

ADMINISTRATION POLICY

POLICY NO:	A.14
POLICY SUBJECT:	TRADING IN THOROUGHFARES AND PUBLIC PLACES
ADOPTION DATE:	16 AUGUST 2011
LAST REVIEW	

STATEMENT OF INTENT

This policy provides guidelines for the establishment of trading activities within the Shire of Toodyay to ensure that such activities do not adversely affect the enjoyment and convenience of persons, or the character and amenity of the surrounding area. The policy aims to ensure that trading undertaken in thoroughfares occurs in such a manner that will not conflict with or prejudice the adjacent businesses, residential activities and/or any other normal functions of the area.

The Shire of Toodyay's Thoroughfare and Trading in Thoroughfares and Public Places Local Law establishes that trading activities require a permit from the Shire. This policy will guide where permits will be entertained and other general requirements.

OBJECTIVES

The policy establishes guidelines that will:

- Ensure that all forms of "trading" as defined under the Thoroughfares and Trading in Thoroughfares and Public Places Local Law are applied;
- Permit the establishment of trading within thoroughfares in the Shire of Toodyay in such a way that they do not jeopardise the safety of pedestrians or motorists;
- Ensure that the trading area is not detrimental to the surrounding uses in terms of interference of pedestrian or vehicular access or visual amenity.

STATUTORY POWERS

This policy is made pursuant to Section 2.7(2) (b) of the *Local Government Act* 1995 and Clause 7.4 of the Thoroughfares and Trading in Thoroughfares and Public Places Local Law.

DEFINITIONS

Mobile – means working in one place for a short period of time and then moving on to operate in another place.

Itinerant – means a person who travels along a road looking for customers and who sells, hires or provides a product or service from a vehicle which is parked temporarily to customers who stop the vendor or come to the vendor while the vehicle is so parked.

Public Place – has the same meaning as defined under the Local Law.

Thoroughfare – has the same meaning as defined under the Local Law.

Trading – has the same meaning as defined under the Local Law.

Vendor – means someone who promotes exchanges or hires goods or services for money.

POLICY STATEMENT

1.0 Application requirements

1.1 No person shall establish a trading area or conduct trading activities within thoroughfares or public places in the Shire of Toodyay without first obtaining the written approval of the Shire of Toodyay.

1.2 There are only two types of trading that would be considered and approved within thoroughfares in the Shire of Toodyay being:

- a) A trading area which directly abuts a business in an adjacent building in the town centre zone only; or
- b) Trading from a vehicle, whether mobile or itinerant, which is self-contained and does not require establishment of any additional stalls or areas outside of the vehicle (such as an ice-cream or fish van).

1.3 An application for approval to establish a trading area which directly abuts a business should be accompanied by the following information:

- a) Completed application form and fee;
- b) Plans, drawn to scale (1:50), indicating the number, location and dimension of proposed trade displays and their relationship to the building in which the principal business is located;
- c) A colour photograph, or manufacturer's brochure, of the equipment or vehicle to be used in the establishment of the trade display; and
- d) Certificate of currency for public indemnity insurance to a minimum value of \$10 million.

1.4 An application for approval to establish a trading area from a vehicle should be accompanied by the following information:

- a) Completed application form and fee;
- b) If trading would result in a vehicle being parked stationary for more than one hour, a site plan must be submitted showing the location of the trade area, parking areas for customers and distances to the carriageway.
- c) Details of the vehicle used for trading;

- d) If selling food, a copy of a valid food business registration to be provided, as required under the *Food Act 2008*; and
 - e) Certificate of currency for public indemnity insurance to a minimum value of \$10 million.
- 1.5 Trading areas will only be supported where the Council considers them to be appropriate to the character and functions of the area in which they are proposed to be located.
- 1.6 The Council may vary the requirements of this policy, where it is considered that full compliance with the policy is impractical or such variation is warranted in the circumstances of the case.

2.0 Trading Areas in the Town Centre zone

- 2.1 Trading areas will not be approved where the gathering of customers or the elements of design will impede pedestrian or vehicular movements or negatively impact on vehicle or pedestrian sight lines or general safety at road junctions and vehicle access crossovers.
- 2.2 Trading areas should not obstruct pedestrian movement. A minimum clear footpath width of 2m should be maintained in all cases. Pedestrians must be able to make normal use of the footpath without being obliged to step into the road at any point, or make other unwarranted detours.
- 2.3 Any trade areas shall not project more than 60cm from the building line and shall be a maximum length of 5m or the length of the business's building frontage, whichever is the lesser.
- 2.4 Trading areas must not be located in such a way that access from the footpath to kerbside parking is obstructed.
- 2.5 The exits from the main building that the trading area is associated with are not to be impeded in any way.
- 2.6 The trading areas are to be designed to accommodate emergency vehicle movements.
- 2.7 The establishment and use of trading areas should not conflict with or inconvenience other retail and commercial activities, or obstruct the views of or access to adjacent properties.
- 2.8 No portion of any items or racks in the thoroughfare may exceed the height of 0.75m from ground level within 1.5m of where a vehicle crossover and thoroughfare meet

3.0 Trading from a Vehicle

- 3.1 Trading from a vehicle will not be approved where the gathering of customers or the elements of design will impede pedestrian or vehicular movements or negatively impact on vehicle or pedestrian sight lines or general safety at road junctions and vehicle access crossovers.
- 3.2 A mobile vendor is not to remain stationary in one location or area for more than one day per week.
- 3.3 Itinerant vendors are to move on when all customers at a particular location have been served.
- 3.4 Mobile or itinerant vendors, other than those selling food produce, are not to compete with a business which is permanently located within the Town Centre zone.
- 3.5 Mobile and itinerant vendors are not permitted to trade from the area bound by Stirling Terrace, Oddfellows Street, the railway line and Harper Road.
- 3.6 Trading from a vehicle is not to occur within a 5km radius of an approved event in the Shire of Toodyay, unless approved by event holders.

4.0 Conditions of Use – General

- 4.1 All items or furniture used as a part of a trading area must be of a movable nature and must be kept in a well maintained and tidy condition at all times.
- 4.2 Structures and furniture used as a part of a trading area must be stable and secure under windy conditions and provision made for out of sight storage when not in use.
- 4.3 The trade operator shall not:
 - a) Make use of any method of amplified noise making (i.e. live music, record, tape, radio, etc); and/or
 - b) Carry out any specific functions (i.e. fashion parades, art exhibitions, etc).
- 4.4 The proprietor of the business, of which the trade display area is part, shall:
 - a) Ensure that the trade display area is kept clean and tidy and free from rubbish at all times;
 - b) Agree to indemnify the Shire of Toodyay against any and all claims for compensation in respect to bodily injury (including death and illness) or damage to property (including loss of

property) howsoever arising from the conduct of the eating area and shall further agree to hold not less than \$10 million public liability insurance (for any one claim) at all times.

5.0 Other Council Matters

- 5.1 Any removal or relocation of existing street furniture, trees or services shall not occur without the prior written approval of the Council. All costs associated with such works will be wholly at the applicant's expense. The Shire of Toodyay will require a cash bond to ensure the works are undertaken in accordance with the development approval.

6.0 Trading – Fees & Renewal

- 6.1 Trading permits will be issued for a maximum of 12 months. Any person intending upon continuing trading must make a new application, prior to the expiry of the 12 month period.
- 6.2 Applications must be accompanied by an initial application fee and if approved a trader's permit fee as set in the Shire of Toodyay Schedule of Fees and Charges, must be paid prior to commencement of trading.
- 6.3 The Shire of Toodyay reserves the right to refuse renewal for a traders permit or to revoke approval at any other time if it considers that the trading area has not or does not fully comply with the requirements of this policy and the Shire of Toodyay Thoroughfares and Trading in Thoroughfares and Public Places Local Law.

ADOPTED AT COUNCIL MEETING 16 AUGUST 2011

