

1. INTRODUCTION

It is the policy of the District Council of Barunga West to manage the competing needs and interests of the public, commercial centres, and Mobile/Temporary vending businesses in a manner that improves the usage, quality, safety, availability and amenity of Mobile/Temporary vending businesses in the District Council of Barunga West.

2. PURPOSE OF THIS POLICY

The principal concern of Council is the protection of the safety of the community and the amenity of the local Council area.

This Policy acknowledges the fact that it is common occurrence throughout Australia for Not-for-Profit-Organisations to have informal vending stalls for fundraising purposes. It would be counter-productive to subject such organisations to the same conditions as would be the case for for-profit/commercial operators/organisations.

When Not-for-Profit-Organisations wish to operate a temporary vending stall the following criteria apply:

- 1) No application fees are payable to Council;
- 2) Where the stall is to be operated from a privately owned premises the organisation has to obtain the written consent of the land owner and has to inform Council's Environmental Health Officer of the intention to operate the stall. Details of the location and operating hours have to be provided;
- 3) Where the stall is to be operated from inside a road reserve (normally from a footpath) in front of an existing business the organisation has to obtain the written consent from the affected business owner and has to inform Council's Environmental Health Officer of the intention to operate the stall. Details of the location and operating hours have to be provided;
- 4) Where the stall is to be operated from any reserve written consent from Council is required;
- 5) In the event that the operation of the stall becomes a nuisance (loss of parking, obstruction of pedestrians, etc) Council preserves the right to remove the stall from the subject location.

The aims of the policy are to ensure that:

- a) in a public place, food and other articles handled and sold or rented to the public from mobile vending vehicles and temporary vending stalls is safe for human consumption and use and that the construction, fitting out, and facilities for cleaning utensils, articles, hands, fittings and appliances in vehicles and stalls are adequate;
- b) trading, when undertaken in areas, does not place the public safety at risk; and
- c) trading complements Council's strategic objectives in supporting the local community.

3. SCOPE OF THE POLICY

Council will not grant permits where there is sufficient evidence to the Council or any of its officers that granting the permit would or might have detrimental effects on:

- a) the health and safety of the public;
- b) commercial centres; or
- c) is not in accord with a surrounding public area, its general amenity, Council heritage listed area, or other Council codes.

In considering any application, Council will make reasonable assessment of the type of Mobile/Temporary vending business, the proposed location, proposed hours of operation and season of operation.

4. DEFINITIONS

"Council" means the District Council of Barunga West.

"Vending" means selling and renting of any article, including any food article.

A **"vending vehicle"** includes any vehicle, whether mobile or stationary, used for the purpose of preparing/ handling and or selling of any article, including any food article (within the meaning of the Road Traffic Act 1961).

A **"temporary vending business"** includes any structure, vending stall or mobile vending stall, any van, truck, trailer or moveable module, tent or gazebo used for the purpose of selling or renting any article, including any food article. A temporary vending stall includes any structure that is built or designed to enable it to be dismantled and removed from the site when required. It does not include Not-for-Profit-Organisations or fundraising activities or charity/community fund raising events.

"Handling of food" includes the making, manufacturing, producing, collecting, extracting, processing, storing, transporting, delivering, preparing, treating, preserving, packing, cooking, thawing, serving or displaying of food.

"Sell" means:

- Offer or attempt to sell; or
- Receive for sale; or
- Display for sale; or
- Have in possession for sale; or
- Dispose of by any method for valuable consideration; or
- Dispose of by way of raffle, lottery or other game of chance; or
- Offer as a prize or reward.

"Rent" means:

- Offer or attempt to rent; or
- Receive for rent; or
- Display for rent; or
- Have in possession for rent; or
- Rent out by way of raffle, lottery or other game of chance; or
- Offer as a prize or reward.

5. POLICY DETAILS

5.1 Application Fees

Any application to operate a vending vehicle or a temporary vending business must be accompanied by the application fee as specified in Council's Fees and Charges Register.

In addition to the scheduled fee, Council, or its officers, may impose any condition, separate to planning or health conditions which Council believes is necessary or which will increase the likelihood of the vending vehicle or the temporary vending business being compatible with an area and municipal amenity.

The Applicant must have all relevant insurance policies, including public liability insurance to a minimum cover of \$10 million.

The Vendor must have all the necessary Food Act 2001, South Australian Public Health Act 2011 licences and approvals, along with compliance with any other relevant legislation that maybe required.

5.2 Location and Siting

Mobile vending is permitted in those streets and open areas where there is adequate footpath space to accommodate it, while not compromising pedestrian access and other streetscape activities.

Location and siting considerations include:

- 1) Areas that are considered safe for patrons and avoid locations that are deemed unsuitable;
- 2) Areas where it will not obstruct pedestrian flow, vehicular traffic, queuing and other waiting areas;
- 3) Areas where wheelchair access to pedestrian ramps ('pram ramps') and footpaths are not compromised;
- 4) Maintaining of access to parking, taxis, loading zones and bus zones;
- 5) Ensuring that the safety of adjoining buildings is not compromised by restricting access or adding unreasonably to fire potential;
- 6) Ensuring access to public street furniture such as seats, bicycle parking, drinking fountains, rubbish bins, telephone booths and post boxes is not compromised;
- 7) Ensuring access to services, infrastructure, ramps and building entrances is maintained;

- 8) Vending vehicles or vending stands must be removed when not used for the approved purpose;
- 9) The impact on irrigated lawn areas and reserves. The vending location should not encourage vehicle traffic (out of normal road corridor) to cross a pedestrian area or reserve to access the vendor;
- 10) Must provide additional rubbish bins for use of patrons as required.

Areas in the Council area where a vehicle or a temporary vending business is not allowed to operate:

- a) Within the Township of Port Broughton, a vending vehicle is not permitted to establish themselves within the area of Edmund Street, James Street, East Terrace and West Terrace (See Attachment A);
- b) The Vendor cannot operate on any Council-owned and leased properties (e.g. ovals, caravan parks etc) without the written approval of the Lessees of the Council owned land;
- c) The Vendor cannot operate on any Council-owned properties (e.g. caravan park, etc) without the written approval of Council.

5.5 General provisions

- a) Unless any condition is appealed in writing and such condition removed or amended, it is accepted that the applicant agrees to the general conditions of the permit as contained therein.
- b) Any permit issued under this Policy is only valid for a period of 12 months after the date of issue. After this 12 month period the permit shall lapse and will require a written application for renewal.
- c) Where a Minor Events Permit or a Major Events Permit is issued by Council, the holder of a permit to operate a vending vehicle or temporary vending business will not be allowed to operate in the same area demarcated for the minor or major event unless consent is obtained from the specific event organiser.
- d) The vending vehicle or temporary vending business shall be, as far as practicable, subject to the following inspections in the 12-month period:
 - I. Before the actual operation of the activity. It is the responsibility of the owner to advise Council at least 2 working days prior to the commencement of the activity that the vehicle or business is ready for inspection.
 - II. At least once during the 12-month period. Inspection to be arranged by Council officer and may be unannounced.

- e) The operator/owner must provide written evidence of public liability insurance for coverage of up to ten million dollars.
- f) The vehicle/temporary vending business shall be maintained in a clean and, if a vehicle, roadworthy condition and in accordance with the Food Act and Regulations and any other applicable legislation at all times, subject to a satisfactory report by Council's Environmental Health Officer.
- g) Persons selling on a public place other than a road or street shall provide a litter bin and shall place no advertising signs in the area.
- h) Where handling of food is part of the vending business, the Mobile vending vehicle or Temporary vending business must comply with Council's Environmental Health Guidelines For Mobile Food Vending Vehicles.
- i) Vehicles must comply with normal parking restrictions and traffic regulations.
- j) Where handling of food is part of the vending business, the vehicle/temporary business must not be used for any other purposes which would be likely to contaminate or injuriously affect the wholesomeness or cleanliness of the food.
- k) The vehicle shall be operated in accordance with the provisions of the Local Government Act, the Food Act, the Food Standards Code and other conditions as may be specified, in such a way as not to create a nuisance namely:
 - (i) A person shall not in any road or in any Council owned public parking area set up or use any standing vehicle for the purpose of offering for sale or rent any article, or for the pursuit of any business.
 - (ii) A person shall not (for the purpose of selling or renting) occupy any one position in a public road/parking area with a vehicle, except for such period of time as he may be engaged in the actual serving of a customer, pass on, and shall not return soliciting custom or selling over the same road within one hour.
 - (iii) Operation of a mobile vending vehicle within public roads is to be restricted to streets that are light trafficked.

- l) Amplified music and/or "noise device" for the purpose of informing members of the public that articles are on sale from the vehicle shall not be used or operated in any public place:
- (i) While the vehicle is stationary; or
 - (ii) Before 9:00 am or after 8:00pm on any day (operating hours); or
 - (iii) For longer than thirty (30) seconds in any period of three (3) minutes; or
 - (iv) More than once in any period of one (1) hour in the same road between the same two roads which are nearest in each direction and which intersect with the road; or
 - (v) The chimes or loudspeakers must not exceed 60 dB (A) when measured at seven (7) metres from the vehicle.
- m) Council preserves the right to alter conditions of approval or to add new conditions in the event that valid complaints are received relating to logistical arrangements or any other irregularities. Council preserves the right to terminate the permit with immediate effect should the activity proves to be a nuisance or if all conditions are not complied with.
- n) A copy of the permit must be carried in the vehicle or at the temporary business and produced to a Council Officer on request.

6. LEGISLATION and OTHER DOCUMENTS

South Australian Local Government Act 1999
South Australian Development Act 1993
South Australian Food Act 2001
South Australian Food Regulations 2002
South Australian Public Health Act 2011
The Australia New Zealand Food Standards Code

7. Availability & Grievances

This policy is available for inspection at the Council office at 11 Bay Street, Port Broughton during ordinary business hours.

It is also available for inspection, download or printing, free of charge, from Council's website www.barungawest.sa.gov.au

Any grievances in relation to this policy or its application should be forwarded in writing addressed to the Chief Executive Officer, District Council of Barunga West, PO Box 3, Port Broughton SA 5522.

8. REVIEW

This Barunga West Policy shall be reviewed by The District Council of Barunga West Council within (4) years of the issued date.

Date	Revision Number	Reason for Amendment
	01	Adopted by Council