

Council Policy Title:	KAPITI COAST DISTRICT COUNCIL TRADING IN PUBLIC PLACES POLICY 2010
Policy Number:	POL: 1.5.5
Group Responsible:	Compliance, Monitoring and Enforcement
Committee/Council:	Council
Active Date:	01 July 2010
Date Adopted:	10 June 2010
Next Review Date:	June 2020
Document Location:	Council Records, Council Website

INTRODUCTION

1. Policy Objective

Trading in public places can add to the character, vibrancy, visitor experience and safety of the community. It is important however to control trading activities in public places to ensure appropriate standards of health, safety, pedestrian priority and visual amenity are maintained. It is also important to consider the potential impacts on established businesses when determining where street vending activities can occur.

The aim of this Policy is to ensure that trading activities on the Kapiti Coast make public places safe, lively and attractive without inhibiting the safety and efficiency of traffic flow and pedestrian movement. This Policy guides:

- the granting of licences for trading in public places;
- the types of trading that is allowed; and
- conditions for:
 - health and safety;
 - pedestrian access;
 - consideration of established businesses; and
 - traffic flow.

2. Interpretation

In this Policy, unless the context requires otherwise:

Authorised Officer	means any person authorised by the Council to carry out any of the duties provided for under this Policy and includes any Council Enforcement Officer ¹ .
Temporary event	has the same meaning as the definition for Temporary event in the Kapiti Coast District Council District Plan 1999 or any of its future amendments. The current definition is as follows: <i>a temporary event must of an intermittent nature and can include entertainment, cultural or sporting temporary events. A temporary event includes structures associated with the temporary event. This definition excludes permanently licensed premises.</i>
License	means a licence, permit, registration, written consent or approval issued as per the requirements of any Act of Parliament, Council Bylaw or Policy.
Open Air Market	means any outdoor place that is accessible to the public, where goods or service are offered for sale, and usually consists of several merchandise stalls grouped together. These markets occur on a regular basis generally operating on one particular day each month or week throughout the year.
Non Profit Organisations	means an individual or group (including sports groups, school groups, charitable and community groups) who are fundraising and 100% of the profit goes to the named community or charitable organization.
Public Place	means an area that is open to or used by the public, which is under the control of the Council, and includes roads, streets, footpaths, courts, alleys, pedestrian malls, cycle tracks, lanes, access ways, bridle-way paths, thoroughfares, squares, reserves, parks, pools, community halls, cemeteries, beaches, and recreational grounds.
Recreation Equipment	means any equipment used for recreational purposes such as kayaks, canoes, boats, surf boards, bicycles, roller blades, or scooters.
Retail Stalls	means any stand, stall, tent, mobile shop, vehicle, vessel or other setup from which goods and/or food are sold.
The Council	means the Kapiti Coast District Council or any committee,

¹ See the Kapiti Coast District Council General Bylaw 2010 for the definition of Enforcement Officer.

community board, or an enforcement officer authorised to exercise the authority of the Council.

Trading

means the commercial use of any public place under the control of council. It includes the selling, displaying or promotion of any goods and services whatsoever, whether for commercial or not-for-profit purposes, in, on, or over a public place. Trading applies to permanent, temporary and mobile (i.e. vehicle) traders and includes but is not limited to the following activities in or on a public place under the control of council:

- a. the sale, display or dispensing of goods, including food, drink, newspapers, fuel and lubricant;
- b. the provision of commercial services on a public place including shoe shining services; taking photographs, and the hire of recreational equipment;
- c. the provision of outdoor dining facilities for the consumption of food and drinks, including those offered by a liquor licensed premises;
- d. open air markets and street stalls selling, displaying or dispensing goods or services;
- e. the giving away of goods on a public place, including newspapers and magazines, to advertise any product, service or entertainment;
- f. the soliciting or collection of any subscription or donation
- g. soliciting sales or orders for sales of any goods, not in pursuance of any invitation to call, or of any previous order or request for such goods (this is also known as hawking).

PREAMBLE

3. Policy Principles

The following principles shall apply when considering trading activities in public places:

- The Council's decision to license and encourage trading in public places is consistent with the following Outcomes of the Long Term Community Plan:
 - Outcome 2: *Local Character is retained within a cohesive District.*
 - Outcome 4: *The community makes wise use of local resources and people have the ability to act in a sustainable way on a day to day basis.*
 - Outcome 5: *There is increased choice to work locally.*
 - Outcome 7: *the District has a strong healthy and involved community.*

- Kapiti's streetscapes and public places should be vibrant, safe and attractive.
- The Council supports local business and the sale of locally made or grown produce.
- Kapiti's public places should provide opportunities for the public to participate in the public environment – leisure, retail, recreation and entertainment.
- Businesses, groups and individuals that are licensed to use public places for trading activities are responsible for managing those activities in accordance with Council Guidelines and Policies.
- Trading activities should add to the Districts vibrancy, marketability, improve public safety and strengthen the existing function of areas.
- The effects on parking, traffic movement and existing businesses will be taken into account.
- Fees shall be set:
 - i. to reflect the value of the space being used by the commercial trader; or
 - ii. on a cost-recovery basis for Non Profit Organisations.

4. Scope of Activities

The Trading in Public Places Policy provides guidelines for allowing the following trading or trading related activities on streets and public places:

- open air markets;
- temporary events;
- outdoor dining, foot path stalls, sandwich boards; and
- any other trading activity.

5. Where is Trading in a Public Place Allowed

Factors that will be considered when determining the location and suitability of trading activities:

- (i) the location:
 - is easily accessible

- is suitable for the planned activity
 - will not cause nuisance or pose a risk to public safety
- (ii) The trading activities:
- will not cause undue disruption to pedestrian movements or traffic flows
 - will not adversely affect businesses
 - will not damage public property
 - and the local community will not be adversely affected (e.g. from excessive noise for instance)

SPECIFIC REQUIREMENTS FOR DIFFERENT TRADING ACTIVITIES

6. Trading at Temporary Events and Open Air Markets

Any group or individual interested in establishing an open air market or holding a temporary event on public place must make an application² to the Council.

The Council will approve the establishment of open air markets or temporary events on public places on a case-by-case basis, taking into account the nature of the public place and the potential effects on the general public and nearby businesses. The Council will also consider the following specific issues when assessing the application:

- identifying the type of goods³ and services being sold
- any District Plan implications
- ensuring adequate space for pedestrians and traffic flow
- allocating set hours and days for operation
- identifying issues relating to storage and rubbish disposal⁴

² Application forms are available from the Council's Compliance, Monitoring and Enforcement Team, Ph: 04 296 4700

³ Please refer to the guidelines in the *Food Stall Approvals at Markets, Temporary events and Other Sites Policy 2009*.

⁴ Depending on the size and nature of an temporary event or open air market a Waste Management Plan may need to be completed in order to comply with the Solid Waste Bylaw 2010.

- ensuring high standards of public health and safety

Depending on the nature of the Temporary Event or Open Air Market a licence may be issued pursuant to the Public Places Bylaw 2010 or the Resource Management Act 1991.

Application Information

For a successful request for an Open Air Market or Temporary Event Licence, the application must include:

- name and full contact details of the market or temporary event manager/coordinator
- detailed information on the types of goods to be sold (the Council may request to see the goods)
- the proposed location, days and hours of operation
- evidence of public liability insurance (if requested by the Council)
- any other information required to reasonably assess the application
- the application fee

This completed application must be submitted to the Council a minimum of 20 days before the planned temporary event or market, or earlier if a resource consent is required.

7. Outdoor Dining, Footpath Stalls and Sandwich Boards

The purpose of this section of the Trading in Public Places Policy is to provide a balanced framework to ensure safe and efficient pedestrian movement on footpaths while also providing opportunity for non-pedestrian activities such as alfresco dining.

This section guides the prioritisation of footpath space for pedestrian activity, conditions for the licensing of non-pedestrian activities on footpaths and the use of temporary footpath obstructions such as dining furniture, footpath stalls and sandwich boards.

Pedestrian Priority

The primary purpose and priority use for footpaths is safe and efficient pedestrian movement. The Council requires that a minimum continuous unobstructed footpath width of **1.2 metres** is maintained to ensure pedestrian movement.

On occasion the available footpath space is such that the designated width is unachievable because of the large variation in footpath widths that exist throughout the Kapiti District. To account for this, an Authorised Officer may make minor discretionary modifications to the ideal minimum unobstructed footpath width as appropriate.

Where in the opinion of an Authorised Officer, any dining furniture, footpath stall, sandwich board or other obstruction becomes an unacceptable barrier to the use of the footpath or hinders the flow of pedestrians, the Licence holder or person acting on his or her behalf will be required to remove, or reposition, the offending obstruction immediately.

7.1 Licence Required

A Licence is required before outdoor dining or footpath stalls are permitted on any public footpath. If a sandwich board does not comply with Appendix 1 a licence may be required.

Applicants must provide the following when submitting an application for a Licence:

- a) A scaled site plan of existing conditions that accurately show:
 - the width of the footpath from the building façade to the kerb edge;
 - the proposed location and size of the temporary dining furniture, sandwich board, footpath stall or other obstruction in relation to existing features, including the kerb edge, neighbouring properties, street trees, rubbish bins, street light poles, signs, pillars, street furniture, fire hydrants, parking meters, telephone boxes, mail boxes or any other significant features on the footpath;
 - there is a clear continuous width of **1.2 metres** of unobstructed pedestrian thoroughfare in relation to the temporary obstruction;
 - the location of doorways and service openings.
- b) The appropriate fee.

7.2 Guidelines for Outdoor Dining

The following guidelines outline the conditions of approval for outdoor seating areas on footpaths and other public spaces (these guidelines are in addition to the information requirements listed in section 7.1 of this Policy).

- The outdoor seating area must be immediately outside of the applicant's premises.

- Tables and chairs are to be high quality, durable, waterproof and weather resistant, designed for outdoor use, be well maintained and must comply with NZS 4121: Design for Access and Mobility.
- The outdoor seating area must not interfere with safe and efficient pedestrian movement and the minimum unobstructed footpath width of **1.2 metres**.
- The outdoor seating area must allow for unobstructed access to and from the premises.
- The layout and orientation of furniture in the proposed seating area must allow for at least 0.6 metres of unobstructed space between the seating and the kerb line, in addition to the 1.2 metre unobstructed footpath width.
- Adequate space is to be provided within the area to allow for easy movement and chair use.
- Toilet accommodation on the premises must be sufficient to for the increased number of persons using the outdoor seating area.
- Outdoor seating areas will not be permitted on street corners with pedestrian crossings or near entry points of designated crossings.
- Full details of any heating devices, their planned location, and safety measures taken to ensure they are stable and secure, are to be provided with the application.
- Private trading activities that introduce changes to paving or street furniture for amenity purposes require specific approval.
- Evidence of public liability insurance, to the satisfaction of the Council that covers any proposed outdoor seating area.
- Disclosure of whether alcohol is to be supplied/served/consumed in any proposed outdoor seating area⁵.
- All temporary obstructions, including seating, tables, umbrellas and heating devices must be removed from the footpath outside of the business trading hours and stored away from the public area so that they do not impede public access.

⁵ Any person who intends to sell alcohol from an outdoor dining area is required to apply for a re-definition of their liquor licensed area. Please contact the Kapiti Coast District Council Liquor Licensing inspector 04 296 4700.

- The licence holder is responsible for ensuring that patrons keep the outdoor seating within the approved boundaries of the outdoor seating area
- Temporary or permanent barriers in outdoor seating areas must have separate approval by Council. If approved they are to be located within the designated outdoor seating area.
- Outdoor seating areas may be required to be marked as stipulated by the Council. To assist in the detection of approved outdoor seating areas and temporary obstructions by people with visual impairments, tactile or solid barriers may be required as part of the design. The cost of installing, maintaining and removing outdoor seating markers will be met by the licence holder.
- The licence holder is required to regularly clean the approved seating area including tables, chairs, and immediate footpath surrounds. Where smoking is allowed ashtrays or other suitable devices must be provided and maintained.
- The Licence and approved site plan must be made available to an Authorised Officer on request.

7.3 Guidelines for Footpath Stalls

The following guidelines outline the conditions of approval for footpath stalls on footpaths and other public spaces (these guidelines are in addition to the requirements listed in section 7.1 of this Policy).

- A retailer may place a stall outside the frontage of their premises at any time during trading hours, however the stall is only to be in place for the display and sale of merchandise related to the retailing activity
- The stall is to be placed as close as practicable to the shop frontage and not interfere with safe pedestrian movement and the minimum unobstructed footpath width of **1.2 metres**.
- All goods displayed in, on or at a stall are to be free from sharp edges or projections which may cause injury to pedestrians and be free from any form of nuisance and not hazardous to the public at large. All goods must be secure from falls and wind gusts.

Non profit groups operating fundraising stalls must also apply for a licence from the Council⁶.

⁶ The Council has identified a number of sites throughout the District for community groups to sell goods. See the Kapiti Coast District Council Customer Services 04 296 4700 for details.

7.4 Guidelines for Sandwich Boards

If the guidelines in Appendix 1 are met, you are permitted to place a sandwich board (without the need for a licence) on the footpath immediately outside your premises. The Council reserves the right to inspect the board at any time and may set additional conditions as it sees fit.

Sandwich boards need to be placed so that they do not impede pedestrian access or the minimum **1.2 metre** unobstructed footpath width. Only one sandwich board is permitted per premises.

Where there are several organisations wanting to use a sandwich board at the same premises (e.g. outside shopping malls) the Council will work with the affected people and the property owner to develop a compliant solution, such as shared signage on one sandwich board or a directory.

8. Other Trading Activities

The Council reserves the right to grant licences for all other trading activities in public locations throughout the District.

Traders considering selling food or fresh produce must also comply with any additional requirements specified within the Kapiti Coast District Council *Food Stall Approvals at Markets, events and Other Sites Policy 2009*.

The Council will charge a fee for a licence. Non Profit Organisations may not be required to pay a licence fee.

Licences are non-transferable and can be revoked in accordance with the Kapiti Coast District Council Public Places Bylaw 2010.

Any person with a license issued under the Kapiti Coast District Council Public Places Bylaw 2010 must display or carry a copy of that license prominently for the view of members of the public, if the licence indicates that it must be displayed, or have it available to be inspected by an Authorised Officer or sworn member of the Police.

8.1 Stall Appearance and Storage

The Council may revoke a trading licence if the licence holder does not keep the stall or area tidy and safe to the satisfaction of the Council.

The trading area must be left clean and tidy to the satisfaction of the Council and all rubbish must be properly disposed of. Rubbish must not be stored in public view during operating hours.

The operator must keep noise to reasonable levels to the satisfaction of the Council.

8.2 Times of Operation and Licence duration

The approved time and duration of the operation may be stated on the Licence.

8.3 Application process

The application for a licence must include:

- name and full contact address details
- detailed information of the type of goods to be sold (the Council may request to see the goods)
- the proposed days and hours of operation
- the application fee (Non Profit Organisations are exempt)
- evidence of public liability insurance (if required)
- any additional information required for food sales
- any other information reasonably required to fully assess the application

9. FEES

Licence fees are expected to include the cost of:

- monitoring and enforcement;
- administration;
- any foreseen cleanup costs; and
- the value of the adjoining land.

The Council reserves the right to charge an occupancy fee for the use of public places in addition to the standard licence fee. A bond may also be required depending on the nature of the temporary event and the location.

The licence applicant must pay the full licence fee and have all the required permits before the licence will be issued.

10. MONITORING AND ENFORCEMENT

The Council will monitor trading activities in public places regularly to ensure that traders are complying with their licence conditions and that no unauthorised trading is occurring in public places.

The Council reserves the right to revoke trading licences or leases for non-compliance issues. Subject to the Kapiti Coast District Council Public Places Bylaw 2010 the standard protocol for non-compliance is as follows:

1. if a trader does not comply with the conditions of this Policy or any conditions on the licence, the Council will verbally notify the trader of the issue; or
2. the Council will provide a written warning to the trader identifying the issue(s) and required remedy; or
3. if the problem persists, the Council will impound any non-compliant sandwich board⁷ or consider revoking the trading licence or lease of any non-compliant trader, and may also consider prosecution.

Individuals or groups that trade on footpaths or other public spaces without a required licence will be asked to remove their material and cease with the trading activity immediately.

11. PENALTY

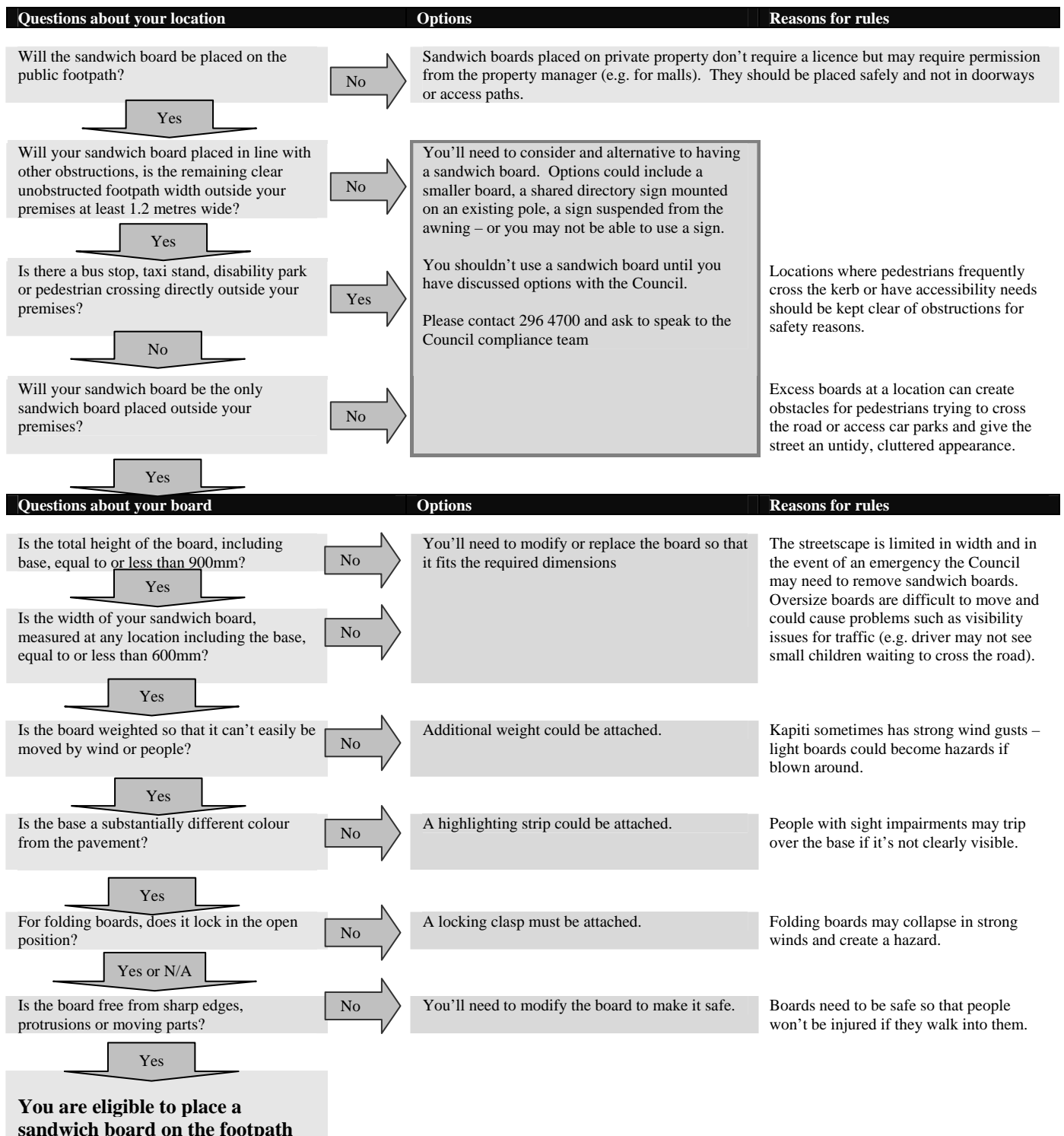
Non-compliance with this Policy is a breach of the Kapiti Coast District Council Public Places Bylaw 2010 or any of its subsequent amendments.

Every person who breaches this Bylaw commits an offence and is liable upon summary conviction to a fine not exceeding \$20,000, as set out in the Local Government Act 2002.

⁷ The Council may release an impounded sandwich board in accordance with section 167 of the Local Government Act 2002.

APPENDIX 1

Use this flow chart to determine whether you require a sandwich board licence.



If you have an item that doesn't fit the description of a sandwich board but you still wish to put some form of advertisement on a public footpath, please contact the Kapiti Coast District Council Compliance Team; and

- follow the flow chart above to determine what aspects of your advertisement do not comply with this Policy;
- prepare additional information in support of your proposal specifically addressing the aspects that don't comply with the policy and highlighting how the proposed items fits the principles of the policy, i.e. to prioritise footpath space for safe and efficient pedestrian movement while contributing to the character and vibrancy of our public places; and
- contact the Council on 296 4700 to discuss your proposal.