



The Gisborne District Mobile Shops and Other Traders Bylaw 2014

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1. Title

This Bylaw is the "Mobile Shops and other Traders Bylaw 2014".

2. Commencement and Application

2.1 This Bylaw shall come into force on the 20th day of September 2014.

2.2 This Bylaw applies to the whole of the Gisborne District.

3. Repeals

3.1 The Gisborne District Mobile Shops, Hawkers, Stalls and Itinerant Traders Bylaw 2008 is hereby repealed.

4. Purpose of the Bylaw

4.1 To control and regulate mobile shops, hawkers, stalls and itinerant traders in the Gisborne District.

5. Definitions and Interpretations

5.1 The Interpretation Act 1999 shall apply to this Bylaw.

5.2 In this Bylaw unless the context otherwise requires:

Act	Means the Food Act 1981.
Approval	means approval by Council and any approval may include conditions.
Commercial Traveller	means any bona fide commercial traveller who solicits orders from businesses within the District following an invitation to call, a previous order or request.
Council	means the Gisborne District Council or any Committee of the Council or officer authorised to exercise the authority of Council.
District	means the area under jurisdiction of the Council.
Enforcement Officer	means any Officer authorised and appointed by Council for the time being to carry out or exercise the duties of enforcement or of an inspector under any particular clause of this Bylaw.
Event	means a public gathering and includes: <ul style="list-style-type: none">(a) A public performance involving the gathering of people for a concert or other entertainment;(b) A meeting, parade, sporting event, exhibition, filming, or festival;(c) A fair, market, or other gathering of people for the sale and purchase of goods;(d) The provision of parking for vehicles of persons attending or associated with;(e) The erection or removal of structures that are part of, or associated with an event.
Fleamarket	means a place where private, commercial or charitable groups may gather together to offer sales using a site on a temporary basis.
Food	has the same meaning as attributed in Section 2 of the Food Act 1981.
Food Stall	means a stall at which food is prepared and sold.
Food Stall Permit	means a document issued to a person authorising that person to sell food.
Group Manager	means the Group Manager Environment & Policy or any person who undertakes the duties contained in that role.
Hawker	means any person who carries or takes about any goods, or merchandise for unsolicited sale to others not being a commercial traveller nor the keeper of a

Act	Means the Food Act 1981. mobile shop .
Itinerant Trader	includes a person who promotes or offers for sale any goods or merchandise (either by his or herself or by persons employed by him or her) to the public in the District where that person: <ul style="list-style-type: none"> a. has not been a continuous resident for a period of at least six calendar months prior; or b. has not operated a business from premises within the District offering similar goods and merchandise for a period of at least six calendar months prior. For the avoidance of doubt this definition does not include any hawker, keeper of a mobile shop or commercial traveller.
Licence	means a licence issued by Council to a person authorising that person to carry out the activities of a mobile shop, hawker, stall or itinerant trader.
Licence Holder	means the person named on the Licence.
Mobile Shop	means a vehicle from which goods or services are offered for sale while using a public place as the sales venue (whether or not in pursuance of any invitation to call with the goods and services) but does not include any vehicle used for the purpose of transporting and delivering goods and services pursuant to a prior order.
Permit Holder	means a person named on the Food Stall Permit issued by Council.
Person	includes a body whether incorporated or unincorporated.
Police Officer	means a sworn officer of the New Zealand Police.
Public Place	includes every reserve, road, street, public highway, footpath, footway, alley, lane, accessway, and thoroughfare of a public nature or open to or used by the public as of right; and every place of public resort to which the public have access.
Regulatory Services Manager	means any person appointed to that position by Council or any person who undertakes the duties contained in that role.
Reserve	has the same meaning as attributed in the Reserves Act 1977.
Road	has the same meaning as attributed in Section 315 of the Local Government Act 1974.
Sale or Sell	shall have the same meaning as the Food Act 1981 and also includes the extended meaning given in Clause 2(5) of the Food Hygiene Regulations 1974.
Sign	means every advertising device or advertising matter of whatever kind whether consisting of a specially constructed device, structure, erection, or apparatus, or painted, printed, written, carved, inscribed, endorsed, projected onto, placed or otherwise fixed to or upon any premises, wall, fence, rock, stone, structure, stationary vehicle or erection of any kind whatsoever that is visible from any public place.
Stall	has the same meaning as Clause 2(1) of the Food Hygiene Regulations 1974.
Vehicle	has the same meaning as Section 2 of the Land Transport Act 1998.

5.3 In this Bylaw where the context requires or permits the plural number includes the singular number and vice versa, the masculine gender includes the feminine gender and the neuter gender and the word "person" includes a company.

6. Licence Required

6.1 No person shall operate a mobile shop or operate as a hawker or itinerant trader without having first obtained a licence from Council to do so.

Licence required

Note: A licence is required for trading in public places in order to control the congestion, danger or nuisance which

Purpose

could arise from pedestrian or traffic volumes.

6.2 The licence is not transferable.

Not transferable

6.3 A separate mobile shop licence is required for each vehicle.

Separate licence for each mobile shop

7. Application Required

7.1 Application for a licence shall be made in writing on the form provided and shall include a statement specifying the class of goods or services in which the applicant wishes to trade, and any other such information as required by Council.

Application information

7.2 Every application for a mobile shop licence shall be accompanied by a letter of consent to the proposed activity signed by the occupiers of any residential properties immediately adjacent to where the trading is to take place.

Prior consent

7.3 Clause 7.2 shall not apply to mobile shops which remain stationary for:

- (i) not more than 30 minutes; or
- (ii) not more than 60 minutes, if invited to call at a specific property by the occupier.

7.4 Every application for a mobile shop or hawker's licence shall be accompanied by two letters attesting to the character of the applicant.

Character of applicant

8. Fees Required

8.1 The prescribed fee shall accompany any application. This fee is non-refundable.

Payment required

8.2 Fees associated with application, approval, licence, consent, service or inspection will be established in Council's Manual of Fees and Charges.

Fee schedule

9. Issue of Licence

9.1 An application will be considered by an Authorised Officer against compliance with this Bylaw.

Considered for compliance

9.2 A licence will only be issued to applicants of good character.

Good character

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| 9.3 | A licence will be issued by the Regulatory Services Manager exercising the authority of Council if compliance is determined and recommended by an Authorised Officer. | <i>Issue of licence</i> |
| 9.4 | A licence may be issued for any period of time but not exceeding one year, and may be subject to conditions of operation. | <i>Conditions may be imposed</i> |

10. Special Conditions or Requirements

10.1 Mobile Shops

10.1.1 Trading shall not take place within the following areas:

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| (i) | That area defined as the City Centre by the Gisborne District Combined Regional Land & District Plan; and rural townships unless in a designated area and subject to conditions as prescribed by the Regulatory Services Manager; | <i>City Centre</i> |
| (ii) | Outside a church on a day of worship except with the written permission of the minister or pastor of that church; | <i>Churches</i> |
| (iii) | Outside a school during school hours except with the written permission of the principal of that school; | <i>Schools</i> |
| (iv) | In a residential area unless a letter of consent signed by the occupiers of any residential properties immediately adjacent to where trading is taking place has been obtained; | <i>Prior consent</i> |
| (v) | Any other location designated by the Regulatory Services Manager so as to mitigate any possible detrimental effect. | |

10.1.2	Trading shall not take place at any time between the half hour after sunset on one day and the half hour before sunrise on the next day, unless an exemption is granted by the Regulatory Services Manager.	<i>Trading during darkness</i>
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10.1.3	Trading shall not be carried out within 100 metres of a permanent retail premises unless an exemption is granted by the Regulatory Services Manager.	<i>Traffic safety</i>
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10.1.3A	Where trading takes place on a road under the control of the Council; the requirements of the Code of Practice for Temporary Traffic Management (CoPTM) shall be adhered to by the licence holder to the extent determined by the Council in Appendix "A".	<i>CoPTM requirements</i>
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| 10.1.4 | All goods, wares or merchandise is to be confined to the vehicle with nothing on the ground. No tables, boxes, crates, produce, or other items shall be set up or arranged on the road verge, reserve area, or the immediate vicinity. | <i>Obstruction</i> |
| 10.1.5 | All advertising signs must be attached to the vehicle with the exception of one roadside sign. This sign shall be not larger than 0.7 metre wide and 1.0 metre high, and must be located within 100 metres on the same side of any road as of the mobile shop. It shall be placed so as not to cause obstruction to any passing traffic, road users or pedestrians. | <i>Signage</i> |
| 10.1.6 | Maximum trading time at one site shall be seven hours after which a mobile shop must move a minimum of 200 metres and must not return to a previously occupied site within eight hours. | <i>Duration of trading</i> |
| 10.1.7 | Clause 10.1.3A and 10.1.6 shall not apply to –
(i) mobile operations such as milk delivery vehicles and ice cream vans provided they do not remain in any one location for more than 30 minutes; or
(ii) mobile operations invited to call to a specific property by the occupier provided they do not remain in any one location for more than 60 minutes. | <i>Exceptions</i> |

10.2 Stalls

All stalls operating in a public place shall comply with the requirements set out in the Gisborne District Public Places Bylaw 2008 or any subsequent bylaw regulating public places.

Public Places Bylaw

Note: *A permit issued under the Public Places Bylaw is necessary for any stall operating in a public place in order to control congestion, danger or nuisance that could arise from pedestrian or traffic volumes.*

10.3 Food Hygiene

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| 10.3.1 | All mobile shops, hawkers and stalls which offer food for sale shall comply with the Food Hygiene Regulations 1974 unless specifically exempted from one or more of the requirements by the Regulatory Services Manager. | <i>Food Hygiene Regulations</i> |
| 10.3.2 | No person shall operate a mobile shop, hawker or stall selling food unless the food for sale has been manufactured or prepared and packaged on premises registered or approved for the purpose by Council. | <i>Approved food source</i> |

- 10.3.3 All mobile shops, hawkers or stalls which offer food for sale shall comply with the provisions of the Food Hygiene Bylaw 2014 or any subsequent similar bylaw, and any subsequent amendments unless exempted by the Regulatory Services Manager. *Food Hygiene Bylaw*
- 10.4 Food Stalls**
- 10.4.1 A food stall permit is required for the sale of food from a stall when: *Food permit required*
- (i) The stall is operated for the sole financial benefit of an educational, charitable or sporting institution; or
 - (ii) The stall is part of an event and all food sold from the stall has been grown by the stall holder and is deemed to be of low food safety risk by the Regulatory Services Manager.
- 10.4.2 A single food stall permit may be issued to an organisation operating more than one food stall at an event from which it is the sole financial beneficiary.
- 10.4.3 If a food stall permit has been issued compliance with Clauses 10.3.1, 10.3.2 and 10.3.3 is not required.
- 10.4.4 The food stall permits referred to in Clause 10.4.1 and 10.4.2 may have conditions attached to them by the Regulatory Services Manager as necessary to safeguard the food and ingredients used before, during and after preparation of that food.
- 10.4.5 No person shall operate a food stall without providing the necessary facilities or equipment to safeguard any food or ingredients used in the preparation of food for sale from contamination or spoilage during the course of storage, manufacture, preparation or service of that food. *Food safety*

11. Display, Suspension or Revocation of Licence

- 11.1 Every person to whom a mobile shop, food stall permit or itinerant traders licence has been issued shall carry it at all times during trading and keep it conspicuously displayed so as to be easily read during the course of trading. *Display of licence*
- 11.2 Every person to whom a hawkers licence has been issued shall display the Council issued hawkers badge during the course of trading. *Hawkers identification*
- 11.3 If any conditions of the licence, food stall permit or clauses of this Bylaw are breached, an Enforcement Officer may:

- (i) Issue a verbal warning;
 - (ii) Issue a written notice;
 - (iii) Recommend legal action.
- 11.4 An Enforcement Officer may also apply to the Group Manager to have a licence suspended or cancelled when, as a consequence of non-compliance with this Bylaw it is deemed necessary to do so in order to protect the public from unhygienic, unsafe or hazardous conditions.
- 11.5 If a licence is cancelled, no further licence will be issued to that licensee or vehicle for up to two (2) years.

Cancellation or suspension of licence

12. Officers Instructions

- 12.1 Every person trading in a public place, whether holding a licence, food stall permit or not, shall comply with any lawful instruction given by an Enforcement Officer or a Police Officer.
- 12.2 Every person trading in a public place whether holding a licence, food stall permit or not shall provide their name and address if requested by an Enforcement Officer or a Police Officer.

Officers instruction

Names and addresses to be supplied on request

13. Enforcement

- 13.1 Where a person commits an offence against this Bylaw or the Act an Enforcement Officer or a Police Officer may exercise such enforcement powers as are appropriate including those contained in Part 3 of the Act and Part 8 Sub Part 2 of the Local Government Act 2002.

Removal of equipment

14. Offences

- 14.1 Any person commits a breach against this Bylaw who:
- (i) Obstructs or hinders any Enforcement Officer or Police Officer in the exercise of their duties;
 - (ii) Causes to be done, or knowingly permits or suffers to be done, anything whatsoever contrary to, or otherwise than as provided by this Bylaw;
 - (iii) Fails, neglects or refuses to comply with any warning notice or direction given by an Enforcement Officer or Police Officer;

Offences

- (iv) Fails to comply with any request made by a Police Officer or Enforcement Officer;
- (v) Fails, neglects or refuses to comply with any condition of any licence or permit or exemptions duly given to that person under this Bylaw.

15. Hearing

- 15.1 If an Enforcement Officer applies to the Group Manager to suspend or cancel a licence then (without prejudice to the rights of Council if a offence or breach against this Bylaw has occurred);
- (i) the licence holder or person acting in contravention to the provisions of this Bylaw shall be informed by notice issued by an Enforcement Officer of the intention to cancel their licence; and
 - (ii) he or she may elect to appear before the appropriate Committee of Council.

Hearing provisions

16. Penalties

- 16.1 Every person who commits a breach of any provision of this Bylaw shall be liable upon conviction to a fine not exceeding \$500, and where the breach is a continuing one, to a further fine not exceeding \$50 for every day on which the breach is continued.

Penalties

THE COMMON SEAL OF GISBORNE DISTRICT COUNCIL WAS HERETO AFFIXED PURSUANT TO RESOLUTION PASSED AT A MEETING OF THE GISBORNE DISTRICT COUNCIL HELD ON 18 SEPTEMBER 2014.

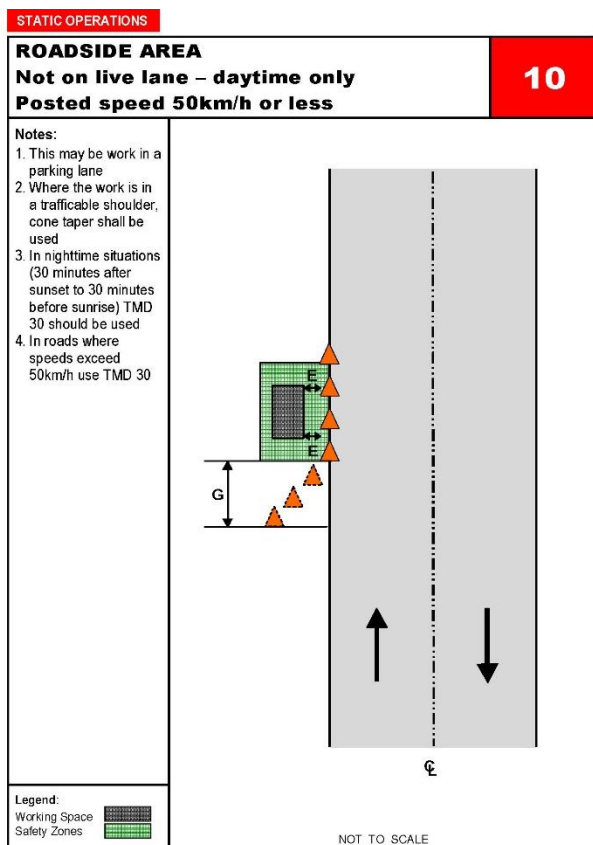
_____ **MAYOR**

_____ **CHIEF EXECUTIVE**

Appendix A - CoPPTM Requirements

Temporary work sites including mobile shop traders, working on roads under the control of the Council are subject to the Temporary Traffic Management for Local Roads – Supplement to Transit New Zealand Code of Practice for Temporary Traffic Management – First Edition: September 2005 which requires;

1. The licence holder and all persons under his or her control shall wear high visibility jackets at all times whilst working (except when they are inside the vehicle.)
2. Where the work is in a trafficable shoulder¹, cone taper shall be used as per diagram.
3. The licence holder and all persons under his or her control shall be responsible for placing and retaining the safety cones as determined while the vehicle is parked on the road.



Safety Zone - E	A nominal 1 meter space outside the working area to protect any person
Taper Length - G	Taper length ² shall be 30 meters on 50 km/h roads

Local Road Supplement – First Edition

September 2005

- ¹ Trafficable shoulder has the same meaning as in the Temporary Traffic Management for Local Roads – Supplement to Transit New Zealand Code of Practice for Temporary Traffic Management – First Edition: September 2005 or its amendments or replacements
- ² Taper length may be reduced to 10 meters on 50 km/h roads where accesses, intersections etc need to be accommodated.
- ³ Working space means the area around a hazard or work site that is available for workers to use to complete the activity, as defined in CoPTTM First Edition: September 2005 or its amendments or replacements.