

# Mobile Food Trading

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## Code of Practice

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## **1 Introduction**

The Mobile Food Trading Code of Practice aims to cement Swan Hill Rural City Council as a creative and vibrant area by supporting new ventures; activating public places with input from business, community, and entrepreneurs; supporting vibrant streets and public places as a part of daily life throughout the year; incubating and developing new and creative ideas; providing tourism experiences and enriching the life of the streets, riverfront and parklands.

The valuable contribution street activity can make to the local culture and economy is widely recognised. Elements of street activity in the form of special events and markets, street trading and busking can add to the richness of a vibrant street and riverside environment and contribute to an innate sense of safety and security of locals and tourists visiting the area.

### **1.1 Purpose**

The purpose of the Code of Practice is to set out the objectives of Mobile Food Trading (MFT), the location rules for the purpose of MFT permits, the process of applying for a MFT permit and the Code of Practice for MFT to comply with when trading within the Swan Hill Rural City Council.

The Code of Practice encourages the use of the public space for outdoor mobile food trading because it adds value to the city for all who use it, creating opportunities for entrepreneurs and established fixed food business to activate the riverside precincts. It also allows for a range of food options and availability over busy holiday periods.

### **1.2 What is Mobile Food Trading?**

Mobile food trading is defined as the temporary use of the public realm for preparing and dispensing food and drink products within a Mobile Food Vehicle. Mobile food traders can trade in any location within the area that complies with the MFT location rules and permit conditions.

For the purpose of this Code of Practice, Mobile Food Vehicles may include a specially purposed food van, food truck or other fully contained vehicle with wheels. It is not intended to permit street stalls.

### **1.3 Council's obligations**

Council has an obligation to regulate and control activities and events on Council land to ensure no detriment is caused to the amenity of the neighbourhood or cause a risk or nuisance to a person.

Council has developed the Code to ensure that all persons who require a permit before carrying out an activity or event on Council land understand the minimum acceptable standards under which they operate.

### **1.3 Objectives of the Code of Practice**

The Code of Practice aims to:

- Activate underutilised areas of the riverside precincts and public spaces to create places for creative and social activities.
- Activate various times of day, including less active times, with unique and creative food Trading activities in the public realm.

- Provide choice and complement food offerings provided by permanent food outlets, without negatively impacting existing businesses.
- Consider the needs of all users of the public realm, including the safety of pedestrians, and adhere to safe food handling practices.
- Ensure that locals and visitors have sufficient access to a range of food options over busy holiday periods.

#### **1.4 Scope of the Code of Practice**

The Code extends to all individuals and businesses seeking to utilise car parks, parklands or any Council land for commercial or other purposes within the Swan Hill municipality.

Mobile Food Trading vehicles may include a specially purposed food van, food truck or other fully contained vehicle with wheels. It is not intended to permit street stalls.

#### **1.4 Related legislation**

The following legislation must be considered by Council with respect to mobile food Trading;

- Local Government Act 2020 (Victoria)
- Swan Hill Rural City Council Community Local Law No. 2 (2017)
- Road Management Act 2004
- Road Safety Act 2017 (Victoria)
- Disability Discrimination Act 1992 (Commonwealth)
- Equal Opportunity Act 2010 (Victoria)
- Tobacco Act 1987 (Victoria)
- Food Act 1984 (Victoria)
- Swan Hill Rural City Council Planning Scheme

## 2 Definitions

Any word or phrase defined in the Community Local Law No. 2 (2017) has the same meaning in this Code.

**Advertising sign** means a flag, board, notice, banner or similar device used for the purposes of soliciting sales, notifying people where goods and services may be obtained, advising or directing people to an event or festival or promoting elections or political campaigns.

**Amenity** means a desirable or useful feature or facility of a building or place.

**Authorised Officer** means a Council officer appointed under section 224 of the *Local Government Act 1989*.

**Council** means Swan Hill Rural City Council.

**Council land** means land owned, occupied, or vested in the Council or in respect of which Council has the care and management and includes roadsides, parks and reserves and footpaths within Swan Hill Rural City Council.

**Footpath zones** includes pedestrian zone, trading zone and kerbside zone as defined in this Policy.

**Local Law** means Swan Hill Rural City Council Community Local Law No. 2 (2017).

**Mobile food vehicle** any vehicle, caravan, trailer or other similar structure used for the purpose of selling or offering food and or drink.

**Walkway zone** is the area of the footpath that is measured from the property boundary and is for the exclusive use of pedestrians.

**Permit** in relation to a use or activity, means a permit issued under the Local Law which authorises that use or activity.

**Public place** means a reserve, public highway, mall, road, street, bridge, footway, footpath, court, alley, passage or thoroughfare, notwithstanding that it may be formed on private property and any other place to which the public may resort.

**Road** has the same meaning as the Local Government Act 2020 and applies to roads for which the Council has responsibility under the Road Management Act 2004 but does not include a State road under the Road Management Act unless a provision in the Local Law is expressly applied to a State road.

### 3 Mobile Food Trading Zones

- Roaming mobile food traders must remain at least 150 meters from the relevant towns' CBD Zone. See appendix 1 for the CBD zone maps.
- Permits for mobile food Trading will not be permitted within 150 meters of any fixed food business.
- Mobile food trading locations in other zones not outlined within this Code of Practice will be assessed on a case-by-case basis.

#### 3.1 Approved locations:

Approved locations for mobile food trading are identified below. A range of locations are available in other towns upon request. Mobile food traders are also able to request additional locations for consideration by contacting the Regulatory Services team on 03 5036 4753.

Council reserves the right to change or remove these locations at any time. These locations and times are not available during events and markets.

Available times for operation have been based on the EPA Noise Regulations and potential impact on residential houses, as well as impact on local food fixed food traders. The number of spots available have been based on available space and community safety.

##### Swan Hill

- Location 1: Riverside Park Swan Hill on the approved areas outlined in Appendix 2.  
Available times for operation: 6:00am to 9:00pm.  
Maximum three spots available at any time.
- Location 2: Barry Steggall Park car park.  
Available times for operation: 7:00am to 8:00pm.  
Maximum two spots available at any time.

##### Robinvale

- Location 1: Robinvale Riverside on the approved areas outlined in Appendix 2.  
Available times for operation: 6:00am to 9:00pm  
Maximum two spots available at any time.
- Location 2: Caix Square  
Available times for operation: Saturdays and Sundays from 2:00pm – 8:00pm  
Maximum two spots available.

##### Lake Boga

- Location 1: Jacaranda Crescent on the approved areas outlined in Appendix 2.  
Available times for operation: 2:00pm to 8:00pm  
Maximum three spots available at any time.

## **4 Permit application process**

### **4.1 Who can apply for a Mobile Food Trading Permit?**

- Mobile food traders already trading at events and markets.
- New entrepreneurs applying for the first time.
- Fixed food business operators wanting to explore new opportunities.

### **4.2 Applying for a Mobile Food Trading Permit**

It is imperative you read through the Code if you are a mobile food trader interested in using Council land for a commercial activity.

When applying for and/or renewing a mobile food trading permit, consideration must be given to the type of activity you intend to carry out.

Mobile Food Trading permits are limited to a certain amount of spaces per permit type per year. This is to balance the interests of pedestrian safety, community amenity and other fixed food traders.

All applications for a permit shall be in writing the prescribed form. All applications must include photographs of the food van, a copy of the \$20million public liability insurance and Streatrader Food Act registration number.

All Council fees and charges, including mobile food trading fees, are subject to an annual review as part of Council's fees and charges review process. Fees are outlined on the application form and discounted rates will be available to charities and not for profit organisations. Proof must be provided of charitable or not for profit status with application form.

### **4.3 Transitional Period**

Existing permit holders will be given six months from the 1 July 2021 to comply with the revised policy. At the conclusion of the 6-month period, all requirements of this policy must be adhered to or the permit will not be renewed.

### **4.4 Council Decision Making**

Applicants will be assessed on their merits, pending the availability of permits in specific locations/sections of Council.

Authority to assess and determine applications for mobile food trading permits is delegated to the Coordinator of Public Health and Regulatory Services.

Mobile Food Trading Permits may be issued by the Coordinator of Public Health and Regulatory Services.

- Permits are valid for optional durations from one weekend to 12 month periods.
- Permits are non-transferable unless written permission is granted from Council.
- The permit is to be carried at all times while Trading and produced upon request by an authorised Council Officer or Police Officer.
- Council can condition, modify or revoke a Mobile Food Trading permit.

- The sale of alcoholic beverages is not permitted.

#### 4.4 Decision Making

Council will not permit any activity where it could compromise pedestrian or traffic safety or cause detriment to the amenity of the area. Relevant local conditions include the width of the footpath, proximity to major roads, disabled parking bays, loading zones, clearways, trees, parking meters, location of residences and other factors.

Council has the right to approve an application as submitted or with modifications and with or without conditions as set out in the Permit. Council has the right to refuse or reject an application, modify the conditions of an existing Permit or withdraw a Permit if:

- Any conditions contained within the Mobile Food Trading Policy and Guidelines are not met.
- The sight and access of drivers, cyclists and pedestrians is interfered with so as to cause a hazardous situation.
- Permit requirements have not been previously met and there is a continuing failure to comply with directions.
- The permit holder fails to maintain public liability insurance.
- Under any circumstances likely to cause detriment to the amenity of the area.

#### 4.5 Refusal of a Permit

Council can refuse an application if the proposed vehicle dimensions would unduly restrict the use of public roads and impact on shared trading locations.

Additionally, any disqualification from another council or outstanding fees with another council may result in a permit not being issued.

#### 4.6 Fees

Permit fees will be set annually as part of Council's budget process.

- Annual permits will be issued with a common expiry date (31 December) each year. A pro-rata permit fee may be issued.
- Short term permits will be available with a set fee for six monthly, weekend (peak season) and weekend (off season) rates.
- Annual and six monthly permit will only be permitted to trade for four consecutive days in the same location. There must be a gap of at least three days before returning to that location to trade again.
- Permit fees will not be refunded.
- Permits are not transferrable. A new permit must be obtained where there is a transfer of proprietorship.
- A permit may be cancelled if the permit holder ceases to maintain public liability insurance or to meet the condition of the permit or the Mobile Food Traders Policy.



## 5 Specific requirements for Mobile Food Trading activities

### 5.1 Access and Design Requirements

Mobile food vans are encouraged in locations that enhance the amenity of the existing area and activate the public space. Design and access considerations include road type, existing street furniture, footpath widths, safety and public amenity.

Although mobile food vans operate from the street area, they are accessed by customers from the footpath area. Therefore, the interface between the Street Area and Footpath Area need to be considered when making and assessing an application for mobile food vans.

#### Objectives

- To protect and improve the amenity of the streetscape whilst providing a regulatory framework for mobile food vans to operate.
- To ensure the location and operation of mobile food vans does not impact the use of open space, including transport corridors and pathways, by the public.

#### Performance Requirements

- The location of the mobile food van must provide clear, continuous access for all pedestrians along nearby footpath areas and ensure no obstruction occurs to surrounding car parking and users of the road such as cyclists.
- Trees and other significant streetscape elements such as public art, benches, rubbish bins and bus shelters shall not be obstructed, covered, removed, damaged, relocated or modified.
- The mobile food van must not obstruct sightlines, traffic signals or road signage. Mobile food vans must not be parked within 10 meters of a bus or taxi parking zone.
- The food van must not impede existing traffic conditions and sightlines for both drivers and pedestrians.
- The site of the mobile food van is to be monitored at all times by the operator to provide a safe, clean and pleasant space for people to use.
- Mobile food van must be fully self-sufficient and not require external power or water connections.
- Amenity of nearby neighbours should not be compromised by the operation of the food truck, noise, odour, lighting and disposal of litter.
- A 2-metre clearance from existing street infrastructure, such as electrical boxes, fire hydrants, litter bins, public seats, payphones, bicycle stands, post boxes and parking meters is required at all times.
- A user agreement does not grant exclusivity of the designated area. The area must remain accessible to the general public at all times.

### 5.2 Amenity and Appearance

A mobile food trading area must protect and enhance the appearance and character of the area.

A mobile food trading vehicle may be a van, truck, cart or bike. Temporary food stalls and marquees are not acceptable. The mobile food trading vehicle must be able to be parked

within a car park and safely serve the public standing on a footpath or council land. The ordering and serving area must be from footpath-side of the vehicle only.

The mobile food vehicle must be well maintained, with a high level of cleanliness of the interior and exterior surfaces. The exterior must not contain any offensive or political advertisements. The exterior of the mobile food vehicle must not contain rust, flaking paint, or be damaged in any way. The exterior and interior must be clean of all dirt and debris.

#### Maintenance, Cleaning and Waste

The permit holder is required to comply with all maintenance aspects of the mobile food Trading operation. Specific requirements are:

- The mobile food trading area (including food preparation areas) must be regularly cleaned during all hours of operation.
- No trade waste or litter may be disposed of in Council public place bins.
- Mobile food traders must provide their own bins for use by their customers and ensure the area around their position is kept clear of rubbish at all times.
- All rubbish and litter must be removed by the operator at the completion of trading.
- Where Council must undertake cleaning and/or tidying of the area, the permit holder will be liable to reimburse Council for all costs incurred by in relation to the cleaning and/or tidying of the area.
- All liquid waste (including waste water and waste oil) must be contained and removed or disposed of appropriately at the end of trading.
- No waste or other material is to be deposited into the storm water system.
- No hosing down of areas or mobile food vans is to take place.
- Where practical, mobile food traders should choose power sources which generate low or no noise and air pollution.

### **5.3 Hours of access**

Access to our reserve and public open spaces is limited to the approved permit conditions and must be specified in your application.

Swan Hill Rural City Council will not consider applications for 'blanket bookings', (E.g. Monday to Friday 9am to 6pm).

### **5.4 Noise Emission**

The permit holder must take all necessary steps to ensure that no noise or other disturbance emanates from the footpath activity which causes a nuisance to others or causes detriment to the amenity of the neighbourhood. Music and speaker systems with amplified sound are not permitted.

### **5.5 Excluded Activities for all Mobile Food Traders**

- No heavy vehicles on grass areas.
- No tent pegs, spikes or steel posts are permitted on any parkland / ovals with irrigation systems in place. No driving over irrigation solenoid boxes.
- Where vehicle access is permitted there is to be no sharp turning, twisting or spinning of wheels.
- No wet weather access for any vehicle on any park / oval

- No water or wastewater to be allowed to empty onto the land.

## **6 Options for Mobile Food Vans that are not eligible for a permit**

If you have a mobile food truck or food stall that is not able to be fully self-contained or meet the requirements outlined within the Code of Practice, there is still a range of opportunities available to you to sell your food to the community.

Opportunities exist at markets, events, festivals including:

- Swan Hill Farmers Market
- Swan Hill Food Truck Festival
- Robinvale Country Market
- Nyah Lions Club Market
- Lake Boga Air Show and Splash In
- Lake Boga Produce and Homemaker Fair
- Swan Hill Rotary Club Market
- Swan Hill Racing Carnival
- Swan Hill Food and Wine Festival
- Robinvale Almond Blossom Festival
- Robinvale Lantern Festival
- Robinvale Euston Ski Race
- Harmony Day
- Christmas and New Years Eve events

This list is not exhaustive and there are other events that take place across the LGA throughout the year. Please contact the organisers directly to explore your options and learn about their requirements and stall holder fees.

You can also consider advertising for private events such as birthdays, parties or wedding, or consider contacting private landholders including caravan parks, school fetes, etc.

Note: All persons selling food or drinks must be registered under the Food Act 1984. This includes businesses, charities and not for profit organisations. Please contact the Public Health team for further information on Food Act registration on 03 5036 2591.

## Appendix 1

### Swan Hill CBD Zone





## Robinvale CBD Zone



## Appendix 2

### Swan Hill Riverside Park





Robinvale Riverside Park



**Lake Boga – Jacaranda Crescent**

