

<b>TRADERS CONDITIONS ATTACHED TO STREET TRADING CONSENT/LICENCE</b>
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**Interpretation according to the 1982 Local Government (Miscellaneous Provisions Act).**

## **1 Definitions**

- 1.1 “Street” includes any road, footway or other area to which the public have access without payment, and includes any part of a street.
- 1.2 “Street Trading” means selling, or exposing, or offering for sale in a street any article (including a living thing) except any activity referred to in paragraph 1 (2) of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
- 1.3 “Consent/licence Street” means a street in which street trading is prohibited without the consent/licence of the Council made by a resolution of the County of Herefordshire District Council under paragraph 2 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982
- 1.4 “Consent/licence Holder” means the person or company named on the consent/licence
- 1.5 “The Council” means The County of Herefordshire District Council.
- 1.6 “Prohibited Street” means a street in which street trading is prohibited by a resolution of the County of Herefordshire District Council made under paragraph 2 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
- 1.7 “Authorised Officer” means an officer of the Council authorised by it to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

## **2 Prohibition**

A consent/licence holder shall not carry on street trading within the Council’s district unless where authorised by a consent/licence and shall not in any event carry on street trading:-

- i. In any street or place designated as a “Prohibited Street”.
- ii. In any street or place which is likely to cause obstruction or any danger, nuisance or annoyance to other persons using the street.

## **3 Termination, Revocation and Amendments to the Consent/licence**

- 3.1 Temporary relocation to an alternative pitch may, on occasion, be required when special events are taking place.
- 3.2 The consent/licence may be revoked by the Council at its discretion by notice in writing, on account of any irregular or improper conduct of the

- holder, conviction of an offence, non payment of fees, or other reasonable grounds or if and when ever these conditions are not observed.
- 3.3 No omission from, or addition to, or variation of, the consent/licence shall be valid of any effect unless it is agreed in writing and signed by an appropriate officer of the Council and by the consent/licence holder.
  - 3.4 Save for any omission, addition or variation agreed pursuant to paragraph 5.1 any provision in any other document or in any oral agreement inconsistent with the conditions herewith is agreed to be void and of no effect.
  - 3.5 The Council may vary the conditions attached to the street trading consent/licence at any time.
  - 3.6 If a consent/licence holder wishes to cease trading, he must notify the Council in writing giving 14 days notice.
  - 3.7 Refunds will be issued for part months already paid in the case where a trader has given written notice of ceasing trading. Failure to give 14 days written notice will result in an administration charge of £50 being retained.
  - 3.8 The Council may terminate or suspend the consent/licence with 14 days notice in writing and without notice in cases of emergencies.

#### **4 General Consent/licence Conditions**

- 4.1 A consent/licence holder may trade in a consent/licence street from a stationary cart, barrow, or portable stall: the description of which is specific in the consent/licence. The consent/licence holder outside of the permitted daily trading period shall remove the approved cart, barrow or portable stall from the Consent/licence Street together with any and /all objects or things of any nature what so ever placed by the consent/licence holder in the consent/licence street (whether directly and ancillary to street trading or otherwise) which for the avoidance of doubt shall include (but shall not be limited to) planters, ornamental devices of any description, furniture, portable or other fencing, waste bins, heating and lighting apparatus, unless the Council has agreed otherwise previously in writing.
- 4.2 The daily trading period shall be the hours specified in the consent/licence.
- 4.3 The consent/licence holder or employee shall at all times man the unit when positioned on location and it shall not be left unattended.
- 4.4 The goods or service supplied by the consent/licence holder shall be those specified in the consent/licence and no other.
- 4.5 Any cart, barrow or stall used by a consent/licence holder, in the course of street trading, shall have clearly, legibly and permanently displayed upon it the name of the business and mobile telephone number of the consent/licence holder specified in the consent/licence.
- 4.6 Any cart, barrow or stall used by a consent/licence holder in the course of street trading shall be constructed and maintained to the satisfaction of all reasonable requirements of the Council as respects its construction, safety, appearance and the display of advertising material.

- 4.7 The consent/licence holder must provide adequate refuse storage adjacent to the sale area. All refuse to be disposed of in accordance with the requirements of the Environmental Protection Act 1990. Public litter bins are NOT to be used. Traders are required to have relevant paperwork in place such as an annual waste transfer duty of care form
- 4.8 The consent/licence holder will be responsible for keeping the area surrounding the stall or vehicle in a clean tidy condition as designated by the Council.
- 4.9 The consent/licence holder shall make such provisions as necessary to prevent the deposit on any street of solid or liquid refuse and no discharge shall be made into any surface water drains.
- 4.10 No damage must be caused to the Council Highway as a result of the street trading activity taking place.
- ~~4.11~~ Without prejudice to the foregoing the consent/licence holder shall not carry on street trading in such a manner as to cause any nuisance, danger, annoyance or inconvenience to the users of the street.
- 4.12 The consent/licence holder is not, and shall in no circumstances, hold himself out as being, the servant or agent of the Council whether orally or in writing.
- 4.13 The consent/licence holder shall in no circumstances, hold himself out as having the power to make, vary, discharge or waive any bylaw or regulation of any kind.
- 4.14 Possession of a street trading consent/licence does not, in any way, override parking restrictions or other traffic regulations.
- 4.15 The consent/licence holder shall ensure that at all times during the permitted daily trading period that the trading unit (whether a stationary cart, barrow, portable stall or otherwise) is supervised either by the consent/licence holder or person over the age of 17 years appointed by the consent/licence holder. Neither the consent/licence holder (nor any adult nominated by the consent/licence holder to supervise the said unit) shall cause, permit or allow any person under the age of 17 years to in work in, at, be or remain in charge of the said unit without continual adult supervision.
- 4.16 The consent/licence holder shall not use any television, tape recorder or other device for the reproduction of sound while trading which is audible beyond 5m of his/her stall.
- 4.17 There shall be compliance with Environmental Health and Trading Standards legislation where applicable.
- 4.18 Traders shall promptly notify the Council in writing any changes to their contact details.
- 4.19 Any application to change product range, location, stall/unit must be also be made in advance to the Council and agreed by the Council.
- 4.20 Any proven complaints of racial or sexual harassment, threats of violence, either physical or verbal against other street traders, members of the public, or any Council official, may be grounds for revocation of consent/licence.

#### **4.21 All traders must display the following within their stall or unit:-**

- i. Street traders consent/licence.
- ii. Food hygiene certificates (individual) as applicable
- iii. Copy of public liability insurance certificate.
- iv. Price List if items are not priced individually; including a unit price, weight mark and compliance with the Food Safety Act 1990 where applicable.
- v. Traders should be aware of their responsibilities regarding food allergens and display relevant menu information in a visible location.

### **5 Assignment**

- 5.1 The consent/licence and the rights or privileges conferred by the consent/licence shall not be assigned or transferred to any other person.
- 5.2 If the business is sold the new owner of the business must apply to the Council for consent/licence and must not trade until the application for a Street Trading Consent/licence has been processed and approved.
- 5.3 When notice is given on a pitch, the pitch will be advertised on the council's website for a minimum of 13 days.

### **6 Permits and Consent/licences**

- 6.1 The consent/licence holder shall obey directions given by an authorised officer of the Council or a Police Officer.
- 6.2 For the avoidance of doubt, nothing contained in the consent/licence shall prejudice the rights, powers, duties and obligations of the Council, or any other enforcing authority, under any public and private statutes, orders, regulations or bylaws.

### **7 General Health & Safety**

- 7.1 A First Aid kit is required to be made available to meet with Health and Safety requirements.
- 7.2 All staff, traders who are handling, serving and preparing open food must wear suitable head coverings and hairnets, where applicable
- 7.3 Hot and cold water are required to meet with Health and Safety requirements
- 7.4 All traders must ensure that their electrical appliances comply with the relevant Safety regulations and are regularly tested in accordance with Portable Appliance Testing (PAT) requirements.
- 7.5 Any trader using the Council's Electrical Supplies must observe the guidance (issued separately) regarding their use.

### **8 Special Conditions For The Storage And Use Of Liquified Petroleum Gas**

- 8.1 All LPG installations shall be in accordance with the following conditions:-

### *Storage of LPG Cylinders*

- i. If stored externally, these should be:-
  - a. Sited on firm standing.
  - b. Fitted in an upright position with the valve uppermost in an upright stand or otherwise securely held.
  - c. Protected from accidental damage or interference and so sited that the top is below the level of the stall openings, or 1 metre away from such openings.
- ii. If stored internally:-
  - a. Cylinders should be kept in a compartment that is gas-tight from the interior having half-hour fire resistance.
  - b. The compartment should be sufficient to store spare cylinders.
  - c. The compartment should be positioned away from the service area.
  - d. Access to the compartment must only be from the exterior of the vehicle and must be fitted with a lock.
  - e. Compartment ventilation must be at both high and low level.
  - f. The compartment should be identified with a suitable sign conforming to BS 5378 Part 1 1980, e.g. "LPG Highly Inflammable".

**WARNING:** – *All LPG equipment is dangerous unless installed properly and regularly maintained by competent persons. All installations and maintenance should be carried out by professionally qualified personnel. The use of LPG should be treated with respect at all times. All staff must be trained with regard to procedure in case of fire.*

- 8.2 All ferrous pipework and fittings to be protected from corrosion. Non-ferrous pipes to be drawn copper or stainless steel with compression-type fittings.
- 8.3 No pipes to be run through box sections or cavities.
- 8.4 All joints and unions to be easily accessible.
- 8.5 Pipes to be securely fixed in position.
- 8.6 Flexible hoses to be as short as possible. Only hoses conforming to BS 3212 are to be used and should be changed every two years. All hoses should be secured with proper hose clips.
- 8.7 All valves and fittings to be tested with soapy water at regular intervals to ensure they are gas tight.
- 8.8 Traders must ensure they have the relevant Gas Safety certificate in place for their equipment,

## **9. Fire Safety.**

9.1 All traders should be compliant (where relevant) with the Regulatory Reform (Fire Safety) Order 2005 which include the need to:

- Carry out an assessment of Fire Risk and adequacy of existing prevention arrangements, recording these findings as appropriate.
- Ensure Traders and any staff should be aware of what to do in the event of a fire.

- Provide a suitable and sufficient escape route from a trading unit, which should be maintained and available at all times of occupation.
- Ensure provision of Fire Extinguisher(s) and Fire Blanket(s) should be suitable for the specific risks present and tested/maintained in accordance with British Standard BSEN3 (1997). A Dry Powder type Extinguisher is considered suitable for general use, 4.5kg or 9kg depending on the size of the trading unit.

(For further advice, please consult the Local Fire Authority.)

## **10 Road Side Vendors**

- 10.1 External tables and chairs may only be utilised if written approval is sought from the Council who will assess the Health and Safety implications of permitting such use.
- 10.2 Portable Generators are not normally permitted in the town/city centre. They may be used by lay-by traders if operated by trained personnel in accordance with recognised safe operation procedures.
- 10.3 The use of advertisement boards on the main highway before lay-bys is prohibited.
- 10.4 Traders are to pay particular attention to road safety by not obstructing the highway.

## **11 Indemnity and Insurance**

- 11.1 The consent/licence holder must always have a valid insurance policy for public liability for at least £5,000,000 unless there are grounds for the Council to make a specific exception.
- 11.2 The consent/licence holder shall indemnify the Council in respect of any claim in respect of injury, damage or loss arising out of the grant of a consent/licence or consent/licence save where any injury, damage or loss is attributable to the negligence of the Council.