

# TRADING IN PUBLIC PLACES BYLAW 2018

## 1 PRELIMINARY PROVISIONS

- 1.1 This Bylaw is the Trading in Public Places Bylaw, as reviewed from the 2008 Consolidated Bylaw.

This Bylaw is made under the Local Government Act 2002 and the Health Act 1956 and its Regulations.

## 2 PURPOSE

- 2.1 The general purpose of this Part of the Bylaw is:

- a. To regulate the conduct of persons selling goods on streets, roads, footpaths and other public places; and
- b. To regulate the conduct of persons using vehicles to sell goods and services to the general public.

## 3 COMMENCEMENT

- 3.1 This Bylaw comes into force on 5 November 2018.

## 4 INTERPRETATION AND DEFINITIONS

- 4.1 The provisions of the Administration Bylaw 2018 form part of this Bylaw.

- 4.2 For the purposes of this Bylaw the following definitions shall apply:

GOODS means any product or service.

HAWKER means any person who, in any public place, solicits sales or orders for sales of any goods, not in pursuance of any invitation to call with, or of any previous order or request for such goods, but does not include any person who operates a vehicle as a mobile shop.

MOBILE SHOP means a vehicle, whether self-propelled or not, from which goods or services are offered or exposed for sale in any public place, or from which goods or services may be ordered (whether or not in pursuance of any invitation to call) but does not include any vehicle used for the purpose of transporting goods pursuant to a prior order placed for the delivery of goods.

MOBILE TRADER includes a person or persons offering goods, wares or merchandise for sale from a stall, caravan or similar structure.

PUBLIC PLACE means those places defined in the Administration Bylaw “shall have the meaning assigned to that term in Section 147 (1)” of the Local Government Act 2002, and includes every reserve, park, domain, beach, foreshore, and recreational ground under the control of the Council.

SERVICE DELIVERY VEHICLE means any vehicle being used for the purpose of delivering goods to the premises of any business or organisation and does not involve the sale of the goods to the general public in any public place.

TRADING HOURS means 8.30 am to 8.30 pm 7 days per week.

- 4.3 For the purposes of this Bylaw the word “shall” refers to practices that are mandatory for compliance with this bylaw, while the word “should” refers to practices which are advised or recommended.

## **5 LICENCE REQUIRED**

No person, in any public place, shall engage in the sale of goods of any description whatsoever including as a hawker or by using a mobile shop (except as provided in clause 12, Exemptions), without having first obtained a licence from Council.

*Explanatory Note: see the definition of “licence” in clause 4 of the Administration Bylaw.*

## **6 APPLICATION**

Every person, including hawkers and mobile traders, who wish to sell goods in a public place shall make written application to obtain a licence to the authorised officer of Council. The information to be supplied by the applicant may include any of the following, but not be restricted to:

- a. Name and address of the applicant;
- b. Name and address of the person(s) selling the goods;
- c. The location/site;
- d. The telephone number of the applicant;
- e. The type of goods for sale;
- f. The time sought for selling;
- g. The type of vehicle(s) and registration numbers if applicable;
- h. Evidence of good character.

## **7 LICENCE DETAILS**

The authorised officer in granting any licence may impose conditions. The conditions imposed may include, but not be restricted to, any of the following:

- a. Time and place;
- b. Duration of the licence, including expiry date;
- c. Location;
- d. Types of goods for sale;
- e. Area available for sale;
- f. Persons entitled to sell;
- g. Safety and hygiene requirements;

- h. Use of signage;
- i. Use of musical chimes or other audible devices for attracting customers;
- j. Litter, cleanliness;
- k. Name and address to be conspicuously displayed;
- l. Site rental.

*Explanatory note: Safety and hygiene requirements may include compliance with traffic regulations as well as food safety matters (food safety is governed by a national framework). For further information contact Tararua District Council.*

## **8 FEES**

Council may by resolution prescribe fees for licences and/or site rentals. Fees may differ for any class of licence as prescribed.

## **9 PRODUCTION OF LICENCE**

- 9.1 Every licence holder shall at all times when engaged in the sale of goods, carry a licence and show the licence to any authorised officer on demand.
- 9.2 Every licence holder shall, notwithstanding the conditions of the licence, upon being requested to do so by an authorised officer alter his/her position for sales to any other position as indicated by the authorised officer.

## **10 CONDITIONS OF LICENCE**

- 10.1 Hawkers and mobile traders shall comply with the following conditions:
  - a. Hawkers and mobile shops shall not operate outside trading hours except with an exemption from the Council.
  - b. Licences will not be issued for hawking in the commercial management areas as defined by the Tararua District Plan.
  - c. Hawkers shall not enter premises which display a written notice requesting or requiring that hawkers do not enter the premises.
  - d. Mobile Traders that are subject to New Zealand government licensing requirements shall comply with such requirements in the first instance before any licence will be issued for trading purposes by the Council.
  - e. Only those goods or services described in the licence may be traded from the vehicle described in the licence.
  - f. Mobile shops are subject to parking and traffic statutes, regulations and bylaws.
  - g. Selling of goods or services from a mobile shop is permitted from the kerbside only. No sales may take place in the roadway.
  - h. Mobiles shops must comply with such additional conditions as may be imposed under clause 10 of the Public Places Bylaw.
  - i. No trading shall take place within 100 meters of fixed premises selling similar goods. Notwithstanding this, every mobile trader shall, upon being requested to do so by an authorised officer, alter the position of the mobile shop to any other position as requested and indicated.

- j. Mobile shops may not place tables, chairs or other furniture for customer's convenience on the footpath or in a public place unless authorised to do so by a Council officer.
- k. Mobile shops must dispose of all rubbish generated from the mobile shop and provide a rubbish bin, emptied when full and at least daily, suitable to contain any rubbish generated by its customers. Rubbish must be disposed of in accordance with the Bylaws.
- l. Every mobile shop shall display its licence to operate and shall have the licence holder's name printed thereon in letters no less than 25mm in height in a readily visible place on the exterior of the vehicle. The mobile trader must provide a copy of the licence to an authorised officer upon request.

10.2 Every person shall commit an offence under this Bylaw who does not trade in conformity with any of the conditions of the licence.

## **11 LICENCE NOT TRANSFERABLE**

No licence issued under this Bylaw shall be transferable to any other person.

## **12 EXEMPTIONS**

The exemptions allowed under this Bylaw are as follows:

- a. Selling or disposal by commercial fishermen of limited quantity of fish in the vicinity of a fishing vessel as specified in section 67(2), Part IV of the Fisheries Act 1983;
- b. Service delivery vehicles;
- c. Any market, stall or stand which has a current approval under any other Bylaw, legislation, resource consent or specific resolution of Council;
- d. Hours of trade where the circumstances of the exemption warrant an extension of the hours of trade for a particular event.

## **13 NOTICES**

13.1 Unless otherwise provided or otherwise impracticable, the Council may give the owner, occupier or person notice of a breach of the bylaw and such notice shall:

- a. Specify the remedy required, and
- b. State the date by which such work is to be undertaken,
- c. Inform the owner that if the work is not undertaken the Council may, if practicable, do the work and recover the cost of such work, and
- d. Inform the owner of the offence provisions of this bylaw.

*Explanatory note: the procedure for the signing and service of notices is contained in the Administration Bylaw.*

## **14 OFFENCES AND BREACHES**

- 14.1 13.1 Every person who commits a breach of this Bylaw commits an offence and is liable to pay:
- a. A fine pursuant to the Local Government Act 2002, Land Transport Act 1998, the Health Act 1956 or the Litter Act 1979, and
  - b. Any other penalty specified in another Act for the breach of the Bylaw.
  - c. In the event of breach of this Bylaw, the Council may take enforcement action as provide for under legislation, including the Local Government Act 2002, the Land Transport Act 1998, the Health Act 1956, or the Litter Act 1979.
- 14.2 Every person who breaches this Bylaw must, upon the request of a Council Officer, immediately stop the activity and leave the public place concerned if requested to do so by the Council Officer.

*Explanatory Note: This clause should be read in conjunction with provisions of the Administration Bylaw to do with Breaches, Penalties and Repair/Removal of Works.*

## **15 REPEALS, SAVINGS AND TRANSITIONAL PROVISIONS**

- 15.1 Any consent previously granted under the Trading in Public Places Bylaw that was in force immediately before the commencement of this Bylaw, continues in force as if it is a consent of that kind issued under this Bylaw, provided that:
- a. The consent expires on the date specified in the such consent, or
  - b. Where no expiry date is specified, the consent expires 12 months from the commencement of this Bylaw, and
  - c. In either case, such consent may be renewed only by application made and considered in accordance with this Bylaw.
- 15.2 Any resolution or other decision made under the Trading in Public Places Bylaw remains in force in the area to which it applied until revoked or replaced by an equivalent resolution or decision made by the Council under this Bylaw.

*This Bylaw was made by the Tararua District Council by resolution at a council meeting on 31 October 2018 and must be reviewed within five years.*

*Sealed with the Common Seal of the  
Tararua District Council  
In the presence of:*

[SEAL]

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**Mayor**

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**Chief Executive**