

## HEALTH

### CP.50 Trading on Thoroughfares & Public Places (Trial ending 30 June 2025)

<i>Responsible Department</i>	Development and Community Services
<i>Resolution Number</i>	C.5152
<i>Resolution Date</i>	16/10/2024
<i>Next Scheduled Review</i>	2024/2025
<i>Related Shire Documents</i>	N/A
<i>Related Legislation</i>	<i>Thoroughfares and Public Places and Trading Local Law 2018</i> <i>Local Government Act 1995</i> <i>Food Act 2008</i> <i>Environmental Protection (Noise) Regulations 1997</i>

### OBJECTIVE

To provide guidance to Shire Officers and the Community in interpretation of the local law for determining applications for a permit to conduct a stall or trade in thoroughfares and public places.

The **trial period ending 30 June 2025** will allow Council to determine if there is a need for street trading within the Shire of Northam. This Policy may be reviewed after the end date.

### SCOPE

This policy applies to all stallholders and street traders in a public place within the Shire of Northam. This policy does not include delivery of pre-ordered goods and services.

The Shire supports stalls and street trading as an enterprising activity that contributes to the wellbeing and benefit of residents and experience of visitors to the region. The Shire encourages a high standard of service delivery whilst also supporting local economic development and commercial viability.

The Shire needs to ensure that there is a balance between mobile food traders and established food businesses, and careful consideration is taken in assessing applications for mobile food trade.

### POLICY

## 1.0 STALLHOLDERS

### Definitions

- Stall:** Means a moveable or temporary fixed structure, stand or table in, on or from which goods or services are sold, hired or offered for sale or hire. Generally, this does not include a vehicle.
- Stallholder:** Means a person in charge of a stall
- Community:** As defined as “charitable organisation” by the Local Law – Means any institution, association, club, society or body whether incorporated or not, the objects of which are a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and from which any member does not receive and pecuniary profit except where the member is an employee, or the profit is an honorarium.  
Footnote: For the purposes of this policy a Community Organisation is required to be based primarily or have local representation within the Shire of Northam.
- Commercial:** As defined as a “commercial participant” by the Local Law – means any person who is involved in operating a stall or in conducting any trading activity for personal gain or profit.
- Public Place:** includes-
- (a) Any thoroughfare or place which the public are allowed to use whether or not the thoroughfare or place 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, and includes:
- A street;
  - Any local government property; or
  - A place to which the public have access(e.g. carparking areas).
- Local Government Property:** means anything except a thoroughfare –
- (a) Which belongs to local government:
  - (b) Of which the local government is the management body under the *Land Administration Act 1997*; or
- Which is an “otherwise vested facility” within section 5.35 of the Act
- General Stall:** Is any stall other than a Food Stall.

## **1.1 Types of Stalls**

A stall is operated either for COMMUNITY or COMMERCIAL purposes.

A stall is defined as either a FOOD or GENERAL STALL.

## **1.2 Location of Stalls**

A COMMERCIAL FOOD OR GENERAL STALL permit will **ONLY** be issued if the stall is located in an approved, registered event area, approved markets or at a sporting event that the organisers have agreed upon the applicant's inclusion.

Consideration will also be given to flexible locations if raising funds for a community organisation through a sausage sizzle, sale of pre-packaged drinks or a wood raffle or the like. Flexible location considerations for community organisations include access, authorisation from the landowner and, public safety and amenity, including:

- a) Any obstruction to the visibility or clear sight lines of any person at an intersection of thoroughfares.
- b) Any impediment to pedestrian access.
- c) If the vehicle, display, tables, chairs and other equipment to be used may obstruct or impede the use of the public space for the purpose for which it was designed.
- d) Measures are in place to reduce sound emitted by mechanical devices and/or activities associated with the stalls operation.

Areas where a stall is **NOT** permitted (unless at a community/sporting event hosted in a Public Place):-

- on or adjoining (50m of) the following roads: Great Eastern Highway, Great Southern Highway;
  - within the view of road users from any Highway or Freeway;
  - no closer than 300 metres of any shop or permanent place of business that has for sale the same kind of goods or merchandise being offered for sale;
  - within 300 metres of schools between the hours of 8:00am to 9:00am and 3:00pm to 4.00pm when schools are operating;
- e) in road reserves unless the site has a formal parking area (such as rest areas);

## **2.0 STREET TRADING**

### **Definitions**

**Street Trading:** Includes a trader going from place to place, conducting a sale or offering for sale or hire or the soliciting of goods or services.

Street trading does not include the delivery of pre-ordered goods or services to the purchaser.

Street trading from a Public Place requires a permit.

**Public Place:**

includes-

(a) Any thoroughfare or place which the public are allowed to use whether or not the thoroughfare or place 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, and includes:

- A street;
- Any local government property; or
- A place to which the public have access.(e.g. carparking areas)

**Vehicle:** Means a car, bus, truck, van or trailer.

**Street Trader:** Is a person who carries on street trading **from a vehicle** whether itinerant or regular.

**Itinerant Trader:** An itinerant trader is a street trader who trades **from a vehicle** on public roads, stopping in various locations only long enough to conduct a sale. An itinerant trader may be a food or non-food trader. (An example is a mobile ice cream van).

**Regular Trader:** A regular trader is a street trader who trades **from a vehicle** which accesses various PRIVATE, COMMERCIAL or INDUSTRIAL properties on a regular basis in an attempt to obtain a sale. A regular trader may be a food or non-food trader.

**Regular food traders who wish to trade from a Public Place are ONLY permitted in the assigned trading zones (see 3.0 Trading Zones).**

**2.1 Types of Street Traders and permits:**

A street trader is either an ITINERANT or REGULAR trader. ITINERANT traders may be issued an ‘Itinerant Street Trading Permit’, REGULAR traders may be issued a ‘Regular Street Trader Permit’.

**2.2 Location of FOOD Street Traders:**

### **2.2.1 Itinerant FOOD Trader:**

Areas where an itinerant FOOD street trader is NOT permitted:-

- on or adjoining (50m of) the following roads: Great Eastern Highway, Great Southern Highway;
- within the view of road users from any Highway or Freeway;
- no closer than 300 metres of any shop or permanent place of business that has for sale the same kind of goods or merchandise being offered for sale;
- within 300 metres of schools between the hours of 8:00am to 9:00am and 3:00pm to 4:00pm when schools are operating;
- in road reserves unless the site has a formal parking area (such as rest areas);

### **2.2.2 Regular FOOD Trader:**

Regular food traders who wish to trade from a Public Place are generally ONLY permitted in the assigned trading zones (see **3.0 Trading Zones**).

## **2.3 Location of NON-FOOD Street Traders:**

### **2.3.1 Itinerant NON-FOOD Trader:**

NOT permitted in the Shire of Northam.

### **2.3.2 Regular NON-FOOD Trader:**

Permit required.

## **3.0 TRADING ZONES**

Certain locations have been identified as being conducive to Regular FOOD trading. These locations have been selected taking into account the distance to established food premises, pedestrian access and safety, vehicle access and traffic safety, public parking requirements, lighting, toilets and current food industry servicing. As such, Regular Street Trading Permits will be issued on a nominated **daily** basis for a mobile food vehicle to trade at each of the following locations (indicated in red):

### **3.1 Locations**

3.1.1 Wundowie Oval – Banksia Ave, Wundowie



3.1.2 Information Bay, Mitchell Avenue, Northam



3.1.3 Enright Park, Fitzgerald St, Northam



If a location is no longer considered suitable at any time throughout the year it will be removed. Locations may be modified by the CEO.

### **3.2 Approval conditions:**

Food vehicles are required to be fully self-contained and removed from the location on completion of trade each day. All rubbish from the food vehicle is to be removed and disposed of at an approved location to the satisfaction of the Manager Health and Building Services. An adequate supply of water is to be provided for the duration of trade, and all waste water is to be contained within the vehicle and disposed of at an approved location to the satisfaction of the Manager Health and Building Services.

Suitable lighting must be available in the immediate trading area for food vehicles to safely trade before sunrise and after sunset.

Food is to be take away service only.

Approved vehicles are not permitted to remain on-site overnight

### **3.3 Operating hours:**

Table 1: Approved Regular Food Trader operating hours:

<b>Location:</b>	<b>Operating Hours:</b>
Wundowie Oval	Weekdays & Saturday 7:00am to 9:00pm*
Information Bay	Weekdays 7:00am to 7:00pm**
Enright Park	Weekdays 7:00am to 7:00pm**

\* Weekday trading: Monday to Thursday limited to 7:00am – 7:00pm. Saturday trading may occur once a month on a trial basis, with extended operation hours to 9:00pm. Friday trading may be extended to 9:00pm on a trial basis.

\*\* Traders only permitted for maximum 4 hours per day as there are no toilets available at site.

## **CONSIDERATION OF APPLICATIONS**

Anyone conducting a commercial business In a Public Place must have a permit to do so. It is important that the Shire is aware of who is operating a business from a Public Place in order to:

- a) manage competing uses of public open space.
- b) provide protection to established businesses on private land.
- c) manage the impact on the asset (e.g. wear and tear of the reserve).
- d) ensure there is adequate public liability insurance and risk management processes in place.
- e) ensure that the activation of the space is in the best interests of the Shire and the community.

Where there are potential conflicts with existing businesses, Street Trading will generally not be supported.