

EXT 028: STREET ENTERTAINERS AND BUSKING

Document Status:	Current	CM Ref:	D18/373[v2]
Responsible Officer:	Manager Development and Statutory Services	Version No:	2
Date Adopted:	January 2018	Resolution #:	O0118-013
Date Reviewed:	June 2020	Resolution #:	O0620-182

Objective

1. To ensure that the Shire of Esperance is active, energising and attracts people;
2. To encourage activities that contribute life to Esperance and opportunities for alternative voices to be heard through public performance; and,
3. To provide an equitable system of use for popular busking sites.

Scope

- Applies to all reserves/land that is owned by or vested to the Shire of Esperance;
- Does not apply to public and private events or to markets;
- Does not include the staging of events; and
- Does not apply within areas subject to a lease area.

Definitions

Busker – An entertainer who provides impromptu performances for the public by playing a musical instrument, dancing, singing, clowning or juggling, or doing other acts of similar nature in public places.

Performance – Musical, dramatic or other entertainment substantially involving musical, theatrical, or circus performance skills.

Dangerous materials and implements – Materials and implements that pose risk, hazard or uncertain outcomes for people including flammable materials and chemicals, fire, fireworks, smoke, flares, heated elements, or anything giving off a level of heat or toxicity that poses a threat of harm or damage to members of the public and public property. Dangerous implements include knives, spears, swords, spikes, and sharp implements of any kind that pose a threat of harm to the general public.

Policy

The Shire of Esperance recognises that:

- Buskers make an important contribution to the cultural life of an area by reflecting styles, values and the issues of society at large;
- Buskers provide entertainment and thought provoking experiences to residents, visitors and members of the general public;
- Busking is a valid means for people to make a living; and

- Busking should not unduly interfere with pedestrian traffic, the conduct of business, or contribution to a lack of safety.

Proponents of applicable street entertaining and busking are to apply for consent.

Applications will be considered on their individual merits.

All approvals will be valid for a maximum of one (1) month. A longer period can be considered depending on the circumstances of the case.

General Criteria:

Consideration for street entertaining and/or busking activities and allocation of sites will need to address the following:

1. Compliance with the reserve's purpose;
2. Compliance with statutory planning requirements, i.e. development controls, Local Planning Scheme objectives and amenity issues;
3. The reserve must be managed by the Shire of Esperance. If its management is the responsibility of another Authority appropriate written permission must be submitted with any application;
4. Compliance with the provision of any relevant Shire Local Law;
5. Approval from Minister for Lands if applicable; and,
6. Obtain public liability risk insurance in an amount and on terms reasonably required by the local government.

Conditions:

In relation to street entertaining and/or busking in all permitted areas within the Shire of Esperance:

1. Entertainers must hold their permit at all times and present to Shire officers upon request;
2. Entertainers must not unreasonably interfere with pedestrian flow or public amenities or cause obstruction to traders or delivery vehicles, including by way of encouraging audience formation in such a manner as to cause such interference;
3. Entertainers may receive a monetary appreciation from the audience for their performance but may not solicit funds in a way which is likely to cause a discomfort to any individual;
4. Entertainers must keep the site in use clean while they are working and ensure that their use of the site does not pose a threat to public safety;
5. Entertainers may only use amplification that is battery operated. Mains voltage amplification is prohibited. Excessive amplification will not be tolerated. Loud acts may be asked to lower their volume or cease busking. The Shire reserves the right to impose a decibel limit on amplified sound in appropriate circumstances;
6. Entertainers may not offer goods or services for sale, display, demonstrate or advertise goods for sale or associate themselves with such advertising in conjunction with their performance;

7. Authorised Officers may at any time direct a busker to cease busking if the officer is of the opinion that the performance is loud, intrusive, is causing public inconvenience, or is likely to cause harm to the public or property. The entertainer must immediately comply with such a direction.
8. Entertainers must comply with all directions issued by Authorised Officers, members of the WA Police Force, Ambulance, Fire and Emergency Services.
9. The Shire may revoke or modify permits if the permit holder fails to comply with the requirements and conditions of approval.
10. Busking permits may be revoked or modified in any circumstance where persons:
 - a) Are deemed by an authorised officer to be causing a nuisance;
 - b) Do not keep their site safe and clean while working;
 - c) Cause obstruction to pedestrians or vehicular traffic and entrances to shops or buildings;
 - d) Interfere in any way with an approved entertainment or activity without permission;
 - e) Sell or offer for sale any articles or commodity;
 - f) Use dangerous implements or material as part of a performance without a special busking permit to do so;
 - g) Authorised officers reserve the right to prohibit use of a restricted area, designated site or such area as may be specified while road works are in progress, or while a special event is in progress. It is possible that restrictions on busking may be imposed during such occasions as New Years' Eve, Australia Day, Anzac Day or other events; and,
 - h) The use of designated sites for busking activities will be monitored by the Shires Authorised Officers.

Special Notes:

SCHEDULE “A” MINIMUM REQUIREMENTS FOR PERFORMERS

Type of Performer	Fire Blanket & Extinguisher	Noise Management	Insurance
Solo Musicians & Musical Groups	N/A	Yes	Recommended
Circus Acts, i.e. acrobats, cyclists & jugglers	N/A	Yes	Required
Fire Acts	Yes	Yes	Required
Statue & Mime Artists	N/A	N/A	Recommended
Balloon Artists & Face Painters	N/A	N/A	Recommended

Code of Practice

A performance, with the exception of pavement or visual artists, can continue in one location for no more than 60 minutes. After performing in one location, the performer or busker:

- Must move at least 50m from that location; and,
- Cannot return to, or within 50m of, that location within 2 hours.

A performer or busker who is performing pavement or visual art:

- Must use chalk;
- Cannot use spray paint unless it has been approved for a specific event by the Shire of Esperance; and,
- Must return the location, including the pavement surface, to its former condition unless otherwise approved.

A performance must not involve:

- Anything that is offensive or obscene, the commission of a nuisance; or
- Any activity or act, which endangers the safety of the public or an animal, or damage to public property.

Use of dangerous materials & implements in Busking and Street Entertainment:

The Shire of Esperance recognises that many buskers and street entertainers operating in the Shire use materials and implements in their practices that may reasonably be viewed as dangerous. However, the Shire of Esperance also acknowledges that, in the hands of skilled and experienced performers, the use of fire and potentially dangerous implements such as knives and swords, in circus or juggling acts, lends an appealing theatrical element that is popular with the viewing public.

The purpose of this Code of Practice, is to ensure that the use of dangerous materials and implements is restricted to performers who have highly developed skills and experience in their use, and who are acutely aware of the need to ensure the safety of the public as well as their own safety when using them, as well as having their own public liability.

Special permits:

Performers using dangerous materials and implements must hold a current Special Permit to use these items in their acts. All general conditions applying to busking and street entertainment in Esperance apply to the holding of a Special Permit.

Application for these permits will only be considered when the application is accompanied by public liability insurance.

Performers holding Special Permits must display them at all times in a prominent position while performing their acts using dangerous materials and implements. Performers must have a safety management plan.

Conditions for Special Permits:

- a) Performers holding a Special Permit, when using dangerous materials or implements in their acts, must adhere to the following conditions in the interests of public safety, and their own. The performer must, at all times:
 - b) Ensure the health and safety of the audience witnessing the performance.
 - c) Ensure that public and private property is not damaged in the course of the performance.
 - d) Define the performance space to be used, by establishing a physical boundary of at least 2 metres between herself/himself and the audience utilising one of the following options:
 - Ropes or chains; and/or
 - Chalk line (if the surface to be drawn on is not of a porous material such as granite or sandstone, and if the line drawn is water-soluble and removed once the busker has completed the act).
 - e) Include a “Work Cover” approved Fire Blanket/water based extinguisher in their performance kit that is kept visible and accessible throughout the performance.
 - f) In the case of the use of flammable liquids, fuels are limited to kerosene, firewater or scented lamp oils (e.g. citronella) only. No other fuels will be permitted.
 - g) Store and transport any flammable liquids permitted under the Code of Practice in accordance with Section 7 of the Australian Dangerous Goods Code, which states:
 - h) “Only portable plastic containers of no greater than a 5 litre capacity can be used”
 - i) Containers conspicuously marked with the words “HIGHLY FLAMMABLE”, in capital letters on both sides of the container of Class 3 flammable liquids, and the name of the liquid in the container, e.g. Kerosene etc.
 - j) Use a container as a drip tray for flares or torches, or preferably use a pre-soaking method for the flares or torches. Shire of Esperance will not tolerate drip stains on ground surfaces that are not immediately removed or able to be removed by the busker using the site after the act has been completed.
 - k) If using dangerous implements in a performance, as defined under the State Act covering prohibited weapons, all edges of metal implements must be blunted and rendered non-dangerous (the use of any mechanical devices is not permitted). An implement would be determined as blunt if it were rendered incapable of piercing human skin if thrown, or if pressure were directly applied to the edge against human skin.

- l) Performers must have their own public liability and are encouraged to have personal accident insurance.

Restrictions on special permits:

All conditions applying to buskers and street entertainers in Esperance, apply to holders of Special Permits.

Special Permits are only issued to individual buskers, not groups. That is, each busker in a group must hold a current Special Permit, if they are to use these items.

Process for obtaining a special permit

Special Permits may be applied for from the Shire of Esperance External Services located at Windich Street, Esperance WA 6450.

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