
ASHBURTON DISTRICT COUNCIL BYLAW

CHAPTER 9 - MOBILE OR TRAVELLING SHOPS, STALLS AND HAWKERS

SCOPE

900 The purpose of this chapter of the Bylaw is:-

- (a) To ensure that persons who enter private property to sell goods are not persons who should be restricted from doing so; and
- (b) To regulate the conduct of persons selling goods on streets, roads and pavements; and
- (c) To regulate the conduct of persons using vehicles to sell goods and services.

INTERPRETATION

901 In this Part of the Bylaws unless the context requires otherwise -

HAWKER means any person who carries or takes about any goods, wares, or merchandise for sale not in pursuance of any invitation to call with, or of any previous order or request for, such goods, and includes a pedlar and any person who exposes for sale any goods, wares, or merchandise carried or taken about by him/her, or solicits the custom of any other person; and whether any such person shall cry any such goods, wares, or merchandise or not, but does not include any person who uses any vehicle as a mobile or travelling shop. Note:- Pedlars - refer to the First Schedule at the rear of this Chapter.

HOURS OF DARKNESS means:-

- (a) Any period of time between half an hour after sunset on one day and half an hour before sunrise on the next day; or
- (b) Any other time when there is not sufficient daylight to render clearly visible a person or vehicle at a distance of 100 m.

KEEPER in relation to any mobile or travelling shop, means the person by whom or on whose behalf any business is carried on by means of that mobile or travelling shop.

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 (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:

STALL means a stand, booth, or compartment for the sale of goods in a market

EXEMPTIONS

902 The provisions of this Part of this Bylaw as to hawkers and keepers of mobile or travelling shops shall not apply:-

- (a) To the owner of a fishing boat registered under Part 4 Section 103 of the Fisheries Act 198396 and in respect of which a boat-fishing permit is for the time being in force, where he/she or a person appointed by him/her in that behalf sells fresh fish or fresh shellfish (being fresh fish or fresh shellfish taken from that boat in accordance with the conditions of the permit) from that boat at the place where it is moored, berthed, or beached, or from a stall (including a vessel used as a stall) within 450m of that place; or
- (b) To sellers of printed books, pamphlets, magazines, or newspapers.

LICENCE REQUIRED

903 No person, whether acting on his/her own account, or as the servant of another person, shall engage in the trade or calling of or carry on business in any manner or to any extent as a hawker or keeper of a mobile or travelling shop with respect to goods or articles of any description whatsoever (except as provided in the preceding clause), without having first obtained a licence from Council.

APPLICATION

904 Every person wanting to obtain a hawker's, or mobile shop keeper's licence shall make application to the Council and shall with such application furnish such evidence of good character as Council may require, and in the case of an application for a mobile shop keeper's licence shall state the number of vehicles to be used and shall detail the registration number of each vehicle. A separate licence shall be required for each vehicle used and the appropriate fee must be paid per vehicle, fees will be set by Council resolution from time to time.

SALE OF FOOD FOR HUMAN CONSUMPTION

905 Every application under the last preceding clause shall also state whether the applicant wants to hawk or sell from a mobile or travelling shop articles of food for human consumption and whether with or without other goods, wares, or merchandise, and in any such case where a motor vehicle is to be used, shall specify the registered number of that vehicle.

905.1 If the applicant is desirous of hawking or selling articles of food for human consumption such application shall be accompanied by all licences which the applicant may be required to obtain under the provisions of any Act, regulation or Bylaw relating to the licensing and regulation of certain trades and businesses.

905.2 Before issuing any licence for a hawker or keeper of a mobile or travelling shop, Council shall satisfy itself that any motor vehicle to be used in connection with hawking or selling food for human consumption, and that any premises to be used for the storage of such food, are suitable for the purpose.

FEES AND EXPIRY OF LICENCE

906 Council may issue licences to trade and carry on business as hawkers or keepers of mobile or travelling shops and every such licence, at whatever time of the year the same may be issued, shall terminate on a day and month then next ensuing as may be prescribed by resolution of Council, and for every such licence there shall be paid to Council such fee as Council may by resolution from time to time prescribe for that particular class of licence.

906.1 Council may at its discretion issue temporary licences upon payment of such fee whether per day or otherwise, and subject to such conditions as Council may impose.

FORM OF LICENCE

907 Every hawker's or keeper's licence shall be in the form as may from time to time be prescribed by the Ashburton District Council and shall take effect as indicated on the licence.

PRODUCTION OF LICENCE

908 Every licensed hawker or keeper of a mobile or travelling shop shall at all times when hawking, or selling from his/her mobile or travelling shop, carry a licence and shall show the licence to any police officer or council officer who may demand production of the licence.

MOVING ON

909 Every licensed hawker, or keeper of a mobile or travelling shop shall, upon being requested so to do by any police officer, or duly authorised officer of Council, and as often as so requested, alter his/her position and remove from the place in any street or public place where such hawker or keeper of a mobile or travelling shop may for the time being be hawking their goods or selling from his/her mobile or travelling shop to any other part or parts of such street or place, or to any other street or public place indicated by such police officer, or officer of Council.

909.1 Any person who fails to comply with any request made by any police officer or officer of Council pursuant to Clause 909 hereof commits an offence against this Bylaw.

LOCAL AUTHORITY MAY PRESCRIBE CONDITIONS

910 Council may, either upon the issue of any licence to any hawker or keeper of a mobile or travelling shop or at any time by notice in writing under the hand of the Council Officer served on any licensed hawker or keeper of a mobile or travelling shop -

- (a) Prescribe any condition or conditions in compliance with which such hawker or keeper of a mobile or travelling shop must carry on their trade or business, and any hawker or keeper of a mobile or travelling shop who shall fail to comply in all respects with any such requirements within any period specified for compliance commits an offence against this Part of this Bylaw; or

- (b) Require such hawker or keeper of a mobile or travelling shop to discontinue the use of any vehicle so employed by him/her.

910.1 It shall be a condition of the licence where a vehicle is to be used for the sale of food for human consumption that no vehicle other than that specified in that licence shall be used for the purpose without the approval of the Council.

TRADING DURING THE HOURS OF DARKNESS

911 No mobile or travelling shop shall be operated for business on any street between the evening hours of darkness as defined in the Traffic Regulations 1976 or any amendment thereto and 8.30am the following morning where they may cause a nuisance to other persons.

MUSICAL CHIMES

912 Musical chimes or other audible devices for attracting customers to a mobile or travelling shop may be operated in a reasonably modulated manner. No such chimes or other audible device shall be operated within 300 metres of any place of public worship while a service is in progress or any hospital or similar institution licensed under the Health Act 1956 or any amendments thereto.

LICENCE NOT TRANSFERABLE

913 No licence issued under this Part of this Bylaw shall be transferable to any other person and no such licence shall authorise any person other than the person named therein to carry on the trade or business of a hawker or keeper of a mobile or travelling shop.

CLEANLINESS OF VEHICLE

914 Every licensed hawker or keeper of a mobile or travelling shop or any person operating on behalf of such hawker or keeper who takes or carries about any article of food for sale shall keep and maintain every vehicle, basket, pack or other container used or connected therewith in a thoroughly clean and sanitary condition to the satisfaction of a Council Officer.

STANDS AND STALLS - PERMIT REQUIRED

- 915** No person shall without having first obtained a permit from Council so to do -
- (a) Stand in or occupy any portion of any public place with, or place or maintain on any portion of any public place, any stall, structure, or contrivance for the purpose of distributing or selling any food or refreshments, newspapers, lottery tickets, textiles, hardware or other items; or
 - (b) Stand in or occupy any portion of any public place with, or place or maintain on any portion of any public place any weighing, knife grinding, automatic vending, or slot entertainment machine or any other similar structure, apparatus or contrivance.

APPLICATION

916 Every application for a permit shall be in such form as the Council may require.

CONDITIONS OF PERMIT

917 Every permit issued by Council shall be subject to such conditions as Council may impose and shall state therein the term of expiry thereof, the portion of any public place on which the applicant is permitted to stand, the hours during which they may so stand, and the class of article or goods they propose and are permitted to sell and no person shall stand or sell except in conformity with the terms of such permit.

917.1 Permits for stalls selling or providing food shall meet the general standards set out in the Food Hygiene Regulations and associated legislation.

PERMIT FEE

918 For every such permit there shall be payable to Council such fee as Council may by resolution from time to time prescribe.

TRANSFER

919 No person shall transfer his/her permit to any other person nor stand nor sell either under the authority of a permit issued to any other person or at a place not mentioned in his/her permit or as directed by Council.

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FIRST SCHEDULE – PEDLARS, STAND HOLDERS, STALL HOLDERS & FARMERS MARKETS

PURPOSE:

1. This details the Council requirements for any person wishing to sell goods from a public place in the main commercial areas of the District.
2. It is intended that this addresses those persons who wish to expose for sale any goods, wares, or merchandise and who solicit custom from passers by. The policy will include certain stalls on fixed sites and also persons who may be moving throughout the business area with no set stall.
3. The terms "pedlars", "stall holders" and "stand holders" are used to differentiate from those persons granted by Council a rental site to operate "stands" such as hot dog stands.
4. Pedlars, Stand holders and Stall holders may operate in one or more approved sites. Council also wishes to limit the number of licences approved.

PEDLARS AND STAND AND STALL HOLDERS

5. Pedlars, stall holders and stand holders licences may be issued by the Regulatory Manager of Council subject to the following conditions.
 - a. That licence holders shall operate for no more than three months in any one year.
 - b. That a suitable site is available to be allocated or the licence holder is prepared to move from place to place i.e. be a mobile pedlar.
 - c. That no more than six (6) licences be approved to operate in the Ashburton Central Business area at any one time, no more than one in each suburb of Ashburton and not more than two in each town (excluding Ashburton) within the District at any one time.

FARMERS MARKETS

6. A permit may be issued by Council for the operation of a Farmers Market in the Ashburton District. Specific requirements pertaining to this permit will be made as Council sees fit.