

**FAR NORTH DISTRICT COUNCIL**

## **MOBILE SHOPS AND HAWKERS 2010**

**To come into force:** 25<sup>th</sup> August 2010

**For the purpose of:** Regulating the use of a “public places for the purposes of roadside or street trading within the Far North District.

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## 401 INTRODUCTION

- 401.1 The purpose of this Bylaw is to regulate the use of Public Places for roadside or street trading *Bylaw to regulate use of Public Places for Trading*
- 401.2 The Bylaw relates to the use of Public Places for trading of all kinds, the display of related advertising signs and the general use and prohibiting nuisance to the public *Scope of Bylaw*
- 401.3 The Far North District Council makes this Bylaw pursuant to the powers contained in the Local Government Act 2002 *Making of Bylaw*

## 402 INTERPRETATION

**"Advertising signs"** means any notice, handbill, sign, drawing or other material that, in the opinion of the Council, is designed to promote sales of a product or service

**"Authorised Officer or Officer"** means any officer of the Council to whom any powers or authorities are delegated and includes any Police Officer and any Enforcement Officer.

**"Berm"** means any land lying between the formed carriageway of the road and the adjacent road boundary, but excluding any land taken up by a formed footpath.

**"Chief Executive Officer"** means the Chief Executive Officer of the Council and includes any person to whom the duties of the Chief Executive have for the time being been delegated.

**"Council"** means the Far North District Council and any officer duly authorised to carry out the duties of administration and/or enforcement of the Bylaws of the Council

**"Enforcement Officer"** means any person appointed as an enforcement officer under section 177 of the Local Government Act 2002.

**"Footpath"** means a path or way principally designed for and used by pedestrians and includes any footbridge or grass berm

**"Goods"** means any product or service

**"Handbill"** means any advertising material designed for distribution by hand or to be freely available to members of the public, and includes pamphlet, leaflets

or flyers

**“Hawker”** means any person who takes or carries about goods for sale or provides any service:

- (a) without an invitation to call; or
- (b) without any previous order or request for such goods or services;

but does not include a commercial traveller who only deals with, or only solicits orders from persons or businesses within the district

**“Mobile Shop”** means any vehicle from which:

- (a) goods are offered for sale or sold in any public place (whether or not there is an invitation to call with the goods);
- (b) services are offered for sale in any public place

but does not include any service delivery vehicle

**“Motor Vehicle and vehicle”** have the same meaning as in the Land Transport Act 1998

**“Offence”** means an offence against this bylaw and shall include the failure to comply with any part of this bylaw

**“Public Place”** includes every road, street, public highway, footpath, court, alley, lane, accessway, and thoroughfare of a public nature or open or used by the public as of right, and every place of public resort or place to which the public have access so open or used

**“Road”** shall have the same meaning as in section 2 (1) of the Land Transport Act 1998

**“Service Delivery Vehicle”** means any vehicle being used for the purposes of delivering goods to the premises of any person, business or organization which does not involve the sale of the goods to the general public in any public place

**“Sign”** means a visual message or notice conveyed to the public and visible from a public place displayed to advertise, identify a product, business or service, inform or warn the public, and any frame, supporting device and associated ancillary equipment. It includes, but is not limited to, any mural, message or notice painted on, affixed to or otherwise incorporated with a building, structure, or site, banner, flag, poster, billboard, sandwich board, wind sock, blimp or projection of light to create an advertising image. A bunting that has symbols or message on it shall also be considered a sign for the purposes of this bylaw

**“Street stall”** means any structure or contrivance, stall, barrow, table, display board or portable stand established in any public place for the purposes of selling any goods, which may include raising funds for Charitable or fundraising purposes, but does not include any mobile shop, hawker, or any display by a retailer immediately adjacent to the retail outlet

#### **403 EXEMPTION FROM LICENCE REQUIREMENTS**

- 403.1 The exemptions allowed under this bylaw are as follows *Exemptions to bylaw*  
:
- (a) Selling or disposal by commercial fishermen of limited quantity of fish in the vicinity of a fishing vessel as specified in section 191 of the Fisheries Act 1996;
  - (b) Service delivery vehicles including milk vendors;
  - (c) Any market, stall or stand which has a current approval under other bylaw, legislation, resource consent or specific resolution of the Council

#### **404 LICENCE REQUIREMENTS**

- 404.1 No person, in any public place, shall engage in the sale of goods of any description whatsoever (except as provided in clause 403.1 “Exemptions”) without having first obtained a licence from the Council *Licence required*
- 404.2 Every person wishing to sell goods in a public place, either as a Mobile Shop or a Hawker, shall make application to the Council on the prescribed form and submit the application accompanied by the relevant fee as prescribed in the current Council Fees and Charges Schedule *Application to sell goods and fees to pay*

#### **405 VEHICLE OR CONTAINER CONDITIONS**

- 405.1 Every vehicle, box, basket, pack or other container to be used in conjunction with hawking or the selling of food for human consumption shall be suitable for the purpose and shall be kept in a thoroughly clean and sanitary condition, to the satisfaction of the Council's Environmental Health Officer. *Vehicle and containers to be kept clean*
- 405.2 Every vehicle to be used in conjunction with hawking or any mobile shop shall at all times be maintained in a fully roadworthy condition and registered and warranted *Vehicles to be registered and warranted*

#### **406 CONDITIONS OF LICENCE**

- 406.1 The Council, in granting any licence, may impose conditions, which may include, but not be limited to, any of the following : *Conditions of Licence*
- (a) Time and place trading is permitted
  - (b) Duration of the licence

- (c) Types of goods for sale
- (d) Area available for sale
- (e) Persons entitled to sell
- (f) Safety and hygiene requirements
- (g) Use of signage
- (h) Use of musical chimes or audio devices for attracting customers
- (i) Litter & cleanliness
- (j) Site rental
- (k) Only permitting a licence holder to trade within the 50Km/hr speed limit zone on a State Highway, further consent of the New Zealand Transport Agency will be necessary to trade on any State Highway outside of that speed zone

No mobile shop shall operate within 400 metres of an established retail outlet (other than another mobile shop) where the principal business is selling similar goods and which is open for business at the time, or operate within areas specifically defined in the First Schedule of this bylaw

406.2 Every person or business found to be in breach of any condition of a licence may have that licence withdrawn. *Breach of Licence conditions*

406.3 Every person or business that has had a licence withdrawn due to a breach of conditions shall cease trading forthwith and until such time as the Council may permit them to resume *Cease trading*

#### **407 PRODUCTION OF LICENCE**

407.1 Every person or business licensed under this bylaw shall carry and visibly display their licence at all times when trading, and shall:- *Licence to be displayed*

- (a) Show the licence to any person who asks to see it and
- (b) Have their name legibly written in a conspicuous place on the exterior of any vehicle, stand or container in which wares are carried or displayed

#### **408 MOVING ON IF REQUESTED**

408.1 The holder of any Hawkers or Mobile shop licence shall, notwithstanding the conditions of the licence, if requested to do so by an authorised officer, move or alter the position of sale to any other position as indicated by that officer *Moving on if requested*

408.2 Any person or business found to be engaged in the sale of goods within any public place without the required licence from the Council shall be in breach of this bylaw, and in addition to any other penalty which the Council may pursue, shall be required to remove themselves from the public place *Trading without a licence*

408.3 Any person who fails to comply with any request made *Fail to request to*

by any authorised officer of the Council, pursuant to clauses 408.1 and 408.2 hereof, commits an offence against this bylaw *move on*

**409 STREET STALLS**

409.1 No person shall operate a street stall without having first obtained a permit from the Council to do so. *Permit required*

409.2 Every application for a permit shall be made on the prescribed form and be accompanied by such fee as the Council may from time to time by resolution prescribe. *Prescribed application form*

409.3 Council may from time to time by resolution of Council prescribe reasonable fees for every such permit *Council to set fees*

409.4 Clause 409.1 of the Bylaw shall not apply to any stall which operates on not more than two occasions per year for charitable purposes only and from which any food sold is completely wrapped before arrival at the stall or is otherwise adequately protected to the satisfaction of Council's Environmental Health Officer. *Exemptions for charitable purposes*

409.5 Every permit shall be issued by the Chief Executive or by a duly authorised officer of Council and shall be subject to such conditions as the Chief Executive may impose and shall state therein the term of expiry thereof, the portion of any public place on which the applicant is permitted to stand, the hours during which he may so stand, and the class of article or goods he proposed and is permitted to sell, and no person shall stand or sell except in conformity with the terms of such permit. *Conditions on permit*

409.6 Before issuing any permit for any stall at or from which any food is sold, the Chief Executive shall be satisfied that, where applicable, any licence or certificate required under any other enactment is held. *Food stalls*

**410 ADVERTISING SIGNS IN RELATION TO TRADING**

410.1 Any person operating or responsible for a mobile shop or street stall may only display one advertising sign. *Limitation of signs*

410.2 The advertising signs shall not exceed the following dimensions ; *Size of signs*

Maximum height	1.5 metres
Maximum width	0.6 metres
Maximum base spread	0.6 metres
Minimum clearance from footpath	0.3 metres to base of sign

410.3 The advertising sign shall be placed alongside the mobile shop stall or stand, and shall leave at least *Placing of sign*

1.5mtrs of unimpeded footpath, or berm and shall not be placed in such a way as to impeded traffic visibility or movement.

- 410.4 No advertising sign may be placed on top of a vehicle unless it is permanently fixed to that vehicle and does not pose a threat of injury and danger to any person or vehicle or any other object by being unsecure, or restrict traffic visibility *Signs on vehicles*

**411 OFFENCES AND PENALTIES**

- 411.1 Any person who commits any breach of this bylaw is liable on summary conviction to a fine not exceeding \$20,000.00 *Breach and fines for offences*



