

Policy Number: H.01.12

Policy Section: Health and Building

Person Responsible: Building & Environmental Service Director

Policy Title: INTINERANT VENDORS AND STANDING STALLS

Date of Adoption:

Date of Review:

File references:

OBJECTIVES:

To detail and regulate appropriate safety and health conditions for itinerant vendors and stalls operating in Gwydir Shire.

POLICY STATEMENT:

1. That Council require all itinerant vendors and standing stall proprietors to obtain a permit from Council prior to operating on Council land within the Gwydir Shire Council area.
2. Subject to the provisions of the Local Government Act 1993, the Roads Act 1993 and Council's Food Policies, the following conditions apply in respect of applications for licences for itinerant vending or standing stalls:-

DEFINITIONS

Mobile Food Vehicle refers to a motor vehicle, caravan, trailer or other mobile units that are registered as per the requirements of the Motor Traffic Act and have been constructed in accordance with the Australian Institute of Environmental Health's National code for Mobile Food Vending Vehicles.

Temporary Food Stall refers to an enclosure that is usually made from strong light weight material housing cooking and other facilities, designed to serve food for one day.

Standing Stall means any stall, whether mobile or not, on a road or land under the control of the Council where goods are sold thereon. The term includes street stalls, carnival stalls, raffle sales and building site food stalls but does not include street furniture being used in conjunction with permanent operating business.

Carts and other devices refers to an apparatus or small vehicle with or without wheels, usually not road registered, that can be but not limited to being , carried, pushed or pulled along. Carts and other devices do not usually meet the criteria for a mobile food vehicle or temporary food stall.

Itinerant Vendor means a person who offers goods for sale, whether such goods are carried about in any vehicle or stall or cart, in a any basket or other receptacle or on the person, upon any road or land under the control the Council, not standing for any time other than while executing a sale.

Hawker means a person selling food, or any article or service, from public streets and lands, making brief and intermittent stops to serve customers.

Approval refers to an approval by council on a application under Section 68 of the Local Government Act 1993.

Council refers to Gwydir Shire Council

Authorised Officer refers to a person who has been appropriately authorized by Gwydir Shire Council under relevant legislation.

Potentially Hazardous Food refers to food that has to be kept at certain temperatures to minimize the growth of any pathogenic micro-organisms that may be present in the food or to prevent the formation of toxins in the food.

Development Consent means the consent of Gwydir Shire Council under Part 4 of the Environmental Planning and Assessment Act 1979 for an applicant to carry out development and includes, unless expressly excluded, a complying development certificate.

Conditions for Application for an Itinerant Vendor's or a Standing Stall Permit

1. Standing stalls selling or giving away food must comply with Council's Code for Temporary Food Premises.
2. Applications in all cases shall be in writing, on the Council approved form, stating the type of produce to be sold, the location of the proposed stall, hours of operation and any other relevant information required by the Environmental Services Manager.
3. The Standing Stall shall comply with any other relevant Policies of Council.
4. The Standing Stall shall not trade within 200 metres of a retail shop selling similar goods (community organisation exempted).
5. Approval given to one person/organisation shall not be transferable to another without further application.

6. The Standing Stall Operator has no right to vend upon any land under the control of Council unless with prior approval of the Council.
7. The Vendor must operate in compliance with any conditions imposed by Council and have current at all times a permit to operate.
8. Broadcasting of amplified music or advertising from (or in association with) the stall between the hours 7.00pm to 8.00am is prohibited.

Standing Stalls on Footpaths

1. Standing stalls on footpaths must be located either
 - a. Against the building alignment or
 - b. Against the kerb
2. A standing stall shall be no longer than 5 metres
3. Standing stalls must not be located where they would breach regulatory or signposted parking/standing restrictions.
4. Standing stalls must not be located in front of driveways or entrances to property.
5. Standing stalls must be carried out from a safe structure if a structure is used.

Standing Stalls in Central Business Areas

1. A maximum of 2 standing stalls will be permitted to operate on or adjoining footpath areas at the same time.
2. Council may permit more stalls on special occasions such as charity market days, festivals and the like.
3. Council will maintain a booking schedule for standing stalls. Bookings will be made in the order they are received with a maximum of 2 permits being issued per 12 months to each applicant or group/organization.

Please Note:

The above limitations apply to Council controlled land. Private land owners may permit standing stalls to operate on their land however it is strongly recommended that stall operators contact Council to ascertain what permits have been issued in the vicinity to avoid overlaps and competition.

Standing Stalls on Roadsides in Rural Areas

1. Must not be located where the speed limit is 80 km/h or higher unless safety & efficiency of road use by both vehicles & pedestrians is not compromised.
2. Must not be located on a hill or bend where sight distance is limited (refer to RTA's Road Design Guide).
3. Must not be located in front of driveways or entrances to properties.
4. Must not be located where motorists are forced to park in the kerbside lane, where parking/standing restrictions apply. Where no kerb exists, they must stand clear of the travel lanes and shoulders.
5. Must have sufficient parking near the site.
6. Must provide sufficient traffic warning signs in advance of the facility (signs should only be placed during periods of selling activity).
7. Must not be located in a two-lane, two way (one lane in each direction) street or road, unless safe approach to the facility and safe departure from the facility is available.
8. Must not operate during hours of darkness.

Approval and Inspections

Certain activities require development consent under the Environmental Planning and Assessment Act 1979 (EP & A Act). A long term, site specific, operation of a stall or mobile food vehicle is an example of such an activity requiring consent under the EP&A Act. It is recommended that stall operators contact Council to ascertain what approval and/or permits may be required prior to setting up and operating.

Itinerant food vendors must also obtain a separate approval from Council before operating.

Exemption

No approval is required for itinerant food vendors who do not prepare food on-site and sell pre-wrapped and other non-potentially hazardous food stuffs. Examples of such may be pre-bottled/sealed jams, pickles, honey, drinks, pre-wrapped/sealed cakes, toffees, biscuits etc and food products with natural protection such as fruit, vegetables and whole nut.

However, vendors must still be registered with the NSW Food Authority and products must be labeled in accordance with the requirements of the Food Standards Code. Registration can be completed on-line at www.foodnotify.nsw.gov.au and information in regard to labeling is

available on the NSW Food Authority's website (www.foodauthority.nsw.gov.au)

Separate approval must be obtained for each mobile food vehicle, temporary stall, cart or other device.

There are three types of approval:

- An annual approval valid from 1 July to 30 June the following year.
- An event approval which can be obtained for special local events
- A one (1) day approval.

Itinerant food vendors operating an approved mobile food vehicle shall be permitted to operate at , and for the duration of, any fete, fair, festival, carnival, community market, sporting or similar event, with permission of the event organiser.

Vendors with a temporary stall, cart or other device, shall not, except under exceptional circumstances, exceed one consecutive day's operation at the same location/venue.

If the business is sold, the new operator must contact council to arrange for a transfer of the approval and submit to Council a copy of current Public Liability Insurance cover as stated above.

Any vendor may be required to cease trading should an authorized officer of council consider the vendor is not complying with Council policy or relevant food legislation.

It is a requirement that all food businesses are registered with the NSW Food Authority. This registration can be completed on-line, free of charge, at www.foodnotify.nsw.gov.au

Council reserves the right to refuse an application for an approval.

Food vending shall be undertaken in compliance with the NSW Food Authority's "Food Handling Guidelines for Temporary Events".

Exempt Activities

The following selling activities on an itinerant basis are exempt from the need for approval from Council.

- Newspaper and magazines being home delivered;
- Milk and milk products being home delivered;
- Fruit juices and soft drinks being home delivered;
- Goods and/or services sold in a legally established market or fair;
- Goods and/or service sold from any house or shop occupied by the person offering the goods and/or services for sale;

- Goods and/or services sold directly to the occupiers of premises.

GENERAL CONDITIONS

1. Council reserves the right to refuse permission to operate as an itinerant vendor or standing stall where:-
 - It is unsafe or unhealthy to operate; &/or
 - It is not in the best interest of the residents or general public to give permission.
2. The application fee will be as determined by Council and may vary from time to time.
3. Applications for permission to operate as an itinerant vendor or a standing stall must be in writing, on the approved form.
4. Itinerant food vendors utilizing a cart or other device shall only be permitted to sell pre-packaged, non-potentially hazardous food.
5. An approval fee is payable as per Council's current Fees and Charges Schedule.
6. The application must be accompanied by a copy of current Public Liability Insurance cover to the value of \$10,000,000.00 which indemnifies Council and the applicant from claims for injuries to persons and damage to property.
7. Mobile food vehicles must be inspected by Council's Environmental Health Officer prior to approval.
8. Temporary food stalls and mobile food vehicles may be subject to inspection by Council's Environmental Health Officer at any event or any time.
9. Approvals must be on display and clearly visible in the temporary food stall or mobile food vehicle.