STREET TRADING

Objective

1. To promote the regulated use of public assets with the aim of promoting and consolidating the viability of existing commercial areas within the Shire.

2. To inject vitality, amenity and ambience into the street environment through the expansion of permitted activities on public land.

3. To protect existing levels of public amenity and safety from the adverse impact of street trading activities by adequately addressing potential risk management issues.

4. To maintain equity in the regulation of restricted public land usage by promoting both fairness and certainty to street traders and existing business house owners within the Shire.

5. Protect the financial interest of ratepayers by charging a reasonable fee to administer the commercial use of public assets.

Scope

The scope of this Policy extends to all forms of street trading both short and long term in nature. For the purposes of this Policy, short term street trading is defined as any activity that extends for any time from a part day up to a month. Longer term street trading covers activities which occupy a part of the footpath on a daily or weekly, monthly basis and involves a lease arrangement.

This Policy incorporates the following activities –

- Footpath Dining
- Merchandise and Sign Display
- Street Vending Vehicles
- Casual Street Vending
- Street Stalls/Ticket Selling/Public Collection and
- Busking

Policy

The term “Street Trading” used in the context of this Policy refers to long term or periodic occupation of the footpath and/or road carriageway in Gilgandra Shire, for the purposes of either selling or displaying goods (including food or drink) or providing a service to customers, or as an extension for existing business houses within any public street.

This Policy is seen as integral to Council’s role of creating an environment within Gilgandra Shire Council’s core business areas which contributes to their commercial viability while at the same time enhancing the streetscape and creating a more visually pleasant and upbeat shopping environment.

This Policy has been created to encourage street trading and on street dining whilst also

acknowledging that in a competitive economic environment these activities must be regulated for equity and fairness to existing business owners. The Policy also aims to protect the rights of pedestrians, disabled persons and traffic by promoting a reasonably safe and clear passageway on footpaths and roadways.

A Street Trading Approval shall be required where the street trading activity involves occupation of the footway on one-off, short-term or daily basis during business hours, or for an extended period. There are two categories of street trading which require approval by way of a Street Trading Agreement.

1 Footpath Dining

Approval Procedure

Applications may be submitted on the approved form by all food business proprietors who seek to extend their serving area onto the adjacent footway of a public road. The footpath must be solely used in conjunction with an adjoining food premise and conducted by the operator of the food premise.

The use of the footpath for footpath dining requires an approval from Council under section 125 of the Roads Act, 1993. If the road is a classified Road under the control of the Roads and Traffic Authority (RTA) then approval must be obtained from them.

Applications are lodged using the prescribed application form and payment of the appropriate application fee to Council's Administration Office.

The application shall include:

a) The proposed location of the activity including a sketch drawn to scale showing the proposed table and chair layout relative to the footway, other existing objects located thereon, and the property boundaries.

b) The proposed period of operation, including times and days of the week.

c) The nature of any signs including advertising signs, shade structures, portable barriers, and waste containers.

d) Any further information required by Council.

Approval to conduct footpath dining is subject to the applicant entering into a street trading agreement which incorporates a lease over a designated area of the footpath. The lease shall specify a timeframe but shall be no greater than 3 years.

Fees

All application fees are payable in advance and shall be paid once annually unless otherwise required.

All fees are determined by Council each year as set out in the *Council Fees and Charges.*

Applicants are required to lodge a copy of current public liability insurance with a

minimum cover of $10 million for any one event and with Gilgandra Shire Council noted as an indemnified party on the insurance certificate.

Footpath dining approvals are transferable to a new proprietor subject to notification to Council, production of details of physical structures proposed, and proof of public liability insurance cover.

Council may at any time cancel approval for footpath dining for failure to comply with conditions of consent or general terms of approval. Cancellation of approval shall be provided in writing and the applicant may appeal the decision in writing to Council.

Approval Criteria

Applications for footpath dining will need to demonstrate that the following approval criteria can be met:

a) The minimum footpath width available for pedestrian use in any street within the Shire is two metres (2m).
b) Tables, chairs, barriers, shade structures (including canopy) shall be positioned wholly between so as not to overhang or encroach beyond the side boundaries, and shall be wholly contained within the frontage of the food business premises.
c) Shading structures shall provide a minimum vertical clearance of two (2) metres above footway level.
d) Shade structures, tables and barriers shall be securely supported and suitably anchored to withstand unexpected wind gusts, and shall be monitored for sturdiness at all times.
e) The tables and displayed items shall not reduce the minimum required footpath two metre (2m) width for pedestrian traffic.
f) All footpath dining furniture shall be to an approved structural standard and design, and prior to its use, is subject to approval by the relevant Council officer.
g) All portable footpath dining furniture shall be removed from the footway whilst ever the food business is closed.
h) The footpath dining shall not restrict access to, or incorporate usage of, existing street furniture provided for public use.
i) Compliance with conditions and regulations relating to the preparation, storage and serving of food in a public place as determined by Council's Environmental Services Department.
j) The designated footpath dining area shall be maintained in a clean and tidy condition at all times.

k) A right of access exists, with all utility services authorities with infrastructure in the footway, for the purpose of repairs and maintenance. There will be no compensation payable for interruption to footpath dining due to infrastructure repair or maintenance other than as a time credit given in the term of the approval.

2 Street Vending Vehicles/Stalls

There are two categories of approval given to this class of street trading.

a) **Standing Vehicle /Stall–**

This includes any vehicle/stall, whether registered or not, which is stopped on a public road or a public place for the purpose of selling any article.

b) **Mobile Vehicle**

This includes a stall in a fixed location or registered vehicle plying on public streets and making brief intermittent stops for the hawking of ice-cream, confectionary, seafood, fruit and vegetables, raffles, market days and the like.
Approval for both categories of street vending may be granted under the Local Government Act Section 68 PART F (7) "*Use a standing vehicle or any article for the purpose of selling any article in a public place*".

Approval to operate a mobile street vending vehicle also requires compliance with the Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999 and Road Transport (Vehicle Registration) Regulation 2007.

Approval Procedure

Applications are lodged using the prescribed application forms (Section 68 – Local Activity Approval Form) and payment of the appropriate application fee to the Council's Administration Centre**.**

The application shall include:

a) The proposed route/area of operation or standing site (as applicable) as indicated on a map or sketch plan.
b) The proposed period of operation, including times and days of the week.
c) The nature of any ancillary articles to be used including waste containers, supplementary lighting, power source, and signs.
d) Any further information required by Council.

Fees

All application fees are payable in advance and shall be paid once annually unless otherwise required.

All fees are determined by Council each year as set out in the *Council Fees and Charges.*

Insurance

Applicants are required to lodge a copy of a certificate of current public liability insurance with a minimum cover of $10 million for any one event, with Gilgandra Shire Council noted as an indemnified party on the insurance certificate.

Approval Transfer

Street Vending approvals are transferable to a new operator, subject to notification to Council and, proof of public liability insurance cover being lodged.

Approval Criteria

a) This Policy relates to operation of a street vending vehicle on a public road (not being a classified road under the control of the RTA). A vehicle shall not enter any Public Reserve unless special permission to do so is first obtained, nor shall such vehicles operate within 150m of the entrance to a Reserve so as to cause obstruction to pedestrian or vehicular traffic.
b) The operation of the vending vehicle shall not restrict access along a footway or obstruct vision to other vehicular traffic on the road.
c) The vending vehicle shall display a sign requesting patrons not to loiter around the vehicle.
d) Litter containers shall be provided for the convenience of customers.
e) Waste water shall be contained within the vehicle for later disposal to the sewerage system.
f) The vending vehicle shall not be operated within 50m of a retail food premises open for trading, and 50m of any licensed premises and only in the designated standing sites as specified or as approved by Council. This requirement will not apply to stalls for the selling of raffle tickets or the like
g) The standing vending vehicle shall only stand in a floodlit area where the operation is undertaken after sunset.
h) Compliance with conditions and regulations relating to the preparation, storage and serving of food in a public place, as determined by council's Environmental Services Division
i) The vehicle must be removed from its location within 15 minutes of closure and the area around the vending vehicle must be left in a clean and litter free state.
j) Chimes or like devices used to attract attention shall not be used between the hours of 8.00pm and 8.00am or used within 100 metres from any hospital, schools (during school hours) or churches in service.
k) Vehicles shall comply with vehicle registration regulations including the display of signs on the vehicle warning motorists of the presence of children in the vicinity.
l) Compliance with Section 6 of the publication "Street Vending" (RTA & Department of Local Government 1996) relating to Criteria for Approvals.

3 Merchandise and Signage Display

This Policy provides for the granting of approval to business proprietors to display goods and merchandise and portable signs within a designated zone on the footway directly fronting the business premises.

Approval may be granted provided the goods are a sample of what is displayed for sale within the premises and the sign refers only to the business which is the subject of the Street Trading Agreement to occupy the area of footway.

The placement of objects on the footpath against the front of a business of a “non saleable” nature, such as pot plants, require an approval.

Approval Procedure

Application may only be lodged by a business proprietor who has existing development approval/right to conduct the business within the designated premises and seeks to extend the existing merchandise display area to the adjacent footway on a public road.

Applications are lodged using the prescribed application form and payment of the appropriate application fee to the relevant section of Council. The application shall include:

a) The proposed location of the business, including a sketch drawn to scale showing the proposed layout of display relative to the footway and other existing objects, as well as property boundaries.
b) The proposed period of display, including times and days of the week.
c) The position, size and wording of any signs, including advertising signs, tables, display structures.
d) Any further information required by Council.

Fees

All application fees are payable in advance and shall be paid once annually unless otherwise required.

All fees are determined by Council each year as set out in the *Council Fees and Charges.*

Applicants are required to lodge a copy of a certificate of current public liability insurance with a minimum cover of $10 million for any one event, with Gilgandra Shire Council noted as an indemnified party on the insurance certificate.

Merchandise display approvals are transferable to a new proprietor only if there is a continuation of the same business at the premises, and appropriate notification to Council is given including proof of public liability insurance cover.

Approval Criteria

Applicants for Merchandise and Sign Display approval will need to demonstrate that the following approval criteria can be met:

a) A two (2) metre wide unobstructed passage of footway is maintained at all times.

b) This merchandise display is contained within a strip that extends 1 metre out from the property's front boundary and does not extend beyond the property's side boundaries. A clear space equivalent to the width of the premise's doorway shall be maintained in the designated display area.
c) Portable signage shall be limited in number to one per business, and the size restricted to a maximum of one (1) metre in height and 600 millimetres in width. Collapsible signs shall be capable of being locked into a rigid structure when erected.
d) The legs/supports of all display furniture and signs shall be secure and shall not extend or protrude beyond the designated display area or beyond the displayed goods.
e) The designated display area shall be maintained in a clean and tidy condition at all times.
f) The merchandise display furniture and signage shall be removed from the footpath whenever the premises are closed for business.
g) No sale or transactions in connection with the business's merchandise shall be conducted from the footpath with the exception of officially approved public market days.
h) Public address systems or spruiking are not permitted from the footpath.

4 Street Vending Approvals

A Street Vending Approval is granted in the case of casual or ad hoc requests to sell packaged food, busk, conduct stalls or sell raffle tickets and the like on a public road.

There are two (2) categories of Street Vending Approvals provided for in this Policy.

1. Street Stalls/Ticket Selling/Public Collections
2. Busking

Street stalls/ticket selling and public collections –

(a) Shall nominate the location(s) of the proposed activity;
(b) Shall be restricted to charitable and non profit organisations based within the Gilgandra Shire;
(c) Shall ensure compliance with the requirements of the Food Act, the Horticultural, Stock and Nurseries Act, the Lotteries and Charities Act and any other relevant legislation;
(d) Shall ensure that no obstruction is caused to the flow of pedestrians or traffic and ensure that a two metre wide footway is provided at all times for pedestrian traffic;
(e) Any other requirements that are considered appropriate when consideration for approval is given.
(f) Mobile ticket selling is to be restricted to the main streets within villages of the Shire;
(g) Ticket selling stands shall be limited to a size not exceeding 2.0m x 1.0m

No approval fee is required for charitable or not-for-profit organizations.

5 Busking

Approval must be obtained to busk in a public place within the Gilgandra Shire. The approval will require compliance with the following conditions:

- Persons seeking to busk in a public place must make application to Council's Administration Centre nominating the duration, hours, location and the form of busking to be performed.
- Shall ensure that the performance does not cause a hindrance to the flow of pedestrian traffic.
- The applicant shall obtain the permission of shop keepers outside whose premises they seek to perform, for the full duration of the performance.
- The performance shall not cause any public disturbance by nature of the level of noise, the language or equipment used or the acts performed.
- The performance shall not include drawing or marking the footway or affixing any matter or structure to the footpath paving.
- A busker may place a receptacle for the receival of gratuities but shall not directly solicit money from pedestrians in respect of either the performance or the selling of other goods.
- Council reserves the right to refuse any application or revoke an approval at any time.
- One organization only being granted permission for any one day at any one location.

Application Fees

All application fees are payable in advance and shall be paid once annually unless otherwise required.

All fees are determined by Council each year as set out in the *Council Fees and Charges.*

Relevant Legislation

a) **Local Government Act 1993**, Under Section 68 of the LGA persons are required to obtain Council approval to:

◊ *"Erect an advertising structure over a public road, or expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road, or having an article beneath an awning over the road"*

◊ *"Use a standing vehicle or any article for the purpose of selling any article in a public place".*

b) **Roads Act 1993,** Under Section 125 "*a Council may grant an approval that allows a person who conducts a restaurant adjacent to a footway of a public road to use part of the footway for the purposes of the restaurant".*

If structures are erected in the footway for ancillary purposes for a footway dining, then it is reasonably foreseeable that a person, whether or not a customer of the food business, may suffer injury or damage as a consequence of the food business activities. It is therefore imperative that Council establish a Policy which provides for the approval of footpath dining and other similar activities of street trading.

Under Section 139A a roads authority may approve the erection of a structure in, on or over a public road in a built-up area connected with the purpose of selling any article or service. This approval may be subject to conditions including the charging of rent and specifying the period of consent. Under Section 142, the person who has right to the control, use or benefit of a structure erected on a road must maintain the structure in a satisfactory state of repair.

Council has power under Section 139C to revoke a street trading consent whether due to a breach of condition(s) of consent or a change in traffic or other road safety circumstances.

Associated Documents

Council's Street Trading procedures (located on Council's Intranet)

Responsible Officer:	Manager Environmental Services
Date Adopted:	17/9/09
Resolution Number:	437/2009
Review Date:	Within 12 months of next general election