

Local Law relating to **Hawkers, Stallholders and Street Traders**

Extract from Government Gazette (No. 7) of January 19/1996
Local Government Act, 1960
The Municipality of the City of Melville
Local Laws Relating to Hawkerc, Stallholders and Street Traders

In pursuance of the powers conferred upon it by the abovementioned Act, and of all other powers enabling it, the Council of the City of Melville hereby records having resolved on 30th of May 1995, to revoke the Local Laws Relating to Hawkerc, Stallholders and Street Traders published in the Government Gazette of 2 March 1990 and to make and submit for confirmation of the Governor the following Local Law:

Part 1 - Preliminary

1. Citation

This Local Law may be cited as the City of Melville Local Law relating to Hawkerc, Stallholders, and Trading in Public Places.

2. Application

This Local Law shall apply and have force and effect throughout the whole of the District of the City of Melville.

3. Definitions

In this Local Law, unless the context otherwise requires -

“The Act” means the Local Government Act 1960 (as amended).

“This Local Law” means the City of Melville Local Law relating to Hawkerc, Stallholders and Trading in Public Places.

“Charitable Organisation” means an institution, association, club, society or body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and members of which are not entitled or permitted to received any pecuniary profit from the transactions thereof; “The Council” means the Council of the Municipality of the City of

Melville;

“Commercial Participant” means any person who is involved in operating a Stall or in conducting any Trading activity for personal gain or profit.

“District” means the Municipal District of the City of Melville;

“Hawker” means a person who goes from place to place selling, carrying for sale, exposing for sale, or soliciting orders for goods, wares or merchandise, but does not include –

- (a) Persons who sell or seek orders for goods, wares or merchandise from dealings in those things;
- (b) Persons who sell or seek orders for books or newspapers;
- (c) Sellers of food, brooms or matches;
- (d) Persons who sell or expose for sale goods, wares or merchandise in any public market, fair, racecourse, agricultural showground, or public recreation ground;
- (e) Persons who sell goods which they have manufactured;
- (f) Representatives of manufacturers whose goods are sold direct to consumers only and not through shops.

“Hawker’s Licence” means a Licence issued under this Local Law to a person who is a Hawker;

“Itinerant Food Vendor’s Licence” means a Licence issued under the City of Melville Model Health Local Laws;

“Licence” means a licence issued pursuant to this Local Law to hawk, conduct a Stall or carry out Trading in a Public Place;

“Public Place” includes a Street, way and place which the public are allowed to use, whether the Street, way or place is or is not on private property;

“Street” includes a highway and a thoroughfare which the public are allowed to use and includes every part of the highway or thoroughfare and other things including bridges and culverts appurtenant to it;

“Stall” means a movable or temporarily fixed structure, stand or table in, on or from which goods, wares, merchandise or services are sold, hired or offered for sale or hire;

“Stallholder” means a person in charge of a Stall;

“Stallholder’s Licence” means a Licence issued under this Local Law to a person who is in charge of a Stall;

“Trader” means a person who carries on Trading;

“Trader’s Licence” means a Licence issued under this Local Law to a person who carries on Trading;

“Trading” means selling or hiring of goods, wares, merchandise or services, or offering goods, wares, merchandise or services for sale or hire, in a Street or other Public Place and includes displaying goods, wares or merchandise for the purpose of offering them for sale or hire, inviting offers for sale or hire, soliciting orders or carrying out any other transaction in a Street or other Public Place, but does not include the setting up of a Stall, or the conducting of a business at a Stall under the authority of a Stallholder’s Licence issued under this Local Law.

Part II - Licences

4. Hawkers

- (1) A person shall not hawk any goods, wares or merchandise within the District unless that person holds a current Hawker's Licence issued pursuant to this Local Law.
- (2) Every application for a Hawker's Licence shall be in the form provided in Schedule 1 and shall specify:
 - (a) the name and address of the applicant who seeks the Licence;
 - (b) the kind of goods, wares or merchandise which the applicant intends to hawk;
 - (c) the type of vehicle, conveyance or means of carriage to be employed in hawking;
 - (d) the proposed days and hours of operation for which the Licence is required;
 - (e) where the Licence is required for part of the District, the part of the District to which it will apply.
- (3) Every application for a Hawker's Licence (other than a renewal) must be accompanied by a certificate signed by a Justice of the Peace certifying that the applicant is of good character and reputation, and is a fit person to exercise the trade of a Hawker.

- (4) A Licence granted to a Hawker is valid only for the hawking of the goods, wares, merchandise or services described in the Licence;
- (5) Where a Licence granted to a Hawker is limited to a part of the District the Licence is valid for only that part of the District;

5. Stallholders

- (1) Subject to clause 5(2), a person shall not conduct a Stall within the District, unless that person is a holder of a current Stallholder's Licence or is an assistant specified in a current Stallholder's Licence;
- (2) Council may, in its absolute discretion and subject to such conditions as it thinks fit, permit a particular class of Stallholder;
- (3) Every application for a Stallholder's Licence shall be in the form provided in Schedule 2 and shall –

- (a) specify the full name and address of the applicant;
- (b) specify the proposed number and names and addresses of assistants to be engaged by the applicant in conducting the Stall pursuant to the Licence;
- (c) specify the proposed location of the Stall;
- (d) specify the period of time for which the Licence is sought, together with the proposed days and hours of operation;
- (e) specify the proposed goods, wares, merchandise or services to be sold or hired or offered for sale or hire from the Stall; and
- (f) be accompanied by an accurate plan and description of any proposed Stall which may be used for the selling or hiring of goods, wares, merchandise or services.

6. Traders

- (1) A person shall not carry on Trading in any Street or Public Place within the District unless that person is the holder of a current Trader's Licence or is an assistant specified in a current Trader's Licence.
- (2) Every application for a Trader's Licence shall be in the form provided in Schedule 3 and shall:
 - (a) specify the full name and address of the applicant;
 - (b) specify the proposed number and the names and addresses of the assistants to be engaged by the applicant in Trading pursuant to the Licence;
 - (c) specify the location or locations from which the applicant proposes to carry on Trading;
 - (d) specify the period of time for which the Licence is sought, together with the proposed days and hours of Trading;
 - (e) specify the proposed goods, wares, merchandise or services in respect of which Trading will be carried on; and
 - (f) be accompanied by an accurate plan and description of any proposed stand, table, structure or vehicle which may be used by the applicant

in carrying on Trading.

- (3) All Trader's Licences are issued subject to the condition that if the holder is or becomes the holder of an Itinerant Food Vendor's Licence, then the holder is permitted to remain at a particular location for as long as there is a customer making a purchase, but if there is no customer making a purchase the holder must move on from that location within a reasonable time of the last purchase having been made. Further, such a holder agrees to comply with any requirements and conditions that the Council may impose on her or his Trader's Licence;
- (4) Notwithstanding clause 6(2), the holder of an Itinerant Food Vendor's Licence does not need to specify in the application for a Trader's Licence (being Form 1 in Schedule 1) the proposed location where the holder intends to carry on Trading. But where the holder intends to carry on trading in part of the District only, then that part must be specified, and the Licence will be valid for only that part of the District;

7. Selling of Newspapers

Persons who sell, or offer for sale, newspapers are not required to hold a Licence issued under this Local Law.

8. Selling of Food

The holder of an Itinerant Food Vendor's Licence who carries on Trading in any Street or Public Place within the District, must also hold a valid Trader's Licence and must at all times operate pursuant to this Local Law;

9. Discretion

- (1) Council may in its discretion under this part grant a Licence or refuse to grant a Licence or grant a Licence subject to such conditions as it thinks fit and for a period of twelve (12) months or less.
- (2) Council may refuse to issue a Licence and may cancel a Licence if the applicant or licensee:
 - (a) has been twice convicted during the preceding five (5) years or is twice convicted in the space of five (5) years of an offence against the Local Law of any local authority relating to Hawkers, Stallholders or Trading in Public Places; or
 - (b) does not conform with the requirements of the Health Act 1911.
- (3) Council may refuse to issue a Licence if -

- (a) in its opinion the needs of the District or the portion thereof for which the Licence is sought are adequately catered for by established shops or by persons to whom Licences have been issued;
- (b) the proposed activity or place of Trading is in the opinion of Council undesirable;
- (c) the proposed stand, table, structure or vehicle is in the opinion of Council unsuitable in any respect to the location for which the Licence is sought;
- (d) the gathering of customers would impede pedestrian or vehicle movements, or cause conflict with other activities;
- (e) the Trading location is not provided with sufficient off-road parking so as to prevent a traffic hazard or danger to the public;

- (4) Notwithstanding the provisions of clause 9(3), no Licence shall be issued to trade in a Public Place that is located in any part of a controlled access road or major highway or on any Main Roads Western Australia road within the District of the City of Melville;
- (5) Where a licensee by reason of illness, accident or other cause is unable to comply with this Local Law, Council may at the request of that licensee issue a permit in writing authorising a person named in the permit to be a nominee to occupy the period of the licensee's inability to comply with the Licence or until the expiration of the term of the Licence, whichever is earlier;

10. Conditions

Where a Licence or exemption has been granted by Council subject to conditions, the person to whom the Licence or exemption has been granted shall ensure that the conditions are observed at all times. If any condition is not observed that person commits an offence against this Local Law and the Council additionally or in the alternative to any court proceedings in respect of such offence may exercise the power under clause 17 to cancel the Licence or exemption.

11. Licence Certificate

Council shall issue to every holder of a Licence the applicable Licence certificate in the form set out in Schedules 1, 2 or 3 for which the holder shall pay to the Council the applicable amount set out in Schedule 4. A holder of a Licence must display her or his Licence certificate while conducting the activities authorised by the Licence;

12. Transfer of Licence

Subject to clause 9(5), a Licence issued under this Local Law shall not be transferable to another person.

13. Length of Service

A Licence issued pursuant to this Local Law shall be valid until the 30th day of June next after it is granted or such lesser period as specified in the Licence except where the Licence is granted in the months of May or June when it shall extend to the 30th day of June in the next year following or such lesser period as specified.

14. Annual Renewal

Every application for the renewal of a Licence for a period of twelve months shall be made annually during the month of June and every application for renewal of a Licence for a period of less than twelve (12) months shall be made four weeks prior to the expiration date and shall be in writing accompanied by the Licence then in force.

15. Fees

The fees and additional charges to be paid by an applicant for a Licence issued under this Local Law, for every renewal of a Licence, and for an application to transfer a Licence are set out in Schedule 4. No Licence is valid until the fees and charges imposed on the applicant have been paid.

16. Exemption

Notwithstanding provisions of Clause 15, the Council may grant without fee or charge, a Licence to conduct a Stall or to carry on Trading in any Street or way or on any land for any period specified in such Licence if the Stall or Trading -

- (a) is carried on in a portion of a Street or Public Place adjoining the normal place of business of the Licence holder; or
- (b) is carried on by a Charitable Organisation or group that does not sublet space to, or involve Commercial Participants in the conduct of a Stall or Trading activity, and any assistants that may be specified in the Licence are members of that Charitable Organisation or group;

17. Cancellation

- (1) Council may by written notice cancel any Licence issued under this Local Law for any of the reasons set out in clause 9(2) or on the grounds:
 - (a) that the licensee is not conducting the business the subject of the Licence in a respectable or sober manner;
 - (b) that the licensee has assigned the Licence without Council permission or no longer carries on the business the subject of the Licence;
 - (c) that the licensee is not regularly carrying on the business for which the Licence was granted; and
 - (d) that the licensee has breached a condition of the Licence.
- (2) Upon cancellation of a Licence the holder thereof shall forthwith return the Licence certificate issued pursuant to clause 11 to the Chief Executive Officer/Town Clerk of the Council and shall forfeit fees paid in respect of the Licence.

Part III - Conduct

18.

- (1) A Hawker while hawking, a Stallholder while conducting a Stall or a person carrying on Trading shall:
 - (a) display the Licence certificate in a conspicuous place on the vehicle or temporary structure (in the case of a Hawker or Trader) or on the Stall

(in the case of a Stallholder);

- (b) have the name of the Hawker, Trader or Stallholder (or his assistant/s where appropriate) displayed on the vehicle or Stall;
 - (c) when selling goods, wares or merchandise by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the Weights and Measures Act 1915; and
 - (d) in the case of a Stallholder, maintain the Stall in good order and condition.
- (2) A Hawker, Stallholder or Trader shall not:
- (a) attempt to conduct a business within a distance of 300 metres of any shop or permanent place of business that is open for business and has for sale any goods, wares, merchandise or services of the kind being hawked or offered for sale by the Stallholder or Trader;
 - (b) call the licensee's wares or cause or make any outcry noise or disturbance likely to be a nuisance or cause annoyance to any person in that vicinity;
 - (c) deposit or store any box or basket containing goods, wares or merchandise under the vehicle of the licensee or upon the roadway or footpath;
 - (d) obstruct the free passage of pedestrians or vehicles on any footpath or roadway;
 - (e) act in an offensive manner;
 - (f) subject to paragraphs (a) and (b) of clause 18(1), use, display or permit to be used or displayed an advertisement, placard, poster, streamer, sign or signboard on or about the place specified in the Licence other than price tickets or labels on the items with labels not exceeding 200 square centimetres in area and relating to the business specified in the Licence;
 - (g) use or permit to be used any flashing or intermittent lighting apparatus or device on or from the place specified in the Licence;
 - (h) use or permit to be used any apparatus or device including any flap or shelf whereby the dimensions of a Stall or vehicle are increased beyond any specified in the Licence; and

- (i) in the case of a Trader conduct trade from a Public Place unless there is adequate off-road parking adjacent to the place of Trading for the parking of customers vehicles.
- (3) Persons shall not display a Licence certificate unless they hold a valid Licence issued under this Local Law.

Part IV - Offences and Penalties

19. Penalty Provision

- (1) Any person failing to do any act directed to be done or by doing any act forbidden to be done by this Local Law, or any notice issued under this Local Law, commits an offence;
- (2) Where a person who is not licensed to do so, sets up and conducts a business at a stall, or carries on trading, then, the maximum penalty that can be imposed on that person is \$1,000 or imprisonment for six (6) months;
- (3) Any person who commits an offence under this Local Law other than the offences referred to in clause 19(2) is liable to:
 - (a) a maximum penalty of \$500; and
 - (b) a maximum daily penalty of \$50.

Schedule 1: Form 1

LOCAL GOVERNMENT ACT 1960
The Municipality of the City of Melville
Local Law Relating to Hawkers, Stallholders and Trading in Public Places

Application for Hawkers Licence

1. Full Name of Applicant
.....
2. Full Address of Applicant
.....
.....
2. Kind of goods, wares or merchandise which the applicant intends to hawk
.....
3. Type of vehicle, conveyance or means of carriage to be employed in hawking
.....
4. Proposed days and hours of trade
.....
5. Part of the District for which the Licence is required
.....

City of Melville Local Law Relating to Hawkers, Stallholders and Street Traders.
Adopted by the Council of the City of Melville on: 30/05/1995 under the powers of the Local Government Act 1960



Effective Date: 19/01/1996 © City of Melville 2006

6. Certificate signed by a Justice of the Peace (to be attached).

.....

.....
Signature of the Applicant

Schedule 1: Form 2

LOCAL GOVERNMENT ACT 1960
The Municipality of the City of Melville
Local Law Relating to Hawkers, Stallholder and Trading in Public Places

Licence for Hawkers

1. Full Name of Applicant
.....
2. Full Address of Applicant
.....
.....
3. Kind of goods, wares or merchandise which will be hawked by the applicant
.....
4. Type of vehicle, conveyance or means of carriage to be used in hawking
.....
5. Requirements, Terms and Conditions-
 - (a) Place to which Licence applies:
 - (b) Description of or vehicle to be used by the Licensee:
.....
 - (c) Particulars of the goods, wares, merchandise or services in respect of which hawking may be carried on:
.....
 - (d) The permitted days and hours when Trading may be carried on:
.....
 - (e) Other Requirements, Terms or Conditions applicable to this Licence:

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Adopted by the Council of the City of Melville on: 30/05/1995 under the powers of the Local Government Act 1960

Effective Date: 19/01/1996 © City of Melville 2006



.....
.....

.....
Chief Executive Officer/Town Clerk



City of Melville Local Law Relating to Hawkers, Stallholders and Street Traders.
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Schedule 2: Form 1

LOCAL GOVERNMENT ACT 1960
The Municipality of the City of Melville
Local Law Relating to Hawkers, Stallholder and Trading in Public Places

Application for Stallholder's Licence

1. Full name and address of applicant

.....
.....

Community Association under Section 242(3) of the Local Government
Act Fee exemption: Yes No

2. The proposed number and names and addresses of assistants to be
engaged by the applicant in conducting the Stall pursuant to the Licence.

.....
.....

3. Proposed location of the Stall for which the Licence is sought:

.....

To be accompanied by an accurate plan and description of any proposed
stand, table, structure or vehicle which may be used.

4. Proposed days and hours of trade:

.....

5. Nature of proposed goods, wares or merchandise to be sold:

.....
.....

.....
Signature of Applicant

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Schedule 2: Form 2

LOCAL GOVERNMENT ACT 1960
The Municipality of the City of Melville
Local Law Relating to Hawkers, Stallholder and Trading in Public Places

Licence For Stall

1. Full name and address of Licensee:
.....
.....
2. Date of issue of Licence:_.....
3. Date of expiration of Licence:_.....
4. Requirements, Terms and Conditions-
 - (a) Place to which Licence applies:
 - (b) Description of stand, structure or vehicle to be used by the Licensee:
.....
 - (c) Particulars of the goods, wares, merchandise or services in respect of which operating a Stall may be carried on:
.....
 - (d) Community Association under Section 242 of the Local Government Act:
Yes No
 - (e) The permitted days and hours when Trading may be carried on:
.....
 - (f) Other Requirements, Terms or Conditions applicable to this Licence:
.....
.....

.....
Chief Executive Officer/Town Clerk

Adopted by the Council of the City of Melville on: [enter date] Carried: [enter vote x/x] under the powers of the Local Government Act 19XX

Effective Date: [enter date] © City of Melville 20XX



Schedule 3: Form 1

The Municipality of the City of Melville
Local Law Relating to Hawkers, Stallholders and Trading in Public Places

Application For Trading In Public Places

1. Full name and address of applicant:

.....
.....

2. Proposed number, names and addresses of assistants:

.....
.....

3. Location of proposed site for which Licence is sought:

.....

To be accompanied by an accurate plan and description of any proposed stand, table, structure or vehicle which may be used for Trading.

4. Proposed days and hours of trade:

.....

5. Nature of proposed goods, wares or merchandise to be sold:

.....
.....

.....
Signature of Applicant



Schedule 3: Form 2

LOCAL GOVERNMENT ACT 1960
The Municipality of the City of Melville
Local Law Relating to Hawkers, Stallholder and Trading in Public Places

Licence For Trading In Public Places

1. Full name and address of Licensee:
.....
2. Date of issue of LICENCE:
3. Date of expiration of Licence:
4. Requirements, Terms and Conditions-
 - (a) Place to which Licence applies:
 - (b) Description of stand, structure or vehicle to be used by the Licensee:
.....
 - (c) Particulars of the goods, wares, merchandise or services in respect of which Trading may be carried on:
.....
 - (d) Full name/s and address/es of assistant/s who may be engaged at any one time in Trading:
.....
.....
 - (e) The permitted days and hours when Trading may be carried on:
.....
 - (f) Other Requirements, Terms and conditions applicable to this Licence:
.....

.....
Chief Executive Officer/Town Clerk

Adopted by the Council of the City of Melville on: [enter date] Carried: [enter vote x/x] under the powers of the Local Government Act 19XX



Effective Date: [enter date] © City of Melville 20XX

Schedule 4

LOCAL GOVERNMENT ACT 1960
The Municipality of the City of Melville
Local Law Relating to Hawkers, Stallholders and Trading in Public Places

Fees and Charges

Fees and additional charges will be assessed in accordance with the table below:

1. HAWKER

Licence Fee: maximum fee in accordance with the Act

Badge: maximum fee in accordance with the Act

2. STALLHOLDER

Licence Fee: As determined from time to time by resolution of the Council.
(Refer to Fees and Charges Manual currently \$100 per meter square per year or \$100 application fee for one day event)

All Stalls: Additional annual charges for the use of the land established in accordance with section 6.16(2)(A) of the Local Government Act 1995.

3. TRADER

Licence Fee : annual \$165

monthly \$ 55

Badge Issue Charge : each \$12

Trading - additional charges per day \$105 per year \$1,057

4. TRADER WHERE THE TRADER HOLDS AN ITINERANT FOOD VENDORS LICENCE

Licence Fee : annual \$20

Trading - additional charges per day \$105 per year \$1,057

5. TRANSFER OF LICENCE \$25.00

Amendments

Government Gazette 26/7/91 Page 99 - update schedule 2 - fees and charges

Government Gazette 19/3/93 Page 46 - update schedule 2 - fees and charges

Government Gazette 19/1/96 Pages 222-229 - Dual Licence

Government Gazette 01/2/00 Update schedule 4 - fees and charges

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