

Policy Section:	3. Development, Environment & Regulatory Services
Policy Name:	Busking
Classification:	Public – Council Policy
Adopted:	10 May 2022
Frequency of Review:	Every Four Years
Last Review:	March 2022
Next Review Due:	March 2026
Responsible Officer(s):	Team Leader Community Safety Manager Development, Environment and Regulatory Services
Policy and Code of Practice Manual File Ref:	CC10/2601
Council File Reference:	CR22/146
Legislation Authority:	Local Government Act 1999
Related Policies and Codes:	By-Law 4 – Local Government Land
Related Procedures:	N/A

1. PURPOSE

- 1.1 To encourage activities that contribute to the colour and life of Gawler by creating a sense of vibrancy in a manner that does not cause a risk to property, compromise the safety of members of the public or adversely impact on local traders, residents or pedestrians.
- 1.2 Council is committed to creating vibrant streets that offer town users the opportunity to experience high quality street performances and activity.
- 1.3 Why this policy is important:
 - 1.3.1 Street activation is a key element of creating a more vibrant town in Gawler.
 - 1.3.2 People feel safer in places that attract people to engage in positive social interaction.
- 1.4 *Town of Gawler will enact this policy* making it easier for the community to activate streets through an easy to navigate permit process.

2. DEFINITIONS

- 2.1 Advertising - The activity of carrying advertising generally, but not limited to, slung over the shoulders in the form of a sandwich board or similar.
- 2.2 Busker/s- An independent musician, actor or street performer or group of the same (up to 6 people) performing in a Public Place and may include the collection of money for the performance.
- 2.3 Fit and Proper Person - A person who has no relevant criminal history.
- 2.4 Pamphlet - A handbill, book, notice, advertisement, leaflet or other printed matter.
- 2.5 Pamphlet Distribution - To give out, hand out or distribute to any bystander or passer-by any Pamphlet (other than Pamphlet distribution promoting a business, which is covered by Council's S222 permit).
- 2.6 Permit - Written permission given by Council or an authorised Council Officer to conduct an activity in accordance with the specified conditions.
- 2.7 Preaching - To proclaim, advocate or inculcate asserted religious beliefs or moral truth and right conduct in speech or in writing.
- 2.8 Public Place - Any street corner, road, footpath or Park Land under the care, control or management of the Town of Gawler, but does not include private streets or private property.
- 2.9 Relevant Criminal History - Includes but is not limited to a record of offences against children, breaches of the *Local Government Act 1999*, *Local Government Act 1934*, Council's By-laws or the conditions of permits issued by Council or other Councils.
- 2.10 School Hours - 8:30 am to 4:00 pm school days during school terms as dictated by the State Government.
- 2.11 Street Occupation - For the purpose of this guideline includes Park Land or Reserve occupation

3. SCOPE

- 3.1 For the purpose of this policy a Busker refers to anyone who performs musically and / or visually in a public place for the entertainment and enjoyment of the community, by playing a musical instrument, dancing, signing, clowning, juggling, or acts of a similar nature with the intention of receiving gratuity.

4. PRINCIPLES

- 4.1 Buskers make an important contribution to the cultural life of a community by reflecting styles, values and issues of society at large.
- 4.2 Busking is a valid means for artists and performers to express their creative talents, make a living, provide cultural experiences and entertain members of the public.
- 4.3 Busking should not interfere with pedestrian traffic, the conduct of business, contribute to a lack of safety or disturb public amenity.

5. BUSKING PERMITS

- 5.1 Anyone wishing to busk within the Town of Gawler must obtain a valid Busking Permit from Council.

- 5.2 All applicants must apply for a Busking Permit in person and acknowledge and agree to comply with the terms and conditions of this Policy, unless otherwise varied by a Busking Permit.
- 5.3 All applicants must provide the following basic information to Council:
- Full Name
 - Email Address
 - Residential Address
 - Postal Address
 - Contact Phone Number
 - Photo Identification (drivers licence, passport, student ID Card)
 - Description of performance
 - Any other information required by Council
- 5.4 The details of all buskers holding a Busking Permit will be entered into a register of approvals granted by the Town of Gawler.
- 5.5 Buskers must display a Busking Permit when busking at all times.
- 5.6 A Busking Permit will be valid for a period of 12 months except where varied by a condition of approval and listed in the Busking Permit or where revoked or modified at the discretion of the Chief Executive Officer.
- 5.7 The cost associated with applying for a Busking Permit is nominated in Council's fees and charges.

6. ELIGIBLE CRITERIA

- 6.1 Buskers must hold a public liability insurance policy to the value of \$20 million and be underwritten by an insurer which is acceptable to the Town of Gawler and this must cover the entire license period. A certificate of currency must be provided in the name of the busker for a Busking Permit to be authorised.
- 6.2 Council may in special circumstances provide the public liability cover required up to 15 annual permits.
- 6.3 Buskers must provide Council with a valid police check - no older than 12 months, or a statutory declaration following discussion with Council. In cases where there are allegations that the person is not a Fit and Proper Person to undertake street activity, a police clearance may be requested from the applicant.
- 6.4 Applicants with a record of criminal offences including, but not limited to, sex offences, drug dealing and violent crimes (against person or property) will not be issued a Busking Permit.
- 6.5 Buskers must not obstruct pedestrian flow, fire exits, busk in doorways or incorporate street furniture as part of their performance.
- 6.6 Additionally
- (a) No person shall sing or play upon any musical instrument in any street or road without the written permission of the Council.
 - (b) No person shall sing or play any musical instrument in any street or road after being requested to stop busking by an Authorised Officer of Council or any member of the Police force or any occupier of the building
 - (c) No person shall sing or play any musical instrument in any street or road so as to obstruct or annoy any person or any occupier of any building abutting on the street or road

- (d) Keep noise from amplification or percussion limited to where it can only be heard within 50 metres and does not cause a nuisance to traders or residents
- (e) No person shall congregate with other persons in or upon any street or public place or upon or over any footway so as to obstruct the free passage of traffic
- (f) No person shall make or cause to be made any loud or violent outcry, noise or disturbance in or upon any street or public place or on or over any footway
- (g) Busking Permits may be issued subject to the following conditions:
 - (i) There is no form of amplification.
 - (ii) There is no advertising or association with advertising in conjunction with any performance.
 - (iii) The performance involves fewer than five performers.
 - (iv) No animal is used in conjunction with any performance.
 - (v) In the opinion of the relevant Authorised Officer, the sound level created is not excessive.
 - (vi) By-standers and passers-by are not accosted or solicited for money.
 - (vii) No article or commodity is sold, offered or exposed for sale.
 - (viii) The performance does not cause any undue obstruction, directly or indirectly, to the movement of pedestrians.
 - (ix) The performance is not conducted from a lane entrance or doorway.
 - (xi) One of the performers is the Permit holder.
 - (xii) The Permit is produced on demand.

7. UNDER AGE PERFORMERS

- 7.1 Children under 16 years of age require written permission from a parent or guardian and that parent or guardian must accompany the applicant with photo identification when applying for a Busking Permit.
- 7.2 Children under 16 years of age will only be permitted to busk outside of school hours (8:30am to 4:00pm) and during daylight hours and must be constantly supervised by a parent or guardian.

8. GROUP ACTS

- 8.1 Each member of the group must be identified on the Busking Permit and this must be clearly displayed during their performance.
- 8.2 Groups are limited to a maximum of (5) members. This is to ensure that pedestrians are able to move freely and to prevent crowd crush.
- 8.3 In special circumstances, groups with more than five (5) members may make a written request to the Chief Executive Officer to busk in certain locations.

9. DESIGNATED BUSKING AREAS

- 9.1 All busking must be undertaken within a designated area.
- 9.2 A designated area is defined as an area of public land approved by the Authorising Officer and contained within one of following Zones of the Gawler (CT) Development Plan:
- Town Centre Historic (Conservation)
 - Special Use
 - Mixed Use Historic (Conservation)
 - Local Centre
 - Neighbourhood Centre
 - Neighbourhood Centre (Evanston Gardens)

10. HOURS OF OPERATIONS

- 10.1 Holders of Busking Permits may busk within the Town of Gawler Local Government Area and in a designated area between the following times:
- 9am -10pm Monday – Thursday
 - 9am – 12 midnight Friday and Saturday
 - 9am – 10pm Sunday

11. NON ACCEPTABLE ACTS

- 11.1 The use of sharp objects or other dangerous instruments including knives, swords or chainsaws, stock whips, fire, flammable liquids and any other equipment that may create a hazard to public safety.
- 11.2 Causing damage to public property including painting or drawing on footpaths.
- 11.3 Use a child or any other person not covered by the permit or incorporating any animal in or as part of the performance.
- 11.4 Advertising any non-approved product, service or sponsorship.
- 11.5 Haranguing, arguing with, abusing or causing discomfort to the public.
- 11.6 The use of amplification must not exceed ambient noise levels, with the exception of percussion or wind instruments in which case no amplification is permissible.
- 11.7 Offering for sale or the provision of goods or services or one-on-one consultation is not considered to be busking under the terms of this policy, for example:
- Balloon Sculpting
 - Modelling
 - Fortune, Tarot Card and Palm reading
 - Giving of material (ie. tarot cards, business cards, marketing material etc.)
 - Massage or any type of healing therapy
 - Selling any kind (with the exception of Clause 12)

12. CDs AND DVDs

- 12.1 The sale of CDs and DVDs in addition to a busking performance is permissible, subject to:
 - 12.1.1 The CDs or DVDs must contain original material of the busker. Only one item for sale is allowed on display and a maximum of 10 items can be available for sale at any given time.
 - 12.1.2 The sale of CDs and DVDs may only occur as a complement to the busker's performance and should not dominate the time a busker occupies a site.
 - 12.1.3 Buskers must not approach a member of the public for the purpose of selling their goods, nor seek assistance of someone else to sell their goods

13. LEGAL OBLIGATIONS AND CANCELLATION

- 13.1 Buskers shall comply with all relevant laws, regulations and policies and lawful directions of Authorised Persons. The holding of a Busking Permit will not constitute a defence where a busker has committed an offence
- 13.2 Busking Permits may be revoked or modified at the discretion of the Chief Executive Officer or if a Busker breaches any law, any requirement of this Busking Policy or a condition of a Busking Permit.
- 13.3 Buskers must cease if directed to by an Authorised Officer or Police Officer.

14. REVIEW AND EVALUATION

The effectiveness of this Policy will be reviewed every four (4) years.

The Chief Executive Officer will report to Council on the outcome of the evaluation and if relevant make recommendations for amendments, alteration or substitution of a new Policy.

The Policy will not be altered or substituted so as to affect a process already commenced.

15. FURTHER INFORMATION

Further information about this Policy can be obtained by:

Telephone: 8522 9211
Email: council@gawler.sa.gov.au
Appointment: Town of Gawler Administration Centre, 43 High Street, Gawler East.
Letter: PO Box 130, Gawler SA 5118

16. AVAILABILITY OF POLICY

The Policy is the Council's website at www.gawler.sa.gov.au.

A printed copy may be purchased on request from the Council's Administration Centre.