



Council Policy

Trading in Public Places

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1. Objective

The purpose of this policy is to provide direction to City staff in the processing of applications for trading in public places. The objectives of the policy include:

- (a) the designation of areas where vendors will be allowed to operate;
- (b) verification from the vendor that their activity cannot reasonably be conducted on an approved commercial site;
- (c) an appropriate spatial separation between an itinerant vendor and a similar business operating from approved commercial premises;
- (d) resolution of equity issues; and
- (e) seasonal demands for facilities and services.

2. Scope

This policy applies to all public land within the City of Albany, and all businesses and individuals seeking to use public land to operate a business or for financial gain.

3. Definitions

Approved Locations	means locations from which vendors can trade with City approval.
Community Association	means an organisation which can demonstrate that its objectives are charitable, benevolent, religious, cultural, educational, recreational or sporting.
District	means the municipality of the City of Albany
Food Stalls	means a stall from which any perishable or potentially hazardous food, other than fruit or vegetables, is sold or offered for sale.
Food Van	means any vehicle, caravan, trailer or other similar mobile structure selling or offering for sale any food and or drink (excluding alcoholic beverages).
Itinerant Food Vendor	means a person who sells food from his vehicle parked temporarily on the road to customers who stop him or come to him while he is so parked.
Potentially Hazardous Food	means all prepared or cooked food which consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, crustaceans, molluscs, gravy, cooked rice and pasta or ingredients capable of supporting the growth of infectious or toxigenic micro-organisms.
Public place	Includes: (a) any thoroughfare or place which the public are allowed to use whether or not the thoroughfare is on private property; and (b) local government property; but does not include premises on private property from which trading is lawfully conducted under a written law.
Stall	means a movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold, hired or offered for sale or hire.
Stallholder	means a person in charge of a stall.
Street Trader	means a person or persons engaged in providing goods and/or services in a public place on a temporary basis.
Trader's	means a permit issued to a street trader.
Trading in public places	refers to long-term or periodic occupation of Council controlled land for the purposes of either selling or displaying goods or providing services to customers.

4. Policy Statement

This policy is designed to assist the City in the facilitation and management of businesses operating as street traders on a temporary basis and to regulate this type of activity to ensure equity and fairness to all business proprietors.

The categories of street trading for which a licence can be applied for include:

- Itinerant Food Vendors;
- Stallholder;
- Alfresco-dining;
- Fixed Location Street Trader;
 - Food van
 - Goods and/or services (other than food)
- Market operators

5. Operating Requirements

ITINERANT FOOD VENDOR

Itinerant Food Vendors are:

- precluded from selling “*potentially hazardous foods*”;
- limited to selling:
 - pre-packed cakes;
 - teas & coffees;
 - confectionery;
 - ice cream,
 - pre-packed sandwiches/rolls; and
 - soft drinks;

and;

- required to move on when all customers at a particular location have been satisfied.

No trading is permitted within:

- 150 metres of any shop or other licence holder offering the same goods for sale, except when the itinerant food vendor has been invited onto a property by the property owner/occupier or is participating in a community event, such as a weekend market or sporting event; and
- 300 metres of a school between the hours of 8.00am and 9.00am and 3.00pm and 4.00pm during school days.

An itinerant food vendor may only operate a food van during daylight hours except where adequate lighting is available to ensure public safety or the van is operated in connection with a Council approved festival or event.

Advertising signs are restricted to the food van from which the business is conducted.

Itinerant food vendors are required to hold licences under the provisions of the *City of Albany Health (Eating-House and Itinerant Food Vendors) Local Law and the Activities in Thoroughfares and Public Places and Trading Local Law*.

Internal vehicle fit-out to comply with the requirements of the *Health (Food Hygiene) Regulations 1993* and the *City of Albany Health Local Law*.

No trading will be permitted in the Albany Central Business District area, as defined by the planning scheme, due to public safety concerns except where the trading is associated with a Council approved market, festival or event.

STALLHOLDER

Approval for stalls, other than stalls which extend the service area of an existing business onto the adjacent footpath, will be restricted to community associations.

A stallholder proposing to operate a food stall, which will offer for sale to the public potentially hazardous food (e.g. sausage sizzles) is required to submit an application for approval to the City's Environmental Health team.

All food products that are not for immediate consumption must be labelled in accordance with the relevant health regulations.

Community associations are exempt from licence fees.

ALFRESCO - DINING

Applications may only be submitted by proprietors of existing food premises who wish to extend their serving area onto the adjacent footpath.

A proprietor granted approval to operate an alfresco dining area is required to indemnify Council in writing against any action taken against the Council by a person injured or suffering loss due to the presence of the alfresco-dining area.

The boundaries of an approved alfresco-dining area are to be marked and maintained by the registered proprietor of the adjacent business. Markers can be self-adhesive tiles, metal studs installed flush with the paved surface or other devices approved by the City.

Tactile directional tiles, removable railings or planter boxes may be required by Council, at the business proprietor's expense, to provide delineation to a dining area for the visually impaired.

Tables and chairs used in the alfresco-dining area should be designed for commercial outdoor use. Domestic furniture is not permitted, and the furniture must be located within the delineated boundaries of the alfresco-dining area at all times.

Tables and chairs used in the alfresco-dining area must be located no closer than 600 millimetres from the adjacent kerb to allow passengers to alight from vehicles.

Table service only will be permitted within an alfresco-dining area.

No advertising signs, other than the logo or name of the outlet, will be permitted in an alfresco-dining area.

FIXED LOCATION STREET TRADERS

The City receives several enquiries each year for prominent sites from which a food van can operate. Potential operators usually enquire about permanent locations either in an existing public carpark, a reserve or close to the Central Business District.

The areas identified in this policy as being suitable for fixed location street traders are existing sites. These locations have been assessed as being suitable with respect to pedestrian and vehicular traffic safety and the safety of customers of the street trader, and the reasonable needs of the street trader themselves.

Any future locations will be assessed with regard to:

- the desirability of the proposed activity;
- the location of the proposed activity with respect to pedestrian and vehicular traffic safety, and the safety of customers of the street trader and the street trader themselves;
- the appropriateness of the activity in the proposed area with respect to the character and function of the area;
- whether the goods, services, wares or merchandise proposed to be sold are currently provided by existing and permanent outlets;
- the competition principles set out in the National Competition Policy; and
- any comment from a public authority.

Street traders applying for a fixed location will be required to provide a written statement to substantiate why their activity cannot reasonably be conducted on an approved commercial site.

An application fee and all licence fees will be set by Council through its annual budgetary process.

Existing fixed location street traders will continue to operate on a five-year licence until **30 June 2015** unless the existing operator ceases trading for a period of six (6) months or advises that they wish to cease trading, whichever situation shall first occur.

As from February 2015, expressions of Interest in obtaining a street trading licence for all approved food and non-food locations will be called every five years and all applicants will be assessed using some or all of the following weighted criteria:

- How the business will benefit the community;
- Experience of the street trader;
- The appearance and quality of the food van and its equipment;
- Safety management engaged by the street trader;
- Risk management plans provided by the street trader.

(A) Food vans

Three locations have been identified within the municipality from which a food van may operate. Street traders will only be permitted to operate from the area specified in their permit.

MIDDLETON BEACH
Approved food van location



CENTENNIAL PARK
Approved food van location



SANDPATCH

Approved food van location



Two sites currently have power outlets connected to the south-west electricity grid, which may be removed should the areas in which the sites are located are altered or reconstructed.

The installation of permanent power outlets will not be permitted on any land under the care and control of the City of Albany. Operators of fixed location food vans will be required to provide their own temporary power supply and operated in accordance with the *Environmental Protection (Noise) Regulations 1997*.

A food van may only operate during daylight hours except where adequate lighting is available to ensure public safety or it is operated in connection with a Council approved festival or event.

Operators of food vans in a fixed location are required to hold a licence under the provisions of both the *Activities in Thoroughfares and Public Places and Trading Local Law* and the *Health (Eating-Houses and Itinerant Food Vendors) Local Law*.

(B) Goods and/or Services (other than food)

There is currently one non-food location, other than leased areas, within the Middleton Beach carpark that operates during the summer months:

MIDDLETON BEACH

Approved location for non-food street trader



MARKET OPERATORS

Operators of markets are required to hold a licence under the provisions of the *Activities in Thoroughfares and Public Places and Trading Local Law*.

Individual stalls, other than stalls selling food, are covered by the market operator's licence - individual licence fees will not be charged.

Stallholders proposing to operate a food stall, which will offer for sale to the public potentially hazardous food (e.g. sausage sizzles) are required to hold a licence under the provisions of the *Health (Eating-Houses and Itinerant Food Vendors) Local Law*.

All food products that are not for immediate consumption must be labelled in accordance with the relevant health regulations.

6. Administration

Applications for licences to trade in public places will be reviewed each year in accordance with the City's local laws. Licences fees will set each year by Council through the budgetary process.

7. Legislative and Strategic Context

Both the City's Health (Eating-Houses and Itinerant Food Vendor) Local Law and Activities in Thoroughfares and Public Places and Trading Local Law require street traders to obtain a licence for trading and selling food.

This policy aims to provide direction and guidance for City officers assessing applications and to ensure equity for all commercial outlets.

8. Review Position and Date

Executive Director Development Services to review on or before 30/6/2014.

9. Associated Documents

- *Health (Eating-Houses and Itinerant Food Vendors) Local Law*
- *Activities in Thoroughfares and Public Places and Trading Local Law*
- *Local Government Property Local Law*
- *Environmental Protection (Noise) Regulations 1997*
- National Competition Policy

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