

Policy Section:	3. Development, Environment & Regulatory Services
Policy Name:	Mobile Food Vendors
Classification:	Public – Council Policy
Adopted:	3 May 2022
Frequency of Review:	Triennial
Last Review:	March 2022
Next Review Due:	March 2025
Responsible Officer(s):	Team Leader Community Safety Manager Development, Environment and Regulatory Services Environmental Health Officer
Policy and Code of Practice Manual File Ref:	CC10/2601
Council File Reference:	CR21/99940
Legislation Authority:	
Related Policies and Codes:	N/A
Related Procedures:	N/A

1. BACKGROUND / INTRODUCTION

A mobile food vending business requires a permit under section 222 of the *Local Government Act 1999* to operate as a business on a public road in the Council area.

A condition of a permit authorising a mobile food vending business to operate on a public road or in a public place in the Council area is that the permit holder complies with location rules adopted by the Council or any conditions placed upon that permit by Council.

The Council has adopted the location rules set out in this document.

2. COUNCIL DETERMINED MOBILE FOOD VENDING BUSINESS SITES

The Council has determined that mobile food businesses may operate from the sites shown on the attached map. Permits may be subject to complying with location rules and any other requirements of its permit such as trading and hours of operation.

	Location	Operating Hours
1.	Clonlea Park – Car Park	During Park operating hours
2.	Pioneer Park – Car Park	10:00am – 10:00pm – except during events
3.	Dead Man's Pass	8.00am to sunset
4.	Gawler Aquatic Centre – Car Park	After hours of operation of Aquatic Centre
5.	Sport and Community Centre – Car Park	After hours of operation of Sport and Community Centre.
6.	Murray Street	After Hours
7.	Gawler Train Station	** Requires permission from Department of Infrastructure and Transport
8.	Walker Place	After hours

Permits will be revoked for the period of or during any events or functions that are planned to occur at any of the locations. A requirement of the mobile food vendor permit will be that the location is not be used for the duration of the event.

Not for profit and or charitable organisations will be exempt from any fees associated with the granting of a permit.

2.1 Operate a reasonable distance from a fixed food business location rule

A mobile food vending business will be located at a reasonable distance from a fixed food businesses during the operating hours of the fixed food businesses.

Explanation

A 'fixed food business' is '*a business the primary purpose of which is the retail sale of food or beverages that is carried on at fixed premises*'. Fixed food businesses include cafes, restaurants, delicatessens, takeaway food businesses, bakeries, greengrocers, health food shops, butchers, supermarkets and, in some cases, service stations.

A 'reasonable distance' will depend on the circumstances and may vary from location to location.

Location rules have considered the location, number and operating hours of fixed food businesses in the Council area when determining if the location in which the mobile food vending business can trade. Determining a reasonable distance from fixed food businesses requires a balancing of these factors.

2.2 Take into account the effect of the operation of the mobile food vending business

Location rule

Mobile food vending sites have taken into account the effect of the operation of the mobile food vending business on:

- (a) vehicles and pedestrian traffic, footpaths, driveways, access points to buildings and parking areas for people with disabilities;
- (b) the requirements relating to, and availability of, parking spaces; and
- (c) residents and businesses.

Explanation

A mobile food vending business must operate from a site where it will not cause an obstruction to persons using the public road or create a nuisance and/or interfere with residents living, or businesses operating, in the vicinity of the site.

A site cannot be selected which would breach parking requirements applying to the site. This includes locating the mobile food vending business within spaces reserved for people with disabilities.

Consideration must be given toward any noise disturbance that may result from the use of generators or other equipment utilised by the mobile food vending business. The *Local Nuisance and Litter Control Act 2016* outlines offences that may apply for "Creating a local nuisance".

2.3 No undue interference with vehicles or road related infrastructure

Location rule

The mobile food vending business site will not unduly interfere with:

- (a) vehicles driven on roads;
- (b) vehicles parking or standing on roads;
- (c) a parking area for people with disabilities (within the meaning of rule 203(2) of the *Australian Road Rules*);
- (d) public transport and cycling infrastructure (including bus zones, taxi zones and bike lanes);
- (e) other road related infrastructure; or
- (f) infrastructure designed to give access to roads, footpaths and buildings.

Explanation

A mobile food vending business must operate from a site which will not impinge on the use of roads by vehicles or interfere unduly with road related infrastructure.

3. MOBILE FOOD VENDING BUSINESS DETERMINED SITES

A mobile food vending business holding a permit issued by the Council may only operate at the site to which the approval applies.

Designated locations will be identified on a map and published on the Town of Gawler website. Alternative locations may be considered after assessment by an Authorised Officer.

3.1 Compliance with legislative requirements

A mobile food vending business / site must not breach any relevant requirements under:

- (a) the *Food Act 2001*;
- (b) the *South Australian Public Health Act 2011*;
- (c) the *Environment Protection Act 1993*;
- (d) the *Local Nuisance and Litter Control Act 2016*;
- (e) the *Motor Vehicle Act 1959* and the *Road Traffic Act 1961*;
- (f) legislation relating to electrical or gas installations or appliances; and
- (g) relevant legislation relating to health, safety or the environment.
- (h) Directions issued by SAPOL or SA Health regarding the Covid-19 pandemic or a similar Emergency Declaration.

4. FEES

4.1 Permits for business purposes—mobile food vendors

The following requirements relate to the conditions of a permit for the purposes of a mobile food vending business::

- (a) The payment of a fee in relation to the permit—
 - (i) the permit holder may elect to pay either an annual, monthly or daily fee as listed in Council's Fees and Charges Schedule
 - (ii) the permit holder must have insurance of a kind specified by the council (such as public liability insurance); and
 - (iii) conditions requiring that the operation of the mobile food vending business not unduly interfere with—
 - (A) vehicles driven on roads; or
 - (B) vehicles parking or standing on roads; or
 - (C) a parking area for people with disabilities (within the meaning of rule 203(2) of the *Australian Road Rules*); or
 - (D) public transport or cycling infrastructure (such as bus zones, taxi zones and bike lanes); or
 - (E) other road related infrastructure; or
 - (F) infrastructure designed to give access to roads, footpaths and buildings;

5. EXEMPTIONS

Ice Cream vans will be exempt from these provisions because of the nature of their business operations which involve moving from location to location.

Community, church and not for profit organisations will be exempt from any fees associated with the granting of a permit.

6. DISPUTES

Disputes may be referred to the Small Business Commissioner.

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

7. REVIEW AND EVALUATION

The Policy will be reviewed every three years.

The Chief Executive Officer will report to Council on the outcome of the evaluation and if relevant make recommendations for amendments, alteration or substitution of a new Policy.

The Policy will not be altered or substituted so as to affect a process already commenced.

The location rules must be amended by the Council if directed by to so by the Small Business Commissioner or to satisfy a requirement of the Minister for Local Government

6. FURTHER INFORMATION

Further information about this Policy can be obtained by:-

Telephone: 8522 9211

Email: council@gawler.sa.gov.au

Appointment: Town of Gawler Administration Centre, 43 High Street, Gawler East.

Letter: PO Box 130, Gawler SA 5118

7. AVAILABILITY OF POLICY

The Policy from Council's website at www.gawler.sa.gov.au.

A printed copy may be purchased on request from the Council's Administration Centre.