



New Plymouth District Council Bylaw 2008

(as amended and readopted, September 2014)

# Trading in Public Places (Licensing of Street Traders)

The purpose of this part is to regulate trading in public places to ensure appropriate standards of convenience, safety, visual amenity, and civic values are maintained.



Te Kaunihera-ā-Rohe o Ngāmotu  
**NEW PLYMOUTH DISTRICT COUNCIL**  
[newplymouthnz.com](http://newplymouthnz.com)



## 1. Authority

1.1 This part is made under:

- a) Sections 145 and 146 of the Local Government Act 2002; and
- b) Section 22AB of the Land Transport Act 1998.

## 2. Purpose

2.1 The purpose of this part is to regulate trading in public places to ensure appropriate standards of convenience, safety, visual amenity, and civic values are maintained.

## 3. Exclusions

3.1 This part does not apply to:

- a) Any service delivery vehicles; or
- b) With the exception of clause 6, any premises registered under the Food Hygiene Regulations 1974 or any subsequent amendments; or
- c) Any busker; or
- d) Any person soliciting subscriptions or donations; or
- e) Any market, stall or stand which has a current approval under any other bylaw, enactment, food premises registration, licence, or a resource consent.

*Note: See Part 5 Public Places New Plymouth District Council Bylaw 2008 for rules on busking, soliciting subscriptions or donations.*

## 4. Interpretation

4.1 This part shall be in addition to the provisions of Part 1 Introductory and if this part is inconsistent with Part 1 Introductory then the provisions of this part shall prevail.

4.2 In this part, unless the context otherwise requires:

### Definitions

**Goods** means any product or service.

**Hawker** means any person who carries or takes about any goods, for sale or hire not in pursuance of any invitation to call or solicits the custom of any other person but does not include any person who uses any vehicle as a mobile or travelling shop.

**Mobile or travelling shop:**

- a) Means a vehicle whether self-propelled or not:
  - i) From which goods are offered or exposed for sale or hire in a public place; or

- ii) From which goods may be ordered in a public place (whether or not in pursuance of any invitation to call with the goods); but
- b) Does not include any mobile food premises.

**Market** means any open air market located in a public place for the purpose of selling goods to the public.

**Mobile food premise** means a vehicle whether self-propelled or not from which food is sold.

**Public place** means a place that is under the control of the Council and open to or being used by the public, whether admission is free or on payment of a charge and includes a road.

**Stand or stall** means, in relation to the area where a person stands or occupies any portion of a public place, or places or maintains on any portion of any public place, any stall, structure, or contrivance from which goods are offered or exposed for sale or hire, but does not include any stand or stall from which food is sold.

**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 from that vehicle to the general public in any public place.

**Voluntary organisation** means any charity, club, society, association, school or community group, where the profits are wholly retained for charitable or community purposes.

## 5. Licence required for hawkers and for trading in public places from stands, mobile shops or stalls

**5.1** No person being a hawker, the owner of a mobile or travelling shop, or the operator of any stand or stall may engage in any public place in the sale or hire of any goods unless that person has:

- a) Obtained a licence to trade in a public place from an authorised officer; and
- b) No person being a hawker, the owner of a mobile or travelling shop, or the operator of any stand or stall may engage in any public place in the sale or hire of any goods unless that person has:
  - i) Obtained a licence to trade in a public place from an authorised officer; and
  - ii) Paid the relevant fee prescribed by the Council.

**5.2** Every application for a licence to trade in a public place must:

- a) Include the following details:
  - i) The name, address and telephone number of the applicant;
  - ii) The location/site (where appropriate);
  - iii) Duration of trading (where appropriate);

**Application conditions**

- iv) Proposed signage;
  - v) The type of goods for sale;
  - vi) The type of vehicle(s) and registration (if applicable);
  - vii) Evidence of permission from New Zealand Transport Authority (if applicable); and
  - viii) Other than for a mobile or travelling shop, evidence of consultation with any business in the immediate vicinity of the proposed location / site.
- b) Be made at least 21 days before the applicant desires to begin trading.
- 5.3** Subject to clauses 5.6 and 6, a licence to trade is subject to the terms and conditions that an authorised officer thinks fit. The terms and conditions may include (without limitation) any of those terms and conditions set out in Schedule 1 of this part. **Licence may be subject to Appendix 1**
- 5.4** It is the responsibility of the applicant to ensure that all appliances used in connection with the sale or hire of goods comply with any other relevant licensing and safety regulations. **Appliances comply with regulations**
- 5.5** Nothing in this clause limits any requirement in any enactment (including any other bylaw) relating to food safety or the sale of food. **Food requirements**
- 5.6** Any person wishing to trade on any public place must, when applying for a licence under clause 5.1, obtain specific approval from an authorised officer to trade on a public place as per the requirements of Part 5 Public Places New Plymouth District Council Bylaw 2008 (encroachments and licences to occupy). In granting any such approval, the authorised officer must take into account any applicable Council policy and relevant Reserve Management Plan. **Conditions for trading on reserve**

## 6. Specific conditions for mobile and travelling shops

- 6.1** A licence to trade from a mobile or travelling shop may be subject to whatever terms and conditions the authorised officer thinks fit for the relevant location, and may include a restriction on the time permitted to trade in a specified location. **Authorised to issue conditions**
- Note: Traders should be aware of the conditions and restrictions that may exist in Reserve Management Plans.*
- 6.2** Nothing in this clause applies to any mobile or travelling shop that has a current approval to occupy a public place under any other enactment, encroachment licence or licence to occupy, or resource consent. **Bylaw does not apply when other statutory approval exists**

## 7. Right of appeal

- 7.1** If an applicant under clause 5.1 is dissatisfied with the decision of the authorised officer to refuse the application for the licence or is dissatisfied with any condition imposed, the applicant may, within 21 working days of receiving the decision appeal the decision to the Council. **Appeal process**

- 7.2 If a business owner in the immediate vicinity of the proposed location/site is dissatisfied with the decision of the authorised officer to issue a licence to trade in a public place under clause 5.1, the business owner may, within 21 working days of receiving a copy of the decision appeal the decision to the Council.
- 7.3 In the case of an appeal the Council must consider the application afresh and may confirm, modify or reverse the authorised officer's decision.
- 7.4 The Council must give notice of the decision on the appeal, and the reasons for the decision, to the applicant, and any business owners in the immediate vicinity as soon as possible after having made its decision.

## 8. Display of licence

- 8.1 Any person holding a licence under clause 5.1 must when engaged in the sale of goods, carry the licence and show the licence to an authorised officer on demand.

**Licence to  
be displayed  
on request**

## 9. Licence not transferable

- 9.1 A licence under clause 5.1 is not transferable to any other person.

## 10. When licence may be suspended or cancelled

- 10.1 The Council may suspend or cancel a licence to trade in a public place in the following circumstances:
  - a) Without notice if urgent action is required to protect the public from unhygienic, unsafe or hazardous conditions, or urgent works are required in the public place where the licence applies.
  - b) On the giving of 48 hours notice to the person or operator of the market who holds the licence if the activity will interfere with intended road works, a special event or with the public's normal right of passage.
  - c) There are repeated breaches of the terms or conditions of the licence.
  - d) The permission to occupy the public place has been revoked or the agreement term for the occupation of the public place has ended.

**Process for  
suspension  
or  
cancellation**

## **SCHEDULE 1**

### **Terms and Conditions of Licences under Clause 5**

- Duration of the licence.
- Location (including limits on the operation in a fixed location in the case of mobile and travelling shops).
- Types of goods for sale.
- Area available for sale.
- Hours of trade.
- Persons entitled to sell.
- Safety and hygiene requirements including location of toilet facilities.
- Use of signage.
- Restrictions on the use of musical chimes or other audible devices for attracting customers.
- Removal of rubbish from the site.
- Name and address to be conspicuously displayed on stall, stand or vehicle.