



# Mobile Food Vendor Location Rules 2018

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## Mobile Food Vendor Location Rules

*This document is set by Council for use by the community and council administration*

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## 1. Purpose

This document sets out the location rules for Mobile Food Vendors with permits to operate within the City of Playford council area.

## 2. Scope

A mobile food vending business requires a permit under section 222 of the *Local Government Act 1999* to operate a business on a public road in the Council area.

A condition of a permit authorising a mobile food vending business to operate on a public road in the Council area is that the permit holder complies with location rules adopted by the Council under Section 225A of the Local Government Act.

The Council has adopted the location rules set out in this document.

## 3. Definitions

**Fixed food business:** is a business the primary purpose of which is the retail sale of food or beverages that is carried on at fixed premises. Fixed food businesses include cafes, restaurants, delicatessens, takeaway food businesses, bakeries, greengrocers, health food shops, butchers, supermarkets and, in some cases, service stations.

**Food business:** means a business the primary purpose of which is the retail sale of food or beverages.

**Mobile food vending business:** means a business involving the sale of food or beverages from a vehicle.

**Reasonable distance:** will depend on the circumstances and may vary from location to location.

**Vehicle:** includes a motor vehicle and trailer as well as a tram, bicycle, animal being ridden or drawing a vehicle and motorised wheelchair that can travel at over 10 kilometres per hour, or as defined in the *Road Traffic Act 1961*.

## 4. Location Rules

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

#### **4.1 Operate a reasonable distance from a fixed food business**

A mobile food vending business must select a site for operation which allows for a reasonable distance between the mobile food vending business and fixed food businesses during the operating hours of the fixed food businesses:

- A mobile food vending business must consider the location, number and operating hours of fixed food businesses in the Council area when determining if the location in which the mobile food vending business wants to trade is a reasonable distance from fixed food businesses. Determining a reasonable distance from fixed food businesses requires a balancing of these factors.
- A mobile food vending business should have an objective basis for determining that in the circumstances of the location, and considering the location, number and operating hours of fixed food businesses in the Council area, the distance between the fixed food business and the mobile food vending business will be reasonable.
- A mobile food vending business may be required to provide an explanation of their reasoning to Council or the Small Business Commissioner (see Section 5 below).

#### **4.2 Take into account the effect of the operation of the mobile food vending business**

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 on:

- vehicles and pedestrian traffic, footpaths, driveways, access points to buildings and parking areas for people with disabilities;
- the requirements relating to, and availability of, parking spaces; and
- residents and businesses.

A mobile food vending business must operate from a site where it will not cause any obstruction(s) to a public road or public footpath, including:

- obscuring a pedestrian or driver's view of a road in an unsafe manner;
- blocking vehicle or pedestrian access to a bus stop; or
- from customers of a mobile food vendor obstructing other persons using the footpath;

A mobile food vending location cannot be selected which would breach on-road parking requirements, including:

- parking within spaces reserved for people with disabilities;
- breaching car parking time limits (once timed parking restrictions have been exceeded they may not attend the same location with a 24 hour period whilst those restrictions apply); or
- taking up all, or a significant amount of, the parking available to other businesses.

A mobile food vending business must not interfere with residents living, or businesses operating, in the vicinity of the site. This includes, but is not limited to:

- obstructing pedestrian and vehicle access to premises;
- generating litter, odour, smoke, dust fumes or noise; or
- otherwise interfering unreasonably with, the enjoyment of the area by persons occupying a place within, or lawfully resorting to, the area.

#### **4.3 No undue interference with vehicles or road related infrastructure**

A mobile food vending business must select a site for operation where the mobile food vending business will not impinge on the use of roads by vehicles or unduly interfere with:

- vehicles driven on roads;
- vehicles parking or standing on roads;
- parking areas for people with disabilities (within the meaning of rule 203(2) of the *Australian Road Rules*);
- public transport and cycling infrastructure (including bus zones, taxi zones and bike lanes);
- other road related infrastructure; or
- infrastructure designed to give access to roads, footpaths and buildings.

#### **4.4 Not operating from sites that are potentially unsafe**

Mobile food vendors must not operate from sites where the road conditions make the operation of the business potentially unsafe. This includes (but is not limited to):

- not operating on roads where the speed limit is greater than 60 kilometres per hour;
- ensuring that customer service from the mobile food vehicle occurs from the vehicle adjacent to the kerb/footpath (i.e. not from the road); and
- only trading within day light hours.

Note that in order to operate on roads controlled by the Department of Planning Transport and Infrastructure (DPTI) Council will seek the Department's consent, prior to issuing a permit.

Alternatively, permits issued will exclude operation from DPTI controlled roads.

#### **4.5 Compliance with legislative requirements**

Legislative requirements apply to the provision of food, the operation of a business and the use of a motor vehicle.

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

- the *Food Act 2001*;
- the *South Australian Public Health Act 2011*;

- the *Environment Protection Act 1993*;
- the *Local Nuisance and Litter Control Act 2016*;
- the *Motor Vehicle Act 1959* and the *Road Traffic Act 1961*;
- the *Disability Discrimination Act 1992*;
- legislation relating to electrical or gas installations or appliances; and
- relevant legislation relating to health, safety or the environment.

In particular, mobile food vendors must ensure they:

- obtain a Food Notification Certificate prior to any food being sold;
- employ safe food handling practices;
- be self-sufficient in regards to power and have suitable solid and liquid waste containment facilities within the food vending vehicle;
- do not discharge waste or rubbish onto Council land or roads; and
- do not utilise or connect with private or public infrastructure, such as water, gas or electricity, for the purposes of operating their business.

#### **5. Disputes may be referred to the Small Business Commissioner**

If an operator of a food business in the Council area is directly adversely affected by these location rules then the operator may apply to the Small Business Commissioner for a review of the location rules.

#### **6. Amendment of these location 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 by to so by the Small Business Commissioner or to satisfy a requirement of the Minister for Local Government.

#### **7. Responsibilities**

The Capital Works and Assets team will be responsible for implementing the Location Rules.

#### **8. Relevance to Strategic Plan**

These Location Rules link to the Smart Jobs and Employment Program due to its capacity to support local job creation.

#### **9. Approval and Change History**

<b>Version</b>	<b>Approval Date</b>	<b>Approval by</b>	<b>Change</b>
1.0	23 January 2018	Council	