

COUNCIL SUPPORTING POLICY

POLICY TITLE:	MOBILE SHOPS POLICY
Lead Policy	Community, Private and Commercial Use of Council Administered Land
Minute Ref:	M16/62.4
Date of Adoption:	12 September 2016

1. POLICY OBJECTIVE

- To protect, maintain and promote public health and safety and ensure access to Public Places is not compromised.

2. PRINCIPLES

- Public Places should be used primarily for community use and not for exclusive private or commercial use.
- Public health and safety is paramount.

3. DEFINITIONS

Approved Activity	means an event or market that has been approved by Council.
Council	means Tauranga City Council or a duly authorised officer of Council.
Designated Area	means 12 car parks on the seaward side of Marine Parade between Grace Avenue and Pacific Avenue (see Map A).
Footpath	means a path or way principally designed for, and used by, pedestrians, and includes a footbridge.
Marine Parade Area	means the car parks on the seaward side of Marine Parade between Grace Avenue and Pacific Avenue excluding the Designated Area (see Map A).
Mobile Shop	means a vehicle as defined under the Land Transport Act 1998 from which material goods are offered for sale.
Operator	means the person or organisation carrying on business by means of a Mobile Shop.

Park	means a park held under the Local Government Act 2002.
Public Place	means a place that is accessible to the public and under control of Council.
Reserve	means a reserve held under the Reserves Act 1977.
Road Berm	means the shoulder of the roadway or strip of land adjoining the roadway.
Roadway	means the portion of the road used for vehicular traffic in general, including parking spaces.

4. **BACKGROUND**

Under the *Tauranga Street Use and Public Places Bylaw 2013* written permission of Council is required to sell or offer for sale any goods in a Public Place.

If a Mobile Shop is trading as part of an Approved Activity, permission is obtained through Council's event and market approval processes.

If a Mobile Shop is not trading as part of an Approved Activity, permission is obtained by applying for a Mobile Shop licence.

5. **POLICY STATEMENT**

This policy sets conditions for Mobile Shops trading in Public Places in Tauranga City that are required to obtain a Mobile Shop licences from Council. The conditions that apply depend of the place where the Mobile Shop is trading from and the time of year.

This policy does not apply to:

- (a) private land;
- (b) areas administered by other authorities such as roads administered by the New Zealand Transport Agency; or
- (c) Mobile Shops trading as part of an Approved Activity.

5.1 **Mobile Shop Licences**

A Mobile Shop licence must be obtained from Council before a Mobile Shop can trade in a Public Place unless the Mobile Shop has obtained permission to trade as part of an Approved Activity. **Operators must complete a waste minimisation survey as part of the registration process.**

The conditions set out in this policy are subject to any other specific conditions that may be set by Council in individual Mobile Shop licences.

Mobile Shop licences are personal to the Operator and may not be transferred.

5.2 **General Conditions for Mobile Shop Trading**

Mobile Shops must trade in accordance with the following conditions:

- (a) Operators must sell and display goods directly from the Mobile Shop.
- (b) Mobile Shops are only permitted to trade from sunrise to sunset, unless permission from Council is granted to trade outside this period.

- (c) Operators must comply with all relevant statutes, regulations, bylaws and policies and the Tauranga City Plan.
- (d) Mobile Shops are not permitted to trade where in the opinion of Council the Mobile Shop would:
 - Obstruct or be likely to obstruct the view of any corner, bend, intersection, vehicle crossing, traffic sign or traffic signal;
 - Distract unduly or be likely to distract unduly the attention of road users;
 - Constitute or be likely to constitute in any way a danger to road users.
- (e) Operators must remove any litter from the surrounding area of the Mobile Shop which has been generated by the activities of its operation that day.
- (f) Mobile Shops must be visually presentable and not cause offence or be a nuisance.
- (g) Mobile Shops must not cause damage to the Roadway, Footpath or Road Berm.
- (h) Operators must display their Mobile Shop license in the Mobile Shop so that it is visible at all times.
- (i) Mobile Shops must not trade:
 - on the Footpath;
 - on the Roadway (unless one of the exceptions in section 5.2(k) applies);
 - in a Public Place where an Approved Activity is taking place unless the Mobile Shop has obtained permission to trade from Council as part of an Approved Activity; or
 - in any of the Public Places list in Table 3, section 5.5.
- (j) Mobile Shops may trade on the Road Berm provided there is adequate parking available for customers.
- (k) Mobile Shops may trade on the Roadway in:
 - a residential zone directly in front of a private residence for a period of no more than 15 minutes. Mobile Shops must not trade directly in front of the same private residence on more than one occasion in any one day;
 - the Designated Area, subject to the conditions in section 5.3.1; and
 - the Marine Parade Area, subject to the conditions in section 5.3.2.
- (l) **Mobile shops must have a plan to manage the health and safety risks associated with their operation.**

5.3 Specific conditions for Mobile Shops trading in the Designated Area and wider Marine Parade Area

There are specific conditions that apply to Mobile Shops trading in the Designated Area and wider Marine Parade Area.

5.3.1 Conditions for trading in the Designated Area

- (a) Operators must hold a specific tendered licence allocated by Council through the tender process outlined in section 5.6 to trade in the Designated Area from 26 December to 6 February, inclusive.
- (b) Mobile Shops may occupy a maximum of three car parks spaces while trading in the Designated Area.

5.3.2 Conditions for trading in the Marine Parade Area

- (a) Mobile Shops must not trade in the Marine Parade Area from 26 December to 6 February, inclusive unless the Operator holds a specific tendered licence. If an Operator holds a specific tendered licence, the Mobile Shop can only trade in the Designated Area from 26 December to 6 February, inclusive and not the wider Marine Parade Area.
- (b) Outside of the Designated Area, Mobile Shops may occupy a maximum of two car parks.

5.4 Specific Conditions for Mobile Shops trading on Reserves and Parks

There are certain statutory provisions on Reserves under the Reserves Act 1977 that apply to Mobile Shops trading on Reserves. The requirements of the Reserve Act 1977 will be considered by Council when an application for a Mobile Shop licence is made.

Mobile Shops trading on Parks and Reserves must trade in accordance with the following conditions:

- (a) Mobile Shops must only trade from a formed car park.
- (b) Mobile Shops may occupy a maximum of two car park spaces.
- (c) Mobile Shops must not trade in the Reserves and Parks listed in Table 1 if the maximum number of Mobile Shops trading from the Reserve or Park has been reached.
- (d) Operators must hold a specific tendered licence allocated by Council through the tendered process outlined in section 5.6 to trade in the Reserves listed in Table 2.
- (e) Mobile Shops must not trade from any of the Reserves and Parks listed in section 5.5, Table 3.
- (f) During an Approved Activity Council may reduce or increase the number of Mobile Shops permitted to trade in Reserves and Parks.
- (g) If a council provided power supply is available in a park or reserve, mobile shops must connect to the power supply and pay any associated user fees and charges (except if a mobile shop is not designed to connect to power).

Table 1: Maximum number of Mobile Shops permitted at selected Reserves and Parks on a first come basis

Reserve/Parks	Maximum number of Mobile Shops
Fergusson Park	2
Carlton Reserve	2 3
Greerton Park	2 3
Waipuna Park	2
Links Ave Reserve	1
Macville Park	1
Arataki Park (Zambuk Way car park)	1
Gordon Spratt Reserve	4 5
Kulim Park*	1
Rotary Park	1
Tye Park	1
Papamoa Domain	2
Harrisons Cut	1
Gordon Carmichael Reserve	1
Omanu Beach carpark	1

* Mobile shops must trade from the designated mobile shop site

Table 2: Number of tendered licences allocated at selected Reserves and Parks

Reserve/Parks*	Maximum number of Mobile Shops
Blake Park – Car Park A (Netball/Tennis)	2
Blake Park – Car Park B (Cricket Oval)	2
Blake Park – C (Hockey)	1
Memorial Park	3

*Mobile shops must always trade from the carpark; trade is prohibited on the grass.

5.5 Prohibited locations

Mobile Shops must not trade from Public Places listed in Table 3.

Table 3: Prohibited locations

Council Roads and Car Parks	Reserves and Parks
Any road administered by Council that has a speed limit of 70 km/hr or more more than 50 km/hr	Any Reserve or Park without a formed car park
Cameron Road	Tauranga Domain
Off road Council car parks, other than those in Reserves	Bethlehem Hall Site
Turret Road	Cambridge Park
Waihi Road	Matua Park
The Strand	May Street Reserve

Council Roads and Car Parks	Reserves and Parks
Fraser Street between 11 th Avenue and 18 th Avenue	Morland Fox Park
15 th Avenue between Turret Road and Cameron Road	Scout Reserve
Commons Avenue between Maunganui Road and Marine Parade	Welcome Bay Hall Site
Grace Avenue between Maunganui Road and Marine Parade	Welcome Bay Scout Hall Site
Marine Parade between Adams Avenue to Grace Avenue, and between Pacific Avenue to Banks Avenue.	
Marine Parade between Grace Avenue and Pacific Avenue from 26 December to 6 February unless the Mobile Shop Operator has a tendered licence	
The Mall between Salisbury Avenue and Prince Avenue, and between Leinster Avenue and Adams Avenue	
The landward side of The Mall between Prince Avenue and Leinster Avenue	
Salisbury Avenue	
Maranui Street from Sunrise Avenue to Sandhurst Drive	
Papamoa Beach Road from Sandhurst Drive to a point 30 meters east of Coast Boulevard	

5.6 Tender process for allocating tendered licences for the Designated Area and the Reserves and Parks listed in Table 2

The conditions of the tender process are as follows:

- (a) Tendered licences will be allocated by Council annually.
- (b) Requests for tender applications will be publicly advertised.
- (c) An application fee may be charged.
- (d) Council may require a deposit to be submitted with the tender application. For unsuccessful tenders, the deposit will be refunded, less any application fee. For successful tenders, the deposit will be retained and deducted from the amount owing in respect of the licence fee.
- (e) Tendered licences will be allocated via a two stage process:
 - i. Stage One: A weighted attributes tender evaluation method will be used to evaluate the tenders. The attributes which will be assessed are set out in Table 4.
 - ii. Stage Two: Consideration by Council that a variety of goods are provided at each location.
- (h) If the tender is successful, the licence fee will become payable.

Table 4: Weighted attributes to be applied in the tender evaluation

Attribute	Description	Weighting
Compliance	Council will consider the applicant's previous history of compliance with the conditions of this policy and any current or previously held Mobile Shop licence.	40%
Sustainability	Council will consider the proposed actions the applicant will take to minimise environmental impacts, including but not limited to: <ul style="list-style-type: none"> • Reducing waste • Using packaging materials that can be recycled or composted • Providing opportunities for the public to divert recyclables and compostable material from the rubbish • Food waste reduction • Reducing water consumption • Reducing energy consumption • Fairtrade/Rainforest Alliance certification 	30%
Price	The tendered licence fee (which is to equal or exceed the base licence fee set annually through Council's Annual Plan).	10%
Visitor experience	Council will consider the appearance of the Mobile Shop and any amenity impacts it may have on the particular area.	10%
Relevant experience	Council will consider the applicant's track record and previous experience of delivering quality goods.	10%

6. FEES, MONITORING AND ENFORCEMENT

6.1 Fees

Council will set fees to cover the cost of issuing Mobile Shop licences and monitoring, enforcing and administering this policy. These will be reviewed annually and detailed in Council's User Fees and Charges Schedule.

6.2 Monitoring and Enforcement

Council reserves the right to revoke Mobile Shop licences issued if evidence of non-compliance with the licence or this policy is observed. The standard protocol for addressing non-compliance is as follows:

- If an Operator does not comply with the conditions of this policy, or Mobile Shop licence Council will notify the Operator of the non-compliance and outline the required remedy.
- If the Operator continues to contravene the conditions of their licence or this policy, Council will consider revoking the licence.
- Operators that trade in a Public Place without a Mobile Shop licence will be asked to stop trading. If the Operator continues to trade without obtaining a Mobile Shop licence, Council may take enforcement action under the *Tauranga Street Use and Public Places Bylaw 2013* or the *Traffic and Parking Bylaw 2012*.

7. RELEVANT DELEGATIONS

The implementation of this policy is delegated to the Chief Executive or his/her sub-delegate.

8. REFERENCES AND RELEVANT LEGISLATION

Local Government Act 2002

Reserves Act 1977

Tauranga Street Use and Public Places Bylaw 2013

Traffic and Parking Bylaw 2012

Tauranga City Plan

Operation of Markets and Stalls Policy

MAP A: The Designated and Marine Parade Area

