



# Daylesford Sunday Market Terms and Conditions

Last Updated - 06/04/2023

I agree that by attending the market I am accepting these terms and conditions I am entering into a legally binding agreement for my attendance at the market. All stallholders that trade at the Daylesford Sunday Market are deemed to have agreed to and accepted these Terms and Conditions.

## **1.0 Applications**

**1.1** Approval of all applications is at the sole discretion of the Market Manager. All approvals will be based on the information given by the applicant on their application, meeting the approved:

- Product criteria
- Quality of the products
- Product distribution
- Product demand (market mix) and availability

**1.2** Management reserves the right to reject applications and not enter any correspondence or otherwise explain the reasons for its decisions. All decisions made by Management are final. Stall rental and stall positions is totally at the discretion of Management and may be changed from time to time. Stallholders do not hold any claim to permanent ownership of allocated sites and can be changed at any time, including on market day.

**1.3** Stalls cannot be transferred, sublet, franchised or sold to any other person, nor can they be shared without written approval.

**1.4** Upon applying for a stall, stallholders agree that any images taken of their stall or products may be used on the Daylesford Sunday Market website and/or the Daylesford Spa Country Railway website. Stallholders also agree that general market images taken on market day that include their stall may be used on social media platforms to promote the market. If a stallholder does not want an image taken by the market manager specifically of their stall or products promoted on social media they must inform the market manager at the time the image is taken.

**1.5** Stallholders must also agree that they will exercise good judgement and always be respectful, courteous and professional to all Spa Country Railway volunteers, Market Management, fellow stallholders, customers and any others affiliated with the market, in person and on all platforms of social media. Any stallholder social media activity that brings the reputation of the market, the Market Manager or the Daylesford Spa Country Railway into disrepute may lead to disciplinary

action or immediate termination from the market. There is zero tolerance to bullying and intimidation of volunteers, market management and staff, any offenders will be permanently evicted from the market immediately.

**1.6** Stall sizes do vary, all published and stated stall sites are not exact and market management reserves the right to adjust stall sizes at any time.

## **2.0** Approved Products

**2.1** All products offered for sale must be legally able to be sold by the registered stallholder.

**2.2** Non-food products that are clearly imported or purchased from a wholesaler may be accepted by Management. Any products deemed by Management to be inappropriate, offensive, or discriminatory will not be approved. Stallholders that craft or make their own product will be given preference over those reselling products they have not made.

**2.3** Food products that are clearly imported or purchased from a wholesaler may only be accepted by Management if that product or its primary ingredient does not grow or is not grown within a 50km range of the market. Management reserves the right to discretion regarding food products sold at the market and will place emphasis on local goods when possible.

**2.4** It is the responsibility of the stallholder to ensure they conform to any safety and compliance standards pertaining to their product, particularly electrical items or items for children.

**2.5** A stallholder may only offer for sale approved products which have been accepted by Management when stall application is submitted by the stallholder.

**2.6** To add new diverse products, a request in writing is required with photos. Products, outside of the approved items/product type cannot be added to stall unless written approval is given by Management.

**2.7** All products and stall presentation must be of a high standard. There is some lenience in relation to second hand goods or bric a brac.

**2.8** All second hand electrical appliances being sold at the market must be tested and tagged or labelled as a second hand item in accordance with relevant Energy Safe Victoria regulations.

**2.9** The sale of food products at the market is limited by the following:

- Fresh produce of any kind (including eggs) must be grown or produced by the stallholder within a 50km radius of the market unless that product does not grow or is not grown within that radius. Growers and producers must agree to a farm inspection by market management to ensure provenance in order to be approved.

- Jarred products (chutneys, jams, relishes, pickles and the like) must be made by the stallholder with the primary ingredient sourced within the 50km radius of the market where possible (exceptions will be made for ingredients that do not grow or are not grown within the radius), preference will be given to those that grow their own ingredients.

- Beverages, alcoholic and non-alcoholic, must be made within 50km of the market by the stallholder.

- Baked products must be made/baked within 50km of the market by the stallholder.

Some exceptions exist to these and these stallholders have been approved in writing. Existing exceptions are in place to guarantee supply of products to the local community and are extremely limited. It is very unlikely that further exceptions will be permitted in future.

### **3.0 Fees & Insurance**

**3.1** The base stall fee for all stalls at the market is \$40 (GST inclusive). If using power add \$10, if using excessive power (more than 4 appliances) more will be charged at a rate of \$5 per additional appliance. From the 1<sup>st</sup> of January 2022 all hot food stalls will be charged a base rate of \$50 per stall (If using power add \$10, if using excessive power (more than 4 appliances) more will be charged at a rate of \$5 per additional appliance).

**3.2** Whilst all stallholders at the market receive limited basic public liability cover (of note, products are not covered in this) as an attendee of the market under the Daylesford Spa Country Railway's insurance this is limited and we highly recommend that all stallholders have their own public liability insurance to guarantee full cover. For higher risk operations we require that they do.

**3.3** Stallholders are required to hold their own current Market Insurance policy which includes at least \$10,000,000 Public Liability insurance if they are selling/providing any of the below services/products at the market or using any electrical or gas appliances on market grounds.

- Food or beverages of any kind.

- Entertainment including a petting zoo or ride of any kind.

- Massage or any service that involves any potential health risk associated with that service.

**3.4** If you are required to hold an insurance policy it must be on site at all times and be accessible for market management to view. You must also state that you hold current insurance when applying.

**3.5** Fees must be paid on market day. Cash payments will be collected mid-morning with EFT payments available at the station building on request. (This will change from mid-2022, see **3.7**).

**3.6** Stallholders who pay by a cheque that is dishonoured will be charged an administration fee of \$20.

**3.7** From mid-2022 payments by EFT will be available with a mobile EFTPOS machine held by the market manager when collecting fees.

**3.8** The Stallholder shall indemnify the Daylesford Spa Country Railway and Daylesford Sunday Market management and keep them indemnified to the fullest extent by law from and against all claims or demands of any nature whatsoever which the Daylesford Spa Country Railway and Daylesford Sunday Market management may suffer or incur in connection with loss of life, personal injury or damage to property arising from or out of any occurrence in or upon the premises or the use of the premises by the Stallholder or by any of the Stallholder's employees and customers or caused by the stallholder or by the stallholder's employees and customers and whether or not the existence of a dangerous item or dangerous state of affairs was or ought to have been known to the management or Stallholder or both of them. The Stallholder shall also ensure that all their property and effects are removed from the Market at the conclusion of the Market each Sunday. The stallholder acknowledges there is no liability or responsibility whatsoever on the Daylesford Spa Country Railway and Daylesford Sunday Market management for any loss or damage the stallholder may suffer or incur to their property, effects and equipment before, during and after market hours.

#### **4.0 Market Days**

**4.1** Registered stallholders must be in attendance during the market trading times as advertised. Vehicles moving within the market area must not exceed 5kmh and must have hazard lights on. If reversing in the market area you must have a spotter at the rear of the vehicle ensuring the safety of the manoeuvre.

**4.2** Stallholders must be in the market area at least 30 minutes prior to market opening hours and ready to trade at the commencement of the trading hours and must continue trading until at least the market wind down time.

**4.3** Stallholders must have their vehicles removed from the market pathways 15 minutes prior to the commencement of formal Market trading. Some exceptions are permitted with prior approval by management.

**4.4** Cars are not permitted into the main market area until 15 minutes after winding down time (1pm, or earlier on poor weather days, request approval from management on these days) unless otherwise advised by management.

**4.5** Notification of non-attendance is required on market days via market mobile (0476 527 999) to allow neighbouring stallholders to spread out and fill in gaps.

**4.6** Copying the ideas and work of other stallholders may be in breach of creative copyright and is not in the spirit of the market. Any grievances must be in writing.

**4.7** Raffle tickets or raffle operators that are not approved by the Market Manager and not appropriately registered may not be sold.

**4.8** The market mobile (0476 527 999) may only be called on market day between 6-30am and 3pm, at all other times this is a text only number with replies generally sent within 48 hours of receiving the text. Correspondence will only take place on Thursday and Saturday afternoon, do not expect any correspondence outside these days. Late cancellations made after 6pm Saturday and market day will not be responded to but will be noted.

**4.9** Excessive noise made prior to 8am on market days will see that stallholders trade terminated for the day, absolutely no radios or loud noises (for example - beeping of horns, yelling, playing music) will be tolerated prior to 8am.

#### **5.0 Cancellation and Refunds**

**5.1** Notification of non-attendance is required. If no notification is given, then all future bookings may be cancelled. You may have to pay for the stall if you do not turn up and do not notify the market manager.

**5.2** Black marks are given for cancellations that occur on market day or after 11am Saturday prior to market. Stalls that cancel on market day or after 11am Saturday may be required to pay the stall fee for that day.

**5.3** If a stallholder must cancel, it must be done before Saturday 11am via text (0476 527 999).

**5.4** Management is not responsible for adverse weather conditions, including Catastrophic fire danger days that cause the cancelation of the market.

**5.5** Permanent stallholders may lose their permanent status if they cancel attendance at more than 6 regular markets in a 12-month period.

## **6.0 Adverse Weather**

Weather at Daylesford can be very different to Melbourne or even Ballarat. It can be raining in Melbourne, Ballan & Ballarat but fine in Daylesford, or vice versa. We recommend checking the Daylesford weather on news/weather sites before attending the market on questionable days, do not rely on the Melbourne or Ballarat report. If you decide to cancel your stall due to poor weather please do so before 11am Saturday to avoid stall fee payment for non-attendance and to be eligible for stall credit if fees already paid. The Daylesford Sunday Market does operate on "Total Fire Ban" days in summer unless there is a "Catastrophic" fire danger warning issued for the Central Region. No market will operate on "Catastrophic" fire danger days in the Central Region. Daylesford is identified as a high fire danger town. Avoid this area on a "Catastrophic" day.

**6.1** Stallholders may pack up their stall due to adverse weather conditions but may not leave unless permission is given by Management.

**6.2** No refunds/credits are given for reduced trading hours on market days due to adverse weather conditions as perceived by the stallholder and/or management.

**6.3** In the instance that a "Catastrophic" fire rating cancels a market during trade or the market is ended early due to fire danger there will be no refunds issued as stall fees are collected mid-morning after a period of trade has occurred.

**6.4** Management will not be held responsible for any loss including fees paid by stallholders, damage and injury or loss of life whatsoever resulting from adverse weather conditions.

**6.5** In the event that markets are cancelled, stallholders are NOT permitted to trade in the market area. Continuation to trade will result in termination from the Market.

## **7.0 Occupational Health and Safety**

**7.1** Stallholders must comply politely with all directions provided by the Market Manager on Market Day.

**7.2** Must comply with OH&S Legislation. Stallholders must report any safety incident to the market manager.

**7.3** Are responsible for their products safety. See Product safety checklist for markets - <https://www.consumer.vic.gov.au/products-and-services/product-safety/product-safety-checklist-for-markets>.

**7.4** Hazard lights must always be on display on any active vehicle within the market area, even when the vehicle is stationary.

**7.5** Stallholders must drive within the market area at a safe speed that is no greater than 5kmh.

**7.6** Vehicles are not permitted to enter the market after opening time. They are not permitted to leave prior to winding down time. If the market is still busy after winding down time stallholders must contact the market manager to confirm that they are permitted to leave and can request a “walk out” (where the market manager walks in-front of the vehicle to ensure safety) if they need to leave whilst the market is still busy or prior to winding down time.

**7.7** Stallholders are required to fully unload and remove their vehicle from the market site prior to the erection of their stall if they are not parking their vehicle within the stall area.

**7.8** Within the main market area smoking is not permitted at any stall site. If in the paddock area we permit stallholders to smoke whilst respecting patrons need to breathe freely. If you wish to smoke at the market please request a paddock site.

**7.9** Alcohol, or illicit substances are not permitted to be consumed at any stall site. Stallholders that do so will be immediately removed from the market.

**7.10** Stallholders shall fully disassemble their stall prior to bringing their vehicle onto the market area at the cessation of the market if not parked within their market site.

**7.11** Stallholder vehicles will only be permitted to enter the site after the cessation of trading, when their site is packed down and when patronage is low enough to allow them to do so.

**7.12** No vehicles are to enter or be active in the market area during market trading periods, excluding Emergency or Police vehicles and any vehicles approved by the market manager.

## **8.0 Waste and Rubbish Removal**

**8.1** We do not accept unsold or damaged goods (items you don't want to take home), trade waste from your stall including bulk packaging, polystyrene boxes, waxed cardboard boxes, plastic storage tubs etc., you must take this home.

**8.2** Cigarette butts littering a stallholder's site will not be tolerated. Stallholders cannot smoke in the main market area. Please bring your own ashtray if smoking in the paddock area.

**8.3** The waste bins provided at the markets are for the general public use only and for minimal, packaging from food purchased at the market.

**8.4** If you have just a few cardboard boxes to dispose of they must be broken down into flat sheets and placed in the recycling cage provided (behind the Ladies toilet block).

**8.5** Stallholders are responsible for leaving their site and surrounding area clean, tidy and undamaged. Failure to do so will result in a \$20 cleaning fee and possible cancellation for future market days.

## **9.0 Stall Set-up and Equipment**

**9.1** Stallholders must provide their own covers and stall set-up which must be good in presentation.

**9.2** Management do not provide any stall equipment, they only provide site area. 1.8 metre foldaway trestle tables may be rented by casual stall vendors at \$5 per table (GST inclusive).

**9.3** All stall equipment including racks, tables, signage etc. must be contained to the stall site boundaries. Public access ways must always be clear.

**9.4** Tents, covers and all stall equipment must always be erected securely and weighted or secured regardless of the weather. Marquees or tents must have ample weights at each corner of the marquee/tent as well as pegs (at least 8 inch). If unable to peg in addition to the weights (some stall sites are on asphalt) you must tie down your marquee/tent as well as weighting it. Market management has zero tolerance for stalls that trade prior to safe securement of marquees.

**9.5** All equipment must be in good repair and be operated in a safe manner.

**9.6** Stallholders are required to check their site for any dangers to the public or any attendee at the market prior to trade. This may include sharp objects, tall objects that may fall, marquee securement and any dangerous situation that may present.

**9.7** The promotion of other markets, businesses not trading at the market or events is forbidden unless given written approval by market management.

## **10.0 Food Stalls**

**10.1** For stallholders selling any food or drink it is the Stallholders responsibility to apply to their local Council (Health and Environmental Services department) and obtain and pay any Food Licence registration required. They must also lodge a Statement of Trade with Streatrader upon approval to trade.

**10.2** Stallholders selling any food or drink must be able to show management their Streatrader Statement of Trade on request.

**10.3** Food stallholders must have all relevant food site documentation on-site at all times while trading. Your Food Registration Certificate must be shown to market management prior to trade.

**10.4** Food stallholders must comply with any local, state & federal health regulations and food acts.

**10.5** Stalls selling alcohol must be able to show or supply management copies of their liquor license prior to trade on market days. This, along with other required signage, must be on display at all times during trade.

**10.6** Failure to comply with health department standards and regulations may result in immediate closure of stall and future stalls may only be reinstated once management are satisfied all standards and regulations have been adhered to.

**10.7** All food/drink samplings offered to patrons must be covered and protected from dirt/dust/insects, and compliant with Victorian Food Safety Standards and all other associated legislative requirements.

**10.8** Hot food stalls/Food Vans must have a high quality of product and presentation. Those that do not meet a minimum standard as perceived by Market Management will have their trade ceased.

## **11.0 Power/Gas Equipment**

Powered sites are limited, and power outlets may only be used with the permission of Management.

**11.1** Stallholders must ensure that all electrical equipment and leads be tested and tagged in compliance with relevant workplace regulations issued by Energy Safe Victoria.

**11.2** Stallholders must ensure that all gas appliances are approved and in date. Stallholders using gas appliances must complete a gas safety self-checklist (in accordance with Energy Safe Victoria protocols) prior to trading at each market and present it if inspected by a representative from WorkCover, Energy Safe Victoria or market management.

**11.3** Stallholders using gas appliances must have a suitable fire extinguisher and fire blanket on site. They must also check all connections for leaks prior to trade. A detergent and water filled spray bottle will assist this and is required to be on site to confirm compliance.

**11.4** It is the responsibility of the stallholder to ensure they conform to any safety and compliance standards pertaining to their equipment, including safe covering/placement of leads in vehicle and foot-traffic areas.

## **12.0** General - Stallholders Code of Conduct and Responsibilities

**12.1** Stallholders must respond co-operatively to any direction given by Market Management, Daylesford Spa Country Railway volunteers or those affiliated with management in relation to the operation and occupation of their stall, equipment, goods and vehicle during operating times and any direction of a security or safety nature.

**12.2** Stallholders, or associates of stallholders, must not act in a verbally or physically abusive, threatening, dangerous, or disruptive manner. Such behaviour will not be tolerated and may result in immediate termination.

**12.3** Stallholders must ensure that their activities or behaviour do not endanger the safety or security of any people at the market.

**12.4** Stallholders must not cause damage, make alterations or additions of any nature to, or carry out works of any nature to market site property and that, if any damage is caused, the costs of any repairs, making good or replacement are borne by the stallholder.

**12.5** Stallholders must comply with all the terms contained in these Regulations and must comply with any changes to the market Regulations, or any relevant local government and other statutory laws & regulations.

**12.6** Stallholders must report to the Management any incident or accident to any person or property that involves loss, injury, or could be expected to give rise to a claim. They must detail this in writing within a week of the incident and are required to notify any authorities that may need to be made aware of said incident.

**12.7** Social Media can only be used as a positive form of networking, advertising and communication. At no point can you use social media to put the market in disrepute – management have the right to terminate any stall that degrades the Daylesford Sunday Market or the Daylesford Spa Country Railway through the use of social media.

**12.8** The Daylesford Spa Country Railway and Market Management reserve the right to refuse the entry of, evict, reduce or suspend the trade of any stallholder at any time.



### **13.0 Warranties & Representations of Stallholders**

The Manager permits the stallholder to attend the market in reliance on the following warranties and representations hereby made by the stallholder.

**13.1** The stallholder is the owner of the approved products with full power and capacity to sell absolute legal and beneficial ownership of the approved products to a third party without any encumbrance.

**13.2** The stallholder is not in reliance on any representation or statement made by the Manager that is not expressly contained in these regulations.

**13.3** The stallholder is responsible for obtaining all relevant permits and permits required to operate the stallholder's business and that all merchandise sold complies with all relevant safety and compliance standards and retails laws currently in force.

**13.4** The stallholder does not bring into the market any hazardous or illegal materials or substances.

**13.5** The stallholder will comply with all the terms contained in these Regulations and will comply with any changes to the market regulations, or any relevant local government and other statutory laws and regulations.

**13.6** Without limiting the generality of these terms, the stallholder acknowledges and agrees the manager is not liable for any claim or loss suffered or incurred by the stallholder in relation to or in connection with:

- Theft or damage of approved products, equipment or goods under the control of the stallholder or any other property of the stallholder at any time including times when the market is not trading.
- Any failure by the stallholder to sell the approved products;
- Any journey from or to the market;
- Anything occurring off the market site, including anything that occurs at market; or
- Damage or injury to any property or person.

These limitation provisions are intended to replace any other terms, conditions, warranties and representations implied by statute or otherwise and, accordingly, all such terms are excluded unless the following applies. Certain legislation may imply warranties or conditions or impose obligations on the Manager which cannot be excluded, restricted or modified or cannot be excluded, restricted or modified except to a limited extent. The limitation provisions are subject to these statutory provisions. If the statutory provisions apply, the Manager's liability is not limited, in the case of any legislation that prevents any limitation the Manager's liability or, if the legislation does permit a limitation of liability, the Manager's liability is limited to the cost of the Manager refunding the Stall Fee.

### **14.0 Stallholder Indemnity**

Without limiting the generality of any other provision of these regulations, the stallholder hereby indemnifies and holds the Market Manager and Daylesford Spa Country Railway harmless from and against all claims for Loss arising in connection with or in relation to:

- The Stallholders occupation of the market;
- The sale or attempted sale of the approved products or any other products or services;
- Any injury or harm suffered by the stallholder;
- Any injury or harm caused to any property or suffered by any person as a direct or indirect consequence, in whole or in part, of any act or omission by the stallholder;
- Any loss of or damage to the stallholder's property regardless of the cause of that loss or damage;
- The death of any person of a consequence, in whole or in part, of any act or omission by the stallholder;
- Any breach of these regulations by the stallholder; or
- Any legal costs on a full indemnity basis incurred by the Manager as a result of the stallholder's breach of these Regulations.

#### **15.0 Exclusion of Liability**

The Stallholder acknowledges and agrees that the Market Manager makes no warranty or representation in relation to or in connection with the stallholder's occupation or use of the market. Without limiting the generality of this clause, the stallholder acknowledges and agrees that the Market Manager has made no warranty or representation in relation to or in connection with:

- The prospects of the stallholder for selling the approved products at the market;
- The stallholder's access to people visiting the market or the access those people have to the stallholder;
- The existence, number or quality of products that will compete with the approved products for the attention of prospective buyers;
- The existence or extent of services and/or facilities of any kind at the market;
- The position and tenure within the market that the stallholder will occupy;
- The suitability of the market for any particular purpose or the existence of any latent or patent defect at the market;
- The extent, if any, to which other visitors to the market might interfere with the stallholder's use of the market;
- The existence or extent of any advertising or promotional activity or material that may or may not be published or undertaken by the Market Manager;
- The existence or extent of any security measures undertaken to protect the stallholder, the approved products and/or the market against terrorist or other criminal activity; or
- The existence or extent of any security at the market;

## 16.0 Manager's Representations

The Market Manager's consent to the stallholder to attend the market does not convey to the stallholder any ongoing rights in relation to the market into the future and such approval can be terminated by the Manager at any time and without any period of notice. The Manager reserves the right to undertake any of the following actions without notice:

- Re-locate a stallholder to another stall site within the market.
- Require the stallholder to remove from sale any goods or services offered by the stallholder which are not approved products; or
- Request that the stallholder undertake any reasonable measure which in the opinion of the Manager will improve the safety of the stall or to raise the level of quality of presentation of the stall and its products.

## 17.0 Termination

The Manager reserves the right to withhold consent to a stallholder to occupy a stall at the market, to remove or to have removed from the market, a stallholder who is in breach or does not comply with the regulations, including where a stallholder:

- Fails to pay their stall fee in a timely manner;
- Fails to abide by the markets set up or pack up conditions;
- Fails to comply with a direction made by the Market Manager in relation to goods being sold.
- Provides misleading or false information to the Market Manager or patrons in relation to the products being sold by the stallholder at any time.
- Provides misleading or false information to the Market Manager in the application process for a stall.

By attending the market you are deemed to have agreed to this document.

***By agreeing to this document we acknowledge that we have read and understood the forgoing information and requirements. We agree that we will not hold Spa Country Railway or market management or its agents and employees liable for any harm loss or damage howsoever caused and whether attributable to the negligence of other stallholders or Spa Country Railway or market management or any admittees.***

These Terms and Conditions are issued on behalf of the Daylesford Spa Country Railway, owner and operator of the Daylesford Sunday Market (ABN 76 223 529 785).