

**APPENDIX**  
**DRAFT**  
**STREET TRADING POLICY**

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**1. Purpose**

- 1.1. Exeter City Council (the Council) street trading policy's aim is to create a street trading environment which complements premises based trading, is sensitive to the needs of residents, provides diversity and consumer choice, and seeks to enhance the character, ambience and safety of local environments.
- 1.2. The policy recognises the importance of street trading to the city and that it can add to the vibrancy and vitality whilst not adding to nuisance and crime and disorder.

**2. What is Street Trading?**

- 2.1. Street trading means selling, exposing or offering for sale any article in a street. The term 'street' includes any road, footway or other area to which the public have access without payment.
- 2.2. The Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 for the whole of its area and has designated all streets in the area as 'consent streets' for street trading purposes, with the exception of a number of streets in the City Centre, which are designated 'licence streets or prohibited streets'.
- 2.3. The effect of this designation is that street trading in any street is prohibited, subject to legal exemptions, without first obtaining a street trading consent or licence from the Council. For the avoidance of any doubt, street trading is also deemed to include the offering for sale or selling of vehicles on the highway.

2.4. This includes all streets, car parks, parks and all adjacent paved, grassed and ornamental areas.

### **3. Exemptions from the need to obtain a Consent or Licence**

3.1. Some types of trade are legally exempt from the need to obtain a street trading consent or licence. These include:

- a person trading under the authority of a pedlars' certificate granted under the Pedlars Act 1871;
- trade carried out by roundsmen e.g. milkmen;
- trade carried on at a petrol filling station;
- market created by statute or grant;
- trading as a newsvendor;
- trading in and around shops;
- Busking (**NB** the selling of CD's or similar goods is prohibited)
- authorised charity collections.

### **4. Street Trading Consents when fees may not be payable**

4.1 The Council may remit the payment or part of the payment of fees for the following street trading activities:

- fetes, carnivals or similar community based and run events;
- **non-commercial, charitable or educational purposes;**
- farmers markets (producer-managed marketplace for local producers to sell their own produce direct to local people) as these are subject to Street Licence authorisation.
- sales of articles by householders on land contiguous with their homes.

### **5. Site Assessment for consents**

5.1 The Council will not identify suitable 'pitches' for street trading but will maintain a map showing the location of existing sites that have permission to street trade. This may be found at <http://www.exeter.gov.uk/index.aspx?articleid=9069> or by viewing at the Civic Centre between 08:45 and 16:45 Monday to Friday

5.2 In determining whether to permit street trading at a selected site the Council will have regard to:

- any effect on road safety, either arising from the siting of the pitch or from customers visiting or leaving;

- any loss of amenity caused by noise, traffic, smell or other nuisance
- existing Traffic Orders e.g. waiting restrictions, parking, etc
- any potential obstruction of pedestrians, cyclists or vehicular access
- any obstruction to the safe passage of pedestrians or adjacent pathways
- the safe access and egress of customers and staff from the pitch and immediate vicinity
- impact on the character of the area.

5.3 With regard to itinerant street trading (e.g. an ice cream van or fish and chip van) where due to the nature of the business there is a genuine need to trade in many locations a general consent will be issued. Nothing in this paragraph overrides the general safety provisions above.

## **6. Consultation for consents**

6.1 Before a new pitch is authorised by the Council for the purposes of street trading (non market) we will consult and await written observations from:

- ward councillors
- Police
- Highways (Devon County Council)
- Estates Dept of Exeter City Council
- Existing holders of street trading consents in the immediate vicinity

6.2 10 working days will be given to consultees to make comments / objections. If representations are received, the application will be referred to the next available Licensing Committee of the Council and may be granted in the terms applied for and standard conditions will be considered and may be attached to the consent.

6.3 If no representations are received the application will be referred to the Head of Environmental Health Services and the chairman of the Licensing Committee who may grant the application in the terms applied for: standard conditions will be considered and may be attached

6.3 All relevant representations relating to the grant of a consent will be referred to the Licensing Committee for consideration as part of the determination.

6.4 Subsequent renewal of consents to street trade submitted on the same terms as previously granted and for the same site will be dealt with by the Head of Environmental Health Services in consultation with the Chair.

6.5 There is no right of appeal to the Magistrates' Court against refusal to issue a consent, however, where an application is refused, payment of the application fee shall be refunded.

## **7. Nature of Goods and Trading Hours**

- 7.1 The nature of goods which may be sold from any pitch will be specified in the consultation process. No substantial change to the products sold will be permitted without referral back to the Head of Environmental Health Services.
- 7.2 The Council would not normally grant a new consent for the sale of goods or services which conflict with those provided by nearby traders.
- 7.3 Street trading hours are not set and in the case of hot food takeaways and fresh produce sellers trading hours will be determined on a pitch-by-pitch basis.
- 7.4 The design and appearance of the stall, barrow, van or cart etc. to be used must be agreed by the Council.

## **8. Issue of Street Trading Consents/Licences**

- 8.1 Street trading consents will normally be issued for a period of one year, but new consents may be issued for a three month trial period to determine suitability if necessary, Consents for shorter periods may be issued on request but subject to the payment of the appropriate fee.
- 8.2 Consents will be issued for seven days per week, unless there are limiting factors on the use of a pitch on particular days. The permissions granted will identify the permitted days and times of trade.
- 8.3 Fees for consents must be paid in full in advance. In the case of renewals, payments must be at the time of renewal.
- 8.4 Failure to provide payments as above will result in the permission not being renewed or being revoked. This does not apply when a direct debit arrangement has been agreed between the Council and the consent holder.
- 8.5 Where a consent has expired or has been revoked the pitch will awarded to the first applicant that applies to trade on that pitch, no waiting lists will be maintained
- 8.6 A consent cannot be issued to a person under the age of 17 years. An application may be refused if the applicant is unsuitable to hold the consent/licence by reason of having been convicted of an offence or for any other reason.

## **9. Planning Permission**

- 9.1 If a consent is applied for, the onus is on the applicant to obtain both planning permission and permission to trade from the landowner when necessary, prior to making an application for street trading consent. It is not the responsibility of the Council to investigate and obtain this information.

## **10. Licensing Act 2003**

- 10.1 In addition to the requirement of having a street trading permission, applicants who sell hot food or hot drinks between 23.00 pm and 05.00 will need a premises licence under the Licensing Act 2003. The Licensing Section is able to provide advice as to the application process.

## **11. Fee Structure**

- 11.1 The Head of Environmental Services will arrange for the setting of street trading fees through the Council and will annually review the fee structure.

## **12. Applicants and assistants**

- 12.1 The Council will issue an identity badge to the person applying for the consent and will require the applicant to identify any person that is to work under his permission.
- 12.2 The applicant will provide passport size and quality photographs of themselves following the grant of the consent.
- 12.3 They will ensure that the full names, addresses and dates of birth plus photographs of any and every person that will or may be used under the authority of the consent is submitted following the grant of the consent.
- 12.4 No person will be permitted to work under the permission of the consent without displaying an Identity badge issued by this Council at all times they are working.
- 12.5 When submitting an application you will need to pay the appropriate sum. These are set out in the list of fees and charges and can be found on the Council website. The fees will be reviewed annually and updated accordingly as of the first week in April each year.

## **13. Conditions and Enforcement**

- 13.1 Standard conditions may be attached to each street trading consent detailing the holder's responsibilities to maintain public safety, avoid nuisance and generally preserve the amenity of the locality.
- 13.2 The Head of Environmental Health Services and chairman of the Licensing Committee may review the conditions set out in Appendix A and may add to, delete or amend the conditions as necessary.
- 13.3 Specific conditions may also be attached such as the days and hours when street trading is permitted, the goods which may be sold and the size of the pitch.
- 13.4 Failure to comply with conditions, non-payment of fees or non-attendance at the site without good reason may lead to revocation or non-renewal of a consent.
- 13.5 Persons trading without a street trading permission and who are not exempt (see 3.1 above for examples) will be the subject of enforcement action. This will include any person who holds a certificate granted under the Pedlar's Act 1871, but who fails to operate in accordance with the Act.

13.6 The issue of absent traders will be addressed by conditions upon the licence or the consent, for example conditions which:

- require personal attendance of the holder without the option for someone else to run the business on his behalf
- require the holder to provide notification of his nominated assistant
- require the holder to provide notice of non-attendance to the Head of Environmental Health Services (not required for periods of less than 20 working days for Annual leave)
- allow the Head of Environmental Health Services to revoke the consent after 20 working days non attendance where no notification of absence has been submitted .

#### **14. General**

14.1 This policy will be the subject of periodic monitoring and review by the Licensing Committee and will be applied in a manner which is consistent with the Council's equalities and diversity policies.

#### **Appendix A**

##### **Pool of conditions that may be imposed on a consent to trade**

In these conditions:

"The Council" means Exeter City Council.

"You" means the holder of the consent to trade.

"Your Assistant" means any person or persons who assist the holder of a consent to trade whilst trading under that consent and who has been notified to and has been issued with an identity badge by the Council.

1. The consent relates to the trader named and is not transferable.
2. Unless a "city wide" consent is applied for and granted, the consent holder may only site the permitted structure at the approved location.
3. A copy of the consent, shall be displayed in a conspicuous place, whilst trading.
4. The consent holder may only trade between the approved times as indicated on the street trading consent.
5. The consent holder may only sell articles or foodstuffs approved by the Council as indicated on the street trading consent.
6. The consent holder shall write to the Council giving details of a new home address or new address of the registered office within 5 working days of moving.
7. No person under the age of 17 years shall engage or be employed in street trading.

8. The consent holder shall ensure full compliance with relevant food safety and health and safety legislation.
9. Where a consent holder is operating under both consent and provisions of the Licensing Act 2003 he will ensure both Authorisations are displayed.
10. The consent holder must ensure that staff who prepare open high risk foods, or handle food and have a supervisory role, have training to the level equivalent to the Chartered Institute of Environmental Health (CIEH) Level 2 Award in Food Safety in Catering within three months of the consent being issued.
11. The consent holder shall take all reasonable precautions for the safety of all other persons using the street(s) and to prevent danger to persons using the street(s).
13. The consent holder shall not cause any obstruction of the highway.
14. The consent holder shall ensure that trading is conducted in a manner which avoids any nuisance or annoyance to the occupiers of neighbouring premises. In particular the holder shall ensure that any power driven equipment (including generators) are sited to minimise noise and attenuated where necessary.
15. The consent holder shall comply with the reasonable requests of a duly authorised officer of the Council or a police officer to take such action as is considered necessary to abate any nuisance or obstruction.
16. Public highways shall be maintained in a clean condition during each day's trading and all rubbish and waste paper accumulated throughout the daily operation of this consent shall be removed at the end of each day's trading. Suitable refuse facilities shall be provided to encourage customers to dispose of rubbish and waste paper so as to avoid causing a nuisance by the littering of the highway and private land bordering the approved location.
17. The consent holder shall, where applicable, at all times when trading comply with all "Codes of Practice" relating to noise in particular the "Codes of Practice on Noise from Ice Cream Vans Chimes etc 1982".
18. No animal shall be present on any stall or vehicle.
19. In addition to these conditions, the Council may also impose conditions which are specific to individual consents to trade.