

**WARWICK SHIRE COUNCIL
LOCAL LAW POLICY NO. 12
(ROADSIDE VENDING AND THE USE OF ROADS AND FOOTWAYS)**

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**WARWICK SHIRE COUNCIL
LOCAL LAW POLICY NO. 12
(ROADSIDE VENDING AND THE USE OF ROADS AND FOOTWAYS)**

To be read with: Local Law No. 12 (Roadside Vending and the Use of Roads and Footways)

Application: To all areas of the Shire

Date Resolved: 24 November 1999

Citation

1. This local law policy may be cited as Local Law Policy No. 12 (Roadside Vending and the Use of Roads and Footways).

Definitions

2. In this local law policy, unless inconsistent with the context:-
“**local law**” means Warwick Shire Council Local Law No. 12 (Roadside Vending and the Use of Roads & Footways)
“**mobile food vending**” means the selling (including the preparation, handling or serving) of food from a vehicle
“**relevant premises**” means any premises used in connection with any business or activity for which a permit is obtained or required under the local law
“**relevant vehicle**” means any vehicle used in connection with any business or activity for which permit is obtained or required under the local law
“**roadside vending**” means the conduct of any business on a road
Expressions defined in the local law bear the same meaning in this local law policy.

Delegation

3. The local government may delegate to the Chief Executive Officer all or any part of its powers, functions and authorities in respect to the operation of this Local Law Policy.

Term of Permits (Local Law Section 7)

4. For the purposes of Section 7 of the local law, a permit issued in respect of a street stall or busking shall be in force from the date of issue and expire not more than seven (7) days after the date of issue, unless otherwise approved in accordance with the conditions of the permit.

Applications for Permits (Local Law Section 5)

5. For the purposes of Section 5 of the local law, and unless otherwise permitted by the local government, applications for permits for the following businesses or activities must provide the information or documents required by this section:-

- a. All businesses and activities for which a permit is required
 - i. An applicant must:-
 - (1) provide and maintain an indemnity to the local government against and for all damages to or loss of equipment and/or property and against any claims, suits, actions or demands arising out of any injury or damage suffered by a person or any injury to property incurred as the result of the use of roads or land under the control of the local government in the form as may be prescribed by the local government;
 - (2) when making application for a permit or any renewal thereof, submit to the local government a copy of the public risk insurance policy and indemnity documentation or renewal documentation therefore;

b. Busking

A person applying for a permit for busking must include a letter from the occupiers of all premises adjacent to the proposed busking area stating that they have no objection to the local government issuing such permits.

c. Street Stalls

A person applying for a permit for a street stall must include a letter from the occupier of all premises adjacent to the proposed stall site, stating that they have no objection to the local government issuing such permit.

However, the Chief Executive Officer may exempt a local charity or community based organisation from the requirements of this section.

Criteria for Grant of Permits (Local Law Sec. 6)

- 6. In deciding whether to grant a permit authorising a person to conduct any business or activity on a road, the local government may have regard to:-
 - a. the physical suitability of the road for the proposed use;
 - b. the number of similar uses the area can sustain;
 - c. the likelihood of the use causing nuisance, inconvenience or annoyance to the occupiers of adjoining land, vehicular traffic or pedestrians;
 - d. the likely effect on the amenity of the surrounding area;
 - e. the likely effect on the local environment and any possible pollution or other environmental damage;
 - f. whether the use is associated with an adjoining premises and the use of such premises complies with the Planning Scheme;
 - g. other factors that may be relevant in the circumstances of the particular case.

For the purposes of Section 6 of the local law, the following criteria apply in respect of permits for the businesses or activities mentioned in this section:-

- h. *Advertising Devices on Footways*
- i. The holder must be the occupier of:-
- (1) premises immediately adjacent to the portion of footway concerned (“immediately adjacent premises”); or
 - (2) premises in a building or arcade which is immediately adjacent to the portion of footway concerned (“nearby premises”);
- ii. No more than one (1) advertising device may be placed on a footway per immediately adjacent premises provided that the local government may approve a second advertising device where premises have a street frontage of over 10.0 metres, subject to consideration of:-
- (1) the total length of the street frontage of the premises;
 - (2) the number of street frontages of the premises;
 - (3) the number of existing or possible footpath advertising devices within the vicinity of the premises;
 - (4) the amount of pedestrian traffic using the footway adjacent to the premises;
 - (5) other factors that may be relevant to the circumstances of the particular case.
- iii. Only one advertising device will be permitted for one building or arcade irrespective of how many separate premises are in that building or arcade. That device will be a multi-listing directory type device. However, subject to the written consent from all other occupiers in the building or arcade, the local government may permit the advertising device to be for only one of the premises in the building or arcade.

Conditions of Permits (Local Law Section 8)

7. For the purposes of Section 8 of the local law, the following conditions may be imposed in permits for the businesses or activities mentioned in this section:-
- a. *Mobile Food Vending*
- i. The holder must:-
- (1) comply in all respects with the Food Hygiene Regulations, Council Policy and such other Laws or Regulations as may have application to the relevant vehicle or the activities carried on in respect of such vehicle;
 - (2) have affixed to the relevant vehicle, the permit number issued by the local government legibly written on two of the external sides of the vehicle in numbers not less than 50 millimetres in height and the name and the address of the holder of the permit on one external side of the vehicle in letters not less than 75 millimetres in height;
 - (3) keep the relevant vehicle at all times in a clean tidy and orderly condition;

- (4) maintain the area in which the vending activity is conducted at all times in a clean and tidy condition;
 - (5) leave the area in which the vending activity has been conducted in a clean and tidy condition;
 - ii. The holder must not:-
 - (1) unless otherwise approved by the local government, park the relevant vehicle used for that activity for a period longer than is necessary to serve a customer;
 - (2) amplify, or cause to be made, any noise identifying, advertising or otherwise drawing attention to the relevant vehicle except between the hours of 9:00am and 6:00pm and the amplified or other noise so produced shall not exceed the standards laid down by the Environmental Protection (Noise) Policy under the Environmental Protection Act;
 - (3) place any advertising device for a mobile food vending activity on any road.
- b. *Roadside Vending*
 - i. The holder must comply in all respects with such other Laws or Regulations as may have application to the relevant vehicle or the activities carried on in respect of such vehicle.
 - ii. The holder must:-
 - (1) keep the relevant vehicle or stall and all goods contained therein or thereon, at all times in a clean, tidy and orderly condition;
 - (2) keep affixed to the vehicle, the permit number issued by the local government legibly written on two of the external sides of the vehicle or stall in numbers not less than 50 millimetres in height and the name and address of the holder of the permit on one external side of the vehicle in letters not less than 75 millimetres in height;
 - (3) maintain the area in which the vending activity is conducted at all times in a clean and tidy condition;
 - (4) leave the area in which the vending activity was conducted in a clean and tidy condition.
 - iii. The holder must not:-
 - (1) unless otherwise approved by the local government, park a relevant vehicle on any road under the control of the local government for a period longer than is necessary to serve a customer;

- (2) amplify or cause to be made, any noise identifying, advertising or otherwise drawing attention to the relevant vehicle or stall;
- (3) place any advertising device for a roadside vending activity on any road or footway under the control of the local government.

c. *Footpath Dining Areas*

- i. The holder must not use a footway as a footpath dining area unless the footpath dining activity is immediately adjacent to:-
 - (1) relevant premises which are food premises registered with the local government; or
 - (2) premises where the footpath dining has been approved of in writing by the owner and occupier of those premises.
- ii. The holder must:-
 - (1) use the footpath dining area only during the normal business hours of the relevant premises;
 - (2) remove all tables, chairs, fixtures and fitting from the footway when the relevant premises is not open for business;
 - (3) be responsible for obtaining all necessary licenses and/or permits for the consumption of liquor within the footpath dining area;
 - (4) maintain the area including all tables, chairs and the footway, at all times in a clean and tidy condition;
 - (5) provide and maintain in the area, a litter bin and be responsible for the removal of all refuse at such intervals as the local government may direct.
 - (6) ensure all umbrellas used at tables in a footpath dining area have a minimum clearance above the footway of two (2) metres to the lowest point of the extended arms (spokes) of the umbrella and shall be securely anchored under the table to the satisfaction of the local government;
 - (7) ensure the furniture used in a footpath dining area is:-
 - (a) aesthetically acceptable to the local government;
 - (b) constructed of material approved by the local government;
 - (c) kept in a proper state of physical and visual repair.

- (8) provide and maintain toilet facilities adequate for the total seating capacity for the relevant premises as required by the Building Code of Australia, Liquor Act and/or Council Policy relating thereto. Should adequate toilet facilities not be available on the premises adjacent to the footpath dining area, the local government may consider the use of alternative toilet facilities provided that they are located within a distance of not more than 50 metres of the relevant premises and are adequate for the proposed additional use;
 - (9) maintain a clear unobstructed pedestrian corridor of not less than 2.4 metres between the tables and chairs and the kerb or an awning post, service pole, refuse container, planter box, fire hydrant or the like or any other physical obstruction, provided however, a larger dimension may be required where pedestrian traffic density is assessed by the local government as requiring an increased footway.
 - iii. The holder must not place any advertising device in the footpath dining area unless the holder has a permit for that purpose.
 - d. *Footpath Advertising*
 - i. The holder must:-
 - (1) ensure that an advertising device on a footway:-
 - (a) is static and portable and has a total advertising surface not exceeding 1.5 square metres and has a maximum height of 1.2 metres and width of 0.75 metres;
 - (b) is of sound construction and design, presented in a manner that is aesthetically acceptable to the local government, and in keeping with the character and amenity of the area in which it is to be placed;
 - (c) is fitted to a base plate of sufficient weight to prevent it being overturned by wind or be fitted with a fixing device for attachment to an anchoring point on the front of their premises as may be approved by an authorised person;
 - (d) only advertises the goods and services available at relevant premises;
 - (e) only is placed on a footway immediately adjacent to the relevant premises and is placed no closer than 2.0 metres to another sign of an adjacent premises or within 1.0 metres of a doorway of any premises or within 1.0 metres of an adjacent premises;
 - (f) only is placed on the footway during the times that the relevant premises to which the advertisement applies are open for business;
 - (g) is maintained at all times in a good condition and a proper state of repair;

- (2) ensure that an advertising device:-
 - (a) is not placed on any footway so that any part of the device is more than 1.0 metre from the boundary of the relevant premises;
 - (b) is placed so that a clear pedestrian corridor of not less than 2.4 metres is provided and maintained between the device and the curb or any other physical obstruction;
 - (3) paint the permit number onto the bottom right hand corner of the advertising surface of the device in letters not less than 25mm high;
- ii. The holder must not:-
- (1) install any advertising device which is illuminated, fluorescent, aggressively coloured or having suggestive or offensive wording;
 - (2) use vehicles or trailers for advertising on a footway.
- e. *Goods on Footpaths*
- i. The holder must:-
- (1) maintain goods displayed on any footway at all times in an orderly and sightly condition;
 - (2) maintain the footway, in the immediate area where the goods are displayed, in a clean and tidy condition.
- ii. The holder must not place goods on a footway unless:-
- (1) the goods are placed on the footway immediately adjacent to the relevant premises and not within 1.0 metres of a doorway to any premises or within 1.0 metres of an adjacent premises;
 - (2) any table or stand holding the goods is:-
 - (a) of safe construction;
 - (b) in a proper state of repair;
 - (c) securely fixed where considered appropriate by an Authorised Officer.
 - (3) there is at all times a clear unobstructed pedestrian corridor of not less than 2.4 metres between the goods and the roadside kerb or any other physical obstruction;
 - (4) the area used for the display of goods on a footway does not extend more than 1.0 metres from the property boundary of the premises.

f. *Street Stalls*

i. The holder must:-

- (1) maintain the footway, in and around the area of the stall, and all goods or wares displayed at the stall, at all times in a clean orderly and tidy condition and so kept as to prevent danger or injury to persons or property from any cause;
- (2) provide and maintain a clear unobstructed pedestrian corridor of not less than 2.4 metres on the footway between the stall and the roadside kerb or any other physical obstruction however, a larger distance may be required where pedestrian traffic density is assessed by the local government as requiring an increased footway.

ii. The holder must not:-

- (1) sell perishable or potentially hazardous foods. Food for sale at a street stall shall be prepared, manufactured, packed and labelled as required in accordance with the provisions of the Food Hygiene Regulations, the Food Act and any Council Policy relating thereto prior to being offered for sale at such stall;
- (2) manufacture, prepare or pack any food for sale at a street stall;
- (3) accost passers-by to encourage the purchase of their wares;
- (4) locate a stall less than 1.0 metre from the doorway of the premises in front of which the stall is located or less than 1.0 metre from any adjacent premises;
- (5) place an advertising device on a footway unless the holder has a permit for that purpose.

g. *Busking*

i. The holder of a permit must:-

- (1) maintain the road or footway where the activity is being conducted at all times in a clean and tidy condition;
- (2) maintain a clear unobstructed pedestrian corridor of not less than 2.4 metres on the footway between the busking area and the roadside kerb, provided however a larger distance may be required where pedestrian traffic density is assessed by the local government as requiring an increased footway and now within 1.0 metres of a doorway to any premises or within 1.0 metres of an adjacent premises when the premises are open for business.

- ii. The holder of a permit must not:-
 - (1) cause a nuisance to the proprietors of premises or occupiers of any residence located in close proximity to the busking activity;
 - (2) use any amplification equipment or cause to be made any unreasonable noise during the conduct of a busking activity;
 - (3) accost or cause a nuisance or obstruction to passers-by;
 - (4) solicit audience participation in any busking activity;
 - (5) consume any alcoholic beverage during the conduct of a busking activity;
 - (6) place an advertising device on a road.
- iii. A person engaged in a busking activity shall immediately cease the activity when directed to do so by an Officer of the Police Force or the local government.
- h. *Planter Boxes*
 - i. The holder of a permit must not place a planter box or install a fixed planter box other than on the footway immediately adjacent to the relevant premises.
 - ii. The holder must ensure a planter box and a fixed planter box are:-
 - (1) of solid construction and of a design and material considered aesthetically appropriate by the local government and in keeping with the character and amenity of the area in which it is to be placed;
 - (2) planted with a plant or plants of a species considered to be suitable by an authorised person for the particular location;
 - (3) of an adequate size or weight so as not to be effected by wind or to be dislodged by persons and to be securely fixed in position when considered necessary by an authorised person or if the planter box is to be of a pot plant type container not exceeding 300mm in diameter and 450mm in overall height including the planing, it is to be removed from the footway when the premises is not open for business;
 - (4) kept in a proper state of repair and free of graffiti or other disfigurement;
 - (5) maintained in such a manner so as to keep the plants in a healthy condition and free of disease;
 - (6) located so that a clear unobstructed pedestrian corridor of not less than 2.4 metres can be maintained between the planter box and the road kerb, the shop front or any other physical obstruction, provided however, a larger dimension may be required where pedestrian traffic density is assessed by the local government as requiring an increased footway width and not within 1.0 metres of a doorway to any premises or within 1.0 metre of an adjacent premises.

i. *Insurance for all businesses and activities for which a permit is required*

A holder must hold or maintain for the whole term of a permit a \$5,000,000 public risk insurance policy worded to the satisfaction of the local government which names the insured as “the holder of the permit and the Warwick Shire Council”. However, the Chief Executive Officer may exclude the above requirement in respect of a permit for a street stall if the street stall is to be conducted by a local charity or community based organisation.

Application for Variation of Policy Provisions

8. Notwithstanding the provisions of this local law policy, the local government may permit a variation of these provisions for a specific application for a permit under this local law policy having regard to the proposed method of operation of the use, the location, characteristics of the site, the time period the use is to operate, construction, width, vertical alignment of the road or footway or the nature and character of surrounding development.