



Ashfield Council

Commercial Street Vending and Mobile Vending Vehicles Policy

February 2013

This policy will be reviewed triennially by: Planning and
Environment

Next review date: February 2016



Title:	Commercial Street Vending and Mobile Vending Vehicles Policy
Summary:	This policy outlines the requirements for the vendors engaged in the selling of articles on the street from mobile units and vehicles.
Record Number:	***
Date of Issue:	February 2013
Approval:	6/10/93 Council, 12 /2/2013 Council
Version Control:	V3
Contact Officer:	Manager Regulatory Services
Relevant References:	Guidelines for Street Vending Control, Division of Local Government.
Main Legislative or Regulatory References:	Local Government Act 1993 Protection of the Environment Operations Act 1997 Food Act 2003
Applicable Delegation of Authority:	As per delegations schedule for Planning and Environment Directorate
Related Ashfield Council Policy:	Charitable Street Collections and Street Stalls Policy Outdoor Dining and Footpath Trading Policy Street Entertainment Policy
Related Ashfield Council Procedure:	Guidelines for Food Vending Vehicles



Policy Background

Street vending activity involves the selling of articles either directly or from a stall or standing vehicle or takeaway service facility on public roads and public places. Street vending has general community support and may improve the amenity of streets and public places and provide added convenience and economic benefit for the community. This policy has been developed to assist with the oversight and to ensure that reasonable standards of safety are maintained for the Ashfield community.

It is an offence under the *Local Government Act 1993* (Section 68 F 7) to carry out any street vending activity without the prior approval of the Council of the area in which the activity is conducted. The offence attracts an on-the-spot fine. Applicants should complete the appropriate application form for a Mobile Food Vending Vehicle and lodge with Council together with the Application Fee.

Policy Purpose

To establish guidelines for commercial street vending within the Ashfield Local Government Area and to set out requirements for the issuance of a permit to engage in such a commercial activity.

Policy Objectives

The policy objectives are to:

- define the requirements for trading from a mobile vending vehicle on the street within Ashfield Local Government Area,
- stipulate requirements for the handling, storage and display of food for sale from a mobile vending vehicle,
- require a permit from Council is required before mobile vending can occur within the Ashfield Local Government Area,
- ensure compliance with equivalent standards used across local government areas in NSW.

Implementation and access

Definitions

"Carriageway" means that portion of the road reserve devoted particularly to moving vehicles.

"Charity street collection button days and street stalls" relate only to those organisations operating, or with an auxiliary operating within the municipality or its immediate environs and those appeals of a national and/or state-wide character in accordance with Council's policy for "*Charity Street Collections and Street Stalls Policy*"

"Food" or Article of Food shall have the meaning ascribed thereto in Section 3(1) of the Food Act 2003.

"Food vending vehicle" shall include any motor vehicle registered under the Motor Traffic Act, any hand cart, bicycle, trailer or stand including 'Street Vending' and 'Mobile Vending Vehicles' defined above used for the preparation, heating, refrigeration or storage for food for sale for human consumption.

"Mobile vending vehicle" means a motor vehicle plying on public streets and making brief intermittent stops (on lightly trafficked roads) for the hawking of ice cream, chocolates, sweets or the like. By law, these vehicles require the display or warning signs and fitting of flashing lights.



“Public Place” means a public road, bridge, jetty, wharf, road ferry, public bathing reserve, public baths, public land and other land which is a public place under the *Local Government Act 1993*.

“Public Road” means a road which the public are entitled to use.

“Public Street” means any street, road, lane, thoroughfare, footpath or place open to or used by the public and includes any place at the time open to or used by the public on the payment of money or otherwise.

“Road reserve” the entire right-of-way devoted to public travel, including footpaths, shoulders, verges and carriageways.

"Roadside stall" means a building or place not exceeding 20 square metres in floor space or area respectively where only primary products produced on the property on which the building or place is situated are exposed or offered for sale or sold by retail. Roadside stalls are not permitted within the Ashfield Local Government Area.

“Shopfront footpath displays” means goods including boxes, stands, products and all materials that comprise and make up the display in a licensed area outside a specified retail premises that has been approved by Council for the display on the footpath in front of such premises in accordance with Council's Outdoor Dining and Footpath Trading Policy.

"Street vending" means the setting up or use within the road reserve of any box, stall, stand, barrow or stationary vehicle, other than a "roadside stall" or "mobile vending vehicle" defined hereunder, for the purpose of offering for sale any goods, or for the pursuit of any business, calling, or employment.

“Street Vending” involves the selling of articles either directly or indirectly or from a stall or standing vehicle in a public street or a public place. Examples of street vending activities include:

- sale of fruits and vegetable from barrows on a footpath
- sale of newspapers from a stand on a footpath
- sale of food, drinks, fruit or vegetables from a stall, a standing vehicle or structure (eg kiosks) in a pedestrian mall, near a tourist area, sporting venue or the like not being on private land
- sale of food or articles from a box, stall or table located on a footpath including stalls operated by charitable organisations
- sale of any goods from a stall, stand or table located or standing vehicle located in a kerbside lane or on the side of carriageway
- setting up of footway restaurants or takeaway facilities for sale or serving of drinks in a pedestrian area
- sale of flowers from a box on the side of carriageway
- sale of food confectionary or other articles from a standing street or mobile vending vehicle on the side of a carriageway

Compliance Requirements

Mobile Vending Vehicles

- 1.1 Food Vending Vehicles - shall comply with Council's " Guidelines for Food Vending Vehicles"



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- 1.2 Application for a permit to trade shall be made on the prescribed form and shall specify the part of the municipality or the streets in which it is intended to hawk or sell goods.
- 1.3 A person who hawks or peddles from a mobile vending vehicle shall not use any bell, music or other sound device to attract customers between the hours of 8pm to 8am, or any other time whilst the vehicle is stationary. A person who hawks or peddles articles from a mobile vending vehicle shall indemnify the Council against any liability which the Council may incur resulting from or referable to any accident, damage, injury or loss, caused by the person hawking or peddling from a mobile vending vehicle or by acts or omissions in relation thereto.
- 1.4 A person liable to indemnify the Council under the previous clause shall maintain with an insurer approved by the Council public risk insurance in respect of the liability in the joint names of that person and the Council in an amount of not less than \$10 million for any individual claim.
- 1.5 A person who hawks or peddles human food, including ice cream or related products, from a food vending vehicle shall not hawk or peddle those articles within 200 metres of any trading retail shop which sells similar articles of human food.
- 1.6 The operator of any mobile vending vehicle shall also comply with the requirements of the "*Guidelines for the Operation of Mobile Vending Vehicles*" issued by Roads and Maritime Services, and shall display the prescribed warning signs, and fit flashing amber lights onto the vehicle roof.
- 1.7 No person shall hawk or peddle from any mobile vending vehicle unless such vehicle is registered with Ashfield Council and a current permit to trade is in force in respect of that vehicle.

Street Vending

- 2.1 Stalls, stands, stationary vehicles and the like used for the preparation, storage or sale of food for human consumption shall comply with the relevant requirements of Council's Guidelines for the "Hygienic Operation of Food Vending Vehicles, Temporary Food Premises or Food Stalls". Applicants should also consult Council's Outdoor Dining and Footpath Trading Policy for non mobile vending vehicle applications.
- 2.2 Application for a permit to trade shall be made on the prescribed form and shall specify a number of key details in order to consider approval to hawk or sell goods. Charities and not-for-profit organisations should also refer to Council's Charitable Street Collections and Street Stalls Policy. In accordance with the Local Government Act 1993, Section 113 the following information will be collected and retained by Council:
 - i. the serial number of the approval
 - ii. the date of the application
 - iii. the amount of application fees and the date it was paid
 - iv. the period for which the approval operates
 - v. the name and address of the person to whom the approval is granted
 - vi. the location(s) at which the approved activity may be conducted
 - vii. a description of the approved activity (including hours and days of operation), and
 - viii. details of any conditions of approval and whether the approval has been revoked or modified.



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- 2.3 A person who hawks or peddles goods or food for human consumption shall not hawk or peddle such goods or article of food within 200 metres of any trading shop which sells similar goods or articles of food.

Insurance

- 2.4 The street vendor (or any other person) be required to obtain a Public Risk Insurance, at their cost, such policy to include a clause indemnifying Council in the amount of \$10 million against any action that may arise from damage to property or injury to any person using the footpath area. Notwithstanding the above, that the Council's Inspectors and Rangers use discretionary powers to have any footpath obstruction removed, if of the opinion it is a danger to the public.
- 2.5 Council is indemnified of all responsibility for the use for which this application refers and the applicant agrees to accept all responsibility.
- 2.6 Any Permit granted is immediately invalid if no current indemnity insurance is in force.

Issuance of a Permit

- 2.7 The issue of any permit to trade will be subject to terms and conditions as determined by Council or its authorised Officer.
- 2.8 Approval of the Roads and Maritime Services either directly or through Council's Local Traffic Committee, must be obtained for all street vending on all classified roads which, in the Ashfield local government area are: Liverpool Road, Ramsay Street, Parramatta Road, Frederick Street, Milton Street and Old Canterbury Road.
- 2.9 No person shall display or store food for sale in any street, or other open space at a lower level than 75 centimetres above the footpath level or the ground level in the case of such street or open space, unless such food is adequately protected against pollution by dogs, cats or other animals.
- 2.10 Stalls, stands, stationary vehicles, goods and the like used for street vending without a current permit being in force may be impounded by Council and will not be released until the impounding fee as determined by Council is paid. If the goods, articles or equipment are not claimed and the impounding fee not paid within fourteen (14) days from the date of impounding, the goods, articles or equipment will be disposed of as Council deems appropriate.
- 2.11 Stalls, stands, stationary vehicles, goods and the like displayed that are considered to be a danger to the public, if not removed upon request, may be impounded. If not claimed, and the impounding fee determined by Council is not paid within fourteen (14) days from the date of impounding, the items will be disposed of as Council deems appropriate.

Safety and Hygiene

- 2.12 Stalls, stands, stationary vehicles, goods and the like displayed shall be placed so as to minimise any risk or injury being caused to premises by and be so placed as to be clear from other obstructions including bus stops, approved advertisements and the like. Where stands are located on kerbside, these cannot protrude more than 2500mm into the



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footpath. There must be a clear passage width available of 1.8 metres for pedestrian access at all times.

- 2.13 Stalls, stands, stationary vehicles, goods and the like displayed that are considered to be a danger to the public, if not removed upon request may be impounded and if not claimed and the impounding fee as determined by Council not paid within fourteen (14) days from the date of impounding will be disposed of as Council deems appropriate.
- 2.14 The street vendor shall maintain the area around the stall/stand/stationary vehicle or the like in a clean and tidy condition and provide sufficient receptacles for the proper disposal of rubbish and wrapping generated by the street vending.
- 2.15 All liquid waste and waste water is to be disposed of to the sewer in accordance with Sydney Water requirements. *The Protection of the Environment Operations Act 1997* requires that operations should not cause any harm to the environment (ie air, water, noise and surrounding land environments).
- 2.16 Vehicle(s) covered by this policy are to be maintained in good repair and hygienic condition at all times when vending is being carried out.
- 2.17 Vehicle(s) must display a valid Safe Food Approval.
- 2.18 All food businesses in NSW must notify their details to the NSW Food Authority. Online notification can be completed at: <http://www.foodauthority.nsw.gov.au/>

Inspection by Council Officers

- 2.19 All mobile vending vehicles shall be made available for inspection by Council staff at a mutually convenient time and place during normal business hours prior to any permit to trade being issued and subsequent to such authorisation.
- 2.20 Inspections will use this policy, the Guidelines for Food Vending Vehicles and such other regulatory requirements as may be applicable.

Attachment:

Application Form for Mobile Food Vending Vehicle

