

# LE 1 – Commercial Activities on Thoroughfares

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## 1 Introduction

This Policy establishes a management strategy for the administration of 'Commercial Activities on Thoroughfares' in particular, being within the constructed footpath pavement and verge area of Hampton Street, and Steere Streets, within the Bridgetown CBD, and activities on thoroughfares generally.

The policy addresses approval and administration of permits for commercial activities on footpaths as Street Trading, under the provisions of the Shire's Trading in Thoroughfares & Public Places Local Law, including Outdoor Eating Areas (Alfresco Dining) and other commercial use of footpaths, while also providing support and direction to Community & Charity groups engaged in fund-raising activities.

This Policy is to be read in conjunction with the Shire's Trading in Thoroughfares & Public Places Local Law (Gazetted June 2000), in particular Parts 6 & 7.

Nothing in this policy extinguishes the requirement to gain approval/registration under the Shire of Bridgetown-Greenbushes Town Planning Scheme and/or the Food Act 2008 respectively.

This policy does not include 'portable signs'.

## 2 Policy

Trading in public places is not to adversely impact on the amenity of an area or occur at locations which compromise public safety and access, including the safety of street traders and traffic.

Permits for commercial activities on footpaths will only be considered where it is ancillary and adjacent to an existing commercial business.

### 2.1 Permits

#### 2.1.1 Outdoor Eating Areas

All outdoor eating (Alfresco Dining) facilities are to be established, operated and maintained in accordance with the requirements of the Local Law and conditions imposed under this policy and will only be considered where they are ancillary to an existing registered 'Food Business'.

#### 2.1.2 Retail Merchandise

Retail Merchandise placed for sale on thoroughfare (Street Trading), Bridgetown, provided that a minimum 1.5metre 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 Council.

#### 2.1.3 Festival/Event – Short term permits

**The regulation of stallholders, traders and outdoor eating areas on thoroughfares during the Blues at Bridgetown Festival is referenced under Council Policy H.3 – "Trading in Public Places – Blues Festival".**

For other festival/events that are staged either wholly or partly on a thoroughfare the Shire will only approve applications for new Outdoor Eating Areas, stallholders and trader's permits and liquor

licensing permits (including Extended Trading Permits), for applicants that have been endorsed by the relevant Festival/Event Committee.

Holders of annual Outdoor Eating Areas permits will be able to conduct that al-fresco dining area during the festival/event within the approved operating conditions; however any application to extend the outdoor area in the CBD, will require endorsement by the festival/event committee.

For public places not directly connected with a festival/event, normal approval processes will apply.

The Shire will not be bound to approve any activity endorsed by the festival/event committee, and reserves the right to refuse any application if that is in the best interest of the public and if refusal is in accordance with all other requirements of the relevant legislation.

#### **2.1.4 Community & Charity Groups**

Community & charity groups wishing to trade or conduct a stall on or within a thoroughfare are not regarded as 'commercial activities' and therefore are exempt from being required to obtain a permit.

Community & charity groups engaged in non-food fund-raising activities, must first obtain the approval of the commercial business in front of which they wish to operate and not impinge on pedestrian access in the location.

Subsequent to obtaining the approval of the adjoining commercial business community & Charity groups engaged in a food fund-raising activity are to obtain the written approval of the Council's Health Section, for the sale of the food and comply with any conditions that might be imposed

### **2.2 Permit Conditions of Approval**

Under clause 7.6 of the Local Law, the permit granted by the Council is to be for maximum period of 12 months, being the period 1st July – 30th June and will require annual renewal, and may be granted subject to conditions relating to:

- The payment of the Application and permit renewal fees are listed in Council's Schedule of Fees & Charges contained within the annual budget.
- The physical marking of the permit area by and in a manner specified by the Shire.
- where a permit is issued for an activity which will or may cause damage to a public place, the payment of a bond against such potential damage.
- The rectification, remedying or restoration of a situation or circumstance reasonably related to the application / commercial activity.
- the obtaining of public risk insurance in an amount and on terms reasonably required by the local government. and
- the provision of an indemnity from the permit holder indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the public place by the permit holder.

Further, Clause 6.11 of the Local Law sets out the matters to be considered by the Council in determining a Commercial Activities on Thoroughfares permit. The purpose of this policy is to set out specific criteria that must be considered and fulfilled by the applicant in order to obtain a permit for an outdoor eating or merchandise area:

- Obstructs the visibility or clear sight lines at an intersection;
- Impedes pedestrian access; or
- The tables, chairs, displays or other equipment to be used may obstruct or impede the use of the public place for the purpose for which it was designed.

Under this policy the following additional criteria will apply:

- Tables and chairs, and retail displays will generally not be permitted on either side of public access along the footpath however exceptions may be permitted where the footpath is significantly wider than the rest of the footpath.
- The maximum width of the area of footpath that can be occupied by tables & chairs is 40% and retail displays is 25% of the width of the footpath in any individual locations permit. Again where a wider footpath is in existence exceptions to this clause may be approved.

This policy recognises that the predominant functionary use of a footpath is for pedestrian access and other activities / structures within a footpath will only be allowed where pedestrian access will not be impinged. Nothing in this policy contradicts requirements under the Local Law.

### **2.3 Indemnity & Insurance**

Applicants for the establishment of an outdoor eating facility or other commercial street trading activity (other than Community & Charity Groups), will have to comply with the following:

- The owner shall indemnify and keep indemnified the Shire of Bridgetown-Greenbushes, its servants or agents against any claim or proceeding (and any cost and expenses incurred as a result) that may be brought by any person or corporation against the Shire through:
  - The establishment of the outdoor eating facility or commercial street trading activity; and
  - Any negligence of the Shire, its servants and agents granting approval to erect the portable setting or displays, or failing to set conditions or giving or failing to give directions for the establishment of the outdoor eating facility or commercial street trading activity.
- The permit holder of an outdoor eating facility or commercial street trading activity shall, in respect of that business activity, effect and maintain a public liability policy with a reputable insurer. The policy must include a cross-liabilities clause, and be in the joint names of the permit holder and all subcontractors employed from time to time in relation to the commercial activity, and the Shire of Bridgetown-Greenbushes.

### **2.4 Refusal of Permit**

An application for a Trading Permit under Part 6 (and subject to Section 2.4) of the consolidated Local Laws, may be refused where in the opinion of the CEO the number or type of street traders at specific locations is inappropriate.

Reasons may include obstruction to pedestrians or vehicles, or in any way contribute to safety, access or parking problems, or have insufficient toilet facilities where required.

### **2.5 Renewal/Cancellation of Permit**

All outdoor eating facilities and other commercial activities on footpaths are to be established, operated and maintained in accordance with the requirements of the Local Law and this policy.

Clause 7.10 of the Local Law states that permits may be cancelled if the permit holder has not complied with a condition of the permit or requirement of the local law or policy.

It should not be assumed that outdoor eating facility permits or other commercial activities on footpaths will be automatically renewed each year on the basis that they have previously been granted a permit. Proof of renewal will be the receipt of the permit fee, issued by Council.

### 3 Applicable Legislation and Documents

<b>Act</b>	s.2.7(2)(b) <i>Local Government Act 1995</i> – The council is to determine the local government's policies <i>Food Act 2008</i> <i>Liquor Licensing Act 1988</i> <i>Health Act 1911</i> <i>Public Health Act 2016</i>
<b>Regulation</b>	N/A
<b>Local Law</b>	Activities on Thoroughfares and Trading in Thoroughfares & Public Places Local Law
<b>Shire Policies</b>	PH 3 – Blues Festival Trading
<b>Related Documents</b>	N/A
<b>Related Procedure</b>	N/A

### 4 Administration

<b>Original Adoption Date</b>	27 February 2014
<b>Last Reviewed</b>	26 November 2020
<b>Scheduled Reviewed Date</b>	27 April 2023