



## Waipa District Council

# MOBILE OR TRAVELLING SHOPS, HAWKERS, AND ITINERANT TRADERS

## BYLAW 1991

In pursuance and exercise of the Powers and Authorities vested in it by Part XLIII of the Local Government Act 1974 and every other Power and Authority it thereto enabling the Waipa District Council makes and ordains this Bylaw.

### *Part I*

## GENERAL

### 1 Title

This Bylaw shall be cited and referred to as the "Waipa District Mobile or Travelling Shops, Hawkers, and Itinerant Traders Bylaw 1991".

### 2 Interpretation

In this part of this Bylaw:

**"Hawker"** means any person who carries or takes about any goods, wares, or merchandise for sale not in pursuance of any invitation to all with, or of any previous order or request for, such goods, and includes a peddler and any person who exposes for sale any goods, wares, or merchandise carried or taken about by him, or solicits the custom of any other person; and whether any such person shall carry any such goods, wares, or merchandise or not, but does not include any person who uses any vehicle as a mobile or travelling shop.

**"Itinerant Trader"** includes any person who, not having been continuously resident in the District under the jurisdiction of the local authority for a period of at least six calendar months immediately preceding, or not owning, or not having entered into a binding lease in writing of his business premises in such district for a period of at least six calendar months, carries on or engages in any business in such district involving the sale or exposure for sale in any premises in the said district, and whether by himself or by any other person employed by him, of any goods, wares or merchandise; but shall not include any hawker as above defined or any keeper of a mobile or travelling shop or any bona fide commercial traveller who deals only with or solicits orders only from persons, firms, or companies carrying on business within the district aforesaid, as retailers of, or as manufacturers for sale of, articles manufactured from goods, wares and merchandise similar to those sold by the commercial traveller, or by him on behalf of his employer or employers.

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

**"Mobile or Travelling Shop"** means a vehicle, whether self-propelled or not, from which goods, wares, or merchandise are offered or exposed for sale in the street, or from which goods, wares, or merchandise may be ordered (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 street; but does not include any vehicle on or from which food is sold for consumption in or at the vehicle, or any vehicles used for the purpose of transporting and delivering goods, wares or merchandise pursuant to a prior order placed for the delivery of goods, wares, or merchandise.

### **3 Penalties**

Every person who shall do or cause to be done or permits to be done anything whatsoever contrary to or otherwise than as provided by this Bylaw commits an offence, and shall be liable to a fine not exceeding \$500.00 and where the offence is a continuing one then to a further fine not exceeding \$50.00 for every day or part of a day during which the offence has continued. The continued existence of anything in contravention of a provision in this Bylaw shall be deemed to be a continuing offence.

### **4 Exemptions**

The provisions of this part of this Bylaw as to hawkers and keepers of mobile or travelling shops shall not apply to fishermen or any person appointed by them in that behalf to sell newly caught fish or shellfish in accordance with Section 29 of the Auctioneers Act 1928, or to sellers of printed books, pamphlets, magazines, or newspapers.

### **5 Licence Required**

No person, whether acting on his own account, or as the servant of another person, shall engage in the trade or calling of or carry on business in any manner or to any extent as a hawker or keeper of a mobile or travelling shop with respect to goods or articles of any description whatsoever (except as provided in the preceding clause), without having first obtained a licence from the local authority so to do.

### **6 Application**

Every person desirous of obtaining a hawker's or keeper's licence, shall make application to the District Environmental Health Officer and shall with such application furnish such evidence of good character as the local authority may require, and in the case of an application for a keeper's licence shall state the number of vehicles to be used.

### **7 Sale of Food for Human Consumption**

Every application under the last preceding clause shall also state whether the applicant is desirous or hawking or selling from a mobile or travelling shop articles of food for human consumption and whether with or without other goods, wares, or merchandise, and in any such case where a motor vehicle is to be used, shall specify the registered number of that vehicle.

If the applicant is desirous of hawking or selling articles of food for human consumption such application shall be accompanied by all licenses which the applicant may be required to obtain under the provisions of any Act, regulation or bylaw relating to the licensing and regulation of certain trades and businesses.

Before issuing any licence for a hawker or keeper of a mobile or travelling shop, the local authority shall satisfy itself that any motor vehicle to be used in connection with hawking or selling food for human consumption, and that any premises to be used for the storage of such food, are suitable for the purpose.

### **8 Fees and Expiry of Licence**

The local authority may issue licenses to trade and carry on business as hawkers or keepers of mobile or travelling shops and every such licence, at whatever time of the year the same may be issued, shall terminate on a day and month then next ensuing as may be prescribed by resolution of the local authority, and for every such licence there shall be paid to the local authority such fee as the local authority may by resolution from time to time prescribe for that particular class of licence.

The local authority may at its discretion issue temporary licenses upon payment of such fee whether per day or otherwise, and subject to such conditions as the local authority may impose.

### **9 Production of Licence**

Every licensed hawker or keeper of a mobile or travelling shop shall at all times when hawking, or selling from his mobile or travelling shop, carry his licence with him, and shall show the licence to any constable or authorised officer of the local authority who shall demand production of the licence.

#### **10 Name to Appear on Vehicle**

Every licensed hawker or keeper of a mobile or travelling shop shall whilst hawking or selling from his mobile or travelling shop or exercising or carrying on his business, trade, or calling of a hawker or keeper of a mobile or travelling shop in some conspicuous place on the exterior of any vehicle or container in which he takes or carries his goods or wares, have his name legibly painted thereon in letters not less than 25mm in height.

#### **11 Moving On**

Every licensed hawker, or keeper of a mobile or travelling shop shall, upon being requested so to do by any constable, traffic officer, or duly authorised officer of the local authority, and as often as so requested, alter his position and remove from the place in any street or public place where such hawker or keeper of a mobile or travelling shop may for the time being be hawking his goods or selling from his mobile or travelling shop to any other part or parts of such street or place, or to any other street or public place indicated by such constable, traffic officer, or officer of the local authority.

Any person who fails to comply with any request made by any constable, traffic officer, or authorised officer of the local authority pursuant to the above hereof shall be guilty of an offence against this Bylaw.

#### **12 Local Authority May Prescribe Conditions**

The local authority may, either upon the issue of any licence to any hawker or keeper of a mobile or travelling shop or at any time by notice in writing under the hand of the District Environmental Health Officer served on any licensed hawker or keeper of a mobile or travelling shop:

- a) Prescribe any condition or conditions in compliance with which such hawker or keeper of a mobile or travelling shop must carry on his trade or business, and any hawker or keeper of a mobile or travelling shop who shall fail to comply in all respects with any such requirements within any period specified for compliance shall be guilty of an offence against this part of this Bylaw; or
- b) Require such hawker or keeper of a mobile or travelling shop to discontinue the use of any vehicle so employed by him.

It shall be a condition of the licence where a vehicle is to be used for the sale of food for human consumption that no vehicle other than that specified in that licence shall be used for the purpose without the approval of the District Environmental Health Officer of the local authority concerned.

It shall be a condition of any licence issued for a mobile shop that the shop shall not be operated-

- a) On any state highway (except at the "Market Place", Moana Roa Reserve, Karapiro).
- b) Within 500m of any such highway except where such a highway passes through an urban area.
- c) Within 150m of a shop selling the same of similar goods.

#### **13 Licence Not Transferable**

No licence issued under this part of this Bylaw shall be transferable to any other person and no such licence shall authorise any person other than the person named therein to carry on the trade or business of a hawker or to keep a mobile or travelling shop.

#### **14 Cleanliness of Vehicle**

Every licensed hawker or keeper of a mobile or travelling shop or any person operating on behalf of such hawker or keeper who takes or carries about any article of food for sale shall keep and maintain every vehicle, box, basket, pack or other container used or connected therewith in a thoroughly clean and sanitary condition to the satisfaction of the local authority's District Environmental Health Officer.

## **ITINERANT TRADERS**

### **1 Licence Required**

No itinerant trader shall sell or offer or expose for sale any goods, wares, or merchandise whatsoever without having first obtained a licence from the local authority authorising him to do so.

Such application shall be furnished with evidence of good character as the local authority may require.

### **2 Licence Fee**

For every such licence there shall be paid to the local authority before the issue of such licence such amount by way of licence fee as is prescribed from time to time by resolution of the local authority.

### **3 Refund of Licence Fee**

If during the continuance of any such licence the licensee named therein shall remain continuously in business in the District aforesaid for a period of not less than six months, the licence fee paid by him as aforesaid in respect of the licence in force during such period shall be refunded.

## **STANDS AND STALLS**

### **1 Permit Required**

No person shall without having first obtained a permit from the local authority so to do-

- a) Stand in or occupy any portion of any public place with, or place or maintain on any portion of any public place, any stall, structure, or contrivance for the purpose of distributing or selling any food or refreshments, newspapers, lottery tickets, textiles, hardware; or
- b) Stand in or occupy an portion of any public place with, or place maintain on any portion of any public place any weighing, knife-grinding, automatic vending, or slot entertainment machine or any other similar structure, apparatus or contrivance.

### **2 Application**

Every application for a permit shall be in such form as the local authority may require.

### **3 Conditions of Permit**

Every permit shall be issued by the local authority and shall be subject to such conditions as the local authority may impose and shall state therein the term of expiry thereof, the portion of any public place on which the applicant is permitted to stand, the hours during which he may so stand, and the class of article or goods he proposed and is permitted to sell, and no person shall stand or sell except in conformity with the terms of such permit.

### **4 Permit Fee**

For every such permit there shall be payable to the local authority such fee as the local authority may by resolution from time to time prescribe.

### **5 Transfer**

No person shall transfer his permit to any other person nor stand nor sell either under the authority of a permit issued to any other person or at a place not mentioned in his permit or directed by the local authority.

The foregoing Bylaw was made by the **WAIPA DISTRICT COUNCIL** by Special Order passed at a meeting of Council held on the 17th day of June 1991 and confirmed at a meeting of Council held on the 15th day of July 1991 and became operative on the 25th day of July 1991.

**IN WITNESS WHEREOF** the Common Seal of the **WAIPA DISTRICT COUNCIL** was hereunto affixed pursuant to a resolution of Council passed on the 15th day of July 1991 in the presence of:

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**General Manager**

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**Mayor**