



**Western Bay of Plenty  
District Council**

# **Trading in Public Places Bylaw 2014**

## **Explanatory Note**

The objective of this Bylaw is to:

- (i) regulate the conduct of:
  - (a) Trading in public places, including selling goods and/or services in streets, reserves and other public places; and
  - (b) Mobile or temporary trading, including using vehicles to sell goods and/or services in those public places; and
- (ii) to protect, promote and maintain public health and safety.

The Bylaw is made pursuant to Sections 146(a)(vi) and 145(b) of the Local Government Act 2002.

**Western Bay of Plenty District Council**

**Trading in Public Places Bylaw 2014**

**Contents**

Title..... 3  
Repeal ..... 3  
Scope ..... 3  
Validation ..... 3  
1. Introduction..... 4  
2. Licences - General ..... 5  
3. Licence Applications..... 5  
4. Licence Details..... 6  
5. Issuing of Licences ..... 6  
6. Fees..... 7  
7. Production of Licence ..... 7  
8. Conditions of Licence ..... 8  
9. Offences ..... 8  
10. Licence Not Transferable..... 8  
11. Exemptions ..... 9  
12. General..... 9



## Title

This Bylaw may be cited as the Western Bay of Plenty District Council Trading in Public Places Bylaw 2014 and shall come into force on 18 December 2014.

## Repeal

The coming into effect of this Bylaw repeals any existing Bylaw made by the Western Bay of Plenty District Council that regulates the same matters described in the Objective above.

## 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 trading of 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 2014 was duly made and adopted by resolution at a meeting of the Western Bay of Plenty District Council held on 18 December 2014 after completion of consultation as required by section 82 LGA 2002 and will come into force on 18 December 2014.

The Common Seal of the Western Bay of Plenty District Council was affixed hereto pursuant to a resolution of Council on 18 December 2014 in the presence of:

  
\_\_\_\_\_  
Chief Executive Officer

Seal

Date 18-12-2014





# Western Bay of Plenty District Council

## Trading in Public Places Bylaw 2014

### 1. Introduction

#### 1.1. Definitions

1.1.1. 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, display or performance being offered for pecuniary gain.

**Licence** – means a licence for the purposes of the temporary activities provisions in the Western Bay of Plenty District Plan.

**Person/s** – includes a corporation, sole person, or 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.

- 1.1.2. 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**

- 2.1. 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**

- 3.1. Every person who wishes to engage in trade in a public place shall apply to the authorised officer of Council in writing for a licence. The information to be supplied by the applicant shall include as a minimum:
- (a) Name, address, telephone number and email address of the applicant.
  - (b) Name, address, telephone number and email address of all person/s engaged in the proposed trading of goods and services.
  - (c) The location/site of the proposed trading activity.
  - (d) The type of goods and services being offered for sale.
  - (e) The hours and duration that the licence is sought for.
  - (f) The type and registration numbers of the vehicle/s if applicable.
  - (g) Evidence addressing matters referred to in clause 5 decision-making criteria "issuing of licences".



## **4. Licence Details**

- 4.1. The authorised officer of Council in granting any licence may impose conditions. The conditions imposed may include, but are not restricted to, any of the following:
- (a) Time and place.
  - (b) Duration of the licence.
  - (c) Suitability and size of place of trading.
  - (d) Types of goods/services for sale.
  - (e) Type of operation.
  - (f) Persons entitled to operate business.
  - (g) Safety and hygiene requirements.
  - (h) Type and number of approved signage.
  - (i) Use of musical chimes or other audible devices for attracting customers.
  - (j) Litter, cleanliness (see also General Bylaw – Chapter 8).
  - (k) A requirement that the licence is prominently displayed during trading hours.
  - (l) Site fee.

## **5. Issuing of Licences**

- 5.1. A licence may be declined where it is considered that appropriate standards of convenience, safety, visual amenity or civic values (including enabling the continuance of a flourishing retail precinct) would not be met by granting a licence.
- 5.2. Criteria for consideration includes, but is not limited to, the following factors:

- Licences will be site-specific, but in general trading sites need to have parking and should not be in dangerous roadside positions.
- No trading is allowed on roads with a speed limit in excess of 50km per hour (including State Highways, unless with the express permission on the New Zealand Transport Agency). No trading is allowed on the State Highway in the urban areas of Te Puke and Katikati.
- Mobile traders should not operate within 300m of a similar trader or shop.
- Signage is restricted to vehicle sign-writing and one sandwich board or flag positioned adjacent to the vehicle.
- A separate food licence may be required.

## **6. Fees**

- 6.1. Council may prescribe fees for licences. Fees are set through the Annual Plan process and are set at a level to cover the costs of licensing administration and enforcement of the bylaw.

## **7. Production of Licence**

- 7.1. A valid licence must be prominently displayed, at the place of trade, at all times when the licence holder is engaged in the sale of goods and services.
- 7.2. 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.
- 7.3. 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, remove all trade goods, signs, stalls, vehicles and other equipment used by the person for trading in the public place.

## **8. Conditions of Licence**

- 8.1. Any person who trades in a way that does not conform with any of the terms and conditions of the licence shall be considered to have committed an offence under this Bylaw.
- 8.2. Every licensee shall be responsible for the actions of his/her employees or agents while trading under the terms of the license.

## **9. Offences**

- 9.1. Any person who undertakes either of (a) or (b) below commits an offence under this Bylaw:
  - (a) Trading in a public place without a licence.
  - (b) Trading in a public place while in breach of any condition of the trader's licence.
- 9.2. Any person who is alleged to have committed an offence under this Bylaw may either:
  - (i) be proceeded against under the Summary Proceeding Act 1957
  - (ii) be served with an infringement notice under the Local Government Act 2002, or
  - (iii) be served with an infringement notice under the Resource Management Act 1991.
- 9.3. 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. Licence Not Transferable**

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



## 11. Exemptions

- 11.1. 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) charitable activities (including 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) which do not involve pecuniary gain to any person, provided that, in the opinion of an authorised officer of Council, the size, scope, regularity of the occurrence or other circumstance associated with the activity in light of the purpose of this bylaw may require the trading activity to apply for a licence. For the avoidance of doubt, trading as a charitable activity shall not be in breach of this bylaw unless the activity is continued after receiving advice that a licence shall be required.

## 12. General

- 12.1. Notwithstanding any of the foregoing provisions of this Bylaw, 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.