

1. POLICY ON STREET TRADING AND STALLS IN PUBLIC PLACES

RR 10245

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Corporate Plan Output: Environmental Health Policy Vol II P.7.2.Text.12	

The purpose of this report is to review and consolidate the Council's policy on street trading and the operation of stalls on roadways and public places controlled by the Christchurch City Council.

INTRODUCTION

The Committee at its meeting on the 8 April 1999 resolved that a draft consolidated general policy on trading in the central city be prepared and reported back to the Environment Committee. It was requested that the policy should include matters such as criteria for locations of sites; hours of operation; numbers at any location; controls over appearance; perceived competition with established retail businesses; and rental charges.

A number of the provisions of Christchurch City Public Places and Signs Bylaw 1992 now apply to these activities, as it is undertaken over the whole of the City.

Use of Public Spaces

Clause 6, Trading in Public Places states, ... no person shall sell or hire, or expose for sale or hire, any goods, wares, merchandise or services, or sell or expose for sale any food, on any road or public place without a licence issued by the Council and only in compliance with the conditions imposed by that licence.

Clause 12, Appeals -Raffles - Collections applies to fund raising activities and requires that no person on any road or public place shall undertake such activity without first obtaining a written permit from the Council and subject to any conditions of that permit.

Hawkers and Keepers of Mobile or Travelling Shops

Clause 15 states No person whether acting on his own account, or as the servant of another person, shall engage in the trade of a hawker or a keeper of a mobile or travelling shop in a public place without having first obtained a licence from the Council.

Clause 22 states The Council may from time to time by resolution, prohibit any hawker or keeper of any mobile or travelling shop from carrying on business in specified public places.

Stands and Stalls

Clause 24, Permit Required states; No person shall, without having first obtained a permit from the Council: (a) Stand in, or occupy any portion of any public place with, or place or maintain on any portion of any public place, any stall (including a vehicle used as a stall) or structure, for the purposes of distributing or selling any food, newspapers, lottery tickets, real estate agents magazines or for collecting clothing, bottles or cans, or any other goods or performing services, (b) Stand in, or occupy any portion of any public place with, or place or maintain on any portion of any public place any weighing, automatic vending or slot entertainment machine or any other similar structure, apparatus or contrivance.

CRITERIA FOR LOCATIONS OF SITES IN THE CENTRAL BUSINESS DISTRICT

Mobile or travelling shops are only permitted on certain roads in accordance with the Council decision of 25 June 1997 setting conditions for licences of mobile or travelling shops, largely because of traffic safety reasons, and this includes the Central Business District.

In 1992, when considering the matter of street trading on the then recently completed Worcester Boulevard, the Council placed restrictions on street trading in certain areas of the Central City¹ and it is considered that these should be continued. This policy is that there will be no provision for street or public place trading within Victoria Square, Worcester Boulevard or along the riverbanks. This is not presently fully complied with in Worcester Boulevard where trading activities at the Arts Centre spill onto the Boulevard, although largely at the weekends when pedestrian numbers are high.

The Council's current policy is to allow limited trading in City Mall, and originally a small number of sites were identified for this purpose. Since that time an increasing number of approvals for tables and chairs outside of premises have been granted and these have become semi -permanent activities. Currently there are the following stalls; a donut cart, a fruit stall, a hot potato stall, a kebab stall, and a flower stall. Licences for tables and chairs associated with "cafe/bars" have been granted for four premises in City Mall and six in the Oxford Terrace area adjacent to City Mall. At present the public areas in the Oxford Terrace bar strip and those areas in City Mall where licensed premises are operating, are licensed to occupy the public roadway and are designated as premises under the Sale of Liquor Act. In addition to stalls and tables and chairs there are, from time to time, special market days in City Mall when stalls are set up in the City Mall, largely by adjacent retail premises. Recently it has been noted that at least two premises are undertaking sale of goods in City Mall as extensions of their adjacent premises.

¹ Council 27 April 1992

In addition to the above the Council in 1998 permitted four sites in the City Mall for temporary food stands after the hours that retail premises operate. The licence permits operations only between the hours of 10 pm and 4 am; and the following conditions must be complied with; the temporary food stand must be removed from the land at the end of hours of use; the land is to be kept free of litter at all times; and absorbent ground cover to protect from spillages must be laid beneath the operating area; sufficient clear space (a minimum of 2 metres) must be maintained between the temporary food stand and any shop frontage; and the temporary food stands must be operated in accordance with the guidelines (relating to food hygiene) prepared by the Environmental Health Monitoring Section of the Environmental Services Unit.

In Cathedral Square the Council in December 1998 approved the tendering out of six sites for nine stalls.

In the case of stalls or sites providing food there should be no distinction made between those operated as a business or those operated where the profits go to community groups. The sale of food, in legislative terms, is defined to include cases where the food is given away and therefore compliance with food hygiene standards is necessary in any case.

NUMBERS PERMITTED AT ANY LOCATION

In general, with the exception of the sale of food at tables and chairs along Oxford Terrace and parts of City Mall, there has always been a restriction on the number of street trading activities which can be operated in any one area. Some of this restriction has been due to the space needed to operate such street trading but there have been elements of a perception of how many such sites are suitable.

To a large degree, if the Council determines to require a distance between such sites and other similar commercial activities, this would set the number permitted in any area. Previously, in both City Mall and Cathedral Square, there were limits on numbers set down by specifying a limited number of sites able to be tendered for by applicants. In the case of City Mall sites were also restricted by the need to permit vehicle movement through the roadway. These requirements do not necessarily apply in the same way for areas in the City outside the central area. However, the best method of specifying such numbers would be by placing limits on the space that could be taken up by the operation [by using criteria such as distance from other similar commercial activities; space required for pedestrian passage if on footpaths; and restrictions on the areas in which the operation may occur, that is, whether the area is commercial, industrial or residential] For example the licences to occupy roadway under which tables and chairs are permitted requires that public use of the footpath along any part of the road is not unreasonably restricted and in the case of the temporary food stalls it was required they be at least two metres away from retail shop windows.

It is considered, however, that provision could be made for other sites to become available by persons wishing to use these making application to the Council with evidence that property owners and premises operators have no objection to the use of the adjacent public place, compliance with conditions relating to pedestrian and other traffic safety, and control of nuisance and litter problems, and suitable hours of operation for the area.

THE PERCEIVED COMPETITION WITH ESTABLISHED RETAIL BUSINESSES SELLING SIMILAR GOODS

An important matter in determining the suitability of a location for the sale of goods, is its proximity to existing shops selling similar goods. There can be difficulties in determining what can be considered as “similar goods” except in the case of individual applications. There have been a number of cases where it is stated that some food operations are competing with other food operations situated in buildings but the foodstuffs being provided are not the same. Likewise there has been at least one case where a market stall was selling the same goods as a premises some distance away and was seen as competing. The best method of dealing with this perceived problem is perhaps by ensuring that trade on the street sites are a certain distance apart from established existing premises selling the same class of product. However, this will not apply, in all situations for example, to the existing operations of tables and chairs at bars along Oxford Terrace where the threat of competition seems to be not a problem.

HOURS OF OPERATION

Operations of the street trading kind rely on the number of persons using the area at particular times, for example the outdoor tables and chairs associated with food and liquor sales in the City Mall and Oxford Terrace locations are largely used during the day by persons eating food from the premises. During the later night hours these are used, if at all, for largely drinking alcohol purposes. The stalls in Cathedral Square cease to operate, largely, after dark which can change depending on the time of year. The temporary food stands permitted in City Mall provide a type of food product more favoured by drinkers later in the night and younger persons who congregate in the area, and the hours of operation were set to reflect this market.

Other street trading operations, such as the stalls in Cathedral Square and some operations in City Mall tend to operate only during week day working hours as these operations rely on day time customers. It would seem to be appropriate that, subject to suitable conditions and placement, that the street trading could occur at anytime in certain areas with the market deciding on the need for the service. For example the times permitted for operation of the temporary food stands in areas heavily represented by retail activities, other than food or drink, should be outside those trading hours as is set down presently in City Mall, that is 10.00 pm to 4.00 am. The latter hour means that the operation does not interfere with central city street cleaning activities.

CONTROLS OVER APPEARANCE OF THE STALL; FOOD SAFETY [IN THE CASE OF FOOD STALLS]; ENVIRONMENTAL EFFECTS FROM ODOURS, RUBBISH, LITTER, NOISE, AND CLEANLINESS OF THE ROADWAY OR PUBLIC PLACE SURFACES.

There are two aspects relating to the appearance of any stalls that could be taken into account. The first is the on-going maintenance and cleanliness of the external features of any constructed stall, while the second is the more subjective matter of design of the shape and construction of the structure. The other matters can be the subject of conditions of any licence to occupy the space.

LAND RENTAL CHARGES.

It is suggested that the rental for any street trading activity be based on a market value for the area in which it operates for each square metre occupied and paid on a quarterly basis in advance.

HOT DOG STANDS IN CITY MALL

The Council at its meeting on Thursday 23 September 1999 adopted the following resolution.

That the Council grant permission to the current holders of licences to occupy road in the City Mall (from the Guthrey Centre to the Bridge of Remembrance) and Oxford Terrace (from the Bridge of Remembrance to Gloucester Street) to permit them to operate mobile food stands within their licensed areas between the hours of 10.00pm and 4.00am daily until the date of the Environment Committee meeting in December 1999, reviewing the Council's policy on trading in public places.

In the six weeks or so that the three bars have been operating hot dog stands in the public place areas they are licensed to occupy the operations appear to be satisfactory. As noted above the permission granted by the Council runs out at the date of this meeting. It is suggested that the Committee recommend to the Council that this permission be extended in a more formal way for a further period as temporary sites in accordance with the policy recommended.

Recommendation: That the Council adopt the following revised policy on street trading in the City of Christchurch.

1. General Conditions

- (a) Conditions of any approval shall have regard to location, size of selling site, type of trading, time of operation, appearance, amenity value, food hygiene, sale of liquor, drainage, traffic, litter, conditions or any other matter as applicable.

- (b) No street trading of the same class of goods will be permitted within 15 metres of any existing retail premises selling the same class of goods, except where the street trading is associated with permanent retail premises adjacent to the site and selling the same class of goods as the retail premises.
- (c) That the time of operation of the street trading be set at the time of application depending on the type of operation and area in which it is proposed to operate.
- (d) In addition to any fee set by the Council for the licence, rent shall be payable based on a market value for the area in which it operates for each square metre occupied and paid on a quarterly basis in advance, unless the fee is set in accordance with the tendering process or by a licence to occupy a roadway.

2. Special Areas

- (a) There be no provision for permanent stalls or trading sites within Victoria Square, Worcester Boulevard, or along the Avon riverbanks.
- (b) Permanent stalls or trading sites within Cathedral Square be limited to 6 to 8 sites as set by the policy of December 1998.
- (c) Permanent stalls or trading sites within City Mall be limited to 5 sites as approved in the mid 1980s and confirmed again in 1992.
- (d) For special single events limited short term trading in these areas (subject to specific conditions) may be permitted.

3. For Permanent Sites

- (a) All permanent selling sites, except for tables and chairs associated with an extension of existing premises, shall be open to ballot or public tender.

4. For Temporary Sites

- (a) Temporary selling sites will be considered on application with evidence that there are no objections from property owners and existing premises operators adjacent to the proposed site, and compliance with conditions relating to pedestrian and other traffic safety, and control of nuisance and litter problems, and suitable hours of operation for the area. If the sale of food is proposed compliance with food safety legislation and standards would be essential. A rent and licence fee will be required to be paid prior to the operation commencing.
- (b) Temporary stalls or selling sites for non-commercial/charitable purposes shall be considered on application subject to the conditions above and on payment of a licence fee only.

5. Tables and Chairs

- (a) That outside tables and chairs on public spaces and associated with adjoining food premises be permitted in accordance with the criteria set by the Council in March 1998.

6. Definitions

- (a) Permanent site: Means any site for which a lease or licence to occupy is granted by the Council for a minimum period of three years or more.
- (b) Temporary site: Means a site for which approval is granted for a period with a requirement that the approval can be revoked with a month or less notice