

# Trading in Public Places Policy



May 2023

## SUMMARY SHEET

The following table is intended for guidance only. Please refer to the details of each Policy further in the document.

	Mobile Shop	Licence to Occupy	Occasional Occupancy	Hawkers Licence	Outdoor Dining Licence Footpaths	Retail display on footpaths	Buskers Licence
<b>Sale of Food</b>	Yes	Yes	Yes	Yes	Yes	No	No
<b>Specific Location</b>	No	Yes	Yes	No	Yes	Yes	No
<b>Requires Premises</b>	No	No	No	No	Yes	Yes	No
<b>Tourist operators displays</b>	No	No	No	No	No	No	No
<b>Sale of alcohol<sup>1</sup></b>	No	No	No	No	Yes	No	No
<b>Insurance and Indemnity required</b>	No	Yes \$1,000,000.00	No	No	Yes \$1,000,000.00	Yes \$1,00,000.00	No
<b>Hours</b>	9am to 5:30pm Daylight Saving 9am to 8:30pm	Dawn till Dusk	Dawn till Dusk	9am to 5:30pm Daylight Saving 9am to 8:30pm	Same as premises opening hours	Same as premises opening hours	N/A
<b>Occupation of one site</b>	30 minutes maximum	At least 5 days per week for six months of the year excluding wet days	On the dates authorised on the licence	15 minutes maximum	Same as premises opening hours	Same as premises opening hours	2 hours maximum
<b>Duration</b>	1,2 or 3 years	1,2 or 3 years (1 July to 30 June)	Valid for not more than 28 days	14 days maximum	1, 2 or 3 years		
<b>Special Conditions</b>	See Licence	See Licence	See Licence	See Licence	See Licence	See Licence	See Licence
<b>Cost (incl GST)</b>	\$115 (Non food) \$184.50 (Food)	\$2,875.00	\$50 per day authorised	\$23.00	\$11.50/m2 per week	\$11.50/m2 per week	Free

<sup>1</sup> Liquor licence required

## TRADING IN PUBLIC PLACES POLICY

### 1. Definitions

<b>Busker</b>	means an 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.
<b>Commercial</b>	means 'business activity', i.e. an undertaking carried on for pecuniary gain or reward.
<b>Council</b>	means the Kaikoura District Council.
<b>Hawker</b>	means any person who carries or takes about any goods, wares or merchandise for speculative sale to any person, whether or not the 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.
<b>Mobile Shop</b>	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 or 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 delivery of such goods, wares or merchandise.
<b>Mobile Trading</b>	includes hawking or peddling and/or trading from a mobile shop.
<b>Officer</b>	means any person employed and duly authorised by the Kaikoura District Council.
<b>Public Place</b>	means any road, street, footpath, lane or access-way of a public nature open to or used by the public as of right and every place to which the public have access and every reserve, park, domain, beach, foreshore and recreational ground within the district, subject to the provisions of the Reserves Act 1977.
<b>Site of Operation</b>	Within a ten metre radius of the area specified in the Licence.
<b>Trading</b>	means buying or selling goods or services, or offering to buy, sell or exchange goods or services.

## *2. Introduction*

Trading in public places can add to the character, vibrancy and visitor experience in Kaikoura. 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 business.

## *3. Objectives*

The Policy is to ensure that public trading activities in the Kaikoura District are undertaken in a consistent manner, make the District more vibrant without inhibiting the safety and efficiency of pedestrian movement. The Policy guides;

- the granting of licences and permits for trading in public places (if applicable)
- the types of trading that are allowed
- conditions for health and safety, pedestrian access, consideration of established businesses.

## *4. Scope and Activities*

This Policy provides guidelines for allowing the following trading activities in public places;

- mobile shops
- licence to occupy sites
- hawkers
- outdoor dining on footpaths
- retail display on footpaths
- West End tourist operator advertising area
- Busking

For the above activities, relevant governing frameworks (i.e. Coastal Management Plan, District Plan, relevant legislation (including bylaws) would take precedence over this Policy, in the event of any inconsistencies between this Policy and the relevant governing frameworks.

## *5. Application*

Trading in public places is not allowed if a licence has not been granted. An application for a licence should be made on the appropriate form in Schedule 1.

## *6. Trading Prohibitions*

Unless permission has been applied for and a licence granted trading in any public place is prohibited.

Licences will not be granted for trading in the following places;

- Any part of the commercial area in the West End from State Highway 1 to the Information Centre.
- Within 50 metres of a shop which sells similar goods, services or produce except for in the case of a Licence to Occupy.
- Point Kean car park.
- Adjacent to State Highway 1 unless the prior consent from New Zealand Transport Agency has been obtained.

## *7. Sale of Food*

The sale of food to the public is prohibited unless a current Certificate of Registration under the Food Hygiene Regulations 1974 is held.

## *8. Mobile Shops*

No person shall park or trade from a mobile shop in a public place without a Licence. The Council reserves the right to grant licences for mobile shops in the Kaikoura District.

The Council will charge a fee for the Licence. Licences are non-transferrable and can be revoked at any time due to non-compliance.

### **8.1 General Licence Conditions for Mobile Shops**

1. The Mobile Shop Licence must be carried at all times.
2. Licences will only be granted for a twelve month period.
3. All vehicles used as a mobile shop or transport a mobile shop must be registered and have a current warrant of fitness.
4. The Council may place conditions on mobile shop licences. These conditions may limit, prohibit, or permit:
  - The trade of particular goods and services
  - The number of mobile shop license's permitted within the District at any given time
  - Any other conditions relating to the operation of the mobile shop
5. Hours of operations are limited to 9.00am to 5.30pm outside of daylight saving and 9.00am to 8.30pm during daylight saving.
6. Mobile shops are not permitted to stay in any one place for more than 30mins.
7. The name of the trader should be clearly marked on the outside of the mobile shop.
8. All waste and litter is to be removed from any site of operation.

## *9. Licence to Occupy Sites*

No person shall park or trade in a designated Licence to Occupy site without a Licence. The Council reserves the right to grant a Licence to Occupy for 7 specific locations in the Kaikoura Township. The Licence to Occupy sites are at Jimmy Armers Beach (3), the Esplanade at the end of Margate Street (2) and the South Bay Reserve near the start of the peninsula walkway (2).

The Council will charge a fee for the Licence. Licences are non-transferrable and can be revoked at any time due to non-compliance.

### **9.1 General Licence Conditions for Licence to Occupy Sites**

1. The Licence to Occupy must be carried at all times.
2. The Licence allows a mobile stall to trade from a specific site from dawn to dusk during the licence period.
3. All vehicles used as a mobile stall or transport a mobile shop must be registered and have a current warrant of fitness.
4. Licences will generally only be granted for a twelve month period. The licence agreement allows for an extension of the Licence in certain circumstances.
5. There is no guarantee a licence will be granted to the same operator the following year.
6. Sites are allocated in June each year following a call for expressions of interest.

7. When allocating sites Council will try and ensure a variety of products are sold from each location.
8. The Licence holder is expected to utilise the site for a minimum length of time during the licence year as stated in the Licence agreement.
9. Alcohol sales are prohibited, unless an exception is specifically approved by Council.
10. The name of the trader should be clearly marked on the outside of the mobile shop.
11. All waste and litter is to be removed from any site of operation.

### *10. Occasional Occupancy (of Licence to Occupy Sites)*

The holder of an Occasional Occupancy licence granted for particular day(s) may park or trade in a specified Licence to Occupy site for which a Licence to Occupy or another Occasional Occupancy licence has not already been issued on those particular days.

The Licence to Occupy sites are at Jimmy Armers Beach (3), the Esplanade at the end of Margate Street (2) and the South Bay Reserve near the start of the peninsula walkway (2).

Council staff will advise at the time of application which sites are available for Occasional Occupancy on particular days.

The Council will charge a fee for the Licence on a per day of permitted occupancy basis. Licences are non-transferrable and can be revoked at any time due to non-compliance.

#### **10.1 General Licence Conditions Occasional Occupancy (of Licence to Occupy Sites)**

1. The Occasional Occupancy licence must be carried at all times.
2. The Licence allows a mobile stall to trade from the specific sites from dawn to dusk during the days stated on the licence.
3. All vehicles used as a mobile stall or transport a mobile shop must be registered and have a current warrant of fitness.
4. Licences will only be granted for specified days and sites and will be granted not more than 28 days in advance of those days.
5. There is no guarantee that any particular site will be available at the time that application for the licence is made.
6. Alcohol sales are prohibited, unless an exception is specifically approved by Council.
7. The name of the trader should be clearly marked on the outside of the mobile shop.
8. All waste and litter is to be removed from any site of operation.

### *11. Hawker*

No person shall ply the trade of a Hawker in a public place without a Licence. The Council reserves the right to grant licences for Hawkers in the Kaikoura District.

The Council will charge a fee for the Licence. Licences are non-transferrable and can be revoked at any time due to non-compliance.

#### **11.1 General Licence Conditions for Hawkers**

1. The Hawkers Licence must be carried at all times.
2. Licences will only be granted for a specific period of time and a maximum of 14 days.

3. The Council may place conditions on Hawkers licences. These conditions may limit, prohibit, or permit:
  - The trade of particular goods and services
  - The number of Hawkers license's permitted within the District at any given time
  - Any other conditions relating to operation.
4. Hours of operations are limited to 9.00am to 5.30pm outside of daylight saving and 9.00am to 8.30pm during daylight saving.
5. Hawkers are not permitted to stay in any one place for more than 15mins.
6. All waste and litter is to be removed from any site of operation.

### *12. Outdoor Dining on Footpaths*

No person shall provide outdoor dining on the footpath without a Licence. The Council reserves the right to grant licences for footpath dining in the Kaikoura District.

The Council will charge a fee for the Licence. Licences are non-transferrable and can be revoked at any time due to non-compliance.

#### **12.1 General Licence Conditions for Outdoor Dining on Footpaths**

1. Outdoor dining can only generally be operated in front of an existing business by the business which already provides dining facilities.
2. Licences can be granted for a term of one, two or three years with no right of renewal.
3. The operator is responsible for keeping the area clean and tidy.
4. The operator is responsible for any safety issues regarding customers and people passing by.
5. Provision must be made to ensure the remaining footpath is sufficient to ensure there is no interruption to the pedestrian flow and it caters for people with a range of disabilities.
6. Approval will be on a case by case basis.

### *13. Retail Display on Footpaths*

No person shall have a retail display on the footpath without a Licence. The Council reserves the right to grant licences for retail displays on the footpaths in the Kaikoura District.

The Council will charge a fee for the Licence. Licences are non-transferrable and can be revoked at any time due to non-compliance.

#### **13.1 General Licence Conditions for Retail Display on Footpaths**

1. A retail display can only be on the footpath in front of the business who owns the goods.
2. The area occupied by the retail display must not protrude more than 600mm on the footpath from the shop frontage, and be no longer than 1500mm in length, with a height of between 900-1100mm. There should be a minimum of 2metres of clear footpath space.
2. Licences can be granted for a term of one, two or three years with no right of renewal.
3. The operator is responsible for keeping the area clean and tidy.
4. The operator is responsible for any safety issues regarding customers and people passing by.
5. Approval will be on a case by case basis.

## *14. Busking*

No person shall perform as a busker in a public place without first having obtained permission from the Council.

### **14.1 General Conditions for Busking**

No person shall while performing as a busker in any public places;

- a) Occupy any footpath adjacent to any retail or other commercial premises without the consent of the owner or manager of such premises;
- b) Obstruct or impede the free movement of pedestrians along the footpath, or way through a public place;
- c) Allow the audience to obstruct or impede the free movement of pedestrians along the footpath, or way through a public place;
- d) Use language or behaviour which is abusive, insulting, threatening or offensive;
- e) Undertake or perform a busking activity which generates any noise which in the opinion of any Officer interferes with the peace, comfort and/or convenience of any person or persons;
- f) Continue to occupy any place or site on a footpath or in any public place for longer than 2 hours, or after being requested by an Officer to move to another place or site.

**Policy Approval Date: 31 May 2023**

**Policy Review Date: 31 May 2033**