

# **RODNEY DISTRICT COUNCIL**

## **RODNEY DISTRICT COUNCIL GENERAL BYLAW: 1998**

### **CHAPTER 5**

#### **TRADING IN PUBLIC PLACES**

##### **EXPLANATION**

There is a demand for roads, beaches and other public places to be used by traders for selling goods or supplying services. Traders may operate from fixed positions for varying periods of time or they may operate mobile shops moving from place to place with vehicles or on foot.

There is also an increased wish by businesses such as cafes, restaurants, and taverns to encroach onto the footpath with tables and chairs.

Whilst the Council is supportive of the trend, this type of activity generates a range of effects with potential impact on such things as public health and traffic safety, convenience of other users, efficiency, visual amenity, and environmental character.

This chapter of the bylaw is prepared under section 684 of the Local Government Act 1974, sections 145 and 146 [b] [iv] of the Local Government Act 2002, and the Health Act 1956. It sets out a licensing regime to ensure that any proposal for trading in public places is fully evaluated and that only suitable proposals are approved.

## **1.0 BYLAW ADMINISTRATION**

- 1.1 See Chapter 1 - Bylaw Administration for general fee provisions, interpretations, licences, offences, and dispensations.

This Bylaw shall come into force on 1<sup>st</sup> December 2005 and will be reviewed not later than 10 years from that date.

Nothing in this bylaw shall override the requirements of the District Plan

## **2.0 INTERPRETATION**

HAWKER	Means any person who carries or takes about or offers any goods, wares or merchandise or services for sale, not in pursuance of any invitation to call, but does not include the keeper of a mobile or travelling shop or keepers of stalls as defined herein.
MOBILE SHOP	Means a vehicle, whether self-propelled or not, from which goods, wares, merchandise or services are offered or exposed for sale in any public place or from which goods, wares or merchandise may be ordered It does not include any vehicle on or from which food is sold for consumption in or at the vehicle, or 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 merchandise or service.
KEEPER	In relation to any mobile or travelling shop or stall, means the person by whom or on whose behalf any business is carried on by means of that mobile or travelling shop or stall.
STALL	Means any booth, compartment table, vehicle, structure or contrivance used for the purpose of distributing or selling any refreshments, newspapers, lottery tickets, textiles, hardware, or any other goods, food, merchandise or service whatsoever in a public place but does not include any building erected as a shop under the authority of any building permit.
STAND	Means any position occupied for a period of more than 10 minutes for the purpose of transacting business therefrom.
STREET TRADER	Means any person who makes use of a public place for trading in goods or services, and includes but is not limited to:  (a) a commercial open air market, of one or more stalls, operated by one or more commercial stall keepers at the one location;  (b) a flea market, of one or more charitable stalls operated by one or more charitable organisations at the one location, for the purpose of raising funds for an approved community charitable or sporting organisation;

	<p>(c) a hawker, a person who takes about goods or offers services for sale without invitation, whether or not that person carries such goods, or performs the services themselves;</p> <p>(d) a mobile or travelling shop, a vehicle, whether self-propelled or not, standing in or on any street or public place from which;</p> <p style="padding-left: 40px;">(i) goods, merchandise, or services are offered, or exposed for sale; or</p> <p style="padding-left: 40px;">ii) goods, merchandise or services may be ordered (whether or not in pursuance of an invitation to call with goods, merchandise, or services;</p> <p>(e) a resident business occupying public footpaths adjoining their premises or other public places, for business purposes.</p>
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### **3.0 EXEMPTIONS**

3.1 Clause 4 of this Bylaw shall not apply to:

- (a) the sale or disposal by commercial fishermen of a limited quantity of fish or shellfish in the vicinity of a fishing vessel as specified in section 191 of the Fisheries Act 1996;
- (b) the sale or delivery of newspapers;
- (c) the delivery of products and services, other than waste collection , for which a licence shall be required under the Rodney District Council Waste Bylaw 2005;
- (d) a resident business displaying goods or providing services directly outside their shop provided that a clearly defined passage of no less than 1.5 metres [one and a half metres], free of obstruction immediately in front of the premises is retained at all times for the free passage of the public on the footpath. Permitted footpath signs for these premises shall comply with Chapter 30 – Temporary Signs Bylaw, Section 9.0 , Portable Signs;
- (e) buskers and street musicians unless asked to cease the activity by an authorised officer;
- (f) persons or classes of street trader who may from time to time be granted exemption from the provisions of this bylaw by the Council or authorised officer.

3.2 Notwithstanding Clause 3.1 where in the opinion of the Council or authorised officer any person trading in a public place is, or is likely to adversely affect traffic safety or efficiency or public health, or safety, visual amenity or environmental character, or as the result of a justifiable complaint, that person may be required to make an application under Section 4.

### **4.0 LICENCE REQUIRED**

4.1 Subject to Clause 3 (exemptions) no person shall trade or carry on business in any public place except in pursuance of a licence issued under this clause.

4.2 Every application for a licence shall be in the prescribed form and shall provide the information required by the Council to enable it to grant the licence.

- 4.3 Any licence granted shall be subject to such conditions as the Council may require and the licence holder shall comply with the conditions at all times.
- 4.4 Before issuing any licence, the Council shall be satisfied that all other licences or consents required under any Act, regulation or bylaw have been obtained;
- 4.5 A licence may be declined where it is considered the appropriate standards of convenience, public health and safety, visual amenity, environmental character, or civic values would not be met by granting a licence.

## **5.0 GENERAL TRADING CONDITIONS**

- 5.1 The following conditions, and others as may be deemed necessary by an authorised officer, shall apply to all trading in public places:
- (a) The Council may for good reason cancel or suspend any licence to trade in a public place.
  - (b) No person shall trade on any road restricted for that purpose by the Council by resolution, publicly notified. [Restricted roads are listed in Schedule 1, attached to but not part of this Bylaw].
  - (c) Every licence holder shall at all times, when engaged in the sale of goods or services carry a licence, and show that licence to any authorised officer on demand.
  - (d) Every licensed street trader shall, upon being requested to do so by an authorised officer, either stop trading, or move on from a selling position as they may be directed.
  - (e) No mobile shop shall stand or remain stationary within 50 metres of a road intersection.
  - (f) Where the adjoining occupier uses the footpath for the sale of goods or services, all tables or chairs and other equipment associated with the operation shall be removed at the end of each trading period unless otherwise specifically authorised.
  - (g) No person shall trade in a public place after dark, unless specifically authorised to do so.

## **6.0 OFFENCES AND PENALTIES**

- 6.1 Every person who fails to comply with the requirements of this bylaw, commits an offence and is liable, on summary conviction by the Courts, to a fine not exceeding \$20,000.
- 6.2 The Council may apply to the District Court under section 162 of The Local Government Act 2002 for an injunction restraining the person from committing a breach of this bylaw.
- 6.3 Where it is suspected that any person has committed a breach of this bylaw, that person shall, on the direction of an authorised officer, provide his/her full name, and address.

**SCHEDULE 1**

**TRADING IN PUBLIC PLACES**

**RESTRICTED ROAD**

There are no roads listed in this Schedule.

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**Trading in Public Places Bylaw.**  
[Rodney District Council General Bylaw 1998]

**DRAFT APPLICATION FOR A LICENCE TO TRADE IN A PUBLIC PLACE.**

Name of Applicant -----

Trade Name-----

Postal Address-----  
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Contact Telephone No-----Fax No-----

Email;-----

Details of Business/Goods/Services-----  
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Mode of trading [indicate one]

<b>Code</b>	<b>Type of trading</b>	<b>If Yes -Tick Below</b>
A)	Use of park or reserve.	[    ]
B)	Mobile Shop	[    ]
C)	Street Stall	[    ]
D)	Commercial Market	[    ]
E)	Charity Market	[    ]
F)	Hawker	[    ]
G)	Other	[    ]

Operation location and times -----  
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If footpath to be used, please provide a plan of public space to be used drawn to scale, showing bus stops/crossings/trees/ and proposed street furniture, etc.

Other permissions required [supply copy]  
Resource Consent [may not be required ,however please consult with Council staff], Health Act, Food Premises, Liquor Licence, Signs Approval, Marine Safety Certificate, etc.

Expiry Date of Licence-----[Renewal not guaranteed]

Licence Fee, to accompany this Application \$-----

Landowner Approval and Annual Occupation Fee [if applicable] \$-----

Other Information required-----

Signed ----- Date-----  
Occupier/Applicant

Reverse side.

**Draft Conditions of Licence in addition to provisions of the Bylaw.**

1. The licensee shall keep the licensed area clean and maintained to a standard acceptable to the Licensor and make good any damage to any public place.
- 2 The Licensee shall not assign this Licence.
- 3 All commercial activities in public places are subject to the provisions of the Rodney District Plan, any reserve management Plan or resource consent, and to the provisions of this or any other bylaw.
- 4 Refuse containers shall be placed at strategic points to the licensed area or carried on the vehicle for use by patrons. Contents shall not be disposed of into public litter bins.
- 5 The Licence will expire on ----- and no renewal is guaranteed.
- 6 The Licensee shall produce on request a Health and Safety Plan suitable for the commercial operation and acceptable to the Council.
- 7 The Licensee shall obtain, keep current, and comply with all required and relevant statutory permissions.
- 8 In the case of a mobile shop the Licensee shall display the name of the owner and operator in a prominent place on the vehicle together with a contact telephone number.
- 9 In the event that the Licensee breaches any conditions of this Licence or the Bylaw an authorised officer may confiscate the vehicle or any equipment associated with the Licence. Such equipment will be stored and returned to the owner on payment of the appropriate fees.
- 10 This Licence does not permit commercial trading in any area where that activity is restricted or prohibited by the Council.

11 Any conditions specific to this application -----

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**Privacy Act 1993**

1 Personal Information etc--

<b>For Office Use only [see Job Breakdown 9.1.28]</b>		
Fee Paid:	Date of Inspection	Debtor No:
Receipt No:	Issue: Yes/No	Lic./Cert. No:
Date:	Officer;	Date of Issue: