Mobile Food Vehicle Policy 2018
Guidelines
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Purpose

These guidelines have been developed to guide Council’s consideration of applications for permits under Activities and General Amenities Local Law 2018 and to provide a framework for management of Mobile Food Vehicles (MFV) on Council managed land (i.e. parks or reserves, streets or roads) within the municipality.

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;
- MFV retails in a different product line, or at a time when normal retail facilities are closed; and
- there is an identified need for the activation of Council managed land and public spaces.

Prior to any Council permit being issued, a vendor requires registration from STREATRADER, a Vic Health initiative that ensures that MFV vendors comply with all food handling regulations, and permits registered vendors to trade on a mobile basis throughout any municipality. At the time of registration with STREATRADER, Council’s Environmental Health Officers inspect and approve vehicles which are garaged in the municipality.

Council’s Mobile Food Vehicle Policy and guidelines do not apply to any use of MFVs on private land, as such use is required to have a planning permit from Council pursuant to the provisions of the Planning and Environment Act 1987.

On Council managed Crown Land, a permit from Council as well the relevant Crown Land authority is required. Crown Land not managed by Council requires a licence from the relevant Crown Land authority.

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.
“Permit” in relation to a use or activity, means a permit issued under the Activities and General Amenities Local Law 2018 which authorises that use or activity and is

- not transferrable
- not saleable

**Activities and General Amenities Local Law 2018**

Section 4.22 of Council’s Activities and General Amenities Local Law 2018 states:

4.22 A person must not, without a permit, sell any goods, services or a motor vehicle from:

(a) a municipal place;
(b) a road;
(c) vacant land; or
(d) land that is not ordinarily occupied by the person.

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

1. **Term of permit**

- Annual permits are for a maximum of 12 months.
- Seasonal/quarterly permits are for a maximum of three (3) months.
- Single use permits are for a maximum of one (1) day.

2. **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. Council will consider each location request on a case-by-case basis throughout the municipality.

Council may also determine to promote/activate a public site within the municipality, and may nominate sites as determined.

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

2.1 **Criteria**

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 hospitality business, unless its hours of operation are outside the existing trading hours of nearby 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 Officer, an unusual circumstance applies, then some limited discretion may be exercised by that officer, provided that the impacted local trader has been consulted and those views taken into account in the assessment.

(b) a minimum clearance of two (2) metres is required from fire hydrants, litter bins, public seats, payphones, bicycle stands, parking meters and other public infrastructure 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 to (but not 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, a planning permit will be required
(g) MFV sites cannot be located on footpath areas;
(h) 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;
(j) a permit holder must occupy the site for at least 80 per cent 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 is required from a school crossing or similar traffic control facilities.

2.2 Location

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.

Any application for use on Council managed Crown Land will also need to be considered in the context of the Crown Land (Reserves Act 1978) and will require separate approval and licence from the relevant government department. This could take up to 18 months to achieve.

2.3 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 owners and occupiers of the adjacent premises.

2.4 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.
2.4.1 No existing street trees or public infrastructure will be moved prior to or after a MFV permit is granted.

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

3. Special events

3.1 Temporary permit

During annual festivals, parades or special events, (approved event) a MFV permit within the event precinct will not be valid. A temporary permit to operate within a Council park or reserve may be granted during events, festivals or other occasions, as determined by Council.

3.2 Designated public sites

Council officers may designate suitable operational sites from time to time.

4. Permit holder’s responsibilities

4.1 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. observe patrons at all times to promote orderly patron behaviour;
(c) uphold the cleanliness of the area surrounding the MFV; including monitoring and of emptying rubbish bins
(d) maintain access for all users in and around the footpath at all times;
(e) comply with all Occupational Health and Safety legislation
(f) provide rubbish bins for patron use;
(g) remove all rubbish from site once trading has ceased;
(h) recycle waste material removed from the site; and
(i) pay a security bond which may be used for any ground reinstatement or repairs caused by the conduct of use.

4.2 Insurance requirements

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

4.3 Indemnity requirements

The permit holder must also complete a Form of Indemnity to indemnify 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.
4.4 Display of permit registration

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

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

5. Council responsibilities

5.1 Trading on Council managed land

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

5.2 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 Council or its contractors, at or adjacent to a permit holder’s MFV trading area, will not be considered for payment of compensation.

5.3 Monitor compliance with approved permit

Council Officers will monitor the operation of MFV trading permits and ensure the permit holder is complying with the permit conditions and guidelines.

5.3.1 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.

5.3.2 Penalties for non-compliance with any permit conditions and these guidelines include:

- infringement notices (including on the spot fines)
- official warnings
- prosecution
- cancellation of MFV trading privileges
- impoundment of equipment and/or vehicle as per Council’s Activities and General Amenities Local Law 2018
- a combination of all of the above

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

5.3.3 Council will supply and arrange, at the permit holder’s expense, the installation and/or removal of any signs and posts to be installed by Council to facilitate MFV permitted trading.
6. Fees and terms

6.1 Fee schedule

<table>
<thead>
<tr>
<th>Type of Mobile Food Vehicle</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual - Registered vehicle, caravan, trailer or any other method of transport from which food is sold</td>
<td>$2,400 per annum</td>
</tr>
<tr>
<td>Annual - Non-road registered vehicle such as, a coffee cart, hot dog cart or similar cart</td>
<td>$1,200 per annum</td>
</tr>
<tr>
<td>Seasonal/quarterly permit – Registered vehicle, caravan, trailer or any other method of transport from which food is sold</td>
<td>$650 per quarter</td>
</tr>
<tr>
<td>Seasonal/quarterly permit – Non-road registered vehicle such as, a coffee cart, hot dog cart or similar cart</td>
<td>$350 per quarter</td>
</tr>
<tr>
<td>Single use permit</td>
<td>$250 per permit</td>
</tr>
</tbody>
</table>

The permit fee will be reviewed annually as part of the Council annual budget process.

6.2 Terms

The annual permit period commences on 1 July and ceases on 30 June each year.

Seasonal/quarterly permits will be valid for a period of three (3) months from the date of issue.

Hours of operation will vary and will be determined as part of any permit application assessment.