

Trading and Events in Public Places Guidelines 2015

Kaupapa Te Mahi Tauhokohoko me nga Takunetanga ki ngā Wāhi Marea 2015

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SECTION 1

BACKGROUND AND CONTEXT

Section 1 sets out the purpose of the guidelines, outcomes, guidelines scope, background and relationships with other policies and plans.

1.0 INTRODUCTION

Auckland Council acknowledges the contribution of commercial and not-for-profit trading activities to the economic, social and cultural vitality of the region. Trading in public places (more commonly known as '*street trading*') is a valuable use of public place and the council encourages activities in public places that will support and enhance local businesses, contribute to quality of life by improving access to affordable goods and services, encourage social interaction and enhance street life.

Auckland Council's [Trading and Events in Public Places Bylaw 2015](#), which came into effect on 1 July 2015, regulates trading activities and events (including filming) undertaken in public places owned, managed, maintained or controlled by the council or council-controlled organisations.

The Trading and Events in Public Places Guidelines 2015 (**'the guidelines'**) have been developed in order to support the implementation of the Auckland Council Trading and Events in Public Places Bylaw 2015, ensuring trading activities are responsive to the needs of the environment and contribute to the vibrancy of Auckland¹.

1.1 PURPOSE STATEMENT

The guidelines support the Trading and Events in Public Places Bylaw 2015 (**'the bylaw'**), by providing guidance to council's operational staff on the management of trading activities in public places. It aims to ensure there is a consistent approach to implementing the bylaw across the Auckland region and puts in place general and specific operating conditions for trading activities and the events permit process.

The purpose of the guidelines is to ensure that a consistent and effective level of service is provided for Auckland in a way that achieves the intent of the bylaw, meets legislative and organisational requirements and industry best practice.

At a strategic level, this non-statutory document complements other council initiatives and policies relating to the use of public places by providing for council staff involved in implementing the bylaw.

1.2 KEY PRINCIPLES

Trading activities in public places are guided by the following principles aimed at ensuring that appropriate standards of health and safety, pedestrian and vehicle access and visual amenity are maintained.

¹ The guidelines were approved by Auckland Council's Regulatory and Bylaws Committee on 8th July 2015 ([Resolution number RBC/2015/22](#)).

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Principles	Explanation
Quality and amenity	Maintaining a high quality street / park / public space environment that contributes to the council's vision for Auckland to be the world's most liveable city.
Accessible and safe environments	Ensuring that safe and unobstructed pedestrian and vehicle access is provided and maintained for all users of public places in accordance with local government's legal responsibilities
Appropriate locations	Locations suitable for trading activities are generally approved by the council through the approval process. In determining where an activity can be located, consideration will be given to the impact on the local environment, whether appropriate standards of health and safety, pedestrian and vehicle access and visual amenity can be maintained.
Diversity and suitability of activities	Encouraging diversity of trading activities and ones with a point of difference, so that they have the ability to attract people. Applications for approvals will be assessed against their suitability using criteria such as past experiences, impacts on the surrounding environment and whether the activity is consistent with other council policies and plans
Non-privatisation of public place	Trading activities must not be perceived as privatising public place and the space should be maintained for the purpose of a shared public and commercial space
Minimising impacts of activities	Ensuring that any activities avoid inconvenience and nuisance and that any impacts (noise, traffic, obstructions) are appropriately mitigated.
Transparency and efficiency	Improving transparency in decision making and, administration efficiency by ensuring that council clearly articulates the roles and responsibilities for trading activities across Auckland and that controls are easily regulated.

1.3 SCOPE OF THE GUIDELINES

The guidelines cover the following activities contained in the Auckland Council Trading and Events in Public Places Bylaw 2015:

- markets and stalls
- mobile shops
- outdoor dining
- fundraising
- offering commercial services
- distribution of promotional material
- street performances and pavement artists
- events permit
- outdoor display of goods.

For definitions of these activities refer to the Trading and Events in Public Places Bylaw 2015. The bylaw can be found at www.aucklandcouncil.govt.nz/bylaws.

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These guidelines do not apply to any activity that consists entirely of the display or deployment of signage. (*That is the subject of a separate process via the **Signage Bylaw 2015***).

These guidelines do not apply to trading activities situated on land that is not owned, controlled, managed or maintained by the council or a council-controlled organisation (for example, privately owned spaces such as supermarket carparks, school or church grounds).

These guidelines do not set out fees and charges. These are included in the Annual Plan which can be found on the council's website and are reviewed annually.

1.4 GUIDELINES EXCLUSIONS

The Trading and Events in Public Places Bylaw 2015 contain clauses relating to events and filming activities and the requirement to obtain approval to undertake these. These guidelines only contain guidance on applying for an events permit. Other issues relating to events and filming are covered in a separate policies including:

- Events Policy 2013 (Auckland Council)
- [Major Events Strategy 2012](#) (ATEED)
- [Major Events Protocol 2013](#) (ATEED)
- [Auckland Film Protocol](#) (Screen Auckland)².

1.5 STAKEHOLDERS

These guidelines have been developed with the intent of balancing the different interests and needs of key stakeholders who all contribute, in some way, to supporting trading in public places.

- **The council** – controls and manages the use of public places for the benefit of the public and to promote public safety and minimise nuisances.
- **Trading operators** – operate in a public place in accordance with the conditions of their approval and any relevant bylaws, policies, resource consents and other approvals.
- **Customers, residents, ratepayers and visitors** – support trading operators as well as assist in ensuring compliance with relevant conditions.

1.6 RELATIONSHIP TO OTHER BYLAWS, PLANS AND POLICIES

These guidelines should be read in conjunction with Auckland Council and Auckland Transport's respective Trading and Events in Public Places Bylaws. It should also be considered alongside the following bylaws and policies:

- [Public Safety and Nuisance Bylaw 2013](#)
- [Signage Bylaw 2015](#)
- [Food Safety Bylaw 2013](#)
- [Alcohol Control Bylaw 2014](#)
- [Solid Waste Bylaw 2012](#)

² For information on the process for applying for a permit to film in Auckland, go to the [Screen Auckland](#) website.

- [Smokefree Policy 2013](#)

Additionally [Auckland Transport's Code of Practice \(ATCOP\)](#) outlines technical specifications and guidelines for the use of the road corridor. The ATCOP provides quality standards to ensure that the function, condition and useful service life of transport assets is consistently achieved across the region.

1.7 REVIEW OF THE GUIDELINES

The council will review these guidelines and its application as appropriate. This is to ensure these guidelines remains current in relation to the implementation of the Trading and Events in Public Places Bylaw and other relevant bylaws and policies.

Feedback from individual or groups of staff will result in alteration / amendments to this document and therefore, should be viewed as a 'living' document.

SECTION 2

GENERAL AND SPECIFIC CONDITIONS

Section 2 is the core part of the guidelines. It sets out the general and specific conditions for all trading activities in public places. Key components include location, management and responsibility, health and safety, amenity considerations and approvals.

2.0 GENERAL CONDITIONS FOR TRADING AND EVENTS IN PUBLIC PLACES

The general conditions for trading activities and events in public places consist of five key components:

- Location
- Amenity of public place
- Management of trading activities
- Health and safety
- Approvals

Anyone undertaking trading activities in a public place will need to comply with the general conditions outlined below together with specific conditions relating to that particular activity as outlined in **Clauses 2.3 – 2.11** of these guidelines.

2.0.1 Location

- (a) In general, trading activities covered by the bylaw and these guidelines will be:
 - provided for in retail focused business areas as defined by the Proposed Auckland Unitary Plan and any relevant city centre master plans and area plans
 - provided for in specified pedestrian orientated areas. In some public areas such as Auckland central CBD special conditions may apply
 - provided for in shared spaces areas such as Federal Street and Elliott Street (Auckland CBD), Totara Avenue (New Lynn)
 - provided for in all town centres and Business Improvement Districts (BIDs)
 - provided in some residential areas if the activity is allowed in the Unitary Plan or by resource consent. In other areas it will be restricted
- (b) locations of activities on arterial routes may be suitable for trading provided it can be demonstrated that any adverse pedestrian and traffic effects can be mitigated (i.e. through the provision of a traffic management plan as part of the approval application)
- (c) locations within parks and reserves may be considered where the nature, scale and location of the trading activity complements, and is consistent with, the nature of existing recreational opportunities and reasons for use of the space (i.e. kayaks, roller blades) and; complies with any relevant parks policies and management plans, the unitary plan and any resource consent conditions
- (d) trading activities must not be located adjacent to intersections, bus stops, taxi stands, loading bays, public seating, rubbish bins and phone boxes or anywhere else that it is likely to impede safe pedestrian and traffic flow and trade and emergency access
- (e) trading operations that are located in proximity to intersections must not impede driver's visual access or traffic signs
- (f) trading activities must not impact on the ability for adjoining premises to operate legitimately and effectively
- (g) the council may designate specific locations for trading activities

- (h) as per clause 8 of the bylaw, the council, may by resolution, identify areas where a specific type of trading activity or all activities are prohibited for reasons of public safety or to minimise nuisances.

2.0.2 Amenity of public place

Trading activities should maintain a quality pedestrian environment and complement other public place activities, without compromising the appearance and amenity of the public space by applying the following standards:

- (a) all temporary items and signs associated with the activity must be removed from the public place by the end of the day as per the approval conditions unless other arrangements are specifically approved. the only exceptions are fixed structures that have previously been approved
- (b) any structures or items required for trading activities must comply with the requirements of these guidelines, the Trading and Events In Public Places Bylaw 2015, the unitary plan and any other bylaws or controls
- (c) any advertising must meet the requirements of the Signage Bylaw 2015, and, in the case of open space, a reserve management plan prepared under the Reserves Act 1977, a parks management plan prepared under the Local Government Act 2002 or, parks policies. *Note that sandwich boards are not allowed within the central areas as defined by the [Proposed Auckland Unitary Plan](#) and Signage Bylaw 2015*
- (d) any displays, stands or structures should complement building frontages and allow pedestrians to move unimpeded
- (e) all operators must ensure that they control and mitigate any adverse impacts on the surrounding environment as a result of noise, smell or appearance in accordance with the Trading And Events in Public Places Bylaw 2015 and the Unitary Plan provisions. Traders must also consider any impacts of night-time trading (for example, light spill)
- (f) trading activities should not place any constraints on the capacity of available parking in the area
- (g) trading activities will enrich the quality of the pedestrian experience and complement other activities providing they:
- involve goods, services or activities that are easily re-locatable and elevated from the ground
 - maintain a high standard of presentation through being clean, safe and in good condition
 - enhance the quality of the street and surrounding environment
 - provide a level of activity that avoids inconvenience and nuisance to other public place users or adjacent activities.

2.0.3 Management of activities

- (a) Trading is generally allowed if:
- it does not cause an obstruction that impedes the movement of persons or vehicles, or causes any danger

- operators maintain trade and emergency access for infrastructure; maintenance and utility services (for example, rubbish collection and postal delivery)
 - any structures such as drop-down blinds, screens, barriers, planter boxes, bollards, or other any items associated with the activity do not privatise, fully enclose or adversely affect the 'openness' of public places (that is, do not cover more than 50 per cent of the perimeter of the outdoor dining area, excluding building frontage, at any one time)
 - all items of furniture associated with the activity are contained within the space covered by the approval
- (b) it is the approval holder's responsibility to ensure that their customers do not obstruct pedestrian flow. Trading activities that attract large crowds resulting in queues must ensure that safe queue management measures are in place
- (c) furniture, signage or displays of goods which create an obstruction and a hazard for all users, including people with impairments, must be avoided
- (d) the approved trading area should not be used for the general storage of items associated with the premises (for example pallets of produce, or as an overflow for goods that cannot be stored inside). Litter that is waiting for collection should be placed inside or in the serviced areas, except on collection day
- (e) approval holders are responsible for managing noise and ensuring that any activity does not cause unreasonable noise. The council may impose restrictions on operators who develop a record of repeat offending on noise issues and this may include having the approval suspended, withdrawn or items confiscated under Section 164 of the Local Government Act 2002
- (f) traders are required to obtain under any Act, bylaw or licensing regulation, the appropriate approvals, operator certificates to meet a specific service, skill or qualification (for example, food hygiene).

2.0.4 Health and Safety

All operators have a responsibility to provide for safe and secure public access to a trading area as well as maintaining a clean and hygienic environment by ensuring the following:

Safety and accessibility

- (a) that areas used for trading provide a safe and secure environment for operators, patrons and pedestrians and does not result in pedestrian movement being comprised or access restricted
- (b) a clear access and a continuous clear-way for pedestrians, pushchairs, wheelchairs and people with disabilities or impairments, such as impaired vision, is maintained at all times
- (c) the minimum width of a pedestrian clear way is 1.8 metres. The pedestrian clearway must be free from obstructions for pedestrian movement which means that some public spaces will be unsuitable for outdoor dining, outdoor business displays or any other trading activity that may impede safe, accessible movement
- (d) that items used by traders meet minimum safety standards and relevant legislation and standards including **NZS 4121:2001 the Code of Practice for Design for Access and Mobility** as well as **Auckland Transport's Code of Practice 2013**.

Health and Hygiene

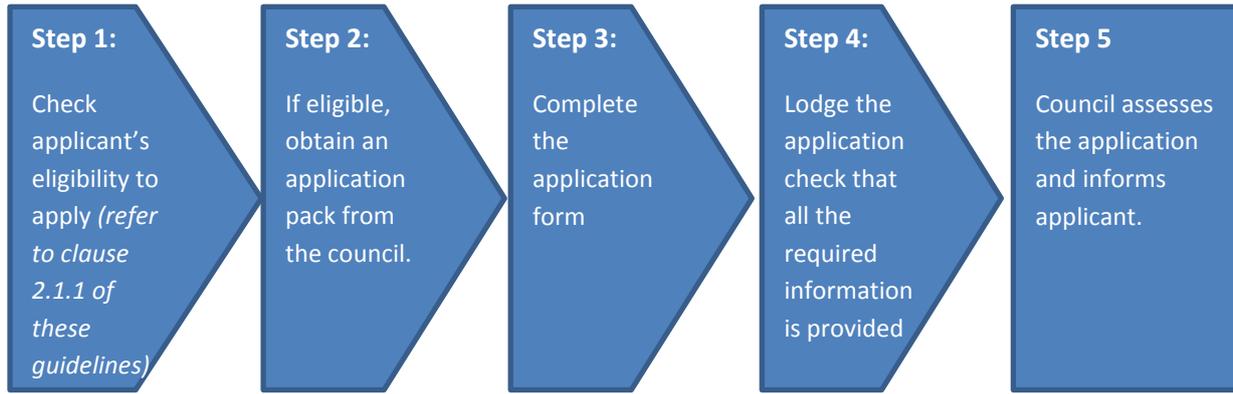
- (a) the trading area should be kept free of litter at all times and all rubbish as a result of trading activities must be removed from the trading area at the end of trading day. Operators must maintain the cleanliness of the trading area especially when access for the council's street cleaning or maintenance contractors is restricted
- (b) trade waste must not be discarded in public litter or into the stormwater drainage system, including the kerb and channel
- (c) the preparation, handling and serving of food must be carried out at all times in compliance with the relevant provisions of the Food Safety Bylaw 2013 and national food regulations
- (d) adequate toilet facilities are to be available for the total seating capacity of any food premises including the outdoor dining area. This also applies to any markets or events but does not apply to takeaways and bakeries.

2.0.5 Written approval

- (a) unless otherwise stated, or where an exemption has been granted by the council (as per clause 7 of the bylaw) [council approval](#) will be required for any trading or event in a public place
- (b) every trading activity must, when requested to do so by the council, either stop trading or move from a position in or on a public place to another part of that public place as the council may direct
- (c) the council may, for good reason, cancel or suspend any trading activities in a public place
- (d) as per clause 13 of the Trading and Events in Public Places Bylaw ('Display of approval') any person holding an approval must ensure that it is clearly displayed to the public at all times
- (e) approvals issued under the Trading and Events in Public Places Bylaw 2015 can only be used for trading activities as specified in the approval. It is not an approval for the sale of alcohol or food hygiene
- (f) approvals are granted subject to compliance by the operator with all relevant legislation, consents, policies and guidelines
- (g) at the end of the trading hours specified in the approval, any stall, market, outdoor business display, outdoor dining table and chairs and other equipment associated with the trading operation must be removed from the public place.

2.1 APPROVAL APPLICATION PROCESS

The use of public places by businesses and other persons for trading and street performing is not a right but a privilege, granted only where there is no adverse impact on pedestrian safety and road users, and where amenity of the local environment can be preserved. All applications to undertake trading or street performances will be considered on a case by case basis. The typical process for applying for an approval is:



2.1.1 Application assessment criteria

When considering any application for trading in a public place the council will assess it based on, but not limited to, the following criteria:

- **Statement as to why application is sought:**
 - *what the purpose of the activity is and, if relevant, why a particular space or location is sought*
- **Pedestrian access and safety**
 - *what, if any, will the potential impact be on pedestrian and vehicular traffic flow and safety*
 - *whether the activity likely to cause obstructions and / or disrupt ease of access*
- **Impact of activity on adjacent properties;**
 - *whether the activity is likely to give rise to nuisance, impact on public safety or loss of amenity caused by noise, litter, odour or anti-social behaviour*
 - *whether the hours of operation reflect those stated in the resource consent for the business, if applicable. If not stated, what does the relevant district/unitary plan say in regards to hours of operation for outdoor dining? (Consult a noise specialist in Environmental Health if there are concerns)*
 - *whether it likely to impact on residential amenity*
- **Management of the activity;**
 - *whether the activity be will managed in a way that it does not 'privatise' or cause a loss of public space*
- **Quality of the goods, services and experience.**
 - *whether the activity will provide good quality products or services that adds to the character of the area as well as ensure the protection of the consumer*
- **Benefits to the community;**
 - *whether the activity improve the local community / local area*
- **History** (i.e. complaints about non-compliance)
 - *what the applicant's track record of compliance is*
- **Health and safety, waste, traffic and queue management issues.**
 - *whether the operator has taken into consideration health and safety issues (i.e. access and mobility; how they will minimise harm) and how they will mitigate these*
 - *whether they will have adequate waste, traffic and queue management strategies in place*

- *whether they have identified possible constraints on the capacity of available parking in the area and/or pedestrian traffic and general traffic access*

2.1.2 Application for approval

Every person who wishes to trade in a public place shall make a written application to Council to obtain an approval using the prescribed form and, where relevant, accompanied by a site plan, with dimensions, and a photograph which adequately indicates the extent of the trading area. All applicants must ensure that they understand the general conditions for Trading and Events in Public Places Bylaw 2015 plus the specific guidelines relating to their activity. Every application may include, but not be limited to, providing the following:

- (a) name, address and contact details of the applicant
- (b) name and address of the person(s) selling the goods or offering services
- (c) type of approval that applicant is applying for (i.e: new approval, renewal of existing approval; amendments to existing approval)
- (d) the type of goods for sale or services being offered
- (e) the location of the site as well as a site plan of proposed activity and photographs of site
- (f) the time /day(s) sought for selling
- (g) the type of vehicle(s) and registration number(s) if applicable
- (h) evidence of good character
- (i) current public liability insurance (usually requested once approval is confirmed)
- (j) where relevant, a copy of approved approvals such as liquor and food.

Failure to submit the above details may result in delays in processing the application. Trading approvals are issued with a number of conditions aimed at managing trading operations, conduct and traffic safety issues. Local area conditions will influence where items may be placed. The council cannot approve any activity where it would compromise pedestrian or traffic safety. On receiving any application for an approval under the Trading and Events in Public Places Bylaw 2015 the council may decline an application where:

- proposals do not meet the relevant criteria of the general and specific guidelines or; if the council considers that appropriate standards of convenience, safety, access or visual amenity would not be met; or
- grant an application and determine the period during which the approval remains valid, and impose any reasonable conditions on the approval which are considered appropriate in the interests of pedestrian access and public safety; or
- grant the application in part and set a review period.

The approval will not be issued to the applicant until the annual approval fee, appropriate rental fee component and copy of the current Public Liability Insurance (PLI) certificate is provided to council.

The council will not give approval to any activity where it would have an impact on public safety, impede pedestrian or traffic access or affect the amenity of that public place.

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The approval does not confer any absolute rights on the trading operator to occupy the public place. The council has the right to decline an application where it does not meet the adequate assessment criteria (**clause 2.1.1** of these guidelines); insufficient information has been provided or; the proposed activity does not meet the appropriate standards of convenience, safety and visual amenity and where declining or cancelling the approval is considered to be in the public interest.

2.1.3 Approval details

The council, in granting any approval, may impose conditions on that approval. The approval must list all the items located on the approved trading area. Approval conditions may be changed or approvals cancelled at the council's discretion on the giving of notice to the trading operator.

The approval duration is for one year only, unless otherwise specified, and must be reviewed on the anniversary of the issue date or an advised date. There is no automatic right of renewal (that is, having an approval is no guarantee that it will be renewed) and assessment of how the approval meets the provisions of these guidelines, the Trading and Events in Public Places Bylaw 2015 and other relevant legislation, bylaws and policies is an essential part of the approval application review.

The conditions imposed may include, but not be limited to, any of the following:

- (a) details of the approval holder
- (b) the type of activity covered by the approval
- (c) time / designated hours of operation
- (d) duration of the approval (i.e. approval period and expiry date)
- (e) location / site to be occupied
- (f) approval date and approving officer's details
- (g) safety and hygiene requirements
- (h) use of signage
- (i) use of musical chimes or other audible devices for attracting customer beyond a certain time (for instance, no later than 5pm in winter and 7pm in summer time)
- (j) litter, cleanliness (adequate waste management and minimisation plans)
- (k) presentation and standards of stalls, mobile shops, markets
- (l) type of goods or products
- (m) ensuring that there are no obstructions to pedestrian access;
- (n) public liability insurance.

2.1.4 Displaying the approval

If you hold any approval issued under the Trading and Events in Public Places Bylaw 2015 it must be displayed in a prominent, highly visible position at all times, as per clause 13 of the bylaw.

2.1.5 Transferring the approval

When a business is sold the trading approval remains with the business until the end of the approval period, unless the new owner/operator chooses not to retain the approval.

Auckland Council must be informed within 14 days of any change of ownership or if the new owner decides not to retain the approval.

Note that any refund for a trading approval being surrendered will be considered for outstanding periods greater than one month. For example a trading approval that is due to expire in three weeks will not be considered for a refund.

2.1.6 Fees and charges

Fees and charges for Trading and Events in Public Places Bylaw 2015 activities are set out in Auckland Council's Long Term Plan and are reviewed annually. A trading approval allows for the exclusive use of certain public space for a period of time. However while the occupation of the public space (for example, dining on the footpath) benefits the approval holder it can often have the effect of privatising that space by reducing accessibility to the public. To compensate for this loss, fees for trading include:

- the approval fee (based on the recovery of costs for processing the application, administration and monitoring as well as council overheads) and
- a rental charge for the occupancy of that space.

The following trading activities are charged a [fee](#):

- markets and stalls
- mobile shops
- outdoor dining
- offering commercial services
- distribution of promotional goods and materials

Rentals for activities are applied in the following way:

- uniformly for market operators and the distribution of promotional material
- in three tiers for outdoor dining and drinking and mobile vendors or temporary stalls

2.1.7 Review, suspension or cancellation of approval

As public places are often the subject of planned and unplanned works, events or activities, approved trading operations may be temporarily suspended, restricted or relocated. We may refund you a proportion of the approval fee if:

- Without notice, urgent action is required to protect the public from unhygienic, unsafe or hazardous conditions or;
- On 48 hours' notice to you, it is considered that the activity will interfere with intended road works, a special event or with the public's normal rite of passage.

Approvals may be suspended or revoked without compensation where there are repeated breaches of the conditions.

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The council must issue a minimum of ten working days' notice to the approval holder, prior to any proposed suspension or cancellation, setting out the grounds for suspension. Notice will be served by way of registered post or by an authorised council staff. The ten working days will commence on receipt of the cancellation notice.

The approval holder may appeal their revocation or suspension of their approval by writing to the Manager of Bylaws and Compliance, Licensing and Compliance Services, Auckland Council outlining the matters they wish to have considered.

2.18 Liability insurance and indemnity

An approval will not be issued unless the applicant indemnifies Council against any suit, action, proceeding, judgement, claim, demand, cost, expense, loss or damage for which Council becomes or may become liable in relation to the death or injury to any person or the damage to any property caused by a display authorised by an approval.

The approval holder must maintain a public liability policy of insurance, noting the interests of Council, for an amount of not less than \$1 million. The policy must be able to meet any possible claim which may be sustained against the approval holder or the council in relation to the death or injury to any person or the damage to any property arising out of the activity authorised by the approval.

No approval will be issued until the applicant has provided to the satisfaction of Council a Current Certificate of Public Liability.

2.2 MAKING A COMPLAINT

If a trading activity does not comply with Auckland Council or Auckland Transport's Trading and Events in Public Places Bylaw 2015 and the conditions of their approval, a complainant can talk to the trading operator and explain the issue and potential resolution (for example, trade or perform elsewhere or more quietly, or move on as it is not trading is restricted / prohibited at the site).

In the event that a complainant needs to contact the council, where possible ask that they provide the following details:

- the name / type of trading activity and operator;
- location and time of trading activity;
- nature of the complaint (i.e. what is the breach or how are they not complying with the bylaw, the conditions of their approval, general and specific conditions of these guidelines).

If the trading operator is violent, disorderly, behaving offensively, or causing a general nuisance in a way that may impact on public safety, a complaint should be made with the police.

2.3 MARKETS AND STALLS

(refer to clause 15 of the Trading and Events in Public Places Bylaw 2015)

Markets can contribute positively to public place by satisfying demand due to insufficient access to goods or products or, by providing a unique service and can add to the character of the local economy. They can also provide goods and services to low-income households and more convenient and accessible shopping for the elderly and less mobile. As markets tend to have a commercial or fundraising focus (rather than entertainment), they are not classed as events. Markets are treated as a single entity with multiple trading activities covered by a single market approval (for example, buskers, food stalls), which removes the requirement for individual traders to obtain separate permission.

It will be the responsibility of the market organiser to advise all stall owners of the conditions issued by council and to advise all stall holders of any other approval(s) that they may be required as well (food handling, food registration and sale of liquor).

Specific conditions for markets and stalls

2.3.1 Applying for an approval for markets

An application for an approval for a market must provide the following information:

Applicant details

- (a) the name, address and contact details of the market operator
- (b) the details of the type of stalls, hours of operation and names, addresses and contact details for each market stall operator
- (c) evidence that all stalls selling, preparing and handling food comply with food hygiene regulations
- (d) a scale plan delineating the extent of the public area to be occupied, the siting and the number of market stalls proposed and any associated facilities such as public toilets
- (e) photograph of the site
- (f) specifications of any barriers, signage and screens including any ground supporting fixtures
- (g) a traffic management plan, showing the location of ingress and egress to the market, any parking provided, any temporary measures to control traffic to and from the market site, measures for loading and unloading of market goods and stall set up and pack down and contact details for a person responsible for implementing the traffic management plan
- (h) details of public liability insurance (*public liability insurance certificates will be requested once approval has been confirmed*).

2.3.2 The council when considering an application for a market will assess the following matters:

- (a) whether adequate clear footpath is available for pedestrians around the market and its market stalls. As a minimum, the council will expect a 1.8 metre width from the edge of any stall or associated display to the nearest kerb edge or obstruction
- (b) whether the hours and days of operation of the market is such that it does not permanently occupy the public space
- (c) whether appropriate traffic management measures are in place to avoid adverse effects on the safety and flow of pedestrians and vehicles
- (d) whether barriers, signage and screens associated with the market are kept to a minimum and are appropriately designed and fixed or weighted so as to not give rise to adverse effects on traffic and pedestrians
- (e) whether the individual stall holders have approved food hygiene qualifications, where food is to be sold, and the market and stalls have appropriate food storage and preparation facilities to meet food hygiene regulations
- (f) whether adequate access to public toilets has been provided.

2.3.3 The council can impose the following (but not limited to) conditions on an approval for markets / stalls:

- (a) the exact location(s) of the market and any associated signage and displays
- (b) the type, size and position of stalls to be used within the market. In general, it is expected that the design and construction of market stall will be of a high standard and appropriate to the local environment
- (c) the payment of an approval fee on an annual basis and a charge for the occupation on the public place
- (d) the hours and days of the market operation, including limitations on the hours of set up and pack down
- (e) a requirement that the area around the market or stall be kept clean
- (f) conditions requiring compliance with an approved traffic management plan
- (g) a requirement to provide, maintain and empty litter bins
- (h) where food is to be sold, requirements for compliance with food hygiene regulations
- (i) a cash payment of an amount determined appropriate by the council for the cleaning and maintaining of any council owned public toilets used by the market
- (j) a limitation on the duration of the approval to one year from the date it was granted
- (k) a limitation that the approval applies only to the applicant and/or market operator and may not be transferred to any other person.

More information on [markets](#) can be found on the council's website.

2.4 MOBILE SHOPS

(refer to clause 16 of the Trading and Events in Public Places Bylaw 2015)

A **mobile shop** (also known as a ‘travelling shop’ or mobile vendor) means a vehicle, whether self-propelled or not, located on a road or other public place offering or exposing goods and / or services for sale (such as roaming activities like Mr Whippy, coffee carts and food trucks). It does not include mobile libraries. There are two different types of mobile shop operators – those that can be considered ‘roaming’ as they move onto another location after a certain time period (for example, 30 minutes) while others will park up in one fixed location to solicit business.

The council has the right to control the location of mobile operators if it may unreasonably impact on local businesses, residential areas or the local environment from a public health and safety perspective, cause a nuisance (such as offensive odours) or impact on traffic and pedestrian safety. The council cannot restrict mobile traders for anti-competitive reasons or in a way that is contrary to the intent of the Commerce Act 1986.

Mobile traders who sell goods or offer services in a public place through a credit arrangement are required to be registered as Financial Service Providers under the Credit Contracts and Consumer Finance Act 2003. Under the Act, anyone who provides credit (called ‘creditors’) are required to be registered and a member of a dispute resolution scheme³.

There is a general principle that trading in road reserves is not allowed unless the site has a formal parking area (such as a rest area).

There is a general principle that ‘roaming’ approvals will only be issued to operators selling prepared food or drink (i.e. Mr Whippy, Coffee Vendors etc).

Specific conditions for mobile shops and stalls

2.4.1 Applying for an approval for mobile shops and stalls

An application for an approval for a mobile shop or stall must provide the following information:

Applicant details

- (a) name, address and contact details of the applicant
- (b) details on the type of mobile shop or stall and the product to be sold or service offered and its hours / days of operation
- (c) a scale plan delineating the extent of the public area to be occupied, the siting of mobile shop or stall and any associated displays or signage
- (d) evidence that any temporary stall selling, preparing and handling food satisfy food hygiene regulations, the **Food Safety Bylaw 2013** and any other relevant regulations or Acts

³ [Changes](#) to the Credit Contracts and Consumer Finance Act 2003 (which came into effect on 6 June 2015) now require **all** creditors to be registered on the Financial Service Providers Register (FSP register) and be a member of a dispute resolution scheme.

- (e) whether adequate clear footpath is available for pedestrians around the mobile shop or stall and any associated sign or display. A mobile shop should not exceed the extent of its delineated area
- (f) specifications of any barriers, canopies, awnings, signage and screens including ground supporting fixtures
- (g) details of public liability insurance
- (h) the duration that the mobile shop will occupy a public place for any one time
- (i) the impact of the mobile shop on the safety and flow of vehicular and pedestrian movements.

NB: Applicants who intend on providing goods or offer services through a credit arrangement need to be registered as a Financial Services Provider under the category of being a creditor under a credit contract, as per the provisions of the [Credit Contracts and Consumer Finance Act 2003](#).

2.4.2 The council when considering an application for a mobile shop or stall may assess the following matters:

- (a) the quality, style and design of the mobile shop or stall. Any mobile shop or stall should make a positive contribution to the surrounding environment. The layout and orientation should be selected based on the size of the available space
- (b) whether stall holders have approved food hygiene qualification. Where food is to be sold stalls must have appropriate food preparation, handling and storage facilities to meet food hygiene regulations, the **Food Safety Bylaw 2013** and any other Act or regulations in relation to food hygiene
- (c) whether the hours and days of operation of the mobile shop or stall is such that it does not permanently occupy the public space
- (d) whether appropriate traffic management measures are in place to avoid adverse effects on the safety and flow of pedestrians and vehicles. This may include the constraints on the capacity of available parking in the area, pedestrian access and safety, and any other traffic safety issues
- (e) whether the mobile shop or stall operator has appropriate public liability insurance
- (f) whether barriers, canopies, awnings, signage and screens associated with the mobile shop or stall are kept to a minimum and are appropriately designed and fixed or weighted so as to not give rise to adverse effects on traffic and pedestrians
- (g) any conditions imposed by the land owner (if the activity is located in a park, beach, reserve or land controlled by a council controlled organisation).

2.4.3 The council can impose the following (but not limited to) conditions on an approval for mobile shops:

- (a) the exact location(s) and duration of occupation of the mobile shop or stall and any associated signage (limited to two) and displays

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- (b) that the design and construction of stalls and mobile shops will be of a good standard and should be appropriate for the local surroundings
- (c) a requirement to operate and park/position the vehicle in a safe manner which is not likely to cause a hazard to pedestrians or other traffic
- (d) the use of chimes or other audio devices other than when the mobile shop is moving and is not in the vicinity of a church or hospital or causing a nuisance to residents
- (e) have a suitable waste receptacle for disposing any waste accumulated as a result of trading
- (f) the hours and days of the stall or mobile shop operation, including limitations on the hours of set up and pack down
- (g) the payment of an approval fee on an annual basis and a rental component fee for the occupation of the public place
- (h) a limitation on the duration of the approval
- (i) a limitation that the approval applies only to the applicant and may not be transferred.

More information on [mobile shops](#) can be found on the council's website.

2.5 OUTDOOR DINING

(refer to clause 17 of the Trading and Events in Public Places Bylaw 2015)

Outdoor dining can enhance the character of a local area and help create attractive, vibrant and functional public places and active street frontages. However it can give rise to problems such as obstructions, noise, litter and disorderly behaviour from outdoor approved areas where alcohol is consumed.

The guidelines on outdoor dining aim to inform businesses of the requirements for undertaking outdoor dining and the application process. The activity should enable pedestrian through-movement and flow and be designed to reflect the public nature of the street, with minimal fencing, awnings, screens or boundaries that tend to privatise the public place. It is important to maintain a minimum clear access way on all footpaths and public places.

The approval for outdoor dining enables premises offering food and/or drinks, including those offered by an approvals (for serving alcohol) premises to use/occupy the footpath, shared space street or public space immediately in front of their premises. Premises that serve alcohol in the outdoor seating area will need to ensure that they comply with the requirements of the **Sale and Supply of Alcohol Act 2012**.

Specific conditions for outdoor dining

2.5.1 Applying for an approval for outdoor dining in a public place

An application for approval for an outdoor dining area must provide the following information:

Applicant details

- (a) name, address and contact details of the applicant.
- (b) a site plan, presented on A4 or A3 size paper, delineating the extent of the public area to be occupied by the seating layout; specifications and a photograph of any proposed furniture (for example, planter boxes, tables, chairs, umbrellas, trestles, gas heaters). The plan should also:
 - show a north point
 - be labelled with measurements
 - include specifications and diagrams of entrances or access points, street furniture, barriers, signage, awnings, and screens including ground and supporting fixtures
 - indicate the width of the building, location of the building lines and kerbs
 - show the position of the outdoor area including the proposed location of tables, chairs and other supporting items and structures
 - clearly show the distance (with measurements labelled) of furniture and the edge of the adjacent property boundary is the outdoor seating area adjoins neighbouring property.
- (c) photograph of the site (for example, the shop frontage)

- (d) details of public liability insurance
- (e) a current food premises registration
- (f) a resource consent or proof of planning permission may be required if outdoor dining is not provided for in current district plans or the Proposed Auckland Unitary Plan
- (g) a liquor approval under the **Sales and Supply of Alcohol Act 2012**, if applicable
- (h) details of signage, drop down blinds, planter boxes, screens, awnings that will be incorporated as part of the outdoor dining area
- (i) details on the provision of toilet facilities so that customers can access a public toilet during the hours of operation and that they are within 100 metres of the premises (except takeaways and bakeries)

2.5.2 The council when considering an application for outdoor dining will assess the following matters:

- (a) whether adequate clear footpath space is available for pedestrians. A minimum unobstructed width of no less than 1.8 metres must be maintained. The council will take into consideration the need to maintain direct pedestrian movement and any outdoor dining activity approved on neighbouring or adjacent sites. Vehicular circulation is also an important consideration in assessing any application.
- (b) whether the footpath area set aside for tables and chairs is appropriate and does not exceed the width of the business frontage to which it relates and that the public space area is allowed for in the Proposed Auckland Unitary Plan
- (c) whether the hours and days of operation of the outdoor dining area are such that the outdoor dining area does not permanently occupy the public space.
- (d) whether any barriers, signage, canopies, awnings, umbrellas, heating devices and screens associated with the outdoor dining area can be kept to a minimum and are appropriately designed and fixed or weighted so as not to give rise to visual clutter or adverse effects on traffic and pedestrians (including the disabled and elderly).
- (e) compliance with building code regulations and fire regulations. The operator must also hold a code of compliance certificate and demonstrate that the premises has capacity to service an increased number of patrons as well as ensuring the provision of:
 - adequate toilet facilities (except takeaways and bakeries)
 - sufficient grease trap capacity to cater for total numbers of patrons both inside and outside the premises.

2.5.3 The council can impose the following (but not limited to) conditions on an approval for outdoor dining areas:

Outdoor furniture

- (a) the numbers of tables and chairs approved and their placement. It is the responsibility of the operator to ensure that no additional chairs or tables are moved from the indoors and

places in the outdoor seating area. Additional tables, chairs and other items will require an amendment to the approval by the council.

- (b) the design, placement and condition of any tables, chairs, barriers and screens and limitations on the size, placement and content of any advertising associated with the outdoor dining area.
- (c) seating may not be located in the middle of the footpath or, next to the building edge and kerb side at the same time
- (d) if the outdoor dining area is located adjacent to mobility parking adequate clearance from the kerb must be maintained to allow access for wheelchair and other mobility aids
- (e) outdoor furniture shall be stackable, foldable or easily dismantled so that it can be moved and stored away from the footpath.
- (f) the outdoor dining area that is approved for any café or licensed premise is specifically for the purpose of providing seating for customers
- (g) the approval holder is responsible for all public liability arising from the placement of street furniture on the footpath

Demarcation and extent of the dining area

- (a) the exact operating location(s) of the outdoor dining area and any tables and chairs, and the minimum clear widths of footpath required to be maintained
- (b) the requirement to delineate the extent of the permitted area using council approved footpath markers including areas that do not have a liquor permit.
- (c) in the case of outdoor dining areas in shared space areas, special demarcation may apply and operators will be advised of this at the time of trading permit being issued.
- (d) that only the public space directly outside the restaurant / café may be used for outdoor dining and may not extend to the areas in front of adjacent premises

Health and Safety

- (a) a requirement that the outdoor dining area is kept free of food scraps, grease, general litter and rodents
- (b) compliance with building code regulations and fire regulations
- (c) sufficient grease trap capacity to cater for total numbers of patrons both inside and outside the premises
- (d) appropriate waste management strategies must be considered including, if permitted, appropriate receptacles for the disposal of tobacco litter such as cigarettes butts.
- (e) cigarette butts and ash must be collected from the footpaths, tree pits and any other parts of the trading area
- (f) it is responsibility of the approval holder to maintain public safety. Sharp edges, trip hazards, heating devices and any dangerous objects must be managed and steps taken to mitigate any potential risks immediately
- (g) the approval holder may be liable for all costs of repair to any damage or cleaning to the footpaths, arising from the use of the outdoor dining area.

Note: the approval may be suspended or revoked where, as a consequence of non-compliance with the approval conditions or the bylaw, it has been necessary to do so to protect the public from unhygienic, unsafe or hazardous conditions.

Drop down blinds

(a) may be used for protection from inclement weather (for example, rain, wind or cold) provided these:

- remain up and fully retracted at all other times
- are well maintained and of a good quality
- constructed from quality materials and finishes that are durable and weatherproof.
- fixed within the context of the locality
- are made from transparent material with an opaque contrast edging to allow for clear visibility at the required height⁴ and do not cause a visual obstruction and enable good sightlines
- are set back from the kerb at a minimum of 600mm, except for on a corner when the minimum set back should be 1.8 metres
- do not cover more than 50 per cent of the perimeter of the outdoor dining area (excluding building frontage) at any one time.
- are anchored with fixtures that hold the blinds in place in the long term⁵
- any fixtures are to be flushed

Planter boxes

(a) may be approved where:

- they are portable and able to be removed from the street
- are stored within the premises at all times outside of approved operating hours
- they do not compromise public safety, accessibility, safe pedestrian movement, obstruct visibility and the general use of the public space
- they do not compromise street cleaning

Umbrellas (including bases)

(a) may be allowed where:

- there is either no overhead veranda or the veranda does not provide adequate shelter to patrons
- the umbrella and base are sturdy, securely fixed, and does not present an physical or visual obstruction or is a trip hazard
- they are removed in windy conditions

⁴ In accordance with the provisions of the New Zealand Standard (2001) Design for Access and. Mobility – Buildings and. Associated Facilities in relation to height.

⁵ Note that there are some conditions before any anchors can be attached. These include the requirement that anchors must comply with approved supplier standards and that Auckland Transport (AT), as the landowner must have approved, prior to installation.

- the umbrella does not encroach beyond the demarcated area
- the edge of the umbrella hood is at least 2.2 metres above the level of the footpath.
- are preferably market style umbrellas.
- in shared space areas umbrellas will be considered for their suitability during the application process.

Heaters (external gas or electric)

(a) may be approved provided they:

- are mobile and have a suitably heavy and sturdy base to prevent tipping
- are located a minimum of 600 mm from the kerb or within shored spaces as approved
- are contained within the approved trading area
- are installed by a registered tradesperson.

Noise

(a) is to be managed and, as condition of the approval avoid any unreasonable noise as per the Resource Management Act 1991 and the Public Safety and Nuisance Bylaw 2013. The requirement to manage noise includes:

- restrictions on the use of any amplified form of musical entertainment in the public place. No amplified noise is allowed in the outdoor dining area
- managing over-crowding in the outdoor area
- encouraging patrons to be seated
- patrolling the outdoor seating area on a regular basis
- minimising noise nuisance in the outdoor seating area.
- ensuring that noise is managed when setting up and packing down so as to avoid or minimise any disturbances to the surrounding neighbourhood.

More information on [outdoor dining](#) can be found on the council's website.

2.6 FUNDRAISING

(Refer to clause 18 of the Trading and Events in Public Places Bylaw 2015)

Fundraising undertaken in public places includes requests for ongoing donations (done via direct dialogue - “face to face”), street appeal collections (‘bucket rattlers’) and a variety of other methods such as text donation and charity product sales (alternative methods are increasing in popularity). It can be undertaken by national or international organisations (for example, UNICEF, Royal Foundation for the Blind) or local charitable or community groups using volunteers. The council recognises the potential benefits of fundraising in increasing public awareness about an event or cause.

These guidelines aim to continue enabling and supporting fundraising in public places as long as it does not impede pedestrian access and flow, impact on street amenity, health and safety or, the management of that public place.

Fundraisers who are registered with the Public Fundraising Regulatory Association (PFRA) must comply with their relevant Code of Conduct⁶ as well as the conditions of these guidelines.

Fundraisers are encouraged on private property, such as DIY stores and supermarket car parks, as these are privately-owned spaces and as such do not require council approval. The council will consider requests for collections on a public place for groups without charity status⁷ for one off incidents such as disaster relief or a school fundraiser. These groups should contact the council prior to any such activity taking place to ensure that there are no safety issues in the proposed area(s) or too many operating in one single location.

Specific conditions for fundraising

2.6.1 Applying for an approval for fundraising

An applicant for an approval for fundraising must provide the following information:

Applicant details

- (a) the name, address and contact details of the applicant
- (b) the details of the type of fundraising activity
- (c) proof of charity status
- (d) the location of the activity and number of persons involved.
- (e) the date(s) and time(s) the activity will occur

⁶ www.pfra.org.nz/PFRA+Code+of+conduct

⁷ Clause 18 1(a) of the [Trading and Events in Public Places Bylaw](#) requires an applicant who wants to obtain fundraising approval either be a registered charity or an approved donee organisation.

- (f) confirmation from council's Events teams that the date/time/location(s) do not clash with an event requiring road closure(s).

2.6.2 The council when considering an application for fundraising will assess the following matters:

- (a) whether the applicant is registered as a charity with the Department of Internal Affairs or been approved as a donee organisation by the Inland Revenue Department
- (b) provision of contact details in the event of a complaint
- (c) the number of collectors located in a particular area and the duration
- (d) consideration of impact of collectors on local areas and ensuring that there is equity in the number of collectors assigned to an area (*input from the relevant business association may be sought*)
- (e) how collectors, organisers or groups will be identified as representing the appropriate charity appeal, organisation or group
- (f) confirmation from the Public Fund Raising Association (PFRA) that there are no clashes with other charity/fundraising groups for the same area, date(s) and time(s).

2.6.3 The council can impose the following (but not limited to) conditions on an approval for fundraisers

- (a) any boxes, bags or collection devices for charity appeals or fundraising organisations must be clearly identifiable pertaining to the appeal or organisation
- (b) the collector, organiser or group shall not sell or offer for sale any commodity or service not specified for in the approval application
- (c) a frame and / or sandwich board advertising is not approved
- (d) collectors should provide information on the charity to subscribers / donors
- (e) collectors, organisations or groups shall not operate too close to intersections or impede pedestrian traffic on the footpath
- (f) collectors, organisations or groups must keep to the footpaths
- (g) PFRA members must comply with any relevant codes of conduct developed by the association
- (h) pedestrians and neighbouring businesses must not be harassed
- (i) no amplified music, entertainment or advertising is to be used unless specific permission has been granted by the council
- (j) collectors, organisations or groups must comply with any reasonable request from nearby businesses
- (k) Auckland Council reserves the right to amend or revoke any approval if:
- deemed necessary, particularly if there is planned or unplanned road maintenance or an event in the same location as the fundraising activity

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- any problems associated with the activity (for example, harassment of pedestrians) are unable to be resolved or, if any conditions are not met or complied with.

More information on [fundraising](#) can be found on the council's website.

2.7 OFFERING COMMERCIAL SERVICES

(Refer to clause 19 of the Trading and Events in Public Places Bylaw 2015)

'Commercial services' refer to commercial activities that are not covered by the other categories of trading. It includes any activity or service conducted in a public place in exchange for payment or otherwise. It does not include street performances which are covered as a separate activity (**refer to section 2.13**). The most common examples of commercial services that includes the hire of recreational equipment such as kayaks or other water borne craft or bicycles.

Specific conditions for offering commercial services

2.7.1 Applying for an approval for offering commercial services

An applicant for an approval for offering commercial services must provide the following information:

Applicant details:

- (a) name, address and contact details of the applicant.
- (b) the nature, type and scale of service being offered;
- (c) the intended location including whether there are multiple sites;
- (d) in the case of water based activities (for example wind surfing hire, kayak hire) evidence of approval from the Harbour Master is required
- (e) in the case of activities located in parks, reserves or beaches, evidence that the appropriate approvals from parks/local boards (land owner approval) has been (or is in the process of being) obtained.

2.7.2 The council when considering an application for offering commercial services may assess the following matters:

- (a) whether adequate clear area is available for pedestrians around the commercial service for the extent of its delineated area
- (b) the quality, style and design of the commercial service offered. Any commercial service offered should make a positive contribution to the surrounding environment. The layout and orientation (including storage of equipment if necessary) should be selected based on the size of the available space
- (c) whether the hours and days of operation of the commercial service is such that it does not permanently occupy the public space
- (d) whether appropriate traffic management measures are in place to avoid adverse effects on the safety and flow of pedestrians and vehicles (bike hire services operating close to the footpath)
- (e) whether the commercial service operator has appropriate public liability insurance

- (f) whether barriers, gazebos, umbrellas, tents, signage and screens associated with the commercial service are kept to a minimum and are appropriately designed and fixed or weighted so as to not give rise to adverse effects on traffic and pedestrians
- (g) in the case of a commercial service provider located on a park, beach or reserve, any recommended conditions from the land owners will be taken into account.

2.7.3 All commercial services provided in a public place must comply with (but not limited to) the following conditions:

- (a) not impede the movement of persons or vehicles, create or likely to cause a nuisance, impact on public safety, be dangerous or offensive
- (b) pedestrians and adjacent business owners must not be harassed
- (c) not include touting (that is, direct sale or promotion to passersby using voice, music or similar whether amplified or not)
- (d) not impact on adjacent local businesses, local environment or residential areas (for example, by causing a nuisance, traffic hazard or impact on public safety)
- (e) the operator is responsible for the disposal of their litter and should not use the public litter bins for disposal of litter associated with their activity
- (f) compliance with other bylaws, regulations and standards and instructions from the Police or any authorised officer (for example, the Harbour Master for water based activities).

More information on [offering commercial services](#) can be found on the council's website.

2.8 DISTRIBUTION OF PROMOTIONAL GOODS AND MATERIAL

(Refer to clause 20 of the Trading and Events in Public Places Bylaw 2015)

Businesses are becoming increasingly innovative in the way they promote their goods and services. While the traditional method of handing out flyers or pamphlets to promote a product or service still exists some operators are using 'experiential marketing' techniques (also known as 'event' or 'street marketing') which are closer to resembling a street performance or event and can add to the vibrancy of an area.

While the distribution of promotional material can add value to the customer's experience and support successful product / service campaigning, there is a need to control some of the issues related to this activity such as obstructions, litter, traffic management issues and the frequency of promotional activities as well as public safety and amenity⁸.

Specific conditions for distribution of promotional material

2.8.1 Applying for an approval for distributing promotional material or goods

An application for an approval for distributing material or goods for promotional activities must provide the following relevant information:

Applicant details:

- (a) name, address and contact details of the applicant
- (b) details of the type of product, goods or type of promotion and its hours of operation
- (c) a scale plan delineating the extent of the public area to be occupied, location and any associated displays, structures, or signage
- (d) photograph of the site(s)
- (e) the hours and days of the operation
- (f) details of public liability insurance
- (g) the impact of the promotional activity on the safety and flow of vehicular and pedestrian movements
- (h) details of how the area will be kept tidy and litter associated with the activity will be removed.

⁸ While this activity does not include not-for-profit groups handing out flyers (religious groups) or political campaigners, there is still a requirement that these activities do not breach other bylaws in relation to causing an obstruction of public places (Public Safety and Nuisance Bylaw 2013), littering (Solid Waste Bylaw 2013) or general traffic and pedestrian safety hazards.

2.8.2 The council when considering an application for distribution of promotional material may assess the following matters:

- (a) provision of contact details in the event of a complaint
- (b) the type of promotional material to be distributed (for example, flyers only, product giveaway such as cosmetics, drinks, whether on foot or in a static location)
- (c) the design and use of any static displays and/or tents, gazebos, signage, vehicles, stands associated with the promotion and any potential negative effects on pedestrians and/or traffic movement
- (d) the use of any equipment/material to attract attention that may have an adverse effect on pedestrian and/or traffic safety
- (e) the location(s) proposed in a particular area/town centre and the duration of the promotion.
- (f) consideration of impact on local areas and ensuring that there is equity in the number of distributors assigned to an area (*input from the relevant business association may be sought*)
- (g) how distributors, organisers or groups will be identified as representing the appropriate company, brand, organisation or group
- (h) confirmation from the relevant business association that there are no clashes with other promotional groups for the same area, date(s) and time(s)
- (i) what queue management strategies are in place to manage large crowds.

2.8.3 All promotional activities provided in a public place, regardless of scale and nature, must comply with the following conditions:

- (a) not impede the movement of persons or vehicles, create or likely to cause danger or obstruction to any person;
- (b) not cause a nuisance, impact on public safety, be dangerous or offensive
- (c) pedestrians and adjacent business owners must not be harassed
- (d) the area is kept in a clean, continuously tidy and safe standard
- (e) the operator is responsible for the disposal of their own litter and should not use the public litter bins for disposal of litter associated with their activity
- (f) the operator is liable for all costs of repair or cleaning required to the public place it occupied
- (g) comply with other bylaws, regulations and standards and instructions from the police or any authorised officer
- (h) there will be no use of amplified sound/music.

More information on the [distribution of promotional goods and material](#) can be found on the council's website.

2.9 STREET PERFORMANCES AND PAVEMENT ARTISTS

(Refer to clauses 21 and 22 of the Trading and Events in Public Places Bylaw 2015)

Street performances (such as busking) and pavement artists make an important contribution to the cultural life and vitality of our city, providing entertainment and thought-provoking experiences to members of the public. This is apparent across the region where street performers contribute to the overall appeal of an area. Quality street performance adds to the visitor experience and should be encouraged in areas likely to have high numbers of visitors. A lively city with lots of street-level activity can also contribute to a greater feeling of public safety. Auckland has a vastly talented pool of creative people and the city is proud to showcase this talent.

Street performers will be required to obtain an approval in order to control the number and location of buskers and to ensure compliance with the conditions imposed on their activities. All street performers, regardless of the nature and scale of their act, are required to contact the council and, to comply with the Trading and Events in Public Places Bylaw 2015 and the conditions of these guidelines.

Approvals are issued free of charge to any street performer with identification and are valid for one year, after which time a new approval must be obtained. Approvals are non-transferable.

Approvals are not required if the street performer is part of an approved organised event.

Prohibited areas – under clause 8 the Trading and Events in Public Places Bylaw 2015, the council can, by resolution, identify areas or parts of an area, where trading activities including street performances are prohibited to ensure public safety, prevent nuisance or to minimise obstructions or the mis-use of public places.

Performance locations – Any enquiries regarding street performance in the following areas should be directed to the relevant authorities:

- Britomart Train Station and the Station Plaza immediately at the rear of the station contact (09) 914 8431 or visit www.at.govt.nz
- Britomart Precinct www.britomart.org
- Viaduct Harbour Precinct visit www.waterfrontauckland.co.nz
- For public spaces managed by Ports of Auckland contact (09) 348 5000 or www.poal.co.nz
- Aotea Square, contact (09) 309 2677 or visit www.aucklandlive.co.nz

Permits/approval are issued free of charge to any street performer with identification and are valid for one year, after which time a new permit must be obtained. Permits/approvals are non-transferable.

Specific conditions for busking / street performances /pavement art

2.9.1 Applying for approvals for busking / street performances /pavement art

An application for an approval for street performance / busking / pavement art must provide the following relevant information:

Applicant details:

- (a) name, address and contact details of the applicant.
- (b) names of other members of the street performance if it is a group act⁹
- (c) proof of identity whilst performing (driver's approval, student id, passport)
- (d) parental / caregiver consent if the performer is under the age of 14¹⁰
- (e) details of the type of street performance including whether they are using dangerous materials, objects or animals.
- (f) the hours and days of the operation.
- (g) details of amplified sound, if necessary.

Additional information for a Special Street Performance Licence (SSPL)

- (a) if applying for a special street performance approval a health and safety review is required. The purpose of the review is to assess the performer's awareness of safety principles. A 'Health and Safety Checklist' will need to be completed and attached to the application.

Additional information for pavement artists

- (a) a location plan showing details of the proposed pavement art and provision for pedestrian traffic with measurements.

2.9.2 The council when considering an application for street performance and pavement art may assess the following matters:

All performers

- (a) appropriateness of proposed location(s) and effect(s) on nearby businesses and residences and ability to provide for pedestrians and potential audience including potential generation of complaints
- (b) type of street performance (including the use of amplifiers, brass, or whether it is a silent act, in relation to the location(s) proposed)
- (c) how many people are involved and whether the space proposed can comfortably contain them as well as a crowd

⁹ In the case of a group (up to five people) only one approval will be issued but each member of the group is named on the approval. The same street performance conditions apply to both individuals and group acts.

¹⁰ It is recommended that children of this age have parental supervision whilst performing. School children may not perform during school hours.

- (d) compliance history of the applicant
- (e) what queue management strategies are in place to manage large crowds.

2.9.3 All approved street performers must comply with the following (but not limited to) conditions:

All performers

- (a) every street performer has a duty to ensure that they are not creating a nuisance or from making excessive noise. This duty applies under the Resource Management Act 1991 and is also a condition of the Public Safety and Nuisance Bylaw 2013.
- (b) street performers who are part of an approved organised event must ensure they comply with the conditions set out in events permit and any other conditions.
- (c) the use or playing of any instrument, public address system or amplified sound performances may take place on any day between 7am and 9pm as long as they comply with the conditions of the Trading and Events in Public Places Bylaw 2015 and their approval and these guidelines. *Note: silent acts can operate at any time*
- (d) sound performances in designated areas, as identified by the council, may have hours extended.
- (e) performers, or groups of performers, are limited to a maximum total of 90 minutes on any one site. This includes up to 60 minutes of performance and up to 30 minutes set up / pack down per day on any one site.
- (f) the exception to clause (e) are circle acts or performers with a special street performance licence. Circle acts or acts with SSPLs may perform a maximum of two acts on the same site, on the same day if they ensure there is a break in between the two performances of at least 30 minutes.
- (g) street performers should have sufficient repertoire to fill the length of time they choose to be on the pitch (maximum 60 minutes playing time) without repetition of items/songs
- (h) street performers must comply with the instructions of council on site and must move or cease performing if requested to do so by a nearby building occupant.
- (i) street performers, who in addition to their performance wish to sell CDs of their own original work, may do so during the performance or set up and pack down period. A small sign (no larger than A4) sited on the pitch may alert the public to this opportunity. Street performers may not display, demonstrate or advertise other goods or services for sale or associate themselves with advertising in conjunction with their performance.

Additional Conditions for Special Street Performance Licences (SSPLs):

- (a) all general conditions applying to street performance approvals apply to the SSPL.
- (b) SSPLs are only issued to individuals and not groups. Each performer in a group must hold a current licence
- (c) each holder of an SSPL must comply with the approved Health and Safety Plan. Failure to comply with any condition of the Health and Safety Plan may result in revocation of the licence

- (d) an SSPL may be revoked if any of the conditions of the special street performance licence is not met. Any performer whose licence is revoked is not eligible to reapply for at least one year.
- (e) the performance space must be defined by setting a visible boundary of at least two metres between the performer and the audience using one of the following options:
 - a roped or chained off area, or;
 - a chalk line that is removed once the performer has completed the act
- (f) acts using flammable materials must include a fire blanket or fire extinguisher in their performance kits. This should be visible and accessible throughout the performance.

Additional Conditions for Pavement Artists:

- (a) artists must work directly on the pavement using materials that can be washed off with water without leaving a residue. Materials must not be slippery or likely to impact on public safety
- (b) advertising is not permitted in/on pavement art
- (c) individual works of art by artists may not be offered for sale at the site.

More information on [street performances and busking](#) and [pavement artists](#) can be found on the council's website.

2.10 EVENTS PERMIT

(Refer to clause 23 of the Trading and Events in Public Places Bylaw 2015)

The council recognises that events can enhance social cohesion and community spirit, strengthen identity and sense of place and attract creative and talented people and businesses – all of which contribute to the vibrancy of Auckland. It is important that events ensure the health and safety of both participants and other users of the public place and that the impacts of noise, litter, traffic and general obstructions are mitigated.

Any event¹¹, whether organised by individuals, groups or council organised activities, must obtain a permit from the council to operate in a public place. Guidance should be taken from Auckland Council's **Events Policy 2013** as well as ATEED's **Major Events Protocol 2013**. Applicants should also ensure that they have complied with the provisions of the proposed Auckland Unitary Plan, particularly around temporary activities.

Events often require a number of permissions and the council provides an events facilitation process to guide applicants through the regulatory system. The Events Permit formalises, in a regulatory way, the events facilitation process.

Specific conditions for obtaining an Events Permit

2.10.1 Permits for Events

An application for a permit for an event must provide the information required by and to the satisfaction of the council. If the required information is not supplied to the satisfaction of the council or by the required timeframe, the application may not be processed in time for the event or may be declined.

Applications for will be accepted and processed by either Community Development Arts and Culture (CDAC) or ATEED, depending on the scale of the event (major national/international events are handled by ATEED while smaller local community events are handled by CDAC).

The permit will be issued under the respective department's event advice, which will specify which traders participate in the event. Licensing & Compliance Services (LCS) will continue to undertake the compliance aspect of these events, and will be provided a copy of the advice. This will form part of any information to use, if any complaints are received regarding illegal trading in the vicinity of the event in question.

This means no change in business practice and there is a greater emphasis on information sharing between CDAC, ATEED and LCS.

Without placing any limitations on the council to require additional information, the following matters may be required (actual information requirements will vary depending on the nature and the scale of the event).

¹¹ The definition of 'event' does not include a funeral or tangi.

Applicant details

- (a) name, address and contact details of the applicant.
- (b) details of history of applicant's previous experience as an event organiser.
- (c) proof of identity (driver's licence, student identification, passport)
- (d) event details
- (e) programme / events schedule including description and purpose of event, catering, traffic activities
- (f) estimated number of people attending, including attendees, staff and volunteers
- (g) details of proposed future of event (i.e. is it an annual or one-off event)
- (h) event site plan, including structures and designated areas. This may include, but not be limited to, parking (staff and public), toilets, stages, marquees, tents, including sound tents, stalls, rubbish bins, fences, / barriers, signage and generators
- (i) specifications of any temporary buildings, tents, marquees and other structures associated with the event and copies of building permits for such buildings and structures (where required)
- (j) details of amplified sound
- (k) details of power and water requirements
- (l) details of food and commercial stalls including how many, what they are selling, or offering, and how they will comply with food handling and hygiene requirements
- (m) details of parking, including vehicles used in set up
- (n) details of set up / pack down, including hours, noise, parking, structures, equipment.

2.10.2 Conditions for the use of Auckland Council parks, reserves, squares and streets or facilities for events or filming

Auckland Council's prescribed conditions will be issued on the organiser's approved permit and may contain additional items from those listed below.

a) Access to Properties

The venue remains public property at all times. The organiser needs to ensure that access and egress for residents, businesses and emergency vehicles is available at all times; that the public is not unduly inconvenienced, and that public and private access ways are kept clear at all times.

b) Charges

The organiser is responsible for any fees or service and supply charges associated with the event as advised by Auckland Council Events.

c) Bond

The organiser may be required to provide Auckland Council a bond prior to the event. The purpose of the bond is to cover the potential costs of any breach of these conditions and also repairing any damage and undertaking any clean-up work.

d) Cancellation

If the event is cancelled more than six (6) months prior to the event date, a full refund will apply. If the event is cancelled less than six (6) months before the event date, no refund will apply. If an event is cancelled due to weather conditions, the organiser must notify the events team within three (3) business days after the event in writing and 50% of the invoices amount will be refunded.

e) Facilitation Information

The event organiser may be required to supply additional information including but not limited to, health and safety declaration, site map and public liability insurance. Your assigned event facilitator will advise you what additional information is required after your application has been reviewed.

f) Compliance with Council Rules and Legislation

An approved event provides the organiser with limited permission to occupy public land for the purposes stated. The organiser should be aware of any other rules applying to the public space on which their event is occurring.

g) Licences

The organiser shall obtain all appropriate licences (for example, liquor, food, building permits, special effects, fireworks, temporary structures and marquees) prior to the event.

h) Gardens

Auckland Council Parks staff are unable to guarantee high quality bedding displays all year round due to seasonal factors and unforeseen circumstances. Many displays have a strong seasonal component and this factor will influence the crops displayed and flowering times

i) Safety

The event organiser will be required to read, sign and comply with relevant health and safety policy as supplied by the event facilitator.

j) Electricity

The organiser shall, where electricity is being used for the event, utilise the services of a registered electrician to undertake this work. All electrical equipment used must be in good, safe working order

k) Compliance with Directions

The organiser shall ensure that all participants comply immediately with any instructions or directions issued by, or on behalf of Auckland Council officers in the execution of their duties.

l) Responsibility for Equipment

The organiser shall provide, place and remove all temporary structures, road markings, signs, rubbish bins, toilets, equipment, props or other structures or devices associated with the event. Removal of such equipment shall take place immediately after the event. All equipment and structures used must be in good, safe working order.

m) Responsibility for Clean Up

The organiser shall ensure that any area associated with the event is left in a clean and tidy condition, including surrounding streets. The removal and disposal of all rubbish shall take place immediately after the event, and all rubbish is to be disposed appropriately off site.

n) No Damage or fixtures to Property

The organiser shall ensure that all parks, reserves, wildlife, stock, vegetation, buildings and other facilities are not damaged or unduly disturbed at any time during the event or any set up or pack down period associated with it. Nothing is fixed, hung or otherwise attached to any features of the Park, Reserve, Square, Street or Facility (for example, trees, furniture, rotundas).

o) Schedule and Application Changes

The organiser shall advise Auckland Council as soon as possible of any proposed change to the nature of the event, which shall be subject to approval as a variation of the event permit.

More information on [applying for an events permit](#) can be found on the council's website

2.11 OUTDOOR DISPLAY OF GOODS

(Refer to clause 24 of the Trading and Events in Public Places Bylaw 2015)

Items displayed on footpaths or other public places can add to the vibrancy of an area as well as generate commercial gains for the operator. Left unregulated, some of the problems associated with outdoor displays include:

- obstruction of public places and the associated impacts on accessibility (particularly in areas where footpaths are quite narrow)
- loss of public space
- impacts on visual amenity (limited/no control over the types of items on display or the way they are displayed)
- the potential for displays to become a nuisance.

In 'shared space areas'¹² a key feature is an accessible pathway (through route) directly adjacent to the building line which enhances safety particularly for those with visual impairments. In some areas such as Auckland central CBD, the display of goods outside a premise is not allowed in shared spaces in order to maintain access and minimise obstructions.

Specific conditions for outdoor display of goods

2.11.1 All outdoor business displays (including goods, objects and structures used to display or advertise the goods and / or services such as stalls, tables, signage, sun shelters and umbrellas) must comply with the following conditions:

- (a) not impede the movement of persons or vehicles, create or likely to cause danger or obstruction to any person (i.e. the provision of a continuous, safe path of travel along the footpath – including for those using mobility aids)
- (b) maintain a maximum display width of 600mm (measured from the shop frontage). A display must maintain a minimum unobstructed footpath width of no less than 1.8 metres
- (c) not include direct sales at the display itself (i.e. payment must be made inside the business itself not on the street)
- (d) not include touting (i.e. direct sale or promotion to passers-by using voice, music or similar whether amplified or not)
- (e) be placed upon a covered table, purpose built display stand or like structure and able to be easily distinguished from, the footpath. Items should not be displayed in or upon shipping boxes, pellets, crates, or similar containers

¹² A shared space is a multi-use space for pedestrians and/or traffic and activities such as outdoor dining. Two common types of shared spaces are shared zones and pedestrian malls. Examples include Elliot Street and Lorne Street in Auckland central CBD and Totara Avenue in New Lynn. .

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- (f) be presented in a neat and tidy manner, free from litter and secured so as to avoid falling or blowing into the path of pedestrians. The area around the trading operations should also be maintained in a reasonable manner
- (g) maximum occupancy length: 50% of the shop frontage
- (h) not have sharp edges or projections protruding into or onto the public place that may cause pedestrian injury
- (i) not be in a public place outside the business hours of the business (i.e goods display structures - tables, racks, shelves or similar) must be portable, and must be removed out of trading hours
- (j) no part of the footpath shall be used as a permanent storage place for any item/s. the hours of operation for the display of goods must be the same as or less than the hours of operation of the associated business
- (k) be moved to another part of the public place if directed by the council to do so
- (l) not be placed closer than 5 metres from an intersection and 2 metres from a pedestrian crossing
- (m) the placement of goods on footpath must be related to the business of the shop or business they are placed in front of.
- (n) not be placed in or on a carriageway, driveway, footpath crossing, grass berm or centre median
- (o) not display knives and firearms or be dangerous or offensive
- (p) if hanging from a veranda or other building projection, must maintain a minimum of 2.5 metres overhead clearance measured from the bottom of the outdoor business display to the footpath or ground level directly below, except that this requirement shall not apply where the public place immediately below is occupied by an outdoor business display complying with the conditions above
- (q) any signage relating to advertising the goods displayed must comply with relevant bylaws and guidelines relating to signage.

More information on [outdoor displays of goods](#) can be found on the council's website.

