



Trading in Public Places Bylaw 2005

Explanatory Note

The objective of this Bylaw is to regulate the conduct of persons selling goods in streets, reserves and other public places and persons using vehicles to sell goods and services in those public places and also to protect public health and safety.

The Bylaw is made pursuant to Section 146(iv) of the Local Government Act 2002.



Western Bay of Plenty District Council

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Title

This Bylaw may be cited as the Western Bay of Plenty District Council Trading in Public Places Bylaw 2005 and shall come into force on 15 June 2005.

Repeal

At the coming into force of this Bylaw, any earlier Bylaw made by the Western Bay of Plenty District Council or by the former Tauranga County Council, Te Puke Borough Council or Ohinemuri County Council and having effect within any part of the Western Bay of Plenty District regulating persons selling goods and/or services in streets, reserves or other public places under the control of Council, is hereby repealed.

Scope

This Bylaw, made pursuant to Section 146(vi) of the Local Government Act 2002 applies throughout the Western Bay of Plenty District (including those sections of State Highway subject to the Urban Speed Limit of 50 km/h) and is intended to regulate the conduct of persons selling goods and/or services in streets, reserves and other public places and promote the health, safety and convenience of the public.

Validation

The Western Bay of Plenty District Council Trading in Public Places Bylaw 2005 was duly made at a meeting of the Western Bay of Plenty District Council held on 2 June 2005 after completion of the Special Consultative Procedure and will come into force on 15 June 2005.

The Common Seal of the Western Bay of Plenty District Council was affixed hereto pursuant to a resolution of Council on 2 June 2005 in the presence of:

Chief Executive Officer

Seal

Date _____



Western Bay of Plenty District Council

Trading in Public Places Bylaw 2005

1. Introduction

1.1 Definitions

For the purposes of this Bylaw, the following definitions shall apply:

Authorised Officer – means a Police Officer or any person (including a Parking Warden) for the time being appointed by Council to carry out or exercise the duties, offices or powers of Council referred to in or granted by this Bylaw and in acting as provided by the Bylaw shall act as an agent for Council.

Goods – means any product, service, display or performance being offered for pecuniary gain.

Person/s – includes a corporation sole or also a body of persons whether corporate or non-corporate.

Public Places –

- (a) means a place –
 - (i) that is under the control of the territorial authority; and
 - (ii) that is open to, or being used by, the public, whether or not there is a charge for admission; and
- (b) includes –
 - (i) a road, whether or not the road is under the control of a territorial authority; and
 - (ii) any part of a public place.

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 to the general public in any public place.

For the purposes of this Bylaw, the word “shall” refers to practices that are mandatory for compliance with the Bylaw while the word “should” refers to practices which are advised or recommended.

2. Licences - General

No person on any street, reserve or in any other public place shall engage in the sale of goods of any description whatsoever (except as provided in Clause 11: Exemptions) without having first obtained a licence from Council.

3. Licence Applications

Every person who wishes to sell goods in a public place shall make written application to obtain a licence to the authorised officer of Council. The information to be supplied by the applicant may include, but not be restricted to, any of the following:

- (a) Name and address of the applicant.
- (b) Name and address of all person/s selling the goods.
- (c) The location/site.
- (d) The telephone number of the applicant.
- (e) The type of goods for sale.
- (f) The time sought for selling.
- (g) The type and registration numbers of the vehicle/s if applicable.
- (h) Evidence of good character.

4. Licence Details

The authorised officer of Council in granting any licence may impose conditions. The conditions imposed may include, but not be restricted to, any of the following:

- (a) Time and place.
- (b) Duration of the licence.
- (c) Location.
- (d) Types of goods for sale.
- (e) Area available in which to carry on business.
- (f) Persons entitled to operate business.
- (g) Safety and hygiene requirements.
- (h) Use of signage.
- (i) Use of musical chimes or other audible devices for attracting customers.
- (j) Litter, cleanliness (see also General Bylaw – Chapter 8).

- (k) Name and address to be conspicuously displayed.
- (l) Site rental.

5. Issuing of Licences

A licence may be declined where it is considered that appropriate standards of convenience, competition, safety, visual amenity or civic values would not be met by granting a licence.

6. Trading Areas

Council, under the terms of Section 151(2) of the Local Government Act 2002, may nominate areas which:

- (a) may be exempt from the requirements to obtain a licence; or
- (b) may be designated as "no street trading areas".

7. Fees

Council may by resolution prescribe fees for licences and/or site rentals. Fees may differ for any class of licence as prescribed.

Council may also charge, on receipt of an application for a licence, a separate processing or administration charge to cover its costs.

8. Production of Licence

- 8.1 A valid license must be displayed, at the place of trade, at all times when the licence holder is engaged in the sale of goods.
- 8.2 Every licence holder shall, notwithstanding the conditions of the licence, comply with any lawful instruction given by an authorised officer of Council or a Police Officer.
- 8.3 Any person trading in a public place without a licence issued by Council shall, when required to do so by an authorised officer of Council or a Police Officer, forthwith remove from the public place all trade goods, signs, stalls, vehicles and other equipment used by the person for trading.

9. Conditions of Licence

- 9.1 Every person shall commit an offence under this Bylaw who trades not in conformity with any of the conditions of the licence.
- 9.2 Every licensee shall be responsible for the actions of his/her employees or agents while trading under the terms of the license.

10. Offences

- 10.1 Any person who is alleged to have committed an offence under this Bylaw may either:
- (a) be proceeded against under the Summary Proceeding Act 1957 or,
 - (b) be served with an infringement notice under the Local Government Act 2002.
- 10.2 Any person found to be in breach of the Bylaw shall be subject to the penalties set out in Section 242(4) of the Local Government Act 2002.
- 10.3 Trading in a public place (within Council's area of jurisdiction) without a license shall be an offence against this Bylaw and clauses 10.1 and 10.2 shall apply where an offence is proven.

11. Licence Not Transferable

No licence issued under this Bylaw shall be transferable to any other person.

12. Exemptions

The following exemptions are allowed under this Bylaw:

- (a) service delivery vehicles including milk vendors.
- (b) any current trading enterprise licensed by Council at the coming into force of this Bylaw, until such licence expires.
- (c) any stall, stand or vehicle where food is being prepared and/or goods sold to raise money or where subscriptions, collections or donations are being solicited by non-profit groups (and which do not involve pecuniary gain to any person) provided that, in the opinion of an authorised officer of Council, the size, scope or other circumstance associated with the activity may require the issue of a licence.
- (d) any other activity in a public place which an authorised officer may declare to be an exempt activity.

13. General

Notwithstanding any of the foregoing provisions of this Bylaw, the Council may from time to time prohibit the activities of traders, whether or not they hold a licence, in any specific public place either totally or within certain stated days or times and may likewise restrict the class of goods or services that may be provided.