

**Spruiking Practice Guide 2011**

# Street Activity Policy 2011

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# Spruiking Practice Guide

As part of the Street Activity Policy 2011, City of Melbourne regulates ‘spruiking’ conducted in the public place by retail businesses and their employees. Spruikers or organisations hiring spruikers are required to obtain a Spruiking Permit (Permit) in order to conduct street trading in the form of spruiking on the streets of the municipality.

A retail business may receive approval to spruik immediately in front of their business premises. The sale of goods and services from a public place is regulated under the provisions of Clause 5.3 of the Activities Local Law 2019.

Spruiking can be described as using a voice to sell goods or try to attract trade or business, in a street or other public space, or from premises that are adjacent to a public place.

It is the responsibility of the business owner to ensure that any spruiking being carried out for their business is being carried out legally. This means the business and/ or person carrying out spruiking must hold a permit.

## General Spruiking

All businesses in the City of Melbourne that have spruiking at their premises must either hold a permit to have spruiking, or only employ spruikers who have a permit. Business or individuals must submit an application to the City of Melbourne for a spruiking permit. Once considered by the City of Melbourne, a permit may be issued to business or person, which allows non-amplified spruiking. If spruiking activity takes place and the business or person does not hold a permit, the business and/or person spruiking may incur a penalty of $500.

## Use of Amplification

Amplification with the use of a device such as a microphone is strictly not permitted (unless exceptional circumstances apply, which must be approved by the City of Melbourne).

Businesses or individuals carrying out unauthorised amplified spruiking may incur a penalty.

## Practice Guide

The City of Melbourne has developed the attached Practice Guide for spruiking activities. Abiding by this Practice Guide is a mandatory requirement of all spruiking permits issued. The Practice Guide addresses issues such as the behaviour of the spruiker, interaction with the public and the general sound level at which spruikers may operate.

## Spruiking Practice Guide 2011

This Practice Guide provides information about acceptable behaviour for spruiking in the City of Melbourne. It also outlines simple guidelines to ensure that Melbourne City Council can best manage its city streets in the interests of all its stakeholders.

### Definition

Spruiking includes haranguing or addressing members of the public (whether directly or by the use of pre-recorded speech or messages) to encourage members of the public to enter premises, purchase goods or both.

**A spruiker may only conduct their activities if there is a current, valid permit issued to themselves or the business from which they operate, and must obey the conditions of that permit, which includes abiding by this Practice Guide.**

Those spruiking in the City of Melbourne must do so with a permit and follow these simple instructions:

### Safety

Spruikers must conduct their activities in a safe way and must not endanger themselves, the public, or any property in the area. Consideration for safety must be given to the placement of any props, goods or the like. All items of this nature must be placed within the boundary of the property from which spruiking activity is conducted and NOT on the footpath.

Spruiking must be passive and non-invasive to the public.

### Appropriate Location and Pedestrian Access (footpaths, stores, intersections)

Spruikers must allow free access along footpaths and must not position or conduct themselves so as to encroach on the usability of a footpath.

### Permits

All businesses in the City of Melbourne that have spruiking at their premises must either hold a permit to have spruiking, or only employ spruikers who have a permit. Restaurant proprietors or holders of Outdoor Café Permits within the municipality are not permitted to spruik under the terms and conditions of their permit and are not eligible to apply for a spruiking permit.

### Fees

An annual fee of $200 will apply to hold a spruiking permit.

### Sale of merchandise

Spruikers may not sell merchandise from a street. All financial transactions must occur within the premises.

### Amplification

Amplification (use of an amplifier) is not permitted for spruiking activity, unless exceptional circumstances apply and the use is approved by the Manager, Engineering Services.

For the purpose of this Practice Guide, “amplifier” means a device or mechanism capable of increasing or otherwise magnifying the sound of live or pre-recorded speech or voice by the application of an energy source independent of the sound. This includes a loudspeaker, microphone, public address system and electronic megaphone.

### Guidelines for exceptional circumstances to spruik with amplification

Where permit holders feel that exceptional circumstances apply to their spruiking operation, an application to spruik with amplification can be made in the form of a written proposal to the City of Melbourne addressing the following criteria guidelines:

* whether the spruiking proposal is permanent or temporary (i.e. one-off promotion)
* the nature of amplified spruiking proposed - i.e. a constant and/or loud spruiking may cause complaints (supported by a complaint mitigation strategy)
* whether amplified spruiking at the proposed site has achieved an iconic status (such as Myer windows)
* other positive and distinctive feature(s) created by the spruiker.

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### Noise levels

**A person must not make or allow the making of a noise which is capable of interfering with the reasonable comfort of others**. The City of Melbourne recognises that even without amplification, potential exists for a spruiker to cause noise impacts. To best manage noise from spruiking, it is policy that spruiking should be conducted at a level to ensure the sound:

* is not intrusive above background levels to the degree that a passer-by would have to strain their voice to be heard above the sound
* is not readily audible over other background noise when a person is more than two standard building frontages from the source of sound
* should not be clearly heard from the far side of a four lane carriageway.

Spruiking activity should not be clearly heard within the functional areas of neighbouring premises such as counter areas of shops or habitable rooms of residences. Sound levels louder than these criteria can be considered to be capable of interfering with the reasonable comfort of others. Spruikers conducting any activity, including shouting, yelling or otherwise raising their voice as to create sound in excess of these criteria could be considered in breach of City of Melbourne’s Activities Local Law 2019.

The use of other sound generating devices as part of or in association with spruiking activity is not permitted. This can include playing musical instruments, using percussion or devices with loudspeakers. Whilst activities using such sound generating devices are generally not permitted, if a business intends to have such activities in association with a special event they must gain the explicit and written consent of City of Melbourne.

### Hours and Duration of Spruiking

Spruiking is only permitted from 8am to 7pm weekdays and 9am to 7pm weekends. Continuous spruiking can be the cause of increased nuisance to others. City of Melbourne expects spruikers to consider neighbours and manage their activity so as to provide reasonable rest periods.

Location specific restrictions on times/duration may be placed as a condition of permit with respect to the impacts spruiking may have on particular neighbouring premises.

### Co-operation with City of Melbourne’s Local Laws and Authorised Officers

Spruikers must follow all instructions given by Melbourne City Council authorised officers and members of the Victorian Police. This includes all of the above instructions.

### Penalties

If a spruiker operates without a permit or does not follow this Practice Guide, the spruiker and/or the owner and/or manager of the business who employs the spruiker will be penalised under the provisions of the Activities Local Law 2019. This may include revocation of the permit, temporary or permanent refusal of future permits for the premises or the issuing of an infringement notice. If a person is found spruiking with an amplifier without City of Melbourne approval the spruiker and/or the owner and/or manager of the business who employs the spruiker will be issued a notice to comply with the local law and must cease the activity immediately. Failure to comply will lead to further enforcement action.

### Submitting an application to spruik or have spruiking at a business premises

An application must be forwarded to:

**Mail:**

Street Trading Branch

GPO Box 1603

MELBOURNE, VIC 3001

Email: **spruiking@melbourne.vic.gov.au**

Fax: (03) 9658 8886

City of Melbourne will respond via post.

### Application Details

**For applications by a business, information must include:**

* the name of the business
* the ABN or ACN
* the registered business address
* the trading address
* phone contact details

**For applications by a person, information must include:**

* the name of the person
* the home or business address of the person
* phone contact details

### Conditions on permits

It is a condition of all permits that spruikers must abide by the Spruiking Practice Guide 2011 and the Activities Local Law 2019.

City of Melbourne officers will not issue permits for the use of amplification exceptional circumstances apply and the use is approved by the Manger, Engineering Services.