



Ōtorohanga
District Council

POLICY

Trading and Events in Public Places Policy 2024

Approval and review details

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Purpose

Commercial activities and events in public places (events, market stalls, mobile traders, busking and street collections), can add character, vibrancy, and safety to urban areas (through activity and active surveillance), and can attract visitors. However they can also affect public use and enjoyment.

The purpose of this policy is to manage trading and events in public places so that:

- Public access, use and enjoyment of those places is maintained.
- Effects on users and members of the public are minimised.
- Mobile commercial activities are managed to regulate frequency, duration and numbers of activities.

NOTE: This policy does NOT control trade competition where mobile traders may compete with permanent activities. Council has no legal powers to control trade competition.

Trading and Events in Public Places Policy

Note: Applicants should refer to the Definition Section in this Policy for definitions of key terms used throughout this document.

1. Background

The Trading in Public Places Policy provides the framework to authorise activities and balance activities against the impacts of these activities.

In addition to any approval under this policy, activities may also require separate approvals under the Health Act (for food activities), the Resource Management Act, the Traffic Bylaw, and/or other relevant legislation or regulation.

2. Scope of the Policy

2.1. The scope of this policy is limited to trading and events undertaken on public places administered by Ōtorohanga District Council.

2.2. This policy does **not** cover:

- a. Mobile trading on Council owned property. This may be subject to separate legal arrangements.
- b. Mobile trading on private property. Activities on private property may still be subject to other regulatory controls including but not limited to: food safety, alcohol licensing, resource management, noise, discharges, building)

- c. Trade competition impacts i.e. impacts of trade on other business carrying out similar trade. Council has no legal powers to constrain or control commercial activities which may result in trade competition with another activity.
- d. Trading or activities within any party of the State Highway corridor, **except for** road corridors on State Highways in urban areas below 70kph which are under Council management. All other activities on State Highways are administered by Waka Kotahi NZ Transport Agency.

3. Policy objectives

The objectives of this policy are:

- 3.1. To enable temporary activities that enhance the use of public places, offer a service to residents and visitors, and provide diversity and vibrancy.
- 3.2. To retain the unimpeded and ongoing public use and enjoyment of public places.
- 3.3. To minimise safety and environmental impacts on adjoining uses and activities (excluding trade competition impacts).
- 3.4. To outline the process for applying for mobile and temporary trading and events in public places administered by Ōtorohanga District Council.

4. Location

- 4.1. Private land or Council-owned land
This policy does not apply. You will need written approval from landowner. Other regulatory controls may apply e.g. food registration and/or alcohol licenses and resource consent requirements under the Ōtorohanga District Plan.
- 4.2. Public places in the pedestrian precinct
Council will consider approvals on a case by case basis, with a priority for community-centred activities. Activities in these areas must not be contrary to or inconsistent with the policy objectives. Temporary mobile food stalls are not permitted in the pedestrian precinct unless part of an organised event or market.
- 4.3. Roadside activities
State highways. Approval for mobile trading or events on State Highways, arterial routes (as defined in the District Plan) lies with Waka Kotahi NZ Transport Agency. The sole exception is the pedestrian area of Ōtorohanga town centre.

Local roads.

- a. Approval will not generally be provided on roads with a speed limit that exceeds 50km/hour to ensure the safety of vendors and customers. Exceptions may be made if the activity is part of an organised event, and all traffic management requirements are met.
- b. Activities must not be contrary to or inconsistent with the policy objectives or relevant bylaws including the Traffic Bylaw.

4.4. Other public places and reserves

- a. Approval for mobile trading and events on other public places administered by Ōtorohanga District Council will be assessed on a case by case basis.
- b. Activities in these areas must not be contrary to or inconsistent with the policy objectives or any relevant legislation or bylaw.

5. Obtaining a permit or license

- 5.1. A formal application must be submitted using the relevant form (available on Council’s website and customer service desk).
- 5.2. All applications, including renewals or extensions, will be considered on a case-by-case basis. **No permit will be granted unless evidence is also provided of compliance with all other regulatory approvals that apply to the activity.**
- 5.3. The Council will notify the applicant in writing of the outcome of the approval process within 20 working days. If approved, the required fee must be paid before the permit or licence is issued.
- 5.4. The Council may require modifications to the applicant’s proposal. These will be discussed with the applicant as part of approval assessment process.
- 5.5. Approvals will be for a fixed duration only up to a maximum of 12 months, with renewals determined on a case by case basis on application for renewal.
- 5.6. Approvals may be subject to conditions including the right to revoke a permit or license to occupy under certain circumstances.

Approvals Process



6. Guiding principles for issuing a permit or license

When deciding whether to approve or decline an application, the Council will consider the following matters:

- 6.1. Consistency and adherence to the Council's bylaws, policies, strategies, and plans, as well as other governing legislation (e.g. traffic legislation, Resource Management Act 1991, Reserves Act 1977);
- 6.2. Appropriate location – the activity should enhance the existing function and public use of the area while minimising impacts to other users;
- 6.3. Accessibility - whether the activity likely to cause a nuisance, obstruction or a hazard to mobility impaired persons, other pedestrians, or vehicular traffic;
- 6.4. Where a stall is located directly in front of a permanent shop(s), whether the applicant has engaged with or has the agreement of the permanent shop tenant(s).
- 6.5. Safety – including health and safety, and any traffic management issues;
- 6.6. Diversity and quality – the use of public places should provide opportunities for the public to participate in activities such as leisure, recreation, and entertainment;
- 6.7. Suitability - any negative impacts the activity might have on the amenity of the proposed area, with special regard to noise levels and any history of prior trading;
- 6.8. Sustainability - applicants are encouraged to integrate environmentally friendly practices in their operations;
- 6.9. Density – this policy operates on a “first-in” basis, and approval will consider the number of other permits or licenses to occupy in the same area or in the vicinity of the proposed location(s). Renewal or extension of existing permits is not guaranteed, and permits will be issued in accordance with the objectives and considerations of this policy. Where there are multiple traders providing the same offerings, Council may consider rotational permits, or a competitive registration of interest process.

NOTE: no permit or license will be issued where, in the opinion of the Authorised Officer, any material on display or for sale or associated merchandise or promotions is, or has potential to be, objectionable or offensive.

7. Fees

- 7.1. Fees will be applied for commercial activities or events in public places in accordance with Council's Schedule of Fees and Charges which is available on the Council's webpage.
- 7.2. The Council reserves the right to charge fees and/or a bond for all commercial activities on a public place. The rent will be set at a level that reflects the value of the location and ensures that businesses on private property are not unfairly disadvantaged.
- 7.3. Fees may be waived at the discretion of an Authorised Officer for a voluntary organisation, school, registered charitable trust or community group where satisfactory evidence is produced that the proceeds from any trading are retained wholly for charitable or community purposes.
- 7.4. Prior payment of all fees is a condition of any permit being granted and a failure to pay fees may result in the permit being cancelled.

8. General conditions

The general conditions upon which written approval is granted may include, but are not limited to, the following:

- 8.1. The permit/license to occupy must be prominently displayed so that it is able to be read by the public at all times during the approved activities;
- 8.2. All permits/licenses to occupy are personal to the applicant and are non-transferable. Permits/licences can be suspended or cancelled at any time due to non-compliance;
- 8.3. The times, duration and location of operation under the permit or licence;
- 8.4. Unless specifically allowed to remain, a requirement that any associated equipment must be removed from the site at the end of each day;
- 8.5. The trading or event area should be left clean and tidy, and all rubbish must be properly disposed of;
- 8.6. All traders must provide evidence they hold their own suitable public liability insurance, unless alternatives are agreed with Council;
- 8.7. Restrictions on the use of amplified music/sound, including generators;
- 8.8. Emergency vehicle access must not be impeded;

- 8.9. The display and/or sale of any material and associated merchandise or promotions must not be objectionable or offensive.
- 8.10. Obtaining any other required permits – **this is a pre-requisite** of a permit/license to trade or hold an event in a public place. **No permit or licence to occupy will be issued without all necessary regulatory approvals first being obtained.**

9. General information: Events

The Council generally supports events due to the wide array of social, cultural, and economic benefits events provide. For all events, refer to the Event Application Form and the Event Risk Assessment Form. These documents are available on our website and via customer services .

10. General information: Markets

Any group or individual interested in utilising or developing a site for an open air market should first discuss this with the Council. For existing and approved markets, market stall applicants must approach the market organiser directly for a site and must comply with any requirements applicable to operating from that site. The Council may consider permitting the establishment of open air markets in other public places on an individual basis:

- Registrations of interest to run a market may be called to operate the market on the expiry of a license term;
- All stall sites open for tender will be publicly advertised;
- The allocation of all Council-administered market and stall sites will be decided by a weighted attribute method of tender.

Any allocated sites for permanent mobile food stall locations will be tendered on the expiry of a license.

11. General information: Stalls

Stalls are a common way to start a business, promote products at events, raise funds for charitable and educational organisations, or as a way for existing food businesses to reach new customers.

Any person wanting to run a stall to prepare or handle packaged or unpacked food for retail sale generally needs a license or a permit. If the stall is part of a market, permission from the market organiser will also be required.

Stall operators selling food must also comply with the Food Act 2014 in respect of food to be sold at the stall.

12. General information: Mobile shops and mobile food stalls

Mobile trading is temporary trading activity from a location which is vacated once trading has ended. For example, roadside stalls, coffee/food carts, and ice cream trucks. A permit is required to operate a mobile shop, where these are being used for the purposes of trading.

A permit is not required for itinerant and occasional “stop and go” trading where **all** of the following apply:

1. the trading vehicle is parked lawfully; and
2. the parked-up duration is less than 10 minutes in any one single location; and
3. the activity does not trade in more than 5 separate locations within any consecutive 48 hour period; and
4. the activity does not operate for more than 2 days in any consecutive 7 day period

13. General information: Goods or services for sale or hire

A **permit** is required to display goods or services for sale or hire in a public place. This activity includes businesses using the footpath outside their premises to display goods, such as clothing, tables with items for sale, and recreational equipment for hire. Where goods or services are for sale or hire, the items:

- 13.1. Must not impede the movement of pedestrians or vehicles, or be likely to cause danger to any person;
- 13.2. Must be placed immediately adjoining the premises from which the goods and/or services displayed may be purchased;
- 13.3. Be removed from the public place when the business is closed, or secured to the appropriate infrastructure, e.g. bike stands;
- 13.4. Goods on display must not be dangerous or offensive.

14. General information: Hawkers/pedlars

A hawker is someone who travels about carrying goods for sale unsolicited to the public but does not display them on a table or stall. A permit is required for hawking in a public place. Trading from a fixed location is not permitted. Hawkers/Pedlars are not permitted in the pedestrian precinct.

15. General information: Street performers (including busking)

All street performers, whether they need a permit or not, must comply with the Code of Conduct for Street Performance. A street performance permit is required:

- 15.1. if a street performer wishes to perform outside the pedestrian precinct; and
- 15.2. for all performances in Council parks and reserves; and
- 15.3. for any street performer using dangerous materials, objects, or animals Dangerous materials include but are not limited to, substances that are flammable, toxic, or hazardous, sharp implements or those that pose a risk. *Note: Performers may also need to comply with any other applicable legislation and policies that apply to the use of dangerous materials, object or animals.*

A permit is valid for a period of up to one (1) year. As part of the applicable process the street performer must nominate locations where they wish to perform.

Pavement Art is not permitted in the pedestrian precinct unless it is part of an approved event. A street performance permit is required for pavement art. The following conditions apply to pavement art:

- Use of materials that can easily be washed off without leaving any residue. The materials must not be slippery or create a public hazard;
- If the pavement art is created on a removable surface, such as plastic, canvas or paper/card, and is fixed to the pavement, it must be with a product that does not leave any residue;
- The site must be kept clean, tidy, and safe at all times;
- Commercial advertising is not permitted in pavement art (refer definition);
- The artist must not offer individual works of art or products for sale at the site.

The Council may, from time to time, designate specific areas where street performance (including pavement art) is permitted or prohibited. The nominated street performance areas will be included in a Register on the Council website.

The sale of any goods is not permitted as part of the street performance activity. A separate trading permit under this policy must be obtained to do so.

16. General information: Fundraising

Any individuals, groups or organisations wanting to use a public place to fundraise, must contact the Council to determine the suitability, location, and time.

17. General information: Promotions

Promotions include activities where promotional material is handed out, e.g. pamphlets, free goods. Where a promoter requires exclusive space to park a vehicle or set up equipment an event permit may be required.

Promoters should be mindful of the amount of litter that the activity generates and seek to minimise this by not forcing people to take the item if they do not want it and picking up any discarded promotional items in the vicinity of the activity.

18. General information: Other activities

For activities not specifically listed in this policy, a permit/license may still be required for the activity. You should contact the Council to discuss any applicable requirements.

Applications for permits/licenses to undertake commercial activities other than those already identified in this policy will be considered on a case-by-case basis.

19. Monitoring and enforcement

The Council will monitor trading and events in public places to ensure that permit and license holders are complying with their permit or license conditions.

Anyone trading or holding an event in a public place without a permit will be required to cease the activity and remove any associated equipment/material.

20. Complaints or Compliments

Complaints or compliments about traders or events may be made to the Council via the Council's website, general email address, or by phoning 07 873 4000.

Complaints regarding violent, disorderly, or offensive behaviour should be referred in the first instance to the Police, and then to the Council.

Complainants are encouraged to talk to the trading, event, or activity operator to explain the issue and potential resolution (e.g. trade or perform elsewhere, reduce the noise level).

Policy Review Date

An initial review two years with further reviews every 5 years.

APPENDIX 1: Definitions

In this policy, unless otherwise defined:

Authorised officer	means an officer or other person appointed by the Council provided with delegated authority under the Ōtorohanga District Council Traffic Bylaw or Delegations Register (including any warranted Enforcement Officer). Permits and licenses will be authorised by the Group Manager Engineering and Assets or alternatively, the Group Manager Regulatory and Growth.
Bylaw	means the Ōtorohanga District Council Traffic Bylaw 2015.
Commercial activity	includes: <ul style="list-style-type: none"> • trading, which includes selling, hiring, or displaying for sale any goods or services; • advertising goods, services, or events; • street performing; • other activities undertaken for payment or reward.
Council	means the Ōtorohanga District Council and includes any person authorised by the Council to act on its behalf.
Food stall /mobile food stall	means a stall selling food and that is required to meet the Food Act 2014.
Enforcement officer	means any person who has been appointed as an enforcement officer by the Council under the Local Government Act 2002.
Event	means an organised temporary activity with set start and end dates, which is set-up in a public place. It may be free or ticketed, conducted for the purpose of attracting revenue, support, awareness, and/or for entertainment, community connection or competition. An event may include the erection of structures, setting up of equipment, and other activities that could require exclusive use or prevent access or use by others of the public place.
Hawker	includes a pedlar or any person with goods, wares or merchandise for sale that are either carried or taken around by the seller and offered unsolicited to the public in a public place. For avoidance of doubt, it does not include stallholders or mobile or travelling shops.

License to Occupy	means a contractual agreement with the Council issued under this policy which authorises the applicant to carry out a specific activity, at a specified location, for a specified duration.
Mobile or travelling shop	means a vehicle, whether self-propelled or not, from which goods, wares, or merchandise may be purchased in the road or from which services are offered for sale in the road; but does not include any vehicle on or from which food is sold for consumption (see (mobile) food stall), or any vehicle used for the purpose of transporting and delivering goods, wares, or merchandise.
Objectionable or offensive	<p>Objectionable: <i>describes, depicts, expresses, or otherwise deals with matters such as, but not limited to, sex, horror, crime, cruelty, or violence in such a manner that it is likely to be injurious to the public good</i></p> <p>Offensive: <i>expresses hostility against, or contempt or ridicule towards, another person on the ground of, but not limited to, race, ethnicity, or national origin; and is likely to be unwelcome or offensive to that person, whether or not it was conveyed directly to that person</i></p>
Open air market	means any outdoor place, accessible to the public, where goods or services are offered for sale, which usually consists of two or more stalls grouped together.
Pavement art	means temporary images or drawings created for the purposes of public exhibition either directly on to the pavement or on removable surfaces, such as paper or plastic, laid out on the pavement. Advertising on the pavement is not considered to be pavement art under this policy.
Pedestrian precinct	means any of the pedestrian area of Ōtorohanga and Kawhia central business district or main street, including linking side streets, lanes, and open spaces.
Permanent mobile stall	means a mobile stall that has a license to occupy with the Council for more than six months.
Permit	means a temporary or fixed term permit issued by the Council under this policy.
Public place	means an area that is open to or used by the public, and which is owned, managed, maintained, or controlled by the Council. Public places include, but are not limited to: roads, streets, footpaths, alleys, pedestrian malls, cycle tracks, lanes, accessways,

	<p>thoroughfares, squares, carparks, reserves, parks, beaches, foreshore, riverbanks, berms, verges, and recreational grounds.</p> <p>Explanatory Note: Privately-owned public places, such as lanes or squares, will only fall within the above definition if they are also managed, maintained, or controlled by the Council. The Council will consider on a case-by-case basis in discussion with the landowner whether any privately-owned public places should come under Council's management, maintenance, or control for the purposes of the Bylaw. Similarly, the Council may enter into an arrangement with the Crown to manage, maintain or control its land by mutual agreement, usually where the land is adjacent to Council-owned land.</p>
Road	has the same meaning as in section 2(1) of the Land Transport Act 1998.
Street performance	includes busking and means a person or group of persons who is/are actively providing a performance to entertain in exchange for a donation. A street performance may include sounding or playing a musical instrument, singing, reciting, or performing conjuring, juggling, puppetry, miming, statue acts, dancing, or other entertainment, or doing any of those things concurrently.
Trading	includes selling, hiring, or displaying any goods or services for sale
Traffic Management Plan	means an approved document describing the design, implementation, management, and removal of temporary traffic management measures (such as signs and road cones) while an activity or event is taking place within the road or adjacent to and affecting the road. This includes plans prepared for one-off events and generic plans to cover activities carried out frequently.
Temporary retail	means any stand, stall, tent, mobile shop, vehicle, vessel, or other setup from which goods and/or services are sold that is open in a temporary nature and removed when not in use.

APPENDIX 2: CODE OF CONDUCT FOR STREET PERFORMERS (BUSKERS)

This Code of Conduct provides the framework to assist performers, businesses and residents in understanding acceptable practices for busking. The aim is to foster an environment that encourages and enables a range of street performances, while recognising the importance of safety, amenity and minimising complaints and other issues. All street performers must comply with this Code of Conduct.

Places of performance:

You can perform/busk anywhere except:

- a. Parks, gardens and reserves, unless a permit has been obtained.
- b. Within five (5) metres of any intersection, pedestrian crossing, traffic signal, road works or ATM, unless a permit has been obtained.
- c. Outside, adjacent to or on the grounds of places of worship, religious, and memorial sites.
- d. Directly in front of entrances or exits to shopping centres, arcades, businesses or residential buildings.
- e. Against the building line - to enable unobstructed access and safety for people who are visually impaired.
- f. Locations where events are being held, unless the street performer has permission of the event organiser.
- g. Within 30 metres of another street performance.

Code of Conduct

1. As a courtesy, street performers are encouraged to introduce themselves to the nearest stalls and shops, prior to starting their performance.
2. A street performer may only perform between the hours of 10am and 8pm unless specifically authorised as part of an event permit, or a street performance permit.
3. Street performers are limited to a maximum total time of 90 minutes, per day, at any one location (including performance time, setup and pack down). Street performers must keep track of the time they arrive on site so that they know when their time has elapsed.
4. Street performers may re-locate after the maximum 90 minutes on one location, to a new location that is at least 30 metres from the previous location.
5. In the case of an event, a street performer should not attempt to associate themselves with that event and should be sited at least 250 metres from the periphery of that event, unless they are part of that event.
6. Street performers may give audiences an opportunity to provide voluntary donations by placing a container on their site or by asking an audience for donations. Street performers may not approach individuals requesting money or solicit funds in a way that is likely to cause any discomfort to members of the public.
7. Street performers must take responsibility for their actions while performing in a public place, and retain complete control of every aspect of their performance.
8. A street performance must not cause a nuisance to or disrupt business trading including retail and dining establishments, and workplaces, or detract from public amenity.
9. Street performers are responsible for maintaining pedestrian and traffic flow and public amenity within the vicinity of the activity.
10. Street performers should ensure that they or their audience do not block shop doorways during business hours, dining areas and cafes, bus stops, fire escapes, roads and residential doorways.

11. A street performer may not erect signage advertising their performance, unless they have a permit for the sign.
12. Street performers must keep the site in use clean while they are working, and the performance site must be left in the condition that it was found.
13. Inappropriate/offensive language, paraphernalia or visual props must not be used.
14. The maximum number of buskers in any one group is four (4) unless a specific exemption is provided by an authorised officer.
15. A parent or guardian must accompany anyone under the age of 14 years while performing. Proof of age may be requested.
16. If someone complains to a street performer that they are causing a nuisance or disturbance, the performer should move on, or contact the Council to mediate.
17. A street performer must not continue to perform at any location if requested to move on by any authorised officer.
18. Street performers using amplification for voice or instruments must keep the volume within an acceptable level and must not cause unreasonable or excessive noise. For guidance, and “acceptable level” would allow for normal conversation (i.e. with shouting), at a minimum distance of 10 metres from the amplified speakers.

NOTE: Street performers are not covered under the Council’s public liability insurance policy and are encouraged to hold their own public liability insurance.