



GISBORNE
DISTRICT COUNCIL

**The Gisborne District
Mobile Shops, Hawkers, Stalls and
Itinerant Traders Bylaw 2008**

CONTENTS

1.	Title.....	1
2.	Commencement And Application.....	1
3.	Repeals.....	1
4.	Purpose Of The Bylaw.....	1
5.	Definitions And Interpretations.....	1
6.	Licence Required	5
7.	Application Required.....	5
8.	Fees Required.....	6
9.	Issue Of Licence.....	6
10.	Special Conditions Or Requirements	6
11.	Display, Suspension Or Revocation Of Licence	10
12.	Officers Instructions	10
13.	Enforcement.....	11
14.	Offences	11
15.	Hearing.....	12
16.	Penalties.....	12
	Appendix A - Copptm Requirements.....	14

THAT *In pursuance and exercise of the powers and authorities vested in it by the Local Government Act 1974 and each and every other power and authority thereunto enabling it, the Gisborne District Council does HEREBY by way of Special Order make this by law and which shall be called the Gisborne District Mobile Shops, Hawkers, Stalls and Itinerant Traders Bylaw 2008.*

1. Title

This Bylaw may be cited as "The Gisborne District Mobile Shops, Hawkers, Stalls and Itinerant Traders Bylaw 2008".

2. Commencement and Application

This Bylaw shall come into force on the 15th day of February 2008 and shall apply to the whole of the Gisborne District.

3. Repeals

The following by laws are hereby repealed:

Gisborne City Bylaw 1958 Part III and amendments;

Cook County General Bylaw 1978: NZS 9201 Chapter 4;

Waikohu County (General) Bylaw No 7: NZS 9201 Chapter 2;

Waiapu County Council Bylaws 1929 related to mobile shops;

Gisborne District Mobile Shops, Hawkers, Stalls and Itinerant Traders Bylaw 2001.

4. Purpose of the Bylaw

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:

Approval	Means approval by Council and any approval may include conditions.
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Authorised Officer	Means any Officer appointed by Council for the time being to carry out or exercise the duties of an inspector under any particular clause of this Bylaw.
Chief Environmental Health Officer	Means any person appointed to that position by Council.
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.
Event	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 Clause 2 of the Food Act 1981.
Food Stall Permit	Means a document issued to a person named thereon authorising that person to sell food from a stall.
Permit Holder	Has a corresponding meaning.
Food Stall	Means a stall at which food is prepared for sale or sold.

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, 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.
Itinerant Trader	Includes any person who, not having been continuously resident in the district for a period of at least 6 calendar months immediately preceding or not owning, or not having entered into a binding lease in writing of his business premises in the district for a period of at least six calendar months, carries on or engages in the district involving the sale or exposure for sale in any premises in the district, and whether by themselves or by any other person employed by them, of any goods, wares or merchandise; but shall not include any hawker as above defined or any keeper of a mobile shop or any bona fide commercial traveller who deals only with or solicits orders only from persons, firms, or companies carrying on business within the district, as retailers of, or as manufacturers for sale of, articles manufactured from goods, wares and merchandise similar to those sold by the commercial traveller, or by themselves on behalf of their employer or employers.
Licence	Means a document issued by Council to a person named thereon authorising that person to carry out the activities of a mobile shop, hawker, stall or itinerant trader. 'Licence Holder' has a corresponding meaning.

Mobile Shop	Means a vehicle, whether self-propelled or not, from which goods, wares, merchandise or services are offered or exposed for sale while using a public place as the sales venue (whether or not in pursuance of any invitation to call with the goods, wares, or merchandise) but does not include 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.
Person	Includes a body whether incorporated or unincorporated.
Public Place	Includes every 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, so opened or used.
Police Officer	Means a member of the New Zealand Police.
Reserve	Has the same meaning as attributed in the Reserves Act 1977.
Road	Has the same meaning as attributed in 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 Regulation 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	Means any temporary structure or contrivance for the purpose of distributing or selling in a public place.
Vehicle	Means any contrivance equipped with wheels or revolving runners upon which it moves or is moved.

- 5.3 In this by law 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 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 could arise from pedestrian or traffic volumes. Purpose*
- 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 hawkers licence shall be accompanied by two letters attesting to the character of the applicant. *Character of applicant*

8. Fees Required

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| 8.1 | The prescribed fee shall accompany any application. This fee is non-refundable. | <i>Payment required</i> |
| 8.2 | Fees associated with application, approval, licence, consent, service or inspection will be established in Council's Manual of Fees and Charges. | <i>Fee schedule</i> |
| 8.3 | This Manual shall be reviewed annually at which stage any changes resolved by Council will be established through the special order procedures set out in the Local Government Act 1974. | <i>Review of fees and charges</i> |

9. Issue of Licence

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| 9.1 | An application will be considered by an Authorised Officer against compliance with this Bylaw. | <i>Considered for compliance</i> |
| 9.2 | A licence will only be issued to applicants of good character. | <i>Good character</i> |
| 9.3 | A licence will be issued by the Chief Environmental Health Officer 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 Chief Environmental Health Officer; | <i>City Centre</i> |
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- (ii) Outside a church on a day of worship except with the written permission of the minister or pastor of that church; *Churches*
- (iii) Outside a school during school hours except with the written permission of the principal of that school; *Schools*
- (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; *Prior consent*
- (v) Any other location designated by the Chief Environmental Health Officer 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 Chief Environmental Health Officer. *Trading during darkness*
- 10.1.3 Trading shall not be carried out within 100 metres of a permanent retail premises unless an exemption is granted by the Chief Environmental Health Officer. *Traffic safety*
- 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 (CoPTTM) shall be adhered to by the licence holder to the extent determined by the Council in Appendix "A". *CoPTTM requirements*
- 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. *Obstruction*

- 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. *Signage*
- 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. *Duration of trading*
- 10.1.7 Clause 10.1.3A and 10.1.6 shall not apply to – *Exceptions*
- (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.
- 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. *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
- 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 Chief Environmental Health Officer. *Food Hygiene Regulations*
- 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. *Approved food source*

10.3.3 All mobile shops, hawkers or stalls which offer food for sale shall comply with the provisions of the Food Hygiene Bylaw 2008, and any subsequent amendments unless exempted by the Chief Environmental Health Officer.

*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 Chief Environmental Health Officer.

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 10.3.4 and 10.3.5 may have conditions attached to them by the Chief Environmental Health Officer 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 Authorised Officer may:
- (i) Issue a verbal warning;
 - (ii) Issue a written notice;
 - (iii) Recommend legal action.
- 11.4 An Authorised Officer may also apply to Council 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. *Cancellation or suspension of licence*
- 11.5 If a licence is cancelled, no further licence will be issued to that licensee or vehicle for up to two (2) years.

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 Authorised Officer or a Police Officer. *Officers instruction*
- 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 Authorised Officer or a Police Officer. *Names and addresses to be supplied on request*

13. Enforcement

- 13.1 Where any person fails or refuses to comply with a requirement of an Authorised Officer or Police Officer, the Authorised Officer or Police Officer may remove from the public place any trade goods, signs or offending vehicles and other equipment used by that person. *Removal of equipment*
- 13.2 Any trade goods, signs, stalls or vehicles and other equipment removed by an Authorised Officer or Police Officer shall be kept in safe custody and shall be released to the owner upon payment of the expenses and costs of removal when an Authorised Officer considers that no further breach will occur. If the goods are not claimed within one month of removal the Council may sell the goods and retain any money from that sale to offset the expenses of seizing and storing the goods. *Safe custody*

14. Offences

- 14.1 Any person commits a breach against this Bylaw who: *Offences*
- (i) Obstructs or hinders any Authorised 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 Authorised Officer or Police Officer;
 - (iv) Fails to comply with any request made by a Police Officer or Authorised Officer;
 - (v) Fails, neglects or refuses to comply with any condition of any licence or permit duly given to that person under this Bylaw.

15. Hearing

15.1 If an Authorised Officer applies to Council to suspend or cancel a licence then without prejudice to the rights of Council if a offence or breach against this Bylaw does occur, the licence holder or person acting in contravention to the provisions of this Bylaw shall be informed by notice issued by an Authorised Officer of the intention to cancel their licence, he or she may elect to appear before the Committee of Council responsible for environmental regulation.

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 24th OF JANUARY 2008.

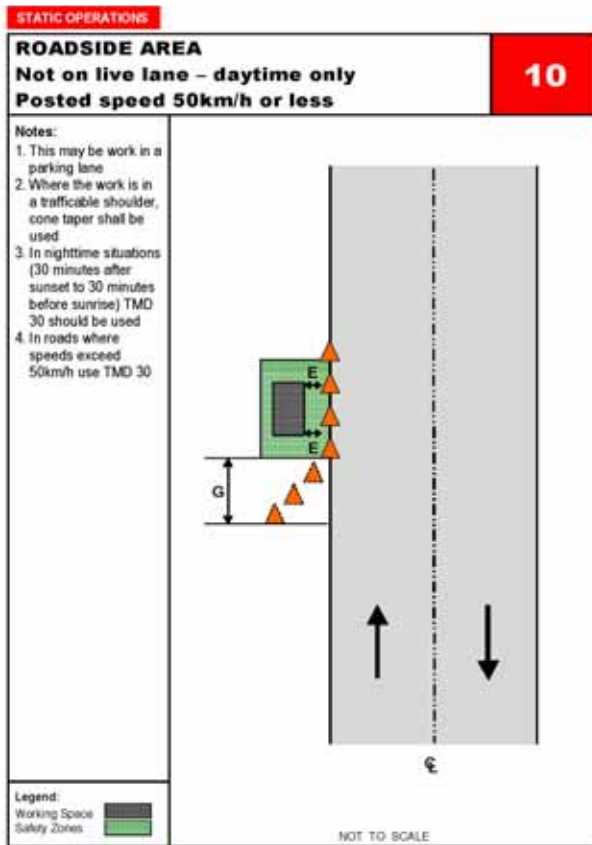
----- MAYOR

----- 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.



Local Road Supplement – First Edition

September 2005

<i>Safety Zone - E</i>	<i>A nominal 1 meter space outside the working area to protect any person</i>
<i>Taper Length - G</i>	<i>Taper length² shall be 30 meters on 50 km/h roads</i>

- 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.