

July. 2023



## ESPLANADE MARKET STALLHOLDER PERMIT GENERAL CONDITIONS

### Vision

1. The Permit Holder acknowledges the following vision statement:

*"The St Kilda Esplanade Market is a world-renowned art and craft makers' market in an iconic beachside location- a place of choice for art and craft makers, and for customers seeking quality, authentic Australian made products."*

### Market Management

2. From time to time Port Phillip City Council may prescribe reasonable rules, which are not inconsistent with this Permit, for the safety and proper management of the Market (Market Rules). The Permit Holder must observe any Market Rules of which the permit holder has received notice. A breach of the Market Rules is a breach of this Permit.
3. From time to time Port Phillip City Council may appoint a person or company to act as Manager of the Market or to assist in the management of the Market. On behalf of Port Phillip City Council, the Market Manager or any appointee, may carry out any obligations and exercise any rights of the Port Phillip City Council pursuant to this Permit.
4. This Permit may be terminated by notice if the Permit Holder breaches any permit condition and does not remedy the breach within 7 days after receiving written notice from the Market Manager. No compensation is payable by Port Phillip City Council in respect of the cancellation of this permit under this condition.

### General

5. The Permit Holder acknowledges and agrees that:
  - a. this permit is only valid when payment has been received;
  - b. this permit is not transferable to other parties;
  - c. this permit cannot be sold or offered for sale;
  - d. the Permit Holder must make this permit available for inspection by the Market Manager or Port Phillip City Council representative upon demand at all times when the Permit Holder is open for trade;
  - e. stalls at the Market are marked with white lines defining the stallholders' spaces. A stallholder must not obstruct or otherwise interfere with access to neighbouring sites;
  - f. the Market is operational during the market trading hours each Sunday of the year, except for the second Sunday in February (St Kilda Festival Day) no credit or refund offered for this non-trading day;
  - g. the Permit Holder must not cause a disturbance at the Market;
  - h. the Permit Holder may not shout or cry their wares (spruik);
  - i. the Permit Holder must not obstruct any designated vehicle, pedestrian or bicycle pathways at the Market;
  - j. any dog of the Permit Holder must be on a lead and under control at all times;
  - k. allocated parking is not provided to or reserved for stallholders, and the Permit Holder must observe all parking signs; and
  - l. the Permit Holder must not park on the footpath. A breach of any parking sign; parking legislation or Local Law can result in permit termination. No compensation is payable by Port Phillip City Council in respect of the cancellation of this permit under this condition;
  - m. The Permit Holder must adhere to all Occupational Health and Safety requirements, standards and legislation at all times;
  - n. The Permit Holder must adhere to the Market's Emergency Procedures at all times;
  - o. Food traders will be required to lodge a Statement of Trade at least 5 days prior to trading dates via [Streatrader streatrader.health.vic.gov.au](http://Streatrader.streatrader.health.vic.gov.au);
  - p. Food traders must adhere to extra requirements attached to their permits

### Invoice payments

6. The stallholder accepts and understands the following
  - a. Bookings are considered confirmed upon email request for dates;
  - b. Once invoiced there is no refund offered to date changes.
  - c. Our cancellation policy for casual stallholders is as follows,
    - emails received at least 14 days before the market date, will receive a credit to move that on to another market.

- emails received between 8 - 13 days before the market date, will receive a credit to move that on to another market, however a \$30 admin cancellation fee will apply.
  - emails received within the week leading up to the market, there is no credit available. Invoice must be paid.
- d. all invoice payments are due within 7 days from invoice date;
    - invoices that remain unpaid after the 7-day due date will incur a late fee penalty;
    - for permanent stallholders: an additional \$30 fee would be applied when a payment is unpaid 30 days after the due date and re-applied for every 30 days following that.
  - e. for casual stallholders: an additional fee of \$10 would be applied if fee is unpaid 7 days from invoice date or remains unpaid one week prior to trading, then a \$30 fee for every 30 days unpaid following the trade date.
  - f. Late payment fees do not negate the ability for stallholders to enter into a payment plan within the 7-day invoice due date timeframe only. Requests due to extenuating circumstances must be logged in writing to the Market Manager.
  - g. Payment plan approvals are at the discretion of the Market Manager and are not available as a long term or ongoing arrangement.
  - h. Permit fees may incur an annual increase as per Port Phillip City Council Budget Process mid calendar year.

## Goods

7. The Permit Holder must ensure that its goods are of a quality and skill-based production as indicated on the application for this permit and are otherwise in keeping with the authenticity and uniqueness of the Market.
8. This Permit does not confer any exclusive contractual right to sell goods at the Market. Other traders may sell goods which are like those sold by the Permit Holder.
9. The Permit Holder may only sell work which has been approved by the Selection Process. The work must be sold by the Permit Holder personally, unless the Market Manager agrees otherwise. The Market Manager may revoke approval of any assistants from time to time at the Market Manager's discretion.
  - a. from time to time the Permit Holder may be required to demonstrate the making of the goods sold by the Permit Holder;
  - b. the Permit Holder must not copy other people's work or infringe the intellectual property rights of any person.

## Attendance and Behaviour

10. This Permit may be terminated by notice from the Market Manager if the Permit Holder:
  - a. persistently fails to attend the market on Sundays when the Market is open for trade without the Market Manager's prior approval;
  - b. persistently trades outside of the market trading hours or persistently packs up prior to the end of the market trading hours;
  - c. fails to attend the market for 4 or more Sundays in succession without the Market Manager's prior approval;
  - d. persistently allows substitute persons to operate the stall at the licensed premises;
  - e. sells any products which are not approved by the Selection Process; or
  - f. engages in any form of bullying or harassment of any person at the Market. All stallholders and/or persons acting on their behalf (including stall assistants, friends and family members present at the Market) must comply with the Code of Conduct for the St Kilda Esplanade Market at all times. Breaches of the Code of Conduct are grounds for immediate dismissal from trading at the market or may result in final warnings and/or permits being revoked.
  - g. No compensation is payable by Port Phillip City Council in respect of the cancellation of this permit under this condition.
11. The Market must have a minimum of 20 stallholders to operate. The Market may be closed on the day or prior to, if stall bookings/ cancellations are at or below 20 bookings.
  - a. No compensation is payable by Port Phillip City Council in respect of the cancellation of this permit under this condition.

## Furniture and Equipment

12. The Permit Holder is solely responsible at its own cost for providing any necessary - shelters, tables and other items required to conduct the Permit Holder's business.
13. All marquees must be for commercial grade use, umbrellas or similar items must meet Australian Standards.
14. Shelters (marquees and umbrellas) must be anchored in on set up, every trade day to the Council installed anchor points, either by eye bolt or cam buckle ties as per installation guidelines on the Market website. Each stall marking has x4 anchor points in each corner with a wind rating of up to

200kg per marquee leg. All other infrastructure must be secured or weighted to meet weather conditions.

- a. The Permit Holder is responsible for collection of anchor equipment from Market Staff on arrival at the Market by calling 0403 604 119;
  - b. The Permit Holder is responsible for making sure their marquee is anchored every trade day; replacement anchor equipment if lost will be billed to the Permit Holder.
  - c. Shelters that are not anchored in on trade days may be asked by Market staff to be packed down due to safety issues. Stall Holders must comply with requests from Market staff immediately.
  - d. Council reserves the right to view marquee engineering specifications on site each market day.
  - e. All marquees are to line-up at the front line of the stall, to be level with their neighbouring stalls and site markings.
  - f. Marquees or umbrellas are to be centred in the stall markings while still lining up across the front line. Giving a small gap between neighbouring stalls on either side.
  - g. Special conditions for stall holders located opposite a palm tree are required to have a minimum front setback of 0.5 meters within their marquee shop set up.
    - This space is to encourage customers to browse/purchase within the confines of the stall and help limit the potential customer 'over-spill' into the primary access way.
  - h. Access way to have a minimum clear width of at least 1.8 meters at the narrowest point and minimum clear height of 2 meters with nothing encroaching into that envelope. Ensuring DDA compliance.
  - i. All grub screws must be returned into anchor points at the end of trade to protect the anchor equipment installed. Failure to do so may result in replacement equipment fees billed to the stall holder.
  - j. All on site anchor fixture issues must be notified to Market staff or Manager for repair.
15. Market umbrellas are acceptable with adequate wind rated straps fastened to each anchor on 4 corners of the umbrella, ordinary beach-style umbrellas are not acceptable.
16. Blue tarpaulins are not acceptable. The Market Manager may deem any marquee, umbrella or similar items not acceptable.
17. The Permit Holder must not do anything to hinder the ability of the public or other stallholders to access the footpath adjacent to the market stall.
18. The Permit Holder will be given notice either verbal or written by Market Manager or appointed staff, if Marquees or Umbrellas are deteriorated or do not meet acceptable standards for the market.
- a. The permit holder will be given notice to rectify or replace the fault or faulty/ inadequate equipment. If the required changes are not made within the time frame may result in permits being revoked or suspended. No refund will be given for remaining term.

## Signage

19. The Permit Holder may display signage identifying the Permit Holder's products only, within their stall space.
20. Market Staff may remove or request signage to be removed/relocated.
21. Signage or other Permit Holder property must not obstruct footpath traffic.

## Stall Allocation

22. The Permit Holder must be ready to trade at the commencement of the Market hours being 10am.
  - a. Late arrival – being after 9:30am- may result in the Permit Holder forfeiting the right to their stall space and not entitled to occupy or use the stall on that day. This decision will be made by Market Staff only;
  - b. irrespective of whether another stall is available, the Permit Holder is not entitled to receive any compensation or refund of any permit fee from the Port Phillip City Council.
  - c. Must trade for the entire duration of the market hours, early or late pack up reflects poorly on everyone. Stall Holders who leave early without notification may not be permitted to return to the Market in the future.
23. The Market Manager shall be solely responsible for allocating stalls at the Market, determining the mix of traders and the general operation and management of the Market.
24. Stall Holders found using extra spaces on Sunday will automatically be billed on casual rates.
25. The Market Manager's decision regarding stall allocation is final and there are no appeal avenues.

## Product Liability Insurance

26. The Permit Holder is required to maintain its own product liability insurance to the amount of up to \$20 million, only if the Permit Holder's business involves the sale of any one or more of the following products:
  - a. cosmetics or beauty products; or
  - b. medicines, potions, oils, fragrances or soaps.

- c. Food products
27. A copy of the insurance certificate must be provided to the Market Manager on commencement and/or as requested from time to time.

## Adverse Weather

28. Weather conditions will be monitored by the Market Manager during the week, and any closures due to adverse weather will be communicated to the Permit Holder where possible prior to trading, based on the following conditions:
- a. The Market will be closed, and stallholders are not to attend if the Bureau of Meteorology (BOM) web page indicates:
    - I. wind speed of 50-61 kph (32-38 mph) with wind gusts in excess of 60 Kph;
    - II. large hail and severe thunderstorms;
    - III. temperatures of higher than 39 degrees;
  - b. If the Permit Holder has already commenced trading on that day and conditions then deteriorate to the standards listed above for two consecutive hours, then the Permit Holder must immediately cease trading as instructed by the Market Manager.
  - c. the Market Manager, when the market is in operation may make adjustments and decisions based on what is actually happening on the ground if the weather predictions from the Bureau of Meteorology BOM are inaccurate.
  - d. No compensation is payable by Port Phillip City Council in respect of the cancellation of the Market under this condition.

## Smoking and Tobacco Products

29. The Permit Holder:
- a. must not smoke tobacco products or other substances within their Market Stall; and
  - b. must comply with all provisions of the Tobacco Act 1987 (Vic) and any other relevant legislation.

## Health and Safety

30. For the purposes of the Occupational Health and Safety Act 2004, the Permit Holder acknowledges and agrees as follows:
- a. the Permit Holder has sole responsibility for ensuring that the Market Stall (and the means of entering and leaving) are safe and without risks to health;
  - b. the Permit Holder must comply with the provisions of the Occupational Health and Safety legislation and regulations and will be enforced at all times during the term, and ensure that the Permit Holder does not cause the Market Manager to be in breach of the Occupational Health and Safety legislation and regulations through the Permit Holder's acts or omissions in relation to the licensed premises or adjoining areas; and
  - c. the Permit Holder must promptly notify the Market Manager if it becomes aware of the existence of a potential occupational health and safety issue in relation to the Market Stall and/or adjoining areas, including, without limiting the generality of the foregoing, a material risk of injury.
31. The Permit Holder is responsible for the safeguarding of the public against injury and maintaining their Market Stall during the conduct of its activities in a safe condition at all times.
32. The Permit Holder must notify the Market Manager immediately after any accident or incident involving injury or property damage.
33. The Permit Holder must leave the Market Stall in a clean and tidy condition at the end of each day of trade and ensure that there is no damage to property or the environment resulting from the conduct of its activities.
34. Without limiting any of the Permit Holder's other obligations, at the end of each market day the Permit Holder must:
- a. remove all rubbish;
  - b. all items brought on to the Market Stall by the Permit Holder or its employees, contractors, workmen or patrons, and make good any damage caused by their removal
  - c. make good any damage to the Market Stall resulting from the Permit Holder's occupation of the market; and
  - d. restore the Market Stall to the condition it was in immediately prior to the date on which the Permit Holder first commenced occupation of the Market under this permit.
35. All trailers, non-permanent structures, signage, rubbish and equipment must be removed from the Market at the end of each day.
36. The Market Manager may, from time to time, set safety standards or rules in relation to the market, which will be communicated to the Permit Holder who then is responsible for adhering to these standards or rules at all times.

## Long Service Leave

37. Stallholders who have been permitted for a period of 8 years (pro rata) are entitled to Long Service Leave (LSL) of not more than 3 months per 8-year period. To be taken as a 3-month block, not split throughout the year. Stallholders may return to their existing stall at the end of the LSL period if operational requirements of the Market make this feasible. Requests for LSL must be made in writing to the Market Manager prior to the start of the trading term. LSL received after invoicing of trading term may not be approved or eligible for a reduced permit fee.

## Probationary licence

38. Initial acceptance on the market is for a probationary period of 3 months weekly trade or 12 weeks of trading in total. If there are no infringements of the permit at the expiration of this period, stallholders will be offered ongoing permits. If a permit is to be withdrawn the stallholder will receive a letter indicating that the permit will not be renewed.

## Confidentiality

39. The Stall Holder understands that negative publicity damages the reputation of the market and can adversely affect patron numbers, sales and the future viability of the market.
40. Therefore, any correspondence with Council is for the intended Stall Holder only and is not to be disclosed or distributed to any third parties, media etc without the express permission of the Market Manager. This includes both written and verbal correspondence.
  - a. Any Stall Holder who engages or discloses grievance or disparaging information regarding the Market, the Market Manager or Council to customers or the general public whilst operating a stall or at any other time are grounds to have their permit cancelled. No refund will be offered.
  - b. Any Stall Holder who posts on social media or verbalises comments publicly disparaging the Market, the Market Manager or Council will be immediate suspended from trade and are grounds to have their permit cancelled. No refund will be offered.

## Laws and Legislation

41. The Permit Holder must comply with all relevant legislation, regulations, local laws and any directions given by members of the Victoria Police or the Port Phillip City Council's authorised officers.