CITY OF MITCHAM
MOBILE FOOD VENDORS – Location Rules

1. PREAMBLE

The State Government has introduced legislation to enable the development and growth of mobile food vans in South Australia. Under the legislation the City of Mitcham must grant approval to mobile food vendors (MFVs) when they apply to operate on a local road. The City of Mitcham controls the siting and times that MFVs operate by adopting these Mobile Food Vendor Location Rules (Location Rules).

2. PURPOSE

To define the Location Rules, times of trading and fees payable for the operation of MFV's in the City of Mitcham.

3. SCOPE

These rules relate to Mobile Food Vendors and their operation within the City of Mitcham. The rules comply with State Government legislation the "Local Government (Mobile Food Vendors) Amendment Act 2017."

4. DEFINITIONS

4.1 Act means the Local Government Act 1999.

4.2 Council means the Corporation of the City of Mitcham.

4.3 Event space means any land (that may be a public road) on which an organised event is being conducted.

4.4 Fixed food business means a business the primary purpose of which is the retail sale of food or beverages that is conducted at fixed premises.

4.5 Footpath means the part of a street or road between the property boundary of the street or road and the edge of the carriageway on the same side of that boundary.

4.6 Local Government land means all land vested in or under the care, control and management of the Council except a local road or a road that is a designated main or arterial road.

4.7 Mobile food vending business (MFVB) means a business involving the sale of food or beverages from a vehicle.

4.8 MFVB permit means a permit issued to authorise a mobile food vending business to operate on a road under section 222 of the Act.

4.9 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.

4.10 Permit Holder means a person who holds an MFVB permit.

4.11 Road has the same meaning as 'public road' under the Local Government Act, 1999 and includes a footpath.

4.12 Same food offering means where a fixed food business sells or offers for sale the same generic type of food product that is sold or offered for sale by the mobile food vending business.

4.13 Vehicle has the same meaning as under the Road Traffic Act 1961 and includes— a) a motor vehicle, trailer and a tram; b) a bicycle; c) an animal-drawn vehicle, and an animal that is being ridden or drawing a vehicle; d) a combination; and e) 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.

5. PRINCIPLES

Developing Location Rules for MFV's in the City of Mitcham has been guided by the principle of complying with the State Government's "Local Government (Mobile Food Vendors) Amendment Act 2017" and the operation of MFVs not adversely impacting on the operation of bricks and mortar businesses.

6. LOCATION RULES

6.1. The Council has determined that a Permit Holder may operate a mobile food vending business from a road located in the Council's area subject to compliance with these Location Rules and the conditions attaching to the applicable MFVB Permit, A mobile food vending business must not operate:

6.1.1. on any designated arterial or main road, or

6.1.2. within 400 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

6.1.3. within 400 metres of a school except on weekends, public holidays and during school holidays; or

6.1.4. on any local road within 400 metres of an organised event, unless:

a) in the case of a Council event, the Permit Holder has received approval from the Council to operate within the event space, or within 400 metres of the event space, and;

b) 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.

6.2. A mobile food vending business must not operate on the same side of a road that is directly in front of residential premises. Note: a mobile food vending business may operate on the side of a road that is directly opposite from a residential premises.

6.3. A mobile food vending business must only operate during the following hours:

6.3.1. between 8:00am and 9:30pm when Daylight Savings is in force; and

6.3.2. at all other times, between 9:00am and 8:00pm.

6.4. Food and beverages from a mobile food vending business:

6.4.1. may only be served onto a footpath provided that a clear path of at least 1.5 metres is maintained for pedestrians at all times; and

6.4.2. must not be served from the rear of the vehicle.

6.5. A mobile food vending business and the vehicle 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).

6.6 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.

6.6.1. A MFVB must not use a free standing generator outside of the MFVB and must not play amplified music unless specifically allowed by the relevant MFVB permit.

6.7. A Permit Holder must select a location for operating the mobile food business and operate in a manner that does not unduly impact on:

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

6.7.2. the requirements relating to, and availability of, parking spaces at that location; and

6.7.3. residents and businesses in the location and its vicinity;

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

6.7.5. other road related infrastructure; or

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

6.8. A mobile food vending business must operate in a manner or select a site for operation which does not breach any relevant requirements under:

6.8.1. the Australian Road Rules;

6.8.2. the Food Act 2001;

6.8.3. the South Australian Public Health Act 2011;

6.8.4. the Environmental Protection Act 1993;

6.8.5. the Local Nuisance and Litter Control Act 2016;

6.8.6. the Motor Vehicle Act 1959 and the Road Traffic Act 1961;

6.8.7. the Local Government Act 1999 and the Local Government (General) Regulations 2013, and

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

6.9. The Permit Holder is responsible for all waste and litter created by the MFVB or its customers. The Permit Holder must ensure that all waste and litter caused by the MFVB or its customers is removed from the location in which the MFVB has operated prior to leaving that location.

Council provided rubbish bins may not be used by the Permit Holder for the disposal of waste or litter.

7. SMALL BUSINESS COMMISSIONER

The City of Mitcham may amend these Location Rules from time to time and must amend them if directed to do so by the Small Business Commissioner or to satisfy a requirement of the Minister for Local Government.

8. OBJECTION TO LOCATION RULES

If the operator of a food business in the Council's area is directly adversely affected by these location rules, then the operator may apply to the Small Business Commissioner for a review of these Location Rules.

9. REVIEW OF LOCATION RULES

These Location Rules adopted by the City of Mitcham complies with the State Government legislation the "Local Government (Mobile Food Vendors) Amendment Act 2017." These Location Rules will be reviewed as required in relation to the development and operation of MFVs in the City of Mitcham.