian access way.

Information for Food Stalls

With regards to street trading a food business must provide a copy of its Registration Certificate and this may or may not have been issued by the same Local Authority in which the Street Trading Licence is issued. This is because the Registration Certificate is issued by what is referred to as the 'Home Authority'. That is the Local Authority in which the stall, van or vehicle is housed or kept.

This gives rise to 3 basic scenarios;

- Operator resides within the City of Swan and wishes to trade within the City of Swan – requires both a registration certificate and a trading licence (unless deemed licence is applicable) to be issued by the City of Swan
- Operator resides within the City of Swan but wishes to trade in a different local authority – requires a registration certificate to be issued by the City of Swan and a trading licence to be issued by this other local authority subject to their own requirements
- Operator resides within a different local authority but wishes to trade within the City of Swan – requires a registration certificate to be issued by this other local authority and a trading licence (unless deemed licence is applicable) to be issued by the City of Swan.

Food businesses must ensure the food remains safe and that they comply with the requirements of the *Food Act 2008* at all times. For more information relating to food businesses, including how to obtain a registration certificate and structural and operational requirements please refer to our other guidelines.

Enforcement Action

Where issues of non compliance are identified the City has a range of enforcement options open to it. These include but are not limited to issuing Improvement Notices, issuing Infringement Notices, seizing equipment or food products or undertaking a prosecution. The action taken by the City will depend on the severity of the offence, the risk to the public and the history of the business with regards to past non compliance issues.

Further information

If you have any questions or require further information please do not hesitate to contact the City on 9267 9267 or visit www.swan.wa.gov.au