

TRADING IN PUBLIC PLACES

BYLAW NO 213

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NELSON CITY COUNCIL

TRADING IN PUBLIC PLACES BYLAW (No. 213)

A bylaw of the Nelson City Council made in pursuance of powers contained within the Local Government Act 2002 and any other authority enabling the Council in that behalf.

1. Introduction

- (i) This bylaw shall be known as “The Nelson City Council Trading in Public Places Bylaw 2007.”
- (i) This bylaw came into effect on Tuesday 5 June 2007.

2. Repeal

That on the coming into effect of this bylaw the Nelson City Council Bylaw 190 (1989) “Trading in Streets and Public Places” and the Nelson City Council Bylaw 202 (2002) “Trading in Streets and Public Places – Other Activities”, shall be repealed.

3. Definitions

“Busker”: means any itinerant musician, actor, entertainer or other person who performs in an outdoor setting for the benefit of the public generally, whether such performance is free, for a fixed payment, or for contributions from the audience.

“City”: means the territory contained within the City of Nelson as defined in Part 2 Schedule 2 to the Local Government Act 2002.

“Commercial Services”: means the soliciting of patronage for, or provision of, any service which is offered or provided, on payment of a fee, charge or other valuable consideration, including an invitation to make a gratuitous contribution, either on a casual basis to passers-by or door to door, and includes the taking and selling of photographs, the production and sale of personal portraits, the telling of fortunes, the soliciting of commercial sexual services, and any other service of any kind whatsoever.

“Constable”: includes a Police Officer of any rank.

“Council”: means the Nelson City Council.

“Designated Commercial Area”: means those areas of the City which are zoned “Inner City Centre;” or zoned “Suburban Commercial” at Victory Square, Tahunanui, or Stoke, under the Nelson Resource Management Plan.

“Enforcement Officer, or Officer”: means any person appointed as an Enforcement Officer under the Local Government Act 2002.

“Footpath”: means so much of any street as is laid out or constructed by authority of the Council primarily for pedestrians, and includes the edging, kerbing and channelling thereof, and includes any area of land owned or

controlled by the Council which is set aside for the convenience of pedestrians generally, as a square, place, plaza or public accessway.

“Hawker” : means any person who carries or takes about any goods, wares or merchandise for speculative sale to any person, whether or not that sale is intended to be conducted on public or private property.

BUT does not include any person who in response to an invitation to call conducts a sale of any goods, wares or merchandise on private property.

AND does not include any person who operates a mobile shop.

“Mobile Shop” : means a vehicle, whether self propelled or not, from which goods, wares or merchandise (including food) are offered or exposed for sale, or from which such goods, wares, merchandise may be ordered; while such vehicle is in any public place.

BUT does not include any vehicle used for the purpose of transporting and delivering goods, wares or merchandise pursuant to a prior order placed for the delivery of such goods, wares or merchandise.

“Poster Tower”: means any structure, wall or other erection set aside by the Council specifically for use by the public for the display of posters or other advertisements giving notice of coming events.

“Public Place”: means all streets and public car parks within the City owned or controlled by the Council, and all parks and gardens and reserves within the City.

“Sandwich Board”: means any signboard or other advertising device, whether rigid or flexible, including “floppy” signs, flags, banners, “A” frame boards and the like whether designed to be free standing or to be affixed to a building, and which are designed and used for the purpose of advertising any commercial operation or service or product provided by any commercial operation and which stand on any footpath or protrude onto or project over any footpath in a position less than 2.2 metres above such footpath.

“Street”: means the whole of any land which has been laid out by or vested in the Council for the purposes of a road or street, every accessway or service lane under the control of the Council and every square or place intended for use by vehicles.

“Street Stall” : means any vehicle, table, or other construction or erection which pursuant to a licence to occupy issued by the Council is authorised to occupy a dedicated site within the City, and includes an outdoor dining area established with the authority of the Council on any footpath or other public place.

4. Hawkers and Mobile Shops

4.1 Licensing

No person shall within the City carry on business as a hawker, or operate a mobile shop with respect to goods or articles of any description, without having first obtained a licence from the Council.

Provided that nothing in this section will apply to any person carrying on business as a hawker or operator of a mobile shop operating solely under the auspices of an approved street market, a craft market or other similar organisation, or as a street stall.

4.2 Application

- a) Every person wishing to obtain a licence shall make application in writing on the appropriate Form of Schedule 1 hereto and shall with the application provide such other information as that form requires.
- b) Every application shall clearly state the class or classes of food, goods, wares, merchandise or other articles in which the applicant desires to trade.
- c) Every application shall be accompanied by the fee set out in Schedule 2 hereto in respect of such licence. The Council may waive the payment of fees for any licence, where such involves local or nationally recognised charitable or community organisations.
- d) If the applicant wishes to sell articles of food for human consumption the application must be accompanied by all licences which the applicant may be required to obtain under the provisions of any Act, regulation or bylaw relating to the trading and selling of such articles of food, and relating to any vehicle used in connection with selling food for human consumption, and any premises to be used for the preparation or storage of such food.
- e) Any person who operates more than one mobile shop shall hold a separate licence for each mobile shop.
- f) The operator of a mobile shop shall ensure that the current licence is prominently displayed at all times when the mobile shop is being used or operated and the licence shall be available to any Constable or Officer on demand.

4.3 Council may prescribe conditions

The Council may, in issuing a licence to any hawker, or operator of a mobile shop, prescribe any condition or conditions with which such hawker or operator of a mobile shop must comply in carrying on their trade or business, and any hawker or operator of a mobile shop who fails to comply with any such conditions commits an offence against this bylaw.

4.4 Expiry of licences

Subject to Clause 4.12 every licence shall be issued for a period of not more than 12 months.

4.5 Moving on

Every hawker, or operator of a mobile shop, upon being requested to do so by any Constable or Officer, shall move from the public place where they may for the time being be hawking or selling their goods to any other part of such public place, or to any other public place. Any person who fails to comply with any such request commits an offence against this bylaw.

4.6 Restriction on standing

No hawker or operator of a mobile shop shall for the purpose of carrying on business stand or permit the said mobile shop to stand or remain stationary in any public place within the City, for any period longer than 15 minutes in the case of a hawker and 1 hour in the case of any mobile shop.

4.7 Prohibition in Commercial Areas

No hawker or operator of a mobile shop shall on any footpath or other public place within the designated commercial areas engage in their trade or calling with respect to goods or articles of any description whatsoever, except as a street stall.

4.8 Restrictions

The Council may, by resolution, prohibit hawkers, or operators of mobile shops from carrying on business in any specified public place within the City; and may limit or restrict the classes or types of goods that may be offered for sale; and may limit the hours or days during or on which such businesses may be carried on.

4.9 Licence not transferable

No licence issued under this part of this bylaw shall be transferable to any other person, and no such licence shall authorise any person other than the person named therein to carry on the trade or business of hawker or operator of a mobile shop.

4.10 Renewal of licence

Prior to the expiry of any licence a hawker or operator of a mobile shop may make application for renewal. Provided the licensee has complied with the conditions of the licence and on payment of the fee prescribed in Schedule 2 hereto, the licence shall be renewed upon such terms and conditions as the Council may consider appropriate for up to 12 months.

4.11 Stopping use of vehicle

The Council may require any licensed hawker or operator of a mobile shop to discontinue the use of any vehicle used in undertaking the business.

4.12 Suspension or revocation of licences

The Council may suspend or revoke any licence issued to any hawker or operator of a mobile shop where it is satisfied that there has been a breach of the conditions upon which the licence was issued, or in any case where the holder of the licence has been convicted of an offence relating to or in connection with the trade conducted pursuant to the said licence. This action shall be in addition to and not in substitution for any action which may be taken pursuant to clause 14 hereof.

4.13 Production of Licence

Every licence holder shall make the licence available to any Constable or Officer who shall demand production of the licence.

5. Commercial Services

5.1 No person shall, without first obtaining a licence from the Council, stand in or occupy or use any portion of any public place for the purpose of providing a commercial service.

- i) Every application for a licence shall be in writing on the appropriate Form of Schedule 1 hereto.
- ii) Every application shall clearly state:
 - a) The type of services to be provided;
 - b) The public places where such services are proposed to be provided;
 - c) The time during which the services are to be offered.
- iii) Every application shall also be accompanied by the fee prescribed in Schedule 2 hereto.

5.2 Every licence issued shall be subject to such conditions as the Council may impose. Without limiting the generality of the foregoing, the Council may impose conditions requiring or governing:

- i) The duration of the licence;
- ii) The public place or places in which the applicant is permitted to stand and length of stay per day;
- iv) The hours during which the applicant may so stand.
- v) The type of service permitted to be given.

No person shall stand or sell except in conformity with the terms of such licence.

5.3 No licence holder shall transfer such licence to any other person, nor shall any licence holder act under the authority of a licence issued to any other person.

5.4 Every licence holder shall make the licence available to any Constable or Officer who shall demand production of the licence.

5.5 The Council, or the Police, may at anytime for reasons of public health or safety withdraw any licence issued, or require that the services provided in a particular public place cease for such period as the Council or Police deem necessary.

6. Begging / Soliciting of Donations and Selling Lottery Tickets

6.1 No person shall stand in or on, or occupy any portion of any public place for the purpose of begging or for the soliciting of donations or other gratuitous contributions, or gifts of any kind, whether or not the soliciting involves the exchange of any token or other item, without the written authority of the Council.

- 6.2 No person shall stand in or on or occupy any portion of any footpath or any other public place for the purpose of selling tickets in any lottery (as defined within the Gambling Act 2003) without the written authority of the Council.
- 6.3 Application for authority to undertake any activity prohibited by Clause 6.1 or 6.2 above shall be on the appropriate Form of Schedule 1 hereto, and accompanied by the fee prescribed in schedule 2 hereto.
- 6.4 Authority to undertake any activity prohibited by 6.1 or 6.2 above will only be granted where the Council is satisfied that the activity is by or on behalf of a local school, community group, or a local or Nationally recognised charity.
- 6.5 Every person engaged in the activity for which authority under this clause has been given shall hold a copy of such authority and shall make available such copy to any Constable or Officer, on demand.

7. Busking

- 7.1 No person shall perform as a busker in any public place without having first provided their name and contact details to the Council and having obtained a copy of the rules set out in Clause 7.2 below.
- 7.2 No person shall while performing as a busker in any public place;
- i) Occupy any footpath adjacent to any retail or other commercial premises without the consent of the owner or Manager of such premises.
 - ii) Occupy any footpath or pedestrian way in such a way as to obstruct or impede the free movement of pedestrians along the footpath, or way or through the public place;
 - iii) Allow the persons forming the audience to obstruct or impede the free movement of pedestrians along the footpath or way or through the public place;
 - iv) Use language or behaviour which is abusive, insulting, threatening or offensive.
 - v) Undertake or perform any busking activity which generates any noise which in the opinion of any Officer or Constable unreasonably interferes with the peace, comfort and/or convenience of any person or persons.
 - vi) Continue to occupy any place or site on a footpath or in any public place for longer than 30 minutes in any 2 hour period, or after being requested by an Officer or Constable, to move to another place or site.
- 7.3 An Officer or Constable may require any busker who has not advised the Council of their intention to busk, or who is not complying with the provisions of this clause or otherwise causing a nuisance or obstructing the free passage of pedestrians by the busking, and/or spectators, to forthwith cease the busking.
- 7.4 i) The Council may by resolution specify particular types of busking activities which will be subject to a permit, and may determine, as part

of that resolution, the form of application to be made and the terms and conditions to which such permit will be subject;

- ii) Where any specific busking activity has been resolved by the Council to require a permit it shall be an offence for any person to carry on any such busking activity without first obtaining and holding a valid permit.

8. Sandwich Boards on Footpaths

- 8.1 No person shall display or cause to be displayed on the footpath adjacent to any retail or other business premises any sandwich board which does not relate directly to the business or promote or display the products or services specific to the business carried on within such premises.

AND no person in respect of any business premise within a Designated Commercial Area shall display or cause to be displayed more than one such sandwich board.

Provided that where any such business has frontage to more than one street or public place one sandwich board may be displayed at each frontage.

AND no person shall display or continue to display on any footpath any sandwich board which due to its design or location on the footpath constitutes a hazard for pedestrians or which reduces the width of the footpath available to pedestrians to less than two metres.

- 8.2 Any sandwich board displayed shall be located immediately adjacent to the business to which it relates and shall be sited so as to extend no further onto the footpath than 600mm from the frontage of the said business.

Provided that where the business is situated on other than the ground floor, or is situated within a lane or Mall in such a way that the frontage to the footpath consists of no more than an entrance or doorway, the sandwich board may be sited adjacent to the kerb, directly in front of the said entrance, and extending no more than 600mm onto the footpath from the kerb.

- 8.3 For the avoidance of doubt the term “sandwich board” does not include any advertising board or flyer or poster holder which is fastened to or otherwise set against and displayed parallel to, the front wall of the business concerned.

9. Retail Displays on Footpaths

- 9.1 No person, being the operator of a business within a designated commercial area, shall place, erect, or establish on the footpath adjacent to the said business any display whether of goods sold from the business or not, except in conjunction with, and as part of any general promotion or other like event within the said designated commercial area.

Provided that no person shall establish on the footpath any display which due to its design or location on the footpath constitutes a hazard for pedestrians or which reduces the width of the footpath available for pedestrians to less than 1.5 metres.

10. Advertising

- 10.1 No person shall, for the purpose of advertising or of disseminating news or any other information, or as decoration or personal aggrandizement or promotion, place or affix or display any banner, placard, poster, or other material bearing any writing or pictorial representation, hereinafter called an “advertisement”, in or on any street or any other public place, or tree or structure which is administered by or under the control of the Council, other than a dedicated “poster tower”; or write, paint, chalk, spray or etch on, or otherwise mark any street, footpath, tree or structure which is administered by or under the control of the Council, without the authority of the Council or as provided by any licence to occupy issued by the Council which specifically authorises such advertising.
- 10.2 (a) Every application for authority shall be in writing on the appropriate form of Schedule 1 hereto and shall clearly state the following:
- i) The material to be utilised in the production of the “advertisement”;
 - ii) The location and dimensions of the proposed “advertisement”;
 - iii) A description of the words or picture or other manner in which the message is to be expressed;
 - iv) The start date of the advertising and the period of time for which the “advertisement” is to be displayed.
- 10.3 Authority to undertake such advertising will only be granted where the Council is satisfied that the advertisement is for an identifiable public or community purpose, will cause no detraction from the amenities of the city nor inhibit or interfere with the use of the immediate area by the public, and will not cause harm to or otherwise damage the thing on which the advertisement is to be fixed or made.

11. Applications for Authority

Notwithstanding the provisions of Clauses 6.3 and 10.2 hereof the Council may, where it considers it appropriate, accept applications for authority which are not in the specified format via e-mail.

12. Power to Request Name and Address

Any person, who is reasonably suspected by any Constable with having committed an offence against this bylaw, who fails or refuses, when required by the Constable, to give his name and/or address, or gives a false name and/or address, shall be guilty of a breach of this bylaw.

13. Fees

The Council may from time to time by use of the Special Consultative Procedure change or add to the fees listed in Schedule 2 hereto.

14. Breach of Bylaw and Penalty

14.1 Any person who acts in breach of any provision of this bylaw commits an offence and is liable upon conviction to a fine not exceeding \$500, or in the case of a continuing offence to a further fine not exceeding \$50 for every day on which the breach has continued.

14.2 Notwithstanding the provisions of Clause 14.1 above, where the offence relates to the display on any footpath of any sandwich board or retail goods contrary to Clauses 8 or 9 hereof, any Enforcement Officer may, after giving the owner of the said sandwich board or goods reasonable opportunity to remove them from the footpath, seize and impound such sandwich boards or goods as remain on the said footpath, and to hold and deal with same in accordance with the provisions of Section 167 of the Local Government Act 2002.

The foregoing bylaw was duly made by the Nelson City Council at the Ordinary Meeting of the Council held on the 24th day of May 2007.

The COMMON SEAL of the (
NELSON CITY COUNCIL (
was hereto affixed in the (
presence of: (

Mayor

Chief Executive

SCHEDULE 1: FORMS

- Form 1: Application for Hawkers Licence
- Form 2: Hawkers Licence
- Form 3: Application for Mobile Shop Licence
- Form 4: Mobile Shop Licence
- Form 5: Application for permit to provide Commercial Service
- Form 6: Commercial Services Permit
- Form 7: Application for permit to solicit donations or sell lottery tickets
- Form 8: Permit to solicit Donations or sell Lottery Tickets
- Form 9: Application for authority to carry out advertising
- Form 10: Authority to Carry Out Advertising

Nelson City Council

Trading in Public Places - Bylaw 213

Application Form

Hawker's Licence

I, _____
(full name)

of _____

(full residential address)

(Phone)

Hereby apply, pursuant to Nelson City Bylaw No 213 for a Licence to hawk the following goods.

Nature of goods to be offered for sale:

Address of premises to be used for the preparation or storage of any food:

Prescribed fee attached: \$50.00

Date: _____

Applicant's Signature _____

.....
OFFICE USE ONLY

Application approved/declined

Receipt No _____

Date: _____

Per Chief Executive



Trading in Public Places - Bylaw 213
Hawker's Licence

The person named herein is authorised to ply the trade of a hawker within Nelson City subject to the terms and conditions as set out.

Full name of licence holder: _____

Address: _____

Product licenced to sell: _____

Expiry date: _____

Special conditions (if any) _____

Signed: _____

For Chief Executive

Date: _____

Licence Conditions

1. This licence must be available on demand, to any constable or officer of the Council.
2. No trade is allowed on any reserve without the specific consent of the Council.
3. No trade is allowed on the State Highway, except with the specific consent of Transit New Zealand (C/O Opus Consultants, phone 548 1099).
4. The Council may limit the class of goods to be sold, and the hours or days during which business can be carried out. Hawking is only permitted between the hours of 9.00am and 6.00pm.

Nelson City Council
Trading in Public Places - Bylaw 213
Application Form
Mobile Shop Licence

I, _____
(full name)

of _____

(full residential address)

(Phone)

Hereby apply, pursuant to Nelson City Bylaw No 213 for a Licence to operate a Mobile Shop within the City of Nelson.

Nature of goods to be offered for sale:

Registration number of vehicle to be used: _____

Note: A separate application is required in respect of each vehicle to be operated.

Address of premises to be used for the preparation or storage of any food:

Prescribed fee attached: \$50.00

Date: _____

Applicant's Signature _____

.....

OFFICE USE ONLY

Application approved/declined

Receipt No _____

Date: _____

Per Chief Executive



Trading in Public Places - Bylaw 213
Mobile Shop Licence

The person named herein is authorised to operate a Mobile Shop within Nelson City subject to the terms and conditions as set out.

Full name of licence holder: _____

Address: _____

Registration number of vehicle used: _____

Note: This licence is to be displayed within this vehicle.

Product licenced to sell: _____

Expiry date: _____

Special conditions (if any) _____

Signed: _____

For Chief Executive

Date: _____

Licence Conditions

1. The operation of the Mobile Shop within any designated commercial area is prohibited.
2. No trade is allowed on any reserve without the specific consent of the Council.
3. No trade is allowed on the State Highway, except with the specific consent of Transit New Zealand (C/O Opus Consultants, phone 548 1099).
4. The operator of the Mobile Shop shall ensure that the area in which trading is carried out is cleaned up when trading is finished.
5. The name of the trader is to be clearly visible on the side of the Mobile Shop.

Nelson City Council
Trading in Public Places - Bylaw 213
Application Form
Provision of Commercial Services

I, _____
(full name)

of _____

(full residential address)

(Phone)

hereby apply, pursuant to Nelson City Bylaw No 213 for a permit to provide the following Commercial Service in the City of Nelson.

Nature of service to be offered:

The area of the City in which the service is to be offered: _____

The time of the day during which the service is to be offered: _____

Prescribed fee attached: \$35.00

Date: _____

Applicant's Signature _____
.....

OFFICE USE ONLY

Application approved/declined

Receipt No _____

Date: _____

Per Chief Executive



Trading in Public Places - Bylaw 213
Commercial Services Permit

Permit Holder: _____

Permit Expiry Date: _____

Authorised Service: _____

Area of Operation: _____

Time of Operation: _____

Special Conditions (if any) _____

Date of Issue: _____

Issuing Officer: _____

Signed: _____

For Chief Executive

Date: _____

Permit Conditions

1. This Permit is to be available on demand to any constable or officer of the Council.
2. No trade is allowed on any reserve without the specific consent of the Council.
3. No trade is allowed on the State Highway, except with the specific consent of Transit New Zealand (C/O Opus Consultants, phone 548 1099).
4. This Permit is not transferable.

Nelson City Council
Trading in Public Places - Bylaw 213
Application Form
Soliciting Donations or Selling Lottery Tickets

I, _____
(full name)

of _____

(full residential address)

(Phone)

hereby apply, pursuant to Nelson City Bylaw No 213 for a permit to solicit donations/sell lottery tickets *(delete whichever is not applicable)* within public places in Nelson City.

Name of the organisation on whose behalf the activity will be undertaken:

Location of sites from which it is proposed to operate:

Date(s) on which it is proposed to undertake the activities:

Date: _____

Applicant's Signature _____

.....

OFFICE USE ONLY

Application approved/declined

Date: _____

Per Chief Executive



Trading in Public Places - Bylaw 213

Permit

Soliciting Donations/Selling Lottery Tickets in a Public Place

Full name of Permit Holder: _____

Organisation Represented: _____

Date of Activity: _____

Special Conditions (if any) _____

Date: _____

Per Chief Executive

Permit Conditions

1. This Permit is to be available on demand to any constable or officer of the Council.
2. This Permit is not transferable.

Nelson City Council
Trading in Public Places - Bylaw 213
Application Form
Authority to Undertake Advertising

I, _____
(full name)

of _____

(full residential address)

(Phone)

hereby apply, pursuant to Nelson City Bylaw No 213 for an authority to undertake advertising in public places in Nelson City.

Nature of advertising to be carried out:

Size of advertising: _____

Location of advertising: _____

Words or message to be on the advertising: _____

Organisation on whose behalf the advertising will be carried out:

Date: _____

Applicant's Signature _____

.....
OFFICE USE ONLY

Application approved/declined

Receipt No _____

Date: _____

Per Chief Executive



Trading in Public Places - Bylaw 213
Authority to Undertake Advertising in a Public Place

Full Name of Person Authorised:

Nature and Description of Advertising:

Organisation Represented:

Date/Period of Advertising: _____

Special Conditions: _____

Signed: _____

For Chief Executive

Date: _____

Permit Conditions

1. This Authority is to be available on demand to any constable or officer of the Council.
2. This Authority is not transferable.

SCHEDULE 2: FEES

NOTE: ALL FEES INCLUDE GST

1.	Hawkers	\$35.00
2.	Mobile Shops	\$50.00
3.	Commercial Services	\$35.00
4.	Soliciting Donations/Selling Lottery Tickets	\$ Nil
5.	Advertising	\$ Nil