# Mobile Food Vendor Policy

| Document Details | |
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| **Lead Reviewer:** | Senior Economic Development Officer |
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| **Legislation:** | *Local Government Act 1999*<br>*Local Government (General) (Mobile Food Vendors) Variation Regulations 2017*<br>*Road Traffic Act 1961*<br>*South Australian Public Health Act 2011*<br>*Environmental Protection Act 1993*<br>*Local Nuisance and Litter Control Act 2016*<br>*Motor Vehicles Act 1959* |
| **Related Documents:** | Permit – Mobile Food Vendor (CR18/11597) |

CITY OF PROSPECT

## 1. Purpose:

1.1 The purpose of the Mobile Food Vendor Location Rules Policy (the "Policy") is to outline the public roads in the Council's area where a mobile food vending business (MFVB) that has been granted a MFVB Permit may operate. It is the responsibility of the Permit Holder to comply with these Location Rules.

1.2 For the avoidance of doubt, these Location Rules apply to the operation of a mobile food vending business on a road only. It is an offence under the Council's Local Government Land By-law to operate a mobile food vending business on Local Government land without permission from the Council. As such, a separate permit will be required where a mobile food vendor wishes to operate on Local Government land.

1.3 Pursuant to section 222 of the Act a person must not use a public road for a business purpose (including operating a mobile food vending business) without a permit.

1.4 Section 222(1) of the Act requires the Council to grant a permit to authorise a mobile food vending business to operate on a public road. The only exception to this is that pursuant to Regulation 27 of the Local Government (General) Regulations 2013, the Council is not required to grant a permit for a mobile food vending business if the vehicle proposed to be used would unduly obstruct the use of roads in a manner that cannot be adequately addressed by conditions under section 237 of the Act.

## 2. Scope:

2.1 The Mobile Food Vendor Location Rules Policy will apply uniformly across City of Prospect.

## 3. Definitions:

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| *Act* | Means the Local Government Act 1999. |
| *Council* | Means the City of Prospect. |
| *Event space* | Means any land (that may be a public road) on which an organised event is being conducted. It does not include a public road (or any part of that road) that is simply located adjacent to the land on which an event is being conducted. |
| *Fixed food business* | Means a business the primary purpose of which is the retail sale of food or beverages that is carried on at fixed premises. |
| *Footpath* | Means the part of a street or road between the property boundaries of the street or road and the edge of the carriageway on the same side of that |

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| | boundary. |
| *Local Government land* | Means all land vested in or under the care, control and management of the Council except a road. |
| *Mobile food vending business* | Means a business involving the sale of food or beverages from a vehicle and/or trailer (within the meaning of those terms below). |
| *Mobile food vendor permit* | Means a permit issued to authorise a mobile food vending business to operate on a road under section 222 of the Act. |
| *Organised event* | Means an event of any kind (sporting, community, charity etc.) that is being conducted on a public road that is either run by the Council or has been approved by the Council and is open to the public or a select portion of the public (i.e. ticketholders). For example - a street market. |
| *Permit holder* | Means a person who holds a MFV permit. |
| *Road* | Has the same meaning as 'public road' under the Act and includes footpath. |
| *Same food offering* | (relevant for Rule 5.1.1 below) means where a fixed food business sells or offers for sale the same generic type of food product (excluding, with the exception of coffee products, beverages of any kind and distinct from the same type of cuisine) that is sold or offered for sale by the mobile food vending business. |
| *Trailer* | Has the same meaning as under the Road Traffic Act 1961. |
| *Vehicle* | has the same meaning as under the Road Traffic Act 1961 and includes:<br>(1) a motor vehicle, trailer and a tram;<br>(2) a bicycle;<br>(3) an animal-drawn vehicle, and an animal that is being ridden or drawing a vehicle;<br>(4) a combination; and<br>(5) a motorised wheelchair that can travel at over 10 kilometres per hour (on level ground) - but does not include another kind of wheelchair, a train, or a wheeled recreational device or wheeled toy. |

## 4. Policy Statement:

4.1 The Council has determined that a Permit Holder may operate a mobile food vending business from any road located in the Council's area, subject to compliance with these Location Rules and the conditions attaching to the applicable MFVB Permit.

4.2 A site should not be selected:

4.2.1 If the mobile food vending business would take up all, or a significant amount of the parking available to other businesses.

4.2.2 Where footpaths are narrow so that the mobile food vending business and its customers may cause an obstruction to other persons using the footpaths.

4.2.3 If the mobile food vending business would obscure a pedestrian or driver's view of a road in an unsafe manner.

## 5. Application of Policy

5.1 A mobile food vending business must not operate:

5.1.1 within 200 metres of a fixed food business (with the same food offering) during such times that the fixed food business is open to the public unless the Permit Holder has first obtained the written consent of the fixed food business to operate in closer proximity and a copy of that consent has been provided to Council ; or

5.1.2 within 200 metres of a school except on weekends, public holidays and during school holidays; or

5.1.3 while an organised event is taking place, on any road that is part of the event space- (whether or not the road has been closed to vehicular traffic for that event) unless:

5.1.3.1 in the case of a Council event, the Permit Holder has received approval from the Council to operate within the event space; and

5.1.3.2 in all other cases, the Permit Holder has received approval from the event operator to operate within the event space and the mobile food vending business is operated in accordance with the relevant permit issued to the event operator by the Council.

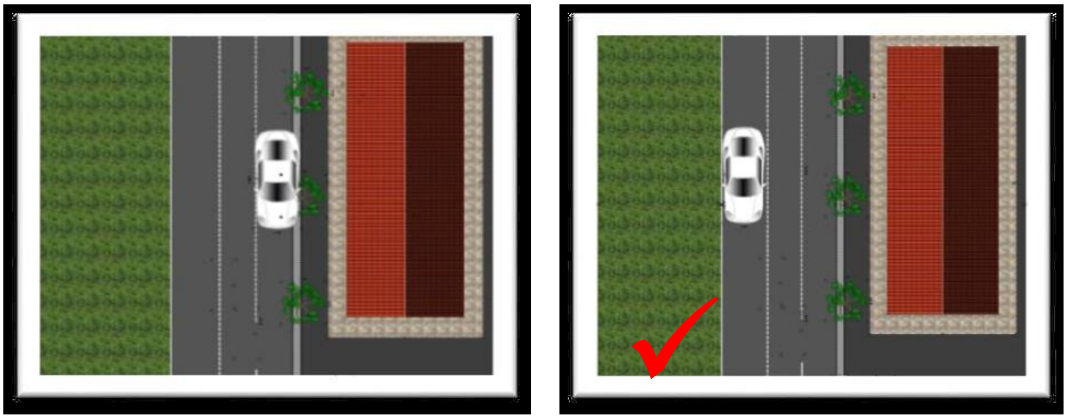
*For Example:*

1. *Under Rule 6.1.1 a mobile food vending business that:*
   a. *sells hamburgers must not operate within 200 metres of a fixed food business that sells hamburgers;*
   b. *sells pizza may operate within 200 metres of a fixed food business that sells pasta (and not pizza);*
   c. *sells cakes (of any kind) must not operate within 200 metres of a fixed food business that sells/offers for sale cakes of any kind; or*
   d. *sells coffee must not operate within 200 metres of a fixed food business that sells coffee.*

2. *Under Rule 6.1.3 where an organized event is taking place on a sport's field (such as a North Adelaide Football Club match) a mobile food vending business:*
   a. *must not operate on any portion of the footpath adjacent sport's field that is within the event space without the required consents;*
   b. *may operate on the part of a road that is adjacent to a sport's field provided that part of the road is not within the event space or within 200 metres of a fixed food business that has the same food offering (and otherwise complies with these Location Rules).*

5.2 A mobile food vending business must not operate on the same side of the road that is directly in front of a residential premises without the written consent of the occupier or the premises.

*Note: a mobile food vending business may operate on the side of a road that is directly opposite from a residential premises. For example, if it is directly in front of an oval.*



5.3 A mobile food vending business is anticipated to operate between the hours of 6.30am and 10.30pm, with a case-by-case assessment to be implemented.

5.4 Food and beverages from a mobile food vending business:

5.4.1 may only be served onto a footpath provided that a clear path of at least 1.2 metres is maintained for pedestrians at all times; and

*5.4.2* must not be served from the rear of the vehicle unless specifically designed to do so *(see example Image 1.)*

*Image 1.*




5.5 A mobile food vending business and the vehicle and/or trailer from which it operates must not be situated or parked in one location for more than 24 hours (regardless of whether or not the business is operating).

5.6 Unless the MFVB Permit provides to the contrary, a Permit Holder must not erect any structures, place any objects (not including a vehicle) or install any permanent fixtures or fittings on Local Government land or a road in connection with the mobile food vending business without the written permission of the Council.

5.7 A Permit Holder must select a location for operating the mobile food business that takes into account the effect of the operation of the mobile food vending business on:

5.7.1 vehicles and pedestrian traffic, footpaths, driveways, access points to buildings and parking areas for people with disabilities;

5.7.2 the requirements relating to, and availability of, parking spaces at that location; and residents and businesses in the location and its vicinity;

5.8 The Permit Holder must select a location for operating the mobile food business that does not unduly interfere with:

5.8.1 vehicles driven on roads;

5.8.2 vehicles parking or standing on roads;

5.8.3 a parking area for people with disabilities (within the meaning of rule 203(2) of the Australian Road Rules);

5.8.4 public transport and cycling infrastructure (including bus zones, taxi zones and bike lanes);

5.8.5 other road related infrastructure; or

5.8.6 infrastructure designed to give access to roads, footpaths and buildings.

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

5.9.1 the Australian Road Rules;

5.9.2 the Food Act 2001;

5.9.3 the South Australian Public Health Act 2011;

5.9.4 the Environmental Protection Act 1993;

5.9.5 the Local Nuisance and Litter Control Act 2016;

5.9.6 the Motor Vehicle Act 1959 and the Road Traffic Act 1961; and

5.9.7 any other applicable legislation relating to electrical and gas installations or appliances, health, safety or the environment.

5.10 A mobile food vending business operating within the City of Prospect is subject to food safety inspections by the Eastern Health Authority.

5.10.1 Inspections are subject to fees as defined in the Food Act 2001, and the Eastern Health Authority Food Business Inspection Fee Policy. This Policy is available on the Eastern Health Authority's website (https://www.eha.sa.gov.au/) and at 101 Payneham Road, St Peters.

5.11 A mobile food vending business must not operate without a Food Business Notification Number, issued by the Eastern Health Authority (and its delegates), or equivalent authority responsible for compliance with the South Australian Public Health Act 2011 and Food Act 2001, and evidence of this notification number must be provided to the City of Prospect with the permit application.

5.12 City of Prospect will seek Food Business Notification Number confirmation from the Eastern Health Authority prior to issuing an approval.

## 6. Review

The Policy will be reviewed **once** per Council term or as required by legislation.

## 6. Access to the Policy

The Policy is available for public inspection on Council's website www.prospect.sa.gov.au and from Customer Service at the Civic Centre, 128 Prospect Road, Prospect SA 5082.

## 7. Further Information

For further information about this policy please contact:

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Email admin@prospect.sa.gov.au

# Appendix