

# **Hawkers, Mobile Shops Stands and Stalls Bylaw**

**2005**

## Table of contents

1	Short title and commencement.....	3
2	Interpretation .....	3
3	Licence required .....	4
4	Issue of licence.....	4
5	Licence to be carried or visible.....	4
6	Trading in certain streets, areas or in certain goods may be prohibited .....	4
6.1	Council may from time to time by resolution .....	4
7	Conditions to be implied in every licence .....	5
7.1	The following conditions shall be implied in every licence issued under this bylaw .....	5
8	Fees.....	6
9	Removal of Works in Breach of Bylaw .....	6
9.1	Council may:.....	6
10	Seizure of Property .....	6
11	Offences.....	6
	Second Schedule - (Form 1) .....	7
	Second Schedule - (Form 2) .....	8
	Inspector's certificate before issue of vehicle licence.....	9

Whangarei District Council hereby makes this bylaw pursuant to the powers contained in the Local Government Act 2002.

This bylaw authorises the issue of licenses to hawkers and the operators of mobile or travelling shops and stands and stalls, and governs their activities.

## 1 Short title and commencement

This bylaw may be cited as The Whangarei District Hawkery, Mobile Shops, Stands and Stalls Bylaw 2005. This bylaw comes into force on the 14<sup>th</sup> day of December 2005.

## 2 Interpretation

### Definitions of terms

In this bylaw, unless the context otherwise requires:

**Council and the Council** means Whangarei District Council.

**Enforcement Officer** means an enforcement officer appointed to such office by Council pursuant to S.177 of the Local Government Act 2002.

**Chief Executive Officer** means the person appointed as the chief executive of Council or such officer of Council as he/she delegates to act on his/her behalf.

**Hawker** means any person who carries or takes about any goods, wares or merchandise for sale, without being invited to call and not in response to any previous order for such goods; and includes any person who exposes such goods for sale or solicits the custom of any other person.

**Keeper** in relation to any mobile or travelling shop, stand or stall means the person by whom or on whose behalf any business is carried on by means of that mobile or travelling shop, stand or stall.

**Licence** means a licence issued by Council authorising the licensee to conduct any business as a hawker or as a keeper of a mobile or travelling shop, stand or stall.

**Licensee** means the holder of any licence issued under this Bylaw.

### **Mobile or travelling shop, stand or stall**

means a vehicle or stand or stall whether self-propelled or not, from which goods, wares or merchandise are offered or exposed for sale in the road or a public place or from which goods, wares or merchandise may be ordered in the road or a public place (*whether or not in pursuance of any invitation to call with the goods, wares or merchandise*) or from which services are offered for sale in the road or a public place and includes any vehicle on or from which food is sold for consumption in or at the vehicle, 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

**Motor vehicle** shall have the meaning given to it in Section 2 of the Land Transport Act 1998.

**Public place**

- a means a place
  - i that is under the control of Council; 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 Council; and
  - ii any part of a public place.

**Road** means a road as defined in S.316 of the Local Government Act 1974.

### 3 Licence required

#### Must hold a current licence

- a No person acting on his or her own account or, as agent or servant of another person, shall carry on business as a hawker or as a keeper of a mobile or travelling shop, stand or stall without holding a current licence to do so provided always this shall not apply to the owner of a fishing boat registered under the Fisheries Act 1996 in respect of which a permit under that Act is for the time being in force, where he or she, or a person appointed by him or her in that behalf, sells fresh fish or fresh shellfish (*being fresh fish or fresh shellfish taken from that boat in accordance with the conditions of the permit*) from that boat at the place where it is moored, berthed, or beached, or from a stall (*including a vessel used as a stall*) within 450 metres of that place.
- b No person shall, without holding a current licence stand in or occupy any portion of any road or any public place with, or place or maintain on any portion of any road or public place, any mobile travelling shop, stand or stall.

### 4 Issue of licence

#### Licence restrictions

- a The Chief Executive Officer may at his/her discretion issue a licence to any person upon written application being made by that person in the prescribed form and upon payment of such fee(s) as Council may from time to time determine authorising such person to whom that licence is issued to conduct business as a hawker or as a keeper of a mobile or travelling shop, stand or stall.

#### Licence not transferable

- b No licence shall be capable of being transferred by the licensee to any other person.

#### Licence for perishable food

- c Where application is made for a licence which relates to the sale of perishable food, the Chief Executive Officer shall not issue a licence until the Chief Executive Officer is satisfied that the applicant's mobile or travelling shop, stand or stall meets the requirements of the Health Act 1956 and any Regulations made under that Act.
- d Any licence issued may be issued subject to such conditions as the Chief Executive Officer considers appropriate.

#### Revocation

- e Any licence issued may be revoked at any time by the Chief Executive Officer if revocation is deemed to be appropriate.

### 5 Licence to be carried or visible

#### Licence must be visible and current at all times

- a Every licensee hawker shall carry his or her licence with him or her at all times and shall on demand produce it to any enforcement officer of Council
- b Every licensee keeper of a mobile or travelling shop, stand or stall shall have his or her current licence prominently displayed in or on some part of the vehicle at all times while it is being used for trading.

### 6 Trading in certain streets, areas or in certain goods may be prohibited

#### 6.1 Council may from time to time by resolution

- a Prohibit any licensee from carrying on business in any specified road or public place or part thereof, or any locality or part thereof.
- b Prescribe the hours of the day and days of the week during or on which sales may not be made by any licensee.
- c Restrict the types or classes of goods that may be offered for sale by any licensee.

- d Exempt or waive any prohibition, prescription or restriction otherwise imposed pursuant to this provision of this bylaw.

### Restrictions in certain areas

- 6.2 Every licensee shall comply with any prohibition, prescription or restriction made under subclause (-1) hereof notwithstanding that such prohibition, prescription or restriction may be given after the issue of his or her licence.

## 7 Conditions to be implied in every licence

### Conditions in every licence

#### 7.1 The following conditions shall be implied in every licence issued under this bylaw

##### Sounds

- a Musical chimes or other audible devices for attracting customers to a mobile or travelling shop stand or stall shall not be operated within 300 metres of any public or private hospital and elsewhere must be operated only in a reasonably modulated manner.

##### Place

- b No vehicle used by a licensee in the course of trading shall be stopped for the purpose of carrying on business within 50 metres of any intersection or in any part of a roadway so close to any corner, bend, rise or pedestrian crossing as to expose any person to danger from moving traffic.

##### Compliance with Enforcement Officer

- c Every licensee shall comply with any instructions given by an enforcement officer in the interests of public safety as to the placing or moving of his or her motor vehicle, mobile or travelling shop, stand or stall or other means of conveying or carrying his or her goods.

##### Distance from any shops

- d No licensee shall carry on his or her business or stop any vehicle used by him or her in the course of trading, for the purpose of carrying on or soliciting any business, within 300 metres of any shop (*including any other mobile or travelling shop*) then lawfully open for the sale of similar goods.

##### Time

- e No licensee or keeper of a mobile or travelling shop stand or stall shall station his or her motor vehicle stand or stall or other means of carrying or conveying his or her goods in one place in any road or public place for longer than is reasonably required for the transaction of business with customers in the vicinity.

##### Standard

- f Every motor vehicle or other means of conveying or carrying the goods of any licensee shall at all times when in use by the licensee be maintained to the same standard as is required by Clause 4(c) of this bylaw.

##### Night operations

- g Except with the written consent of the Chief Executive Officer, no licensee shall carry on business during the hours of darkness as defined by the Traffic Regulations 1976.

##### Stand/stall maintenance

- h All mobile or travelling shop, stand or stall holders, shall ensure that the area surrounding the stall, shall be kept clean and clear of any litter, to at least a 10 metre radius around their shop, stand or stall.

##### Trading beside or near State Highways

- 7.2 No licensee shall carry on, permit or suffer to be carried on any trade or business on, beside or near any State Highway in the District administered by Council unless prior consent for the carrying of such trade or business has been given by Transit New Zealand, and such use shall be in accordance with any conditions required by Transit New Zealand.

## 8 Fees

### Fees

- a Every applicant for a licence under this bylaw shall, when lodging his application, pay Council such licence fee or fees as may from time to time be prescribed by Council by resolution.
- b In any case in which no licence is issued pursuant to an application so made as aforesaid the amount of the fee accompanying the application shall be refunded to the applicant.

## 9 Removal of Works in Breach of Bylaw

### 9.1 Council may:

#### Breach of Bylaw

- a remove or alter any work or thing that is, or has been, constructed in breach of this bylaw
- b recover the costs of any such removal or alteration from the person who committed the breach.

## 10 Seizure of Property

10.1 An enforcement officer may seize and impound property in a public place if

- a The property is materially involved in a breach of this bylaw; and

#### Property seizure

- b it is reasonable in the circumstances to seize and impound the property; and
- c before seizing and impounding the enforcement officer
  - i directed the person committing the offence to stop committing the offence;
  - ii has advised the person committing the offence that, if he or she does not stop committing the offence, the enforcement officer has the power to seize and impound the property; and
  - iii provided the person with a reasonable opportunity to stop committing the offence.

## 11 Offences

### Offences

Every person who breaches this bylaw commits an offence.

## Hawkers, Mobile Shops, Stands and Stalls Bylaw Second Schedule - (Form 1)

Number \_\_\_\_\_ Council

Part \_\_\_\_\_ of the \_\_\_\_\_ Council bylaw number \_\_\_\_\_ 20

### Application for vehicle licence (animal-power)

To Chief Executive Officer  
Whangarei District Council

I (Full name) \_\_\_\_\_

Of (Private/business address) \_\_\_\_\_

hereby make application for a vehicle licence under the abovementioned bylaw in respect of the under-mentioned vehicle

Description of vehicle \_\_\_\_\_

Maximum load for which licence required \_\_\_\_\_

Purpose for which vehicle is to be used \_\_\_\_\_

Tare weight of vehicle \_\_\_\_\_

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 201 \_\_\_\_\_

\_\_\_\_\_  
(Signature of owner or duly authorised agent)

## Hawkers, Mobile Shops, Stands and Stalls Bylaw Second Schedule - (Form 2)

Application no \_\_\_\_\_ Licence no \_\_\_\_\_  
Bylaw no \_\_\_\_\_

### Vehicle licence (animal-power)

**Whangarei District Council** doth hereby license the vehicle, particulars whereof are set out hereunder, as a licensed vehicle. This licence shall remain in force, subject to the provisions of the said Bylaw no \_\_\_\_\_ until the 31<sup>st</sup> day of March \_\_\_\_\_ and no longer

The said Council hereby fixes the licence number of the said vehicle as No \_\_\_\_\_ and the maximum load to be carried on the said vehicle as \_\_\_\_\_

Particulars of vehicle \_\_\_\_\_

Owner of vehicle \_\_\_\_\_

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 201 \_\_\_\_\_

\_\_\_\_\_  
(Signature of owner or duly authorised agent)



## Inspector's certificate before issue of vehicle licence

I **hereby** certify that I have inspected the above vehicle, which is in my opinion safe, and in good repair,  
and that it should be licensed to carry \_\_\_\_\_ (tonnes)

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 201 \_\_\_\_\_

\_\_\_\_\_  
(Signature of owner or duly authorised agent)