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| Policy Section: | 3. Development, Environment & Regulatory Services |
| Policy Name: | Mobile Food Vendors |
| Classification: | Public – Council Policy |
| Adopted: | June 2018 |
| Frequency of Review: | Triennial |
| Last Review: | June 2018 |
| Next Review Due: | June 2021 |
| Responsible Officer(s): | Team Leader Environment and Regulatory Services Manager Development, Environment and Regulatory Services |
| Policy and Code of Practice Manual File Ref: | CC10/2601 |
| Council File Reference: | CR18/27567 |
| Legislation Authority: | Local Government Act 1999 |
| Related Policies and Codes: | N/A |
| Related Procedures: | N/A |

1. BACKGROUND / INTRODUCTION

A mobile food vending business requires a permit under section 222 of the *Local Government Act 1999* to operate as 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 or in a public place 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* or any conditions placed upon that permit by Council.

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

2. COUNCIL DETERMINED MOBILE FOOD VENDING BUSINESS SITES

The Council has determined that mobile food businesses may operate from the sites shown on the attached map. Permits may be subject to complying with location rules and any other requirements of its permit such as trading and hours of operation.

| | Location | Operating Hours |
|-----|---------------------------------------|---|
| 1. | Clonlea Park – Car Park | During Park operating hours |
| 2. | Pioneer Park – Car Park | 10:00am – 10:00pm – except during events |
| 3 | Julian Terrace | 10:00am – 10:00pm – except during events |
| 4. | Dead Man's Pass | 5:00pm - 10:00pm |
| 5. | Gawler Aquatic Centre – Car Park | After Hours of operation of Aquatic Centre |
| 6. | Sport and Community Centre – Car Park | After Hours of operation of Sport and Community Centre. |
| 7. | Murray Street | After Hours |
| 8. | Gum Tree Plaza | After Hours |
| 9. | Gawler Central | After Hours |
| 10. | Walker Place | After Hours |

Permits will be revoked for the period of or during any events or functions that are planned to occur at any of the locations. A requirement of the mobile food vendor permit will be that the location is not be used for the duration of the event.

Not for profit and or charitable organisations will be exempt from any fees associated with the granting of a permit.

2.1 Operate a reasonable distance from a fixed food business location rule

A mobile food vending business will be located at a reasonable distance (no less than 200 metres) to a fixed food businesses during the operating hours of the fixed food businesses.

Explanation

A '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.

A 'reasonable distance' will depend on the circumstances and may vary from location to location.

Location rules have considered 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 can trade. Determining a reasonable distance from fixed food businesses requires a balancing of these factors.

2.2 Take into account the effect of the operation of the mobile food vending business

Location rule

Mobile food vending sites have taken into account the effect of the operation of the mobile food vending business on:

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

Explanation

A mobile food vending business must operate from a site where it will not cause an obstruction to persons using the public road or interfere with residents living, or businesses operating, in the vicinity of the site.

A site cannot be selected which would breach parking requirements applying to the site. This includes locating the mobile food vending business within spaces reserved for people with disabilities.

2.3 No undue interference with vehicles or road related infrastructure

Location rule

The mobile food vending business site will not unduly interfere with:

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

Explanation

A mobile food vending business must operate from a site which will not impinge on the use of roads by vehicles or interfere unduly with road related infrastructure.

3. MOBILE FOOD VENDING BUSINESS DETERMINED SITES

A mobile food vending business holding a permit issued by the Council may not operate anywhere in the Council area.

Designated locations will be identified and sign posted accordingly.

3.1 Compliance with legislative requirements

A mobile food vending business / site must not breach any relevant requirements under:

- (a) the *Food Act 2001*;
- (b) the *South Australian Public Health Act 2011*;
- (c) the *Environment Protection Act 1993*;
- (d) the *Local Nuisance and Litter Control Act 2016*;

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- (e) the *Motor Vehicle Act 1959* and the *Road Traffic Act 1961*;
- (f) legislation relating to electrical or gas installations or appliances; and
- (g) relevant legislation relating to health, safety or the environment.

4. FEES

4.1 Permits for business purposes—mobile food vendors

In accordance with section 224(2) of the Act, the following requirements relating to conditions of a permit for the purposes of a mobile food vending business are prescribed:

- (a) a council is prohibited from imposing a condition restricting the kind of food that may be sold by the mobile food vending business;
- (b) a condition imposed by a council requiring the payment of a fee in relation to the permit—
 - (i) must allow the permit holder to elect to pay either an annual or monthly fee; and
 - (ii) must not require the payment of a fee exceeding—
 - (A) in the case of an annual fee—\$2 000 per year (excluding GST); or
 - (B) in the case of a monthly fee—\$200 per month (excluding GST);
- (c) a council must ensure that the permit is subject to—
 - (i) a condition requiring the permit holder to have insurance of a kind specified by the council (such as public liability insurance); and
 - (ii) conditions requiring that the operation of the mobile food vending business not unduly interfere with—
 - (A) vehicles driven on roads; or
 - (B) vehicles parking or standing on roads; or
 - (C) a parking area for people with disabilities (within the meaning of rule 203(2) of the *Australian Road Rules*); or
 - (D) public transport or cycling infrastructure (such as bus zones, taxi zones and bike lanes); or
 - (E) other road related infrastructure; or
 - (F) infrastructure designed to give access to roads, footpaths and buildings;

5. EXEMPTIONS

Ice Cream vans will be exempt from these provisions because of the nature of their business operations which involve moving from location to location.

Community, church and not for profit organisations will be exempt from any fees associated with the granting of a permit.

6. DISPUTES

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.

7. REVIEW AND EVALUATION

The Policy will be reviewed every three years.

The Chief Executive Officer will report to Council on the outcome of the evaluation and if relevant make recommendations for amendments, alteration or substitution of a new Policy.

The Policy will not be altered or substituted so as to affect a process already commenced.

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

6. FURTHER INFORMATION

Further information about this Policy can be obtained by:-

Telephone: 8522 9211

Email: council@gawler.sa.gov.au

Appointment: Town of Gawler Administration Centre, 43 High Street, Gawler East.

Letter: PO Box 130, Gawler SA 5118

7. AVAILABILITY OF POLICY

The Policy is available for inspection during ordinary business hours at the Council principal office, Town of Gawler Administration Centre 43 High Street, Gawler East or is available on the Council website at www.gawler.sa.gov.au.

A copy of this Policy will be provided to interested parties upon request, for a fee as contained in the Register of Fees and Charges.