



Part 4

MOBILE TRADING

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Date made: 25 July 2007
Commencement: 1 July 2008

EXPLANATORY NOTE

Part 4 – Mobile Trading was made pursuant to sections 145 and 146 of the Local Government Act 2002.

The purpose of Part 4 is to regulate the conduct of persons selling goods and services on streets, roads, footpaths and other public places and to regulate the conduct of persons using vehicles to sell goods and services to the public.

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PART 4

MOBILE TRADING

4.1 INTERPRETATION

4.1.1 “**Mobile Trading**” includes:

- (a) Hawking, peddling or itinerant trading;
- (b) Trading from a mobile or travelling shop.

4.1.2 “**Mobile or travelling shop**” means a vehicle, whether self-propelled or not, from which goods, wares or merchandise are offered or exposed for sale in the road, or from which goods, wares, or merchandise may be ordered in the road (whether or not in pursuance of any invitation to call with the goods, wares or merchandise) or from which services are offered for sale in the road; but does not include any vehicle on or from which food is sold for consumption in or at the vehicle, or any vehicle used for the purpose of transporting and delivering goods, wares, or merchandise pursuant to a prior order placed for the delivery of the goods, wares or merchandise.

4.2 LICENCE REQUIRED

4.2.1 No person shall engage in mobile trading without first obtaining a Mobile Trading Licence from the Council.

4.3 APPLICATION FOR LICENCE

4.3.1 Applications for a Mobile Trading Licence shall be made in writing to the Council.

4.3.2 In making the application, the Council will require the applicant to provide all information necessary to determine the application, including but not limited to:

- (a) Full name of person or registered company in whose name the Mobile Trading Licence is to be issued; and
- (b) The postal address for receipt of information; and
- (c) Residential address; and
- (d) Registration number of vehicle to be used; and
- (e) Confirmation of a current warrant of fitness and registration for the vehicle, where applicable; and
- (f) Trading Name of the Company/Business; and
- (g) Name of the Owner/Manager/Company Director(s); and
- (h) Date of Birth of the applicant, or in the case of a Company or similar entity, date of registration/incorporation; and
- (i) Contact telephone number(s); and
- (j) Details of the nature of the business and/or goods to be sold.

4.4 LICENCE FEES AND CHARGES

- 4.4.1 The Council may prescribe fees for Mobile Trading Licences and/or site rentals. Fees may differ for any class of licence as prescribed in the Council's Annual Plan Fees and Charges.
- 4.4.2 The licence fee shall be a separate charge from any rental income from licensing of a portion of an approved site.
- 4.4.3 At its discretion, the Council may issue temporary licences upon payment of such fee whether per day or otherwise and subject to such conditions as it considers reasonable.

4.5 LICENCE CONDITIONS

- 4.5.1 In granting the Mobile Trading Licence the Council may impose such conditions, as it considers reasonable and desirable.
- 4.5.2 The holder of the licence (the licensee) shall observe the conditions of the licence.
- 4.5.3 Every licensee shall, notwithstanding the conditions of the licence, upon being requested to do so by an authorised officer alter his or her sales site or position to any other site or position as directed by the authorised officer.
- 4.5.4 Every licensee shall hold a Mobile Trading Licence for each mobile trading activity in the Whakatane district at any one time. If operating multiple mobile trading activities in the Whakatane district at any one time, then each mobile trading activity will require a Mobile Trading Licence.

4.6 FOOD HYGIENE REQUIREMENTS

- 4.6.1 If food is being sold, the licensee shall comply with the food conduct requirements set out in Part 2 and the First Schedule of the Food Hygiene Regulations 1974 or any other related or appropriate enactments to the satisfaction of the Environmental Health Officer or any other authorised officer.
- 4.6.2 Clause 4.6.1 shall not apply in any case where the Environmental Health Officer or any other authorised officer is satisfied that compliance with clause 4.6.1 would be unreasonable and impracticable having regard to the type of food being sold.

4.7 PRODUCTION OF LICENCE

- 4.7.1 The licensee shall carry the Mobile Trading Licence at all times when engaged in mobile trading and shall show it to any authorised officer on demand.

4.8 NAME TO BE DISPLAYED

- 4.8.1 The licensee's name and details of the product for sale shall be displayed clearly on any stall or vehicle used in connection with mobile trading.

4.9 TRADING RESTRICTIONS – APPROVED SITES

- 4.9.1 Unless the conditions of the Mobile Trading Licence state otherwise, mobile trading can only occur in excess of 90 minutes at an "Approved Site".

- 4.9.2 In order for Council to designate a site as an “Approved Site” the following criteria must be satisfied:
- (a) Proximity to primary arterial traffic routes.
 - (b) Traffic flows into and out of the site.
 - (c) Capacity for mobile shops plus patrons and their vehicles.
 - (d) Provision of sanitary facilities.
 - (e) Advertising of the site.
 - (f) Signage.
 - (g) Refuse disposal.
 - (h) Site rentals.
- 4.9.3 The Council may, from time to time, by a publicly notified resolution:
- (a) designate approved sites for mobile shop operations within the Whakatane District; and
 - (b) erect official Council signage to identify those sites; and
 - (c) place conditions on the use of these designated sites.
- 4.9.4 Licence fees are to be based on a per site per month basis with each site measuring 12 metres by 4.0 metres, unless otherwise agreed in writing by an authorised officer of the Council.
- 4.9.5 Any licensee not trading from an “Approved Site” must move on from the site after 90 minutes and must not return to within 100 metres of the site more than twice in an eight hour period.

4.10 TRADING RESTRICTIONS – SIMILAR PRODUCTS

- 4.10.1 Unless the conditions of the Mobile Trading Licence state otherwise, the licensee shall not operate within 100 metres of another premises selling similar goods and products.

4.11 LICENCE NOT TRANSFERABLE

- 4.11.1 No licence issued under this Part of this Bylaw shall be transferable to any other person.

4.12 REVOCATION OF LICENCE

- 4.12.1 A Mobile Trading Licence may be revoked by the Council if the licensee:
- (a) permits a breach of this Part of the Bylaw or any other law, bylaw, regulation or rule made by a competent authority;
 - (b) fails to observe the conditions of the Mobile Trading Licence;
 - (c) permits any unlicensed person to operate as a mobile trader in connection with the mobile trading operation usually carried out by the licensee.

4.13 EXEMPTIONS

4.13.1 The exemptions allowed under this Part of the Bylaw are as follows:

- (a) If you own a fishing boat registered under Section 103 of the Fisheries Act 1996 then you or a person appointed by you may sell fresh fish or shell fish caught from that boat or within the immediate vicinity of where it is moored, berthed or beached. Any fresh fish or shellfish taken from that boat to be sold must be caught in accordance with the conditions of the fishing permit;
- (b) Service delivery vehicles including milk vendors;
- (c) Any market, stall or stand which has a current approval under any other bylaw, legislation, resource consent or specific resolution of the Council.