

<b>Responsible Directorate</b>	<b>Planning and Development</b>
<b>Responsible Business Unit/s</b>	<b>Development Services</b>
<b>Responsible Officer</b>	<b>Manager Development Services</b>
<b>Affected Business Unit/s</b>	<b>Development Services</b> <b>Community Safety</b> <b>Engineering Operations</b>

## Objective

The *City of Stirling Thoroughfares and Public Places Local Law 2009* sets out the requirements, conditions and other matters for persons wishing to establish an outdoor eating facility on a thoroughfare that is under the City's care, control and management.

Establishment of an outdoor eating area on privately owned property requires a Development Approval.

This Policy sets out the information required for a person to apply for a permit to establish an outdoor eating facility, standard conditions, and how fees are calculated.

'Outdoor eating facilities' include alfresco dining areas.

The objective of this policy is to provide guidelines for the establishment, management and control of outdoor eating areas within the City of Stirling to ensure that such areas do not adversely affect the enjoyment, convenience or safety of persons, or the character and amenity of the surrounding area.

The City recognises that appropriately located and designed outdoor eating areas can make a significant contribution to the vitality and ambience of public places and urban lifestyles. They offer opportunities for spontaneous and arranged social interactions or quiet reflection while introducing a visual vibrancy that can make a place memorable. To this end, this Policy aims to provide a framework and urban design guidelines to promote the establishment of outdoor eating areas wherever feasible and appropriate within the City of Stirling.

## Scope

No person shall establish or manage an outdoor eating area on a thoroughfare or local government property under the City's care, control and management without first obtaining an Outdoor Eating Area permit from the City, or an outdoor eating area on privately-owned land without first obtaining a Planning Approval from the City.

An outdoor eating area will be considered only where the proposal is part of an application to establish a eating establishment within a directly-adjointing tenancy/building, or is proposed as an extension of an existing eating establishment already operating within a directly-adjointing tenancy/building.

In addition to the information contained within this policy, the eating establishment and the proposed outdoor eating area and its manner of operation, is to comply with all requirements of Health legislation, the Building Code of Australia, Residential Planning Codes, District Planning Scheme No.2 and any other relevant City of Stirling policy.

Anyone wishing to simply sell or display goods for sale should obtain a stallholders or traders permit.

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## Policy

### Applications

#### Thoroughfares and local government property

An application for approval for an outdoor eating area on a thoroughfare or local government property under the City's care, control and management must be accompanied by:

- (1) An application fee (as determined in the City's annual budget).
- (2) Two copies of a plan and specifications of the proposed outdoor eating area at a scale of 1:50 showing:
  - a. the location and dimensions of the proposed outdoor eating area; and
  - b. the number and position of all furniture (eg. chairs, tables, umbrellas, any proposed barriers or balustrades) to be provided in the proposed outdoor eating area.
- (3) Two copies of a plan and specification of the proposed outdoor eating area and all land within 30 metres beyond the boundaries of the proposed area at a scale of 1:500 showing the location of all thoroughfares, footpaths, public facilities, public places, streets, street alignments, street furniture, and parking restrictions;
- (4) Photographs or brochures of all furniture to be set up in the proposed outdoor eating area, including detailed proposed colour scheme;
- (5) Detail of any advertising proposed to be displayed on the furniture, including but not limited to the content, dimensions, colour and proposed Details of storage areas for the furniture;
- (6) A written statement of the manner in which food, drink and dining accessories are to be conveyed to customers, and protected from contamination within the area. This should also include information on whether alcohol will be served to patrons in the outdoor eating area (NB: the service of alcohol shall not commence until the relevant approval has been obtained from the Liquor Licensing Division of the Office of Racing and Gaming); If the eating establishment is licensed under the Liquor Licensing Act 1988, a copy of the liquor licence and the extended trading permit;
- (7) Written particulars of arrangements made in respect of public liability insurance coverage in the sum of \$10,000,000 for the City of Stirling and licensee in respect of the outdoor eating areas; and
- (8) If the outdoor eating area is proposed to extend in front of an adjacent premises, written statements from the owner and occupier of the adjacent premises; and
- (9) Where the City considers that the proposed outdoor eating area may result in access issues in the surrounding area, the submission of a Brief Transport Statement may be required (as per the City's Parking Policy).

#### Private Land

An application for approval to establish an outdoor eating area on privately-owned land (within the boundary of a privately-owned lot) which will be visible from a public space requires a development approval.

Applications must be accompanied by:

- (1) A planning application fee;
- (2) A completed planning application form;
- (3) Two copies of a plan and specifications of the proposed outdoor eating area at a scale of 1:50 showing:
  - a. The location and dimensions of the proposed outdoor eating area;
  - b. The number and position of all furniture (eg. Chairs, tables, umbrellas) to be provided in the proposed outdoor eating area; and
  - c. The manner in which the outdoor eating area is to be separated from the public space;

- (4) Two copies of a plan and specification of the proposed outdoor eating area and all land within the boundaries of the subject lot at a scale of 1:500 showing the location of all existing buildings and structures, landscaping, vehicle parking areas, service yards and any other information deemed to be relevant to the application;
- (5) Photographs or brochures of all furniture to be set up in the proposed outdoor eating area, including detailed proposed colour scheme;
- (6) Detail of any advertising proposed to be displayed on the furniture, including but not limited to the content, dimensions, colour and proposed location;
- (7) A written statement of the manner in which food, drink and dining accessories are to be conveyed to customers, and protected from contamination within the area. This should also include information on whether alcohol will be served to patrons in the outdoor eating area (nb: the service of alcohol shall not commence until the relevant approval has been obtained from the liquor licensing division of the office of racing and gaming).

### **Matters to be Considered in Determining Application**

In determining an application for a permit, the City may consider in addition to any other matter it considers relevant under Clause 6.3 of the Thoroughfares Local Law, whether -

- (1) the Facility is to be conducted in conjunction with and as an extension of food premises which abut the Facility, and whether the applicant is the person conducting such food premises;
- (2) any abutting food premises are registered under the Health Act 1911 and whether the use of the premises is permitted under the town planning scheme;
- (3) the Facility would comply with any local law made under section 172 of the Health Act 1911;
- (4) users of the Facility would have access to proper and sufficient sanitary and ablutionary conveniences;
- (5) the Facility would -
  - a. obstruct the visibility or clear sight lines of any person at an intersection of thoroughfares; or
  - b. impede pedestrian access; and
  - c. the tables, chairs and other equipment to be used may obstruct or impede the use of the public place for the purpose for which it was designed.

### **Standard Conditions of Permits**

- (1) In addition to conditions that may be particular to a site or applicant, the following standard conditions are to apply to every outdoor eating area permit. The permit holder for a Facility must:
  - a. Keep current his/her public liability insurance of not less than ten million dollars (\$10,000,000) indemnifying the City from any claims that may arise out of use of the area that is subject to the permit
  - b. Ensure that the Facility is conducted at all times in accordance with the provisions of this local law and any local law made under section 172 of the *Health Act 1911*;
  - c. Ensure that the eating area, footpath, and the immediate surrounds are kept in a clean and tidy condition at all times and free of litter;
  - d. Maintain the chairs, tables and other structures in the eating area in a good, clean and serviceable condition at all times;
  - e. Be solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the Facility;
  - f. Be solely responsible for all rates and taxes levied upon the land occupied by the Facility;
  - g. Note that from time to time, the City or any other authorised person or public utility may need to carry out repairs, upgrades, installations, works or reinstatements in the area subject to the permit.

- (2) The City will exempt a person who has been issued with a stallholders, traders, or outdoor eating facility permit from application of Part 3 of the Activities in Thoroughfares Local Law, which prohibits advertising in thoroughfares in relation to advertising in the area subject to the permit. Any advertising must:
- a. Directly relate to the products or services on offer by the permit holder in relation to the stall or facility, and
  - b. Comply with the requirements of the Local Planning Scheme or any other written law that might apply as if the sign was erected, placed or displayed on the adjoining property.
- (3) All permits expire on the following 30 June or as stipulated on the permit.

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## Definitions

Definitions are contained in the *City of Stirling Thoroughfares and Public Places Local Law 2009*.

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## Relevant management practices/documents

Nil

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## Legislation/local law requirements

The *City of Stirling Thoroughfares and Public Places Local Law 2009* applies.

Office use only			
<b>Relevant delegations</b>	Not applicable		
<b>Initial Council adoption</b>	<b>Date</b> 20 May 1986	<b>Resolution #</b>	
<b>Last reviewed</b>	<b>Date</b> 26 May 2020	<b>Resolution #</b>	0520/027
<b>Next review due</b>	<b>Date</b> 2021		