



# ***Mobile Food Vehicle***

## ***Guidelines for Operation and Sale of Food***

Originally adopted by Council - June 2011

Amended & adopted by Council - 3 June 2013

Amended & adopted by Council - 8 July 2014

– 14 July 2022 Minor amendments to reflect updated General Local law

### **Obtaining a Permit to Operate a Mobile Food Vehicle**

#### **If you wish to operate on Private Land:**

- You may require a Planning Permit from Council, pursuant to the provisions of the *Planning and Environment Act 1987*
- Application forms may be lodged with Council's Statutory Planning Branch at Richmond Town Hall, telephone .9205 5555

#### **If you wish to operate on Public Land:**

- You will require a Local Laws permit pursuant to these Guidelines
- Application forms may be lodged with Council's Compliance Branch at Richmond Town Hall, telephone 9205 5555

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## Purpose

These guidelines have been developed to guide Council's consideration of applications for permits under Council's General Local Law and to provide a framework for management of mobile food vehicles on public land (i.e. parks or reserves, streets or roads) within the municipality.

Council supports Yarra's vibrant and different neighbourhood and activity centres through arts and cultural activities and events, libraries and broader economic development, a dynamic mix of galleries, retail and hospitality businesses, cultural events, education and recreation activities.

**Council's primary support is for traders in retail premises. As a consequence MFVs are broadly only seen as appropriate where normal retail facilities are not in proximity, retail in a different product line or at a time when they are closed.**

### Definitions:

A "mobile food vehicle" (MFV) includes any:

- a. Registered Vehicle, caravan, trailer or any other method of transport from which food is sold;
- b. Non-road registered vehicles such as, but not limited to- coffee carts, hot dog carts or similar vehicles;

"Sell" means the definition within the Food Act 1984 and includes —

- Offer or attempt to sell; or
- Receive for sale; or
- Display for sale; or
- Have in possession for sale.

'Residential Zone' has the same meaning as the City of Yarra Planning Scheme'

### General Local Law

Clause 27 of Council's General Local Law states:

*"27. Persons Selling Goods'*

*27.1 A person must not, without a permit, sell any goods from -*

*27.1.1 a stall;*

- 27.1.2 a vehicle;
- 27.1.3 a caravan;
- 27.1.4 a trailer;
- 27.1.5 a barrow;
- 27.1.6 a box;
- 27.1.7 a crate;
- 27.1.8 a bag; or
- 27.1.9 – Tent or temporary structure, or
- 27.1.10 ; any other receptacle
- 27.1.11 ; a road
- 27.1.12 ; a footway
- 27.1.13 Council land
- 27.1.14 .” Vacant land; or
- 27.1.15 land which is not ordinarily occupied by the person

*On a road, footway or Council land*

Clause 71 of Council’s General Local Law states:

“ 71. Considering Applications’

In considering an application for a permit the Council or an authorised officer may consider:

71.1 any policy or guideline adopted by the Council or anything contained in the procedure and protocols manual relating to the subject matter of the application for the permit;

44.1 71.1.2 any submission that may be received in respect of the application;

44.2 71.1.3 any comments that may be made in respect of the application by any public authority, Government department, community organisation or other body or person; and

44.3 71.1.4 any other relevant matter.

In addition to the requirement to obtain a permit as described above, a person must comply with the requirements in these guidelines.

## **Council Standards**

### **1. Safety and accessibility**

The safety of all members of the community including pedestrians, motorists, cyclists and other footpath or road users must be protected at all times on or nearby the MFV site.

To ensure safety and accessibility is achieved the following standards must be met:

- 1.1 The location of a MFV must provide clear, continuous access for all pedestrians along nearby footpaths and ensure no obstruction occurs to nearby road users at all times.
- 1.2 The location of a MFV must not cause an obstruction or danger to existing traffic conditions and sightlines; in this regard, adequate reflectors are required on the vehicle to illustrate its presence to all road users.
- 1.3 Access to a MFV must be via adjacent pedestrian space (not via nearby roadway).
- 1.4 A MFV must comply with existing parking restrictions which apply to the area at all times.
- 1.5 The MFV site and general area must be monitored at all times by the operator to provide an inviting, clean and safe place.

## 2. Community amenity

To ensure the amenity of the area surrounding a MFV site is protected and enhanced, the following standards must be met:

- 2.1 Compliance with Environment Protection Authority requirements, particularly with respect to noise.
- 2.2 Any furniture, signage or lighting displays must be approved as part of this permit and must not add unnecessary clutter that detracts from the image of a particular street or activity centre and/or create a hazard to the visually impaired.
- 2.3 Residential amenity should not be unreasonably compromised by the operation of a MFV.
- 2.4 All incidents of poor behaviour and/or civic disturbance must be reported in writing to Council, within 48 hours of the incident by the Mobile Food Vehicle operator.

## 3. Hygiene, cleanliness and food safety

Council and Mobile Food Vehicle operators have a responsibility to ensure the sale of safe and suitable food and to keep the street clean and must work together to ensure this is achieved. Council's street cleaning services generally operate in the early morning hours to ensure minimum disruption to local business.

To ensure the hygiene, cleanliness of a MFV site is maintained and that safe food is sold, the following standards must be met:

- 3.1 Litter must be cleared at all times from in and around the MFV site by the operator. The site must be left in a clean and tidy manner.
- 3.2 Appropriate rubbish bins must be provided by the operator in numbers adequate to service the needs of patrons and the operation.
- 3.3 Litter generated by the MFV operation must not be swept into the street gutter and must be picked up and deposited within the operator's own bins.
- 3.4 Trade waste must not be placed in public street bins.
- 3.5 The preparation, handling and serving of food and drinks to patrons must be conducted in accordance with the requirements of the *Food Act 1984* and Council's Health Protection Unit.
- 3.6 Without limiting the requirements of the *Food Act 1984*, the following standards must be met:
  - (a) the MFV must be registered with the local Council in Victoria where the principal premises of the food business operating the MFV is located.
  - (b) A Statement of Trade under the Food Act 1984 must be lodged at least five days before the MFV is to operate within the City of Yarra.
  - (c) The MFV, and food being sold from the MFV, must comply with the Food Act 1984 and National Food Standards Code including Food Safety Standards 3.2.2 Food Safety Practices and 3.2.3 Food Premises & Equipment.

- 3.7 The vehicle may be inspected by a Council Environmental Health Officer whilst operating within the City of Yarra to assess compliance with the *Food Act* 1984. Should any serious food safety risk be identified the operator may be subject to enforcement action under the Food Act 1984 as well as having permission to operate from the site revoked. Results of any inspection will also be passed on to the registering Council for their attention and follow up if needed via the State Government central registration system for temporary and mobile food premises.

#### 4. Trader restrictions

Council's priority is to support food traders currently operating or wishing to operate from commercial premises within the municipality. To ensure a MFV does not compromise the operation of existing food businesses or future businesses within commercial premises in the area:

- (a) the operational hours of an MFV may be limited to those outside existing business hours for surrounding food premises; and
- (b) foods offered for sale from the MFV may be restricted and described within the permit conditions.

- 4.1 MFV trading permits will be reviewed annually to ensure existing local food businesses within Council activity areas are not compromised by the MFV business. No Guarantees will be given for the following year. Permits issued within any financial period will only attract a "pro Rata" fee

## Sites and Locations

#### 5. Appropriate locations

In considering the options that are available for potential MFV sites it is important to acknowledge that any commercial use of public space is a privilege, not a right.

The location of a MFV must always comply with Council standards in relation to safety and accessibility, community amenity and hygiene and cleanliness.

To ensure appropriate locations are determined, the following criteria should be met:

- (a) MFV sites must not be located closer than 100 metres of an existing and operating take away food business unless its hours of operation are outside those permitted existing trading hours of nearby food businesses;

**Note:**

This distance of 100 linear metres from an operating take away food shop shall be used for the purposes of assessments – if, in the opinion of the relevant Council Manager, that an unusual circumstance applies then some limited discretion may be exercised by that officer provided that the local trader concerned has been consulted and those views taken into account in the assessment.

- (b) a minimum clearance of 2 metres is required from fire hydrants, litter bins, public seats, payphones, bicycle stands, parking meters and other public infrastructure is required at all times;
- (c) a minimum clearance of 15 metres is required for tram and bus stops and taxi ranks to ensure safety and access;
- (d) MFV sites must comply with the requirements of the Road Safety Act 1986 with respect but limited to the obstruction of sight lines, traffic signals and road signage;
- (e) a minimum clearance of 1.5 metres of clear walkway between the property line and persons attending the MFV sites must be maintained at all times;
- (f) if a MFV wishes to operate within a residential zone the application must first be publicly advertised, following which the site must be assessed and any submissions considered by an officer and then approved by the Manager. Such approval if granted will be given for a trial period of ninety (90) days. If the Manager is of the opinion that it is appropriate for the MFV to continue to operate after any objections are received he/she will issue an annual permit. Initially a three month pro rate fee will be applied.
- (g) MFV sites cannot be located on Footpath areas;
- (h) MFV sites cannot be located within Council parks or open space unless authorised by Council as part of an approved event;
- (i) MFV sites cannot be located in front of or adjacent to permitted footpath dining areas during the hours of operation of the footpath trading permit;
- (i) MFV sites may be occupied by different permit holders during different time periods at the discretion of Council. Time periods will be specified on the permit document; and
- (j) a permit holder must occupy the site for at least 80% of the permit period. The permit holder must notify Council in writing of any period of non-attendance.
- (k) a minimum clearance of 25 metres from a school crossing or similar traffic control facilities.

5.1 Applications for MFV sites on road reserves and private land used for public purposes can be considered. In any event the applicant must comply with these guidelines before a permit will be granted.5.2

#### 5.2 *Adjacent premises*

If seeking to occupy space immediately adjacent to an entertainment venue or other business, the applicant is required to provide written consent from both the owner's and occupiers of the adjacent premises.

#### 5.3 Existing public infrastructure

Existing trees, artwork, street furniture and other public infrastructure as well as the width of the road or footpath may prohibit or limit the establishment of any MFV.

5.3.1 No existing street trees or public infrastructure will be moved prior to or after a MFV permit is granted.

5.3.2 No existing public infrastructure will be moved prior to or after a MFV permit is granted.

5.3.3 Existing street trees or public infrastructure must not be used for any trading purposes including business signage or displays.

## 6. Special events

- 6.1 During annual festivals, parades or special events, a MFV permit located within the event precinct will not be valid. Reasonable notice will be given to the operator where possible.
- 6.2 A temporary permit to operate within a Council park or reserve may be granted during events, festivals or other occasions as determined by Council.
- 6.3 Council officers may designate suitable operational sites from time to time.

## Management and responsibilities

### 7. Operator's responsibilities

#### 7.1 Daily management

To ensure appropriate management, permit holders are required to:

- (a) operate in accordance with the permit, endorsed plans and the standards and objectives as outlined within these guidelines;
- (b) monitor the surrounding area i.e. observes patrons at all times to promote orderly patron behaviour;
- (c) uphold the cleanliness of the area surrounding the MFV;
- (d) maintain access for all users in and around the footpath at all times;
- (e) provide rubbish bins for patron use;
- (f) remove all rubbish from site once trading has ceased; and
- (g) recycle waste material removed from the site.

#### 7.2 Insurance requirements

The permit holder must ensure they are adequately covered by public liability insurance. To meet Council requirements, the policy must note the Council's interest and be for the amount not less than \$20,000,000 in respect of any single occurrence.

#### 7.3 Indemnity requirements

The permit holder must also complete a "Form of Indemnity" to indemnify the Council against all claims of any kind arising from any negligent act either by the permit holder or the permit holder's agents and users.

#### 7.4 Display of permit registration

Permit holders must display a current permit registration clearly and legibly on the MFV.

- 7.4.1 Failing to display the current permit registration is a breach of the permit conditions.



## 8. Council responsibilities

### 8.1 Trading on public space

The Council will continue to manage the use of all public land at all times and reserves the right to reclaim access to and remove all MFV trading at any time for any purposes deemed suitable by the Council.

### 8.2 Compensation and loss of trade

Where service authorities and others are required to carry out works within the road reserve which require removal and/or alteration to the MFV trading arrangements, no compensation is payable for any loss of trade experienced due to these works.

Any problems inconvenience or loss of trade, which may result from activities or works, carried out by the Council or its contractors, at or adjacent to a permit holder's MFV trading area will not be considered for payment of compensation.

### 8.3 Monitor compliance with approved permit

The Council's officers will monitor the operation of MFV trading permits and ensure permit conditions and these Guidelines are consistently being met.

8.3.1 Following a complaint or observation of a breach of the MFV trading permit, Council officers will contact the permit holder and take appropriate enforcement action.

8.3.2 Penalties for non-compliance with any permit conditions, the relevant Act or these guidelines include:

- Infringement penalties
- Official warnings
- Prosecution
- Cancellation of MFV trading permit
- Impoundment of equipment and or vehicle as per the General Local Law
- A combination of all of the above

**Note:**

Only one warning will be given prior to enforcement action being taken.

8.3.3 Council will supply and arrange at the Permit Holders expense the installation and/or removal of any signs and posts to be installed by Council to facilitate MFV permitted trading.