



STREET TRADING POLICY

POLICY TYPE	POLICY ADOPTED (DATE)	MINUTE NUMBER	POLICY DOCUMENT NUMBER (TRIM):
Council	24 July 2017	131/17	D479580
DOCUMENT CONTROLLER	RESPONSIBLE MANAGER	STRATEGIC PLAN 2009-2030 (STRATEGY REFERENCE)	DATE OF NEXT REVIEW
Risk & Compliance Coordinator	Development Manager	4.4 Support activities that encourage safe and responsible community behaviour	July 2019
PURPOSE	<p>The purpose of the Policy is to:</p> <ul style="list-style-type: none"> • Provide and manage a safe environment throughout the municipality for all footpath users. This is achieved through the provision and maintenance of continuous accessible paths of travel for all people on all footpaths; • Facilitate the appropriate use of footpaths and public areas for the purposes of outdoor dining areas and other footpath activities in the Devonport municipal area; • Encourage outdoor dining in Devonport; • Facilitate improvement in street vitality, amenity and economic viability of Devonport's business zones; • Provide opportunities for shop owners and residents to benefit from pedestrian circulation; and • Set a high standard for public safety. 		
SCOPE	<p>This Policy applies to the use of footpaths within Devonport for commercial purposes by any individual, organisation or business unless a duly-approved variation is permitted by Council. The Policy should be read in conjunction with Council's Street Trading By-Law and Guidelines for Applicants – Street Trading.</p>		
POLICY	<p>1. Application of Policy: This Policy applies to all:</p> <ul style="list-style-type: none"> • Commercial premises; and • Food premises within the marked areas of Appendix 1 that are lawfully operating and propose to use Council's footpaths or public areas to either: <ul style="list-style-type: none"> • establish an outdoor dining area; or • carry out footpath trading activities within the areas marked in Appendix 1. <p>Any trade displays or street trading activity must make a positive contribution to the character and amenity of the area marked in Appendix 1.</p> <p>Planning for all footpath use and activities is based on the establishment of Footpath Zones.</p> <p>Commercial use must not encroach on public use of the footpath or impede access to public seating, other public infrastructure or major pedestrian crossing points. Sight lines for road users must be neither</p>		

compromised nor restricted and the requirements of the vision and mobility impaired must be taken into account.

1.1. Public Liability Insurance

An applicant must have current public and products liability insurance for the sum of \$20 million and this must be in a form satisfactory to Council for all activities associated with this policy and Council's By-Law. The Certificate of Currency is to provide a clear statement that acknowledges the insurer is aware of the extension to the business to include on-street trading.

Failure to comply with this requirement will facilitate the immediate removal of Trade Goods, Alfresco Dining Furniture and A-Frame Signs.

A licence will not be issued unless the Applicant indemnifies Council against any action, proceeding, judgement, claim, demand, cost, expense, loss or damage for which Council becomes or may become liable in relation to the death or injury to any person or the damage to any property caused by a display authorised by a licence.

1.2. Guidelines

Applications for Street Trading must comply with the requirements of the 'Guidelines for Applicants' and be in the approved form.

1.3. Street Trading Licence Application Requirements

Applicants are required to complete and submit to Council an application form to conduct activities covered by the By-Law, this Policy and Guidelines. Application forms are available from the Council Offices.

Unless otherwise specified on the licence, an annual licence will expire on a common expiry date, except in those instances where it is withdrawn by Council prior to the expiry date. The Common Expiry date for all Street Trading Licences is June 30 of each year. A lesser fee of 50% of the prescribed fees may be charged where the expiry date is less than 6 months.

If an application is refused, the licence fee will be refunded. Refunds will not be given where a licence or permit is cancelled as a form of enforcement action.

Licences are not transferable. A new licence must be obtained if the proprietor of the business changes.

A licence expires if the licensee ceases to maintain public liability insurance or to meet any of the conditions of the licence and this Policy.

If a licence is revoked for any non-compliance issue, and the applicant wishes to re-apply, the full fee will apply.

2. Operators Responsibilities:

The management of a street trading licence is the responsibility of the licence holder. To ensure appropriate management, licence holders are to:

- Operate in accordance with the conditions of the licence, endorsed plans and the requirements of the Street Trading By-Law and Guidelines.
- Monitor the trading zone – i.e. observe patrons at all times and respond to behaviour that may interfere with the use, enjoyment and personal comfort of others using the footpath area.
- Maintain access for all users in and around the footpath at all times, repositioning furniture when moved outside of the trading zone by patrons.
- Ensure the cleanliness of the footpath area and that equipment is kept clean and litter is removed and placed in bins kept inside the premises. Businesses must not sweep or deposit any litter (including cigarette butts), food scraps or any other rubbish left by patrons into the gutter. Businesses found using these practices may incur a fine.
- Remove all approved furniture (other than approved semi-permanent items) from the footpath area each evening when the premises are closed or licence conditions restrict permitted hours.
- Display the current licence clearly on the shopfront window. Failure to display the current licence is a breach of licence conditions.

3. Council Responsibilities:

3.1. Maintenance of Footpath

The Council will continue to manage the use of the land at all times and reserve the right to reclaim access to and remove all street trading at any time for any purpose deemed suitable by the Council.

3.2. Compensation and Loss of Trade

Where service authorities and others are required to carry out works within the road reserve which require permanent and/or temporary removal and/or alteration to street trading arrangements, no compensation is payable for any removal of fittings, fixtures etc associated with the Street Trading Licence or for loss of trade due to these works.

The responsibility to reinstate fittings, fixtures etc will remain the responsibility of the licence holder and not the person, authority, contractor etc executing the works.

Any problems, inconvenience or loss of trade which may result from activities or works carried out by Council staff, contractors, sub-contractors or agents, at or adjacent to a licence holders' trading area, will not be considered grounds for payment of compensation.

3.3. Access to Underground Services

Services such as sewers and electricity should not be obstructed by semi-permanent structures including fixed screens, umbrellas or planters.

Removable tables and chairs are permitted over underground services.

	<p>3.4. Monitoring Compliance with Approved Licence</p> <p>The following procedure will be followed in dealing with breaches of the Street Trading By-Law, or non-compliance with the provisions of this Policy:</p> <ul style="list-style-type: none"> • A verbal warning will be issued by an authorised Council Officer, indicating the nature of the breach. The date, time and nature of the warning and reasons given should be documented. • A written warning will be issued setting out the reasons for the warning being issued and the actions required to ensure compliance. • The licence will be revoked, or proceedings for the cancellation of the licence will be initiated, in accordance with the Street Trading By-Law. <p>Reasonable opportunities will be provided between each step in the process to permit the person to either comply or otherwise explain the reason for non-compliance.</p>
<p>LEGISLATION AND RELATED DOCUMENTS</p>	<p><i>Local Government Act 1993</i> Street Trading By-Law No.1 of 2009 Street Trading Guidelines for Applicants</p>
<p>ATTACHMENT/S (IF APPLICABLE)</p>	<p>Street Trading Map</p>

Appendix 1

