

STREET TRADING POLICY 2010

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1 Purpose

The purpose of Corby Borough Council's street trading policy is to create a street trading environment which complements premises-based trading establishments, is sensitive to the needs of residents, provides diversity and consumer choice, and seeks to enhance the character, ambience and safety of local environments. It is further intended to highlight the requirements and standards expected of street traders in Corby.

2 What is Street Trading?

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. The scheme will therefore include all hot and cold food vendors, burgers, kebabs, doughnuts, etc., including ice cream vendors, and all vendors of non-food products who trade on static pitches from any vehicle, stall, barrow, trailer, or any other moveable construction.

Corby Borough 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.

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 from the Corby Borough Council.

3 Exemptions from the need to obtain a Consent

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

- a person/persons holding a charitable street collection permit issued by the Council;
- a person trading as a Pedlar under licence issued by a Police Authority;
- trade carried out by roundsmen e.g. milkmen;
- trade carried on at a petrol filling station;
- a news vendor selling only newspapers and periodicals;
- a market trader operating at a licensed market venue;
- trading on private land may not need a consent.

4 Street Trading Consents for which fees are not payable

The application of this policy is targeted at those mobiles that trade for **longer than 10 minutes** in any particular location. Where mobile vans park for short periods to trade and subsequently move on to other venues not within 100 metres then consent will not be required.

In addition, Corby Borough Council will not require the payment of fees (other than a nominal administration fee) for fetes, carnivals or similar community based and run events.

5 Site Assessment

In determining whether to grant a particular street trading consent the Council will have regard to:

- any effect on road safety, either arising from the position of the pitch/activity or from customers visiting or leaving;
- any loss of amenity caused by noise, traffic or smell;
- existing Traffic Orders e.g. waiting restrictions;
- any potential obstruction of pedestrian or vehicular access and/or access to shops;
- any obstruction to the safe passage of pedestrians;
- the safe access and egress of customers and staff from the pitch and immediate vicinity (including adequacy of lighting);
- disabled access;
- any implications/conflicts with nearby shops and/or businesses;
- suitability for the particular varieties of street trading and activities.

6 Nature of Goods, Activities and Trading Hours

The Council would not normally grant a consent for the sale of goods or services which conflict with those provided by nearby shops.

Goods will normally consist of hot and cold meals or ice cream. Other types including services will be considered on a pitch-by-pitch basis and will have particular regard to the local needs of the community.

Street trading hours will normally mirror those of businesses in the immediate vicinity. In the case of hot food takeaways trading hours will be determined on a pitch-by-pitch basis.

The design and appearance of the stall, barrow, or van etc. used must be agreed by the Council.

7 Issue of Street Trading Consents

There is an annual re-issuing process in place for all designated pitches which commences in January each year in order to facilitate consents being issued in time for 1st April each year. Any pitches not taken up in this way are open to offer at any time during the year for periods of not less than 1 month and up to the end of the consent year.

Consents for shorter periods may be issued for bookings for the purpose of organised street markets, events, and promotions. Consents will normally only be issued for block periods and traders will not be permitted to specify set days of the week that they wish to trade.

Fees for consents must be paid in full in advance. Failure to make payments may result in the consent not being renewed or being revoked.

Any person granted a street trading consent should be aware that it may be necessary for the local authority to clean and maintain pavements, verges or the highway within the area granted a Consent. If possible, prior notice will be given to the proprietor/stall holder of any work required or of any planned routine maintenance.

There may, however, be times when the permitted area will be unavailable due to utility, maintenance or construction. This is a normal function of the highway authority and utility companies and will not, therefore, be subject to compensation although effort will be made to identify an alternative trading site during such occasions. Applications will normally be determined by the Head of Planning and Environmental Services in consultation with other appropriate Council Officers where/when appropriate. Contentious applications will be determined by a Licensing Panel. Each pitch will be offered to the applicant whose proposal is considered most suitable for the particular pitch.

In cases where a previously undesignated pitch or completely new type of venture is being put forward the Council will undertake to post notices of the application on nearby street furniture in addition to circulating details to the established consultees to ensure that all interested parties are able to comment. In addition to this, details of the application must be published in the local newspaper. The onus for the advertisement is placed on the applicant with the cost being met directly by them.

Any consent granted in respect of a new pitch or completely new type of venture will only be granted for a three month period initially. Provided that there are no problems/objections during this time then a further consent (of not less than one month and up to the end of the consent year) will be granted at Officer level with no further administration fee being payable by the applicant. Any initial consent attracting problems or objections would need to be dealt with by Licensing Panel if a further consent was applied for and in these cases a further administration fee of £100 would be incurred.

A consent cannot be issued to a person under the age of 18 years. An application may be refused if the applicant is unsuitable to hold the consent by

reason of providing unsatisfactory references, having been convicted of an offence or for any other reason.

8 Food Safety Requirements

Food Premises Registration

All food businesses which trade in the street for more than five days in a five week period are required to register with the Local Authority where the business operates or, in the case of a mobile vehicle, the Local Authority where the vehicle is kept. Registration must take place at least 28 days before the business starts trading. Registration is free and simply informs Corby Borough Council that a business will be starting up. It does not mean that the Council has approved the business as complying with the law nor does it give the business any special rights to trade.

Food Safety Act 1990 (as amended) Food Hygiene (England) Regulations 2006 General Food Regulations 2004

This legislation requires that any food (including drink and water) which is put on the market is safe for consumption. Also covered by this law is food that may be given away or offered as a prize. In addition to the above legislative requirements, food business operators are also required to carry out food safety management. This is a system for ensuring the safety of food and the keeping of monitoring records. This needs to be done by food business operators to show compliance with the food safety management of the food operation.

Further advice can be obtained from the Local Authority and guidance can be found in the 'Industry Guide to Good Hygiene Practice: Market and Fairs Guide'.

9 Fee Structure

The fee structure/scale of charges will be reviewed on an annual basis.

It should also be noted that the fee structure does not include any business rates which may be payable. The onus/liability is on the consent holder for the payment of rates when/where applicable.

10 Conditions and Enforcement

Standard conditions will be attached to every street trading consent detailing the holder's responsibilities to maintain public safety, avoid nuisance and generally preserve the amenity of the locality.

Specific conditions will 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.

The proprietor or stall holder will fully indemnify the Council against all costs, claims, expenses, demands, charges or liability of any description arising out

of, or in connection with the granting of the street trading consent whatever and however arising as a result of the activities.

It will also be necessary to provide evidence that public liability insurance to the minimum value of £5 million has been obtained and that the business is registered with the Council if food sales are proposed. Applications will not be considered without this evidence.

The proprietor or stall holder may be held liable for any damage caused to the verge, pavement, highway or any other item of street furniture caused through the operation of his/her business.

Persons trading without a consent and who are not exempt (see **3.** for examples) will be the subject of pro-active enforcement action in accordance with the Council's Enforcement Policy. This will include any person who holds a certificate granted under the Pedlars Act 1871, but who fails to operate in accordance with the Act.

11 Revocation

The Council may revoke a street trading consent after it has been granted. This may be for a variety of reasons such as non-compliance with conditions, non-payment or because other agencies such as the utility companies require access to the trading location.

In such event the person or company issued with the street trading consent shall have no claim against the Council.

If a consent is revoked there is no statutory right of appeal against the decision other than Judicial Review.

12 Other relevant legislation

In addition to conditions attached by the Licensing Authority applicants' attention is drawn to the requirements of other relevant legislation which may impact on their business.

12.1 Health and Safety

All businesses are required to comply with the relevant statutory requirements of the Health and Safety at Work etc. Act 1974 and associated regulations. These set out the requirements of the health, safety and welfare of staff and users. Further advice can be obtained from Corby Borough Council or the Health and Safety Executive website: www.hse.gov.uk.

12.2 Safety Policy

If an employer employs more than five people, he/she is required by law to produce a written health and safety policy which their staff must read, understand and follow.

The written policy must:

- i) state their general policy on health and safety;
- ii) state who is responsible for carrying out the policy;
- iii) be revised whenever appropriate.

12.3 Risk Assessment

Any person granted a street trading consent must carry out an assessment of the health and safety risks associated with their business. To do this they must look for the hazards (the things which can do harm) associated with their business. Then they must decide who might be harmed (them, their staff, customers or other members of the public) and how. The next step is to evaluate the risks (the chance, high or low, that somebody will be harmed by the hazard) and decide whether the existing precautions are adequate or whether more should be done. If they employ more than four people they have to record their findings. Finally, they need to review their assessment on a regular basis and revise it if necessary.

Further information is available in the HSE Booklet 'Five Steps to Risk Assessment'

Persons granted a street trading consent should also be aware of the Regulatory Reform (Fire Safety) Order (RRFSO) which came into force in England and Wales on 1st October 2006.

12.4 First Aid

The consent holder must provide a proper first aid kit and all staff must know where to find it. The kit must contain plenty of waterproof dressings (blue if possible), bandages and protective finger stalls. The level of first aid cover should be determined through the risk assessment process.

12.5 Fire fighting equipment

The consent holder must provide equipment appropriate to the types of fire they may face e.g. cooking fat, LPG, electrical etc. This will normally consist of a fire blanket and a dry powder fire extinguisher both of which should be located near to the door or entrance of the vehicle or stall.

12.6 Liquefied petroleum gas (LPG)

All LPG installations must be in accordance with the code of practice.

12.7 Electrical safety

If an electrical generator is used or a connection is made to a permanent electricity supply the consent holder must ensure that the electrical installation is safe. If there is any doubt as to the integrity of the supply or installation the Council may ask for them to provide a safety certificate from a competent person or body. In most

circumstances an inspection by a NICEIC or ECA approved electrician will be satisfactory.

At no time should electric cables be run across roadway, public footpaths or any other area where the public have access.

12.8 Electricity Generators

If a generator is to be used to supply electricity for any stall or vehicle it shall be maintained in good condition and operate without producing any visible smoke. The generator shall be suitably silenced so that it cannot be heard by anyone at the nearest premises.

13 Social Inclusion

The Council will fulfil its duty to ensure that disabled persons and those from ethnic minority groups have an equal opportunity to apply for and operate street trading consents.

14 General

This policy will complement and inform other Council initiatives including those on street entertainment and life in the public realm.

This policy will be the subject of periodic monitoring and review.

This policy will inform the detailed conditions attached to every street trading consent.

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