

Mobile Shops and Traders Bylaw

2021



Mackenzie
DISTRICT COUNCIL

Mobile Shops and Traders Bylaw 2021

Date Adopted:	16 November 2021
Review Date:	16 November 2024
Department:	Operations
Responsible Officer:	Manager Planning
Sponsor:	Group Manager Operations
Adopted by:	Chief Executive

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1. Introduction

This Bylaw is the Mackenzie District Council Mobile Shops and Traders Bylaw 2021.

This Bylaw shall come into force on 16 November 2021.

This Bylaw has been made pursuant to section 146 of the Local Government Act 2002.

2. Purpose

The purpose of this Bylaw is:

- to regulate the conduct of persons selling goods on streets, roads and pavements and on property owned or managed by the Council; and
- to regulate persons using vehicles to sell goods and services in public places.

3. Interpretations

For the purposes of this Bylaw the following definitions shall apply.

Act	the Local Government Act 2002
Authorised Officer	a Council Officer appointed by Council to be an Enforcement Officer or a Police Officer
Council	the Mackenzie District Council
Goods	all foods, refreshments, and handmade crafts
Mobile Shop	any stand, stall, structure, vehicle, awning, or table from which goods are offered for the distribution of sale
Night-time	the hours between 9pm and 6am Monday to Sunday
Public Place	the same meaning as section 147 of the Act a place that is open to or being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from it
Residential Zones	land zoned Residential 1, 2, 3, 4 and Rural Residential 1 and 2 in the Operative Mackenzie District Plan
Similar Goods	types of foods, refreshments and or handmade crafts that a similar
Trader/Operator	any person who is involved in any business in the district involving the sale of goods from a mobile shop

4. Exclusions

The provisions of this Bylaw do not apply:

- to sellers of printed books, pamphlets, magazines or newspapers.
- mobile traders operating at community events where the trader has been invited or has permission of the event organiser;
- mobile traders operating on private land not owned or managed by the Council; and
- mobile ice-cream vans such as Mr. Whippy.

Mobile ice cream vans such as Mr. Whippy are permitted in the district provided:

- the trader informs Council, in writing, when and where they will be operating.
- the trader stays in one location no longer than one hour.
- the trader does not park within 200m of the village centre.
- musical chimes or other audible devices are operated in a reasonably modulated manner.
- an authorised officer provides written confirmation that the trader has permission to trade.

5. Mobile Trading License

Any person or business wanting to engage in mobile trading at the sites designated under Section 7 must obtain a license from Mackenzie District Council. To apply for a license a person or business must:

- apply to the Council on the appropriate form.
- state the type of food, goods and/or merchandise to be sold.
- state the hours and days of trade.
- supply copies of any additional licenses or permits applicable to the activity, such as a Food Registration Certificate under the Food Act 2014.
- pay the relevant license application fee prior to the license being issued.

A trader must apply for a separate license for each location. Each license application is subject to a separate application fee and assessment process.

A license may be granted, have conditions imposed, or be refused at the discretion of an authorised officer.

For more information on the application process refer to Section 8.

A trader who operates more than one mobile shop shall hold a separate license for each mobile shop.

A license issued under this Bylaw is not transferable to any other person or business.

6. Production of License

The operator of a mobile shop shall display at all times while trading a copy of their license.

The operator of a mobile shop shall at all times while trading ensure that a copy of their license is made available to an authorised officer on request.

The operator of a mobile shop shall move as directed at the request of an authorised officer.

Any person who fails to comply with any such requests commits an offence against this Bylaw.

7. Mobile Trading Sites

The Council have designated specific locations in Fairlie, Tekapo and Twizel as permanent sites for mobile trading. The specific sites are:

1. the Village Green, Fairlie
2. the Denmark Street Greenway, Fairlie
3. the Lakeside Drive Carpark, Tekapo
4. the Hamilton Drive Carpark, Tekapo
5. the Mackenzie Drive Carpark, Twizel

In the designated mobile trading sites, an authorised officer must grant a mobile trading license provided the following are met:

- compliance with the mobile trading site restrictions can be achieved (Schedule 1).
- compliance with the conditions for mobile traders has been demonstrated (Schedule 2).

For more information on the preferred sites, including the site restrictions, refer to Schedule 1.

The Council can add, remove, or alter any part of Schedule 1 in accordance with section 156 of the Act.

No Mobile Trading Licenses will be granted to operate outside of the designated sites.

8. Allocation of Licenses

The Council on 1 April each year will call for applications to operate within the designated mobile trading sites. The application period will be open for a two-month period (April-May); with the granted licenses allocated in June and coming into effect on 1 July until 30 June the following year (a twelve-month period).

At the close of the application period, an authorised officer will assess the applications received and create a mobile trading schedule for Fairlie, Tekapo and Twizel.

Where the number of applications received for a site exceeds the site restrictions an authorised officer will assess the applications received and evaluate them against the criteria listed below. This assessment will then be considered by full Council and a determination made as to the allocation of licenses for the following year. For clarity the site restrictions will be assessed on an hourly basis. More licenses than the site can occupy can therefore be provided as long as there is no more than the maximum number of traders operating at any one time.

Where an application is received outside of the April-May period, an authorised officer may grant a license until June 30 where the site restrictions are not exceeded (no discount to the applicable fees will be applied).

An authorised officer/Council when determining what licences should be granted, shall have regard to:

- whether the trader has held a license for the site previously;
- the number of applications received;
- the types of food, refreshments, and handmade crafts to be sold to ensure a variety of offerings;
- the hours/days of operation sought;

- the previous history of the mobile shop and/or trader;
- whether the mobile trader is familiar with their obligations under the Bylaw; and
- any other matter deemed necessary.

9. Conditions of License

All licenses issued under this Bylaw shall be subject to the standard Conditions contained in Schedule 2.

The Council may, in issuing a license, prescribe additional conditions or amend the standard conditions where appropriate.

All license holders shall comply with the conditions issued to their license while carrying out their trade or business.

Any breach of conditions shall constitute a breach of this Bylaw.

10. Expiry of License

A license issued under this Bylaw is valid for twelve months from the date of issue (1 July to 31 June).

Where an application is issued after 1 July the license will only be valid until the 31 June.

11. Suspension/Cancellation of License

Failure to comply with any conditions contained within this Bylaw, or on a specific license will result in the immediate suspension of the license for a one-week period. During this period staff will investigate the non-compliance. At the completion of the investigation staff can remove the suspension on the license or cancel the license.

An authorised officer may also suspend or cancel a license issued under this Bylaw where they are satisfied that:

- there has been a breach of the Bylaw.
- the license holder has been convicted of an offence relating to or in connection with the trade conducted pursuant to the said license.
- the trader has ceased operation for more than six weeks, unless the trader has notified the Council of the intended break in service.

12. Fees

Prior to the issue of a licence the prescribed fee set out in the Councils Schedule of Fees and Charges shall be paid. Failure to pay within the time frame specified may result in the offer of a license being rescinded and the license allocated to another party.

The Council may waive, upon written request, the payment of fees for any license where the activity involves local or national recognised charitable or community organisations.

13. Offences and Penalties

Any person or business found to be in breach of this Bylaw commits an offence and is liable upon conviction to the penalty set out in Section 242 (4) of the Local Government Act 2002 which provides for a fine not exceeding \$20,000.

Schedule 1

Designated Mobile Trading Sites

Fairlie

Designated Site:	The Village Green
Description of Site:	The area of the Village Green permitted for mobile trading is located south of the war memorial statue, opposite the Gladstone Grand Hotel as indicated below
Number of Traders Allowed	A maximum of three mobile traders may operate at any one time
Maximum Hours of Operation:	The hours of operation for any mobile trader shall be between 6am and 9pm Monday to Sunday.



Designated Site:	Denmark Street Greenway
Description of Site:	The portion of the Denmark Street Greenway permitted for mobile trading is located northwest of the Doon Street and State

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	Highway 8 intersection (adjacent to 34 to 46 Denmark Street) as indicated below
Number of Traders Allowed:	A maximum of three traders may operate at any one time
Maximum Hours of Operation:	The hours of operation for any mobile trader shall be between 6am and 9pm Monday to Sunday



Lake Tekapo

Designated Site:	Lakeside Drive Carpark
Description of Site:	The Lakeside Drive Carpark is located northwest of the Lakeside Drive, Domain Road and Simpson Lane intersection and is directly adjacent to Lake Tekapo. Mobile Traders in this location are restricted to carparking closest to Lakeside Drive
Number of Traders Allowed:	A maximum of four mobile traders may operate at any one time
Maximum Hours of Operation:	The hours of operation for any mobile trader shall be between 6am and 9pm Monday to Sunday



Designated Site:	Hamilton Drive Carpark
Description of Site:	The Hamilton Drive Carpark is a large pull in area located at the eastern entrance to Lake Tekapo south of State Highway 8.

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	Access to the site is obtained from Hamilton Drive. Mobile Traders in this location are restricted to the northern portion of the carpark
Number of Traders Allowed:	A maximum of two mobile traders may operate at any one time
Maximum Hours of Operation:	The hours of operation for any mobile trader shall be between 6am and 9pm Monday to Sunday



Twizel

Designated Site:	Mackenzie Drive Carpark
Description of Site:	The Mackenzie Drive Carpark is located south of the Twizel Medical Center, on land owned by the Council, and is adjacent to the Simons Street and Mackenzie Drive intersection and the Twizel Golf Course
Number of Traders Allowed:	A maximum of six mobile traders may operate at any one time
Maximum Hours of Operation:	The hours of operation for any mobile trader shall be between 6am and 9pm Monday to Sunday.



Schedule 2

General Conditions of all Licenses

The following conditions shall apply to all mobile shops and traders in the Mackenzie District:

Hours of Operation

All mobile traders shall only operate during the hours of operation specified on their license.

All mobile shops shall be removed from the site at the conclusion of each operating day.

Musical Devices

No musical chimes or other audible device shall be operated from any mobile shop except for music played from a radio or speaker which cannot be heard within 10m of the mobile shop.

Signage

A license holder shall have no more than two freestanding signs associated with their mobile shop.

The visible area of the sign shall not exceed 1m² and the height of the sign shall not exceed 1m except for traditional flag style signs which can be greater than 1m² in area and 1m² in height provided they meet the Standards as set out by Waka Kotahi for sites fronting a State Highway and are located within 10m of the mobile shop.

The signs shall only be made visible once they have been approved by Council and the mobile shop is operating. The Council will approve the signs at the time of application for a Mobile Trader License.

No signs shall cause a danger or inconvenience to pedestrians or road users.

Rubbish

No oil or other material shall be discharged on the site.

All rubbish shall be collected on-site and taken away at the end of each operating day.

All mobile traders shall supply their own rubbish bin for their customers.

Noise

Noise generated from any mobile shop including the operation of a generator shall not exceed the following levels at any point within any site in the Residential Zones:

- Daytime 50dBA L10
- Daytime 70dBA Lmax
- Night-time 40dBA L10
- Night-time 70dBA Lmax



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