

CITY OF WEST TORRENS



Council Policy: Mobile Food Vendors

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Related Policies or Corporate Documents:	Use of Public Footpaths and Roads for Business Purposes
Associated Forms:	
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Table of Contents

1.	Preamble.....	3
2.	Purpose.....	3
3.	Scope.....	3
4.	Definitions	4
5.	Policy Statement.....	4

COUNCIL POLICY - Mobile Food Vendors

1. Preamble

- 1.1 Council recognises that trading from mobile vending can improve services to residents and add a pedestrian-friendly feel to an area, improving public safety and bringing a festive atmosphere to local streets.
- 1.2 Council encourages mobile vending of food and beverages within the City of West Torrens to increase overall community enjoyment of the city. While supporting the practice of mobile vending, Council also recognises the need for appropriate procedures and guidelines for these activities.

2. Purpose

The purpose of this policy is to:

- 2.1 Detail the locations where mobile food vending businesses may trade.
- 2.2 Detail the number of mobile food vending businesses that can trade within the approved locations for roads.
- 2.3 Ensure that there is a reasonable distance between mobile food vending businesses and fixed food businesses during the operating hours of the fixed food businesses.
- 2.4 Take into account the effect of mobile food vending business on:
 - a. Vehicle and pedestrian traffic, footpaths, driveways, access points to buildings and parking areas for people with disabilities; and
 - b. The requirements relating to, and availability of, parking spaces at the locations in which mobile food vending businesses may operate under the location rules; and
 - c. Residents and businesses at the locations in which mobile food vending businesses may operate under the location rules.
- 2.5 Provide a clear, open, equitable and accountable process for the issuing of mobile food trading permits to mobile food vending businesses to allow trade from roads.

3. Scope

- 3.1 This policy applies to all mobile food vending businesses that want to trade from public roads with the exception of mobile ice-cream vendors.
- 3.2 The policy establishes the location rules which mobile food vending businesses may trade and the locations in which they may operate.
- 3.3 The policy ensures that mobile vending businesses operate in a way which complements the existing food businesses and ensures that they do not unreasonably compromise the amenity of the surrounding area.
- 3.4 This policy clearly identifies the terms and conditions of hire of Council land.
- 3.5 This policy is not applicable to privately owned land, noting that the provisions of the *Development Act 1993* and related legislation and the Development Plan may apply in relation to use of the land.

4. Definitions

- 4.1 **Public road** - meaning given in the *Local Government Act 1999*.
- 4.2 **Reserve** - means community land reserve or dedicated as a reserve or designated by Council as a reserve.
- 4.3 **Mobile food vending vehicle** - defined as any vehicle whether mobile or stationary, used for the purpose of selling food and/or beverages.
- 4.4 **Mobile food vending business** - means a business involving the sale of food or beverages from a vehicle (within the meaning of the *Road Traffic Act 1961*).
- 4.5 **Fixed food business** - means a business, the primary purpose of which is the retail sale of food and/or beverages that is undertaken on a fixed premises that have a valid land use approval for use as a food business under the *Development Act 1993*. Fixed food businesses includes cafes, restaurants, hotels, delicatessens, take away food businesses, bakeries, green grocers, health food shops, butchers, supermarkets, service stations and sporting clubs.

5. Policy Statement

- 5.1 A mobile food vending business trading on public roads within the Council area must hold a valid City of West Torrens' mobile food trading permit under section 222 of the *Local Government Act 1999*.
- 5.2 A mobile food vending permit is not required for trading on privately owned land or when catering for an event on public land (by invitation) where a permit has already been issued to the event holder.
- 5.3 Fees payable are as detailed in Council's Fees and Charges Register.
- 5.4 Trading on Council reserves is not permitted as part of this policy.

6. Location rules - section 225A of the *Local Government Act 1999*

A mobile food vending business holding a permit issued by the Council may operate anywhere in the Council area, subject to complying with the location rules and any other requirement of the permit.

- 6.1 A mobile food vending business must select a site for operation which takes into account the effect of the operation of the mobile food vending business:
- a) Must not operate within:
 - 200 metres of a fixed food business whilst they are operating
 - 30 metres of an intersection (without signalised traffic lights)
 - 50 metres of an intersection (with signalised traffic lights)
 - 15 metres of a residence unless otherwise approved
 - 10 metres of a car park entrance/egress points
 - 10 metres of a crest or bend of a road
 - b) Must not park their vehicles in areas where parking is restricted to less than 1 hour. Once mobile food vending businesses have exceeded a timed parking restriction they may not attend the same location within a 24 hour period.

- c) May not cause undue interference or obstruction to persons using the public road, residents or businesses.
- d) Must not obstruct vehicles and pedestrian traffic, footpaths, driveways, access points to buildings and parking areas for people with disabilities.
- e) Must adhere to parking rules / restrictions and only park within designated parking zones.
- f) Are required to park their vehicle parallel to the kerb with trading and service only to occur on the kerb side.
- g) Footpath must have clear access for people with disabilities in accordance with the *Disability Discrimination Act 1992*.
- h) Ensure that no more than two (2) parking bays are used for a mobile food vending vehicle including a tow vehicle.
- i) Must not operate on a road with a speed limit greater than 60 km/h.
- j) Must not operate on the shoulder of a road without designated parking unless otherwise approved in writing.
- k) Must not operate on a road with verge widths of less than 2.8 metres.
- l) Must not operate from a Department of Planning, Transport and Infrastructure South Australian road.

6.2 Legislative requirements

A mobile food vending business must select a site for operation which does not breach any relevant requirements under:

- *Local Government Act 1999*
- *Food Act 2001*;
- *South Australian Public Health Act 2011*;
- *Environment Protection Act 1993*;
- *Local Nuisance and Litter Control Act 2016*;
- *Road Traffic Act 1961*;
- *Australian Road Rules*;
- City of West Torrens By-laws No. 1-5
- Any other related legislation

6.3 Compliance

Mobile food vending businesses must:

- a) Complete a mobile food vendor application form, which is available on the City of West Torrens website.
- b) Pay the prescribed fee, yearly or monthly, that is applied in accordance with Council's annual Schedule of Fees and Charges. The prescribe fee is subject to annual review by Council within its adopted Fees and Charges pursuant to Section 1888 of the *Local Government Act 1999*.

- c) Hold a valid current City of West Torrens permit prior to trading within the city.
- d) Only operate between the hours of 9:00am and either sunset or 8:30pm whichever is the earlier. Operating outside these hours is prohibited unless written permission has been given by Council.
- e) Hold and provide a copy of a valid current public liability insurance for a minimum amount of twenty million dollars (\$20,000,000) which must indemnify the City of West Torrens against all actions, costs, claims, damages, charges and expenses whatsoever which may be brought or made or claimed against the permit holder in relation to the activity.
- f) Advise Council staff via email or other electronic means as determined by Council when they arrive and start trade at a location within the City of West Torrens, providing their permit number and location of trade details of contact available on the application form and Council's website.
- g) Be self-efficient in regards to power, waste water disposal and rubbish disposal.
- h) Supply adequate rubbish and litter disposal receptacles for the use for the business and customers, and all rubbish is to be removed from the site and not disposed of in Council street or reserve bins.
- i) Accept total responsibility to make good any damage that occurs to Council roads or public infrastructure as a result of the operation of business by the permit holder.
- j) Not assign or otherwise transfer a permit without first obtaining the consent of the Council in writing.
- k) Not have music or other audible devices, or A-frame signs with balloons, flags, streamers or other things attached, and it must not rotate or contain flashing parts. These are prohibited unless approved by Council and listed as a condition of the permit.
- l) Must not cause noise, odour, fumes etc. or other disturbance to the surrounding environment.
- m) All advertising must be fixed to the mobile food vendor vehicles and not encroach on the public realm, except for one (1) 'A' frame or sandwich board sign, with an advertisement advising 'open for trade' located no further than a distance of 5 metres from the mobile food vendors vehicle to which it relates. The construction and design and placement of a moveable sign must comply with Council's Moveable Sign By-Law No. 4 of 2017.

6.4 Events

Mobile food trading permit are voided for events and trading is not permitted within surrounding roads for a distance of 200 metres for the duration of an event unless permission has been sought and approved by the event organiser.

7. Breach of permit

- 7.1 Council may cancel a mobile food vendor business permit if satisfied that there is a sufficiently serious breach of the conditions of the permit.
- 7.2 If the Council cancels a mobile food vendor business permit, the permit holder will be prevented from reapplying for a new permit for a period of 6 months.

8. Disputes may be referred to the Small Business Commissioner

There are clear legislative processes available for both mobile food vendor and aggrieved fixed businesses to follow, should either party consider they are directly adversely affected by the location rules.

If an operator of a food business (defined as a business primary purpose of which is the retail sale of food or beverages) in the Council area is directly and adversely affected by these location rules, then the operator may apply to the Small Business Commissioner for a review of the location rules.

9. Amendments of these rules

The location rules may be amended from time to time by the Council

The location rules must be amended by the Council if directed to do so by the Small Business Commissioner or to satisfy a requirement of the Minister of Local Government.

Vendors are advised to check the website on a regular basis for updates on the location rules.