



MALL CODE
&
MARKETS' POLICY

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1. INTRODUCTION

The Mall Code has been developed to foster the Mall as the civic centre of Waverley's commercial retail, and residential districts.

The aim of Council's Code is to ensure that traders, promoters and the public are aware of activities Council will permit in the Mall, so as to ensure its effective use and enjoyment.

2. CODE

All activities in the Mall will be subject to the guidelines set out in the Code. The Code will be administered by Council or Council's nominee.

A permit or licence may be issued to a commercial operator or community group for the use of part of the Mall provided emergency vehicle access is not obstructed and pedestrian movements are not unduly hindered.

A fee may be charged for the hire of the facility and use will be restricted to the hours nominated on any permit or licence issued.

The following activities may be carried out in the Mall subject to a written application being submitted, approval in writing being granted by Council or Council's nominee and compliance by the applicant with any conditions of approval.

2.1 Activities Requiring Permits

a) Busking

1. Approval may be granted in the form of a permit for a person to busk in the Mall. Children under the age of 18 years will be required to obtain parental consent.

2. A person holding a busking permit is permitted to busk for a maximum period of four (4) hours per day and only if the number of busking groups already within the Mall is two (2) or less. There should be not more than three (3) busking, with a maximum of four (4) performers per group at any time busking in the Mall.
3. Any permit will be for a maximum period of six (6) months.
4. No direct soliciting or collecting of donations will be permitted. Any collection container must remain stationary on the ground.
5. Buskers shall not obstruct pedestrians or entranceways to shops and laneways and are required to regularly (say each hour) circulate within the permitted busking areas in the Mall as outlined on their permit.
6. Buskers shall not use any amplification equipment unless approval is obtained; see section (g) (page 6).
7. Once buskers have been given approval to perform they must have their permit with them at all times whilst performing in the Mall.
8. A busker shall not:-
 - (i) obstruct or hinder the passage of pedestrians or vehicles;
 - (ii) cause inconvenience, annoyance or obstruction to any person;
 - (iii) create any nuisance or unreasonable noise;
 - (iv) beg or gather alms;
 - (v) operate closer than five (5) metres from the door of premises open for business;
 - (vi) create a threat to public safety;
 - (vii) affix any material or mark/draw on any Mall property; and
 - (viii) engage in any dangerous acts, including the use of fire.
9. A busking permit may be revoked or cancelled by Council or Council's nominee at any time if deemed necessary.

b) Commercial Displays/Stalls/Promotions

1. A permit is required and may be issued for short-term displays, promotions and stalls of a commercial nature.
2. Such activities should not be in direct competition with businesses in the Waverley CBD and the Mall area.
3. A fee will be charged for these activities within the Mall.
4. The location of such displays, stalls or promotional within the Mall will be nominated on all permits issued.
5. Short-term displays, stall or promotional goods outside commercial premises are not permitted unless in the form of an approved display.
6. Long-term displays are discussed under Section 2.2 (f).
7. Commercial displays/stalls/promotions are only permitted to occupy a maximum space of 6.4 metres x 6.4 metres.
8. Applications must be submitted at least four (4) weeks prior to the proposed activity.

c) Community & Charity Display/Stalls/Promotions

1. Charities and other community groups may be allowed to set up stalls for the purpose of selling goods or promoting such organisations to the general public. Any fundraising activities require the appropriate Authority to Fundraise from the Charities Office, with such Authority being provided with any application for permit.
2. The location of such stalls within the Mall will be nominated on all permits issued.
3. A fee may be charged for community activities within the Mall.

4. Community and charity displays/stalls/promotions are only permitted to occupy a maximum space of 6.4 metres x 6.4 metres.
5. Applications must be submitted at least four (4) weeks prior to the proposed activity.

d) Display of Banners and Signs

1. A permit may be allocated for the short-term erection of banners, bunting or the like in the Mall in association with an approved promotion, subject to the appropriate consent being obtained from Council.
2. Banners and bunting may only be erected in locations nominated on all permits issued.
3. Sandwich boards, free standing signs and projecting wall mounted signs, including flags, are **NOT** permitted in the Mall.
4. A fee may be charged for the erection of such banners, bunting or similar.
5. Applications must be submitted at least four (4) weeks prior to the proposed activity.

e) Distribution of Handbills & Give-Aways

1. A permit is required for the distribution of handbills, advertisements and giveaways in the Mall in conjunction with an approved promotion.
2. Distribution for any other purpose will not be permitted.
3. Distribution may only take place in locations nominated on all permits issued.

4. An hourly fee will be charged in accordance with Council's Pricing Policy to obtain a permit for the distribution of handbills and give-aways.
5. Applications must be submitted at least four (4) weeks prior to the proposed activity.

f) Public Collections

1. A permit is required for any charities and community service organisations that propose to solicit or collect money in the Mall.
2. Applications must be submitted at least four (4) weeks prior to the proposed date of the collection.
3. A fee will be charged to obtain a permit for Public Collections.

g) Amplification

1. Any person wishing to use amplification must obtain a permit before using such amplification.
2. Any approval granted for amplification shall be subject to the condition that the provisions of the Noise Control Act are complied with in every respect.
3. Upon receipt of a complaint regarding amplification, an Authorised Officer may direct the user to cease such nuisance noise, which the user must comply with immediately.

h) Animals

1. All animals other than dogs are prohibited in the Mall unless special approval, in the form of a permit, has been obtained for the use of such animals in a promotion.
2. All dog owners must comply with all relevant aspects of the Companion Animals Act and Companion Animals Regulation.

i) Vehicular Access

1. A permit is required to bring a vehicle into the Mall. Vehicular permits will only be issued for:-
 - (i) Maintenance and Tradespersons Vehicles.
 - (ii) Waste Removal Vehicles.
 - (iii) Support Vehicles for special purposes/promotions or markets as approved by Council.
 - (iv) Public Utility Vehicles.
 - (v) Armoured/Security Vehicles.
 - (vi) Delivery vehicles for Mall Traders
2. Emergency Vehicles such as Police, Ambulance and Fire Brigade do not require a permit. Other vehicles with permits are not to obstruct access for emergency vehicles at any time.
3. Vehicle permits are to be on clear display on or in the front window whilst the vehicle is in the Mall.
4. All permit holders must abide by the conditions of the permit failing which the permit may be immediately cancelled.

j) Amusements/Entertainment

1. A permit is required for the provision of any amusements/entertainment in the Mall.

2. A fee will be charged for any amusement/entertainment space provided.
3. Any permits for amusements/entertainment will be subject to the condition that the provisions of the Noise Control Act are complied with in every respect and may be subject to other conditions.
4. Community and charitable amusements/entertainment will incur a separate set of charges as outlined in the schedule of fees and charges.

k) Miscellaneous Use

1. Approval in the form of a permit be granted for other miscellaneous purposes not addressed in this Code that are aimed at attracting people in the Mall.
2. Approval may be granted for raffles and/or lotteries otherwise permitted by law.
3. Approval may be granted for car raffles subject to any displayed car having a permit for vehicle entry.
4. A fee will be charged for miscellaneous use of the Mall as outlined in the schedule of fees and charges.
5. Any proposed activity wishing to use over 12 square metres will be considered miscellaneous use and will be subject to a written application to Council for approval.
6. A bond may be payable, if in the opinion of Council, there is potential for damage to occur to any part of the Mall.

l) Works on Properties adjacent to the Mall

1. A permit is required to utilise areas of the Mall when undertaking works on adjacent properties.
2. A permit fee will be charged for the utilisation of Mall space.
3. Applicants will be required to provide appropriate public and product liability insurances as determined by Council or Council's nominee.
4. A bond will be payable, if in the opinion of Council, there is potential for damage to occur to any part of the Mall.

2.2 Activities requiring a Licence and/or Development Consents

a) Outdoor Seating

1. Applicants are required to obtain Development Consent and licence from Council for the proposed outdoor seating area.
2. All proposed outdoor seating must comply with Council's Outdoor Seating Code.
3. A licence fee will be charged by Council and any costs associated with the licence, including legal fees and stamp duty are to be met by the licensee.

b) Markets

1. Council supports in principle the conduct of markets in Waverley Mall on the proviso that such markets are of a high standard and compatible with the ambience of the Mall and adjacent commercial activity.
2. Strict guidelines will be applied to the operation of Markets in the Mall to ensure that the presentation and product offer is complementary to the ambience of the Mall and the adjacent commercial activity.

Selection criteria for Market Operators will include:

- (i) professional management and co-ordination
- (ii) approved marketing and advertising program
- (iii) no second-hand goods (exceptions may be bona-fide antiques or art)
- (iv) high quality presentation and signage
- (v) themed market with unique selling proposition able to generate destination traffic
- (vi) complements existing tenant mix, targeted tenancy strategy and other market operations
- (vii) delivers a return to Council or to the community
- (viii) able to deliver consistency of operators
- (ix) meets all public liability and insurance criteria

The successful Marketing Operators will be required to develop Management Plans to cover:

- (i) Traffic Management
- (ii) Parking Control
- (iii) Security
- (iv) Crowd Control
- (v) Emergency
- (vi) Waste Removal
- (vii) Marketing and Promotion
- (viii) Signage

The Market Operator will be responsible for the conduct and operation of the market vendors. Requirements will include:

- (i) each Vendor enters into a contract with the Market Operator which reflects all the commercial conditions between the Bondi Junction Office and the Market Operator
- (ii) appointment of a Market Manager to ensure compliance with all statutory and regulatory requirements

- (iii) provision of approved Operational Guidelines outlining the requirements and responsibilities of Vendors
 - (iv) adherence to an approved Traffic Management Plan
 - (v) adherence to an approved Parking Plan
 - (vi) adherence to a Crowd Control and Security Management Plan
 - (vii) adherence to Waste Removal procedures
3. A licence fee will be charged by Council and any costs associated with the licence, including legal fees and stamp duty are to be met by the licensee.

c) Commercial Displays & Promotions

- 1. Long term displays and promotions outside commercial and retail premises in the Mall are not permitted unless a Development Consent and licence has been obtained from Council.
- 2. The location of any display and promotion will be nominated in any licence issued.
- 3. A licence fee will be charged by Council and any costs associated with the licence, including legal fees and stamp duty are to be met by the licensee.

2.3 Prohibited Activities in the Mall

a) General

- 1. The following activities are not permitted in the Mall at any time:-
 - (i) the riding or use of skateboards;
 - (ii) the riding or use of roller blades or skates;
 - (iii) hawking;

- (iv) spruiking
 - (v) preaching in an obstructive manner; and
 - (vi) entering or obstructing any features in the Mall
2. Other activities which are considered to be potentially dangerous, injurious or offensive to the welfare of Mall users, as determined by Council or Council's nominee are also prohibited in the Mall.
3. The Mall is a designated alcohol free zone. In accordance with the provisions of the Local Government Act, Council may consider applications for the temporary lifting of this designation for the holding of special events.

2.4 Other Matters Pertaining to Activity in the Mall

a) Garbage and Litter

- 1. All trade and putrescible waste from commercial and residential premises adjacent to the Mall is to be presented for collection in appropriate recycling and approved waste containers in the location nominated by Council's Waste Management Team. Any commercial operator or resident placing such waste in the Mall (including public bins) is liable for penalties under the Protection of the Environment Operations Act (1997).
- 2. Any person littering the Mall is liable for penalties under the Protection of the Environment Operations Act (1997).
- 3. New and improved bins are conveniently placed in the Mall area for the collection of waste material. Visitors are encouraged to use these bins correctly and contribute to protecting our environment.

b) Security

1. Council's prime concern is that visitors to other Mall feel a sense of safety and security. With this in mind Council may provide a security service to meet perceived security demands.

c) Inspections & Compliance

1. Council's Rangers, Compliance Officers, Parking Officers and other Council nominees will periodically inspect the Mall to ensure that the provisions of the Local Government Act or other relevant legislation are complied with in relation to littering, footpath obstructions, animals, offensive behaviour, vandalism, vehicles, pollution, rubbish dumping, public and environmental health and other appropriate matters.
2. Council's Rangers, Compliance Officers, Parking Officers and other Council nominees may also check that licences and permits are current for activities carried out in the Mall and take appropriate action in respect of any infringement of this Code.

d) Mall Maintenance & Cleaning

1. The Council is responsible for the maintenance and cleaning of all items and fixtures within the Mall.
2. Visitors, users and operators are asked to report any broken, damaged or vandalised fixtures, plants or equipment to Council or Council's nominee so these items can be repaired or replaced.
3. Maintenance and cleaning may be conducted by Council directly or Council's nominated contractor/s.

2.5 General

1. Any activity must not unduly disrupt normal business activities within the Mall area, not unduly disturb the ambience of both residents adjoining the Mall and users of the Mall area.
2. No promotion or activity shall be permitted in the Mall if, in the opinion of the Bondi Junction Manager, the promotion is objectionable in nature.
3. Applications for permits to carry on approved activities in the Mall are to be submitted to Council or Council's nominee. Applications for such permits must be made at least one month prior to the event or where otherwise required in this Code, unless exceptional circumstances apply.
4. Persons and/or organisations granted a licence or permit subject to conditions shall comply with all such conditions.
5. A permit may be revoked at any time for any reason the Council or Council's nominee considers appropriate.
6. Fees and charges for licences or permits granted in respect of use of the Mall are subject to Council approval. Alternative fees may be applicable for non-profit and charitable organisations. Council reserves the right to charge a security deposit for any activity in the Mall.
7. Users are not permitted to overload power outlets as this can cause the power circuit to overload causing extensive and costly electrical problems in the Mall. Users are required to check the ratings specifications on the power outlets and ensure compliance of appliances or equipment with power capacity.
8. Persons and/or organisations granted approval to conduct activities within the Mall must:-
 - (a) Take care not to damage any items including furniture, trees, lighting, paving and gardens. Any damage must be paid for by

the person/organisation and an appropriate amount will be deducted from any security deposit held.

- (b) Leave the immediate surrounding area in a clean and tidy condition and follow Council's designated waste management and recycling practices or be responsible for any costs associated with cleaning.
9. Persons and/or organisations that fail to comply with requirements relating to the use of the Mall may be prosecuted.
10. In the event of any after hours emergency (i.e. between 5pm-8am Monday to Friday and all weekend) in respect of the Mall, contact should be made with Council's after hours emergency number on 02 9369 8000.

All applicants who apply to use the Oxford Street Mall must hold a current public and product liability policy for a minimum of \$10 million each. A Certificate of Currency is to be obtained from the applicant's insurance company and forwarded prior to the use of the Mall. The Certificate of Currency must state the Situation/Location is "Anywhere in Australia" and name Waverley Council as an interested party. Regular hirers must ensure that for each renewal a current certificate is forwarded. It is required that the insurance/s covers the applicant, its agents, contractors or other invitees of the applicant.

3. DEFINITIONS

In the Code, unless inconsistent with the context or subject matter –

- 1. Act**
Means the Local Government Act or the relevant Act and Regulations made there under.
- 2. Busker**

Means a person or group who for donation, payment or free of remuneration sings, chants, plays a musical instrument, dances, recites mimes or entertains other persons.

3. Code

Means the Waverley Mall Code and Markets Policy.

4. Council

Means the Council of Waverley.

5. Horse

Shall include ass, mule and any other draught animal or beast of burden.

6. Mall

Means the Oxford Street Mall.

7. Mall Manager

Means the person appointed or contracted by the Council to manage, control and co-ordinate activities in the Mall.

8. Sandwich Board

Means a portable advertising sign consisting of two boards each joined to the other by one edge and any other means.

9. Spruiker

Means a person who by calling out, playing an instrument or carrying a sign attempts to alert the attention of prospective customers to a product/s or services for sale or to a business.

10. Preaching

Means proclaiming or expounding in public discourse in an obtrusive manner.

11. Traffic

Means any form of transportation and shall include horses.

12. Vehicle

Means any description of vehicle upon wheels except vehicles used on railways or tramways and shall include bicycles but not wheelchairs for disabled persons or perambulators for infants.

13. Short Term

Means up to and including seven (7) continuous days.

14. Long Term

Means longer than seven (7) days.

15. Markets

For the purposes of interpreting the Mall Code and Markets Policy, two types of markets are defined as follows:

a. Community/Charity Market

An activity involving the sale of goods/products which is conducted on a recurring basis (more than three times per annum); and where more than three stalls are involved; and where the net proceeds from the sale of goods/products are retained by the community/charity group.

b. Commercial Market

An activity involving the sale of goods/products which is conducted on a recurring basis (more than three times per annum); and where more than three stalls are involved; and where the net proceeds from the sale of goods/products are predominantly (ie greater than 50%) for commercial benefit.

16. Amusements/Entertainment

A public performance, show, or recreational activity accessible to the public.