



COLCHESTER BOROUGH COUNCIL

**LOCAL GOVERNMENT
(MISCELLANEOUS PROVISIONS) ACT 1982
STREET TRADING POLICY**

Or visit our website: www.colchester.gov.uk/markets

Or email us at: markets@colchester.gov.uk

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1. Introduction

- 1.1 This policy sets out how Colchester Borough Council proposes to manage Street Trading in Colchester. Street Trading activities are an essential ingredient of a vibrant and lively Town and in Colchester there is a strong demand for legitimate small scale street trading. They offer an opportunity for small businesses to get started with a relatively modest outlay. The purpose of this Street Trading Policy is to create a trading environment in which street trading complements the surrounding environment and retail offer, is sensitive to the needs of all users of the town centre and provides diversity in terms of consumer choice. The policy seeks to encourage investment from street traders and to create an environment where high quality street trading activity is achieved.
- 1.2 This document will guide the Borough Council when it considers applications for Street Trading Consents. It will inform applicants of the criteria against which applications will be considered.
- 1.3 This policy sets out Colchester Borough Council's framework for the management of street trading in the Borough of Colchester. The scheme also aims to prevent the obstruction of the streets in Colchester by street traders and ensuring the safety of persons using them. In doing so, it recognises the importance of licensed businesses to the local economy and the character of the area whilst trying to ensure that the activities do not cause nuisance or annoyance to the people in the area.
- 1.4 It is the intention that this policy will be reviewed every 5 years by the Licensing Committee or more frequently should legislative changes deem this necessary. Any minor changes can be agreed by the Licensing Committee and/or the Head of Licensing through delegated powers.
- 1.5 This Policy has been written with a view to securing the following objectives:
 - to enhance the Borough of Colchester;
 - to protect public health through the control of street trading within the town of Colchester;
 - to provide traders with guidance and clarity
 - to ensure that traders operate within the law and act fairly in their dealings with the public; and
 - to prevent nuisance, unsafe practices and anti social behaviour.

2. Consultation

2.1 There is no statutory requirement to consult before determining this licensing policy however to ensure openness and transparency the Council has chosen to consult with the following people and bodies:

- All existing Street Traders
- The Planning Authority (Colchester Borough Council)
- Legal Services (Colchester Borough Council)
- The Highways Department (Essex Highways)
- Essex Police
- Essex Fire and Rescue
- Environmental Protection Service (Colchester Borough Council)
- Local Elected Members
- Local Businesses
- Trade Associations

3.0 Definition of Street Trading

3.1 'Street Trading' is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street – subject to a number of exceptions such as:

- (a) Trading as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871.
- (b) Any trade in a market or fair, the right to hold which having been obtained by a grant, enactment or order.
- (c) Trading as a news vendor.
- (d) Trading at or adjoining a shop premises as part of the business of the shop.
- (e) Offering or selling things as a roundsman

3.2 Schedule 4 defines a street as any road, footway, beach or other area to which the public have access without payment; and a service area as defined in section 329 of the Highways Act 1980.

4. Legislation

4.1 Street Trading is governed by the Local Government (Miscellaneous Provisions) Act 1982 (1982 Act). Under Section 3 of the 1982 Act a district council may resolve that Schedule 4 to this Act shall apply to their district and, if a council so resolve, that Schedule shall come into force in their district on such day as may be specified in the resolution.

- 4.2 On the 17th August 1987 the Transportation Committee resolved that Schedule 4 of 1982 Act would be implemented with effect from the 16th November 1987. Schedule 4 of the 1982 Act relates to Street Trading.
- 4.3 The Transportation Committee also resolved to advertise the Council's intention to designate consent streets. In order to designate consent streets within the Council's district it was required to make a further resolution after complying with the relevant requirements of Schedule 4 in relation to the proposed consent streets.
- 4.4 On the 28th September 1987 the Transportation Committee resolved "that the streets set out in the schedule below including all forecourts, road, footways or other areas adjacent to such streets for a distance of 20 metres, to which the public have access without payment, be designated as consent streets pursuant to paragraph 2 (1) (c) of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 and this resolution take effect on the 16th November, 1987.
- 4.5 A copy of the schedule referred in the resolution of the 28th September 1987 is attached at Appendix 1. Accordingly a street trading consent is therefore required to trade on any of the designated consents streets that are referred to in **Appendix 1**
- 4.6 Under Schedule 4 of the 1982 Act the Council may grant a consent if they think; although a consent cannot be granted:-
- a) to a person under the age of 17 years; or
 - b) for any trading in a highway to which a control order under section 7 of the Local Government (miscellaneous Provisions) Act 1976 is in force, other than trading to which the control order does not apply
- 4.7 There is no appeal procedure set out in Schedule 4 against the refusal or revocation of any consent. However, there may be some limited scope for an aggrieved party to apply for judicial review of any decision made by the Council to refuse or revoke any consent.
- 4.8 The resolution of the 28th September 1987 also contained conditions that would need to be included.
- 4.9 Under paragraph 7(4) of Schedule 4 of the 1982 Act the Council may at any time vary the conditions of a street trading consent

5 Exemptions

5.1 For the purpose of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982; the following are not street trading:

- trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlar's Act 1871;
- anything done in a market or fair, the right to hold which was acquired by virtue of a grant, or acquired, or established, by virtue of an enactment or order;
- trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980;
- trading as a news vendor within the required specification as defined by the 1982 Act trading which:
 - (i) is carried on at premises used as a petrol filling station;
 - (ii) is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop;
- selling things, or offering or exposing them for sale, as a rounds man;
- the use of trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, in or over a highway;
- the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980; or
- the doing of anything authorised by regulations made under section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916

5.2 Street Trading for which consent is not required - The following Street Trading activities have been deemed by Colchester Borough Council as to not require the consent of the Council.

- Charitable, Local Authority organised and community type events (where an admission charge is not made for entry) (i.e. outdoor school fayres, carnivals, fund raisers, car boot sales). Any commercial vendor attending such events will be required to hold a current consent issued by the Council.
- Any market approved by the Council.

6. PITCHES

- 6.1 There are currently 24 approved street trading pitches within the town centre. These are situated on Culver Street West, Long Wyre Street and at the Bus Interchange. See Appendix 2.
- 6.2 The pitches are available 7 days per week with a range of periods to licence them for. See 7.1.1
- 6.3 The Market and Street Trading Manager, as an authorised officer of the Council, undertakes consideration of new pitches. When considering new street trading pitches, they will seek the advice of Essex Police, Essex Fire and Rescue Service, and the Highways Department of Essex County Council. They will also notify neighbouring retail establishments and residents.
- 6.4 The Markets and Street Trading Manager may have regard to the following matters in considering whether to create a new pitch for street trading:
- The likely effect on road safety (traffic and pedestrians) which may arise from the siting of the trader or from the movement and activities of customers.
 - Potential for negative impact on the local amenity arising from noise, traffic, litter or odours.
 - Existing traffic orders such as waiting restrictions.
 - Potential obstruction of pedestrian or vehicular access.
 - Potential obstruction to pedestrian traffic routes.
 - The safe access and egress of staff and customers to and from the proposed pitch and the immediate vicinity.
- 6.5 Sizes are to be shown in metric and will be as follows:
- Small = 2m x 2m
 - Medium = 2.5m x 2.5m
 - Large = 3m x 3m
 - Extra large = 2.5m x 5m

It is understood that trader's stalls may not be square and so efforts will be made to work with traders to ensure the same retail space is given.

7 Applications

- 7.1.1 Consent is available for the following periods:
- One day
 - One week
 - One calendar month
 - 6 calendar months
 - One calendar year

- 7.1.2 An application for a Street Trading Consent is not one that can be given tacit approval, as it is in the public interest, safety and policy that the Authority must undertake checks before any application can be granted. We aim to process all applications within 28 days where possible.
- 7.1.3 Applicants must submit the following to the Council:
- A completed and signed relevant Street Trading Consent application form.
 - Two (recent and identical) passport size photographs signed and dated on the reverse as a true likeness.
 - Proof of identity documentation: passport, driver licence, current utility bill/bank statement and right to work documentation (if applicable).
 - 3 colour photographs of any stall, van, barrow, cart etc that will be used for the street trading activity showing the front, rear and side of the unit and dimensions of that unit.
 - If trading in food, details of any food hygiene qualifications and confirmation that their business has a food hygiene score rating of 3 or above.
 - Confirmation that they meet the relevant qualitative criteria.
- 7.1.4 The following documentation must be forwarded to the Council before the grant of a consent:
- An original certificate of insurance that covers the street trading activity for third party and public liability risks up to a minimum of £5,000,000.
 - A certificate of insurance in respect of the vehicle and/or the tow vehicle you propose to use.
 - An appropriate vehicle test certificate.
 - Declare that you have registered as a food business (where appropriate).
 - Written confirmation that the vehicle/unit meets the Council's food safety standards.
 - Any permissions or consents already granted with regard to the proposed operation, e.g. planning consent, late night refreshment premises licence, waste disposal agreement.
- 7.1.5 If any of the required documentation expires during the term of the applicants consent, the consent will cease to have effect until the applicant has produced current valid documentation to the Council.
- 7.1.6 Please note: all vehicles / units will be inspected prior to issuing a consent to ensure they meet the qualitative criteria. If the vehicle / unit fails to meet the criteria in the opinion of the Market & Street Trading Manager then consent shall not be granted.

7.2 Criteria for assessment on applications

7.2.1 When assessing all street trading applications the Council will consider how the application meets the following criteria (NB: These will apply to renewal applications and applications for new or vacant pitches)

7.2.2 Design of stall

- Stalls must enhance the visual appearance of the street rather than detract from it and be constructed in a suitable style and of appropriate materials.
- Examples of acceptable designs include:
 - Modern, simple, functional stalls with canopies or striped awnings.
 - Traditional or 'period' type handcarts, barrows or tricycles.

7.2.3 The stall design should be non-discriminatory and be appropriate to serve customers.

7.2.4 Advertising material must be limited to the name of the stall, the type of product sold and a simple price list. Ad hoc pictures and advertiser's slogans should be avoided, as should untidy handwritten signs.

7.2.5 Dress: The style of dress worn by stall operators should be chosen to complement the style and period of the stall:

- Over clothing must always be smart and clean.
- Operators of food stalls should ensure that sufficient changes of clothes are provided so as to enable personnel to always over clothing which is clean.
- Personal cleanliness is also important and persons employed at food stalls are required to have good personal hygiene.

7.2.6 It is recommended that persons intending to apply for a consent pitch should contact the Markets and Street Trading Manager to discuss the nature of their intended trade and the proposed style of stall and dress. No expenditure on stalls or equipment should be made until the Council has granted consent and the stall design has been approved.

7.2.7 The criteria above are intended to guide applicants for street trading consents as to the type of stall and dress, which the Council is looking to promote as a means of regulating the street scene in the historic centre of the city. It is not intended to exclude any design that does not fall within the examples given. Applicants for the prime, central locations are advised that the design of stalls is one of the main criteria that will be taken into account.

7.3 Environmental Health considerations of the stall design:

7.3.1 For Enclosed Food Mobiles:

The internal arrangements must be such that:

- There is suitable and sufficient hand washing facilities with hot water;
- The work surfaces are impervious to water and readily cleansable;
- There is sufficient compliant temperature controlled food storage, facilities appropriate to the business;
- The gas and electrical installations are certificated and deemed to be safe by a competent and suitably qualified engineer; any gas store cupboard should be outside of the food area;
- The external arrangements must be that the mobile is sufficiently weather and pest proof so as to not risk the contamination of the food.

7.3.2 For Market-Stall or Street-Barrow type food mobiles:

- The stall must be covered to prevent the risk of matter falling on to the food;
- The work surfaces likely to be in contact with the food must be impervious to water and readily cleansable;
- Any intrinsic storage food area must be able to be secured against the intrusion by pests;
- If temperature controlled food is to be stored on the mobile, the storage facility shall be capable of maintaining the food in a legally compliant manner;
- That there are adequate hand washing facilities.

7.3.3 Food Hygiene record (for all food stalls) - all food regulations have been adhered to.

The applicant will need to demonstrate that they have:

- Registered with their home Local Authority;
- That all food handlers have received adequate food safety training appropriate to their job role; ideally, the manager should be trained to CIEH (Chartered Institute of Environmental Health) Food Hygiene Level 3 and non-managerial staff should be trained to CEIH level 2. (NB: This goes beyond the legal requirements as set out in legislation);

- That the food business has a legally compliant Food Safety Management System (e.g. Safer Food, Better Business);
- That if there is a history of non-compliance, it has been addressed and accepted by the Food Safety Enforcing Officer, or that the food business is in the process of addressing the issues and the Food Safety Officer does not consider the defect too severe so as to prohibit the food business from trading.

7.4 Types of goods sold

7.4.1 The goods complement and do not conflict with the goods sold by other retailers within a certain area. This criterion permits the council to undertake a qualitative assessment of the goods to be sold by each competing applicant against those on sale in the adjacent area (NB. In recognition that the surrounding retail offer is subject to change, this criterion will only apply to applications for new or vacant pitches)

7.4.2 Consideration should be given here to the adjacent retail offer to each individual pitch. The street trading offer should complement where possible rather than compete. The Council reserve the right to allow some duplicates such seasonal products.

7.5 Equal Opportunities - due consideration has been given to Equal Opportunities

- The applicant is asked to demonstrate how they take equalities into consideration with their service provision. For example, how would they look after a customer with a sight or speech impairment?

8.0 Street Trading Consents

8.1 Street Trading consents are renewed annually for the period 1st April to 31st March unless granted for a reduced period. Consents can be revoked by the Borough Council at any time based on the Management Regulations provided in **Appendix 3**.

In the event of the consent being revoked, surrendered or lapsing without being renewed then the Council will invite new applications for the vacant site.

8.2 Any proposed revocation of consent will be subject to the review of the Market & Street Trading Manager. A trader whose consent has been revoked may appeal in writing via the Council's complaints system within 5 working days from, but not including, the day the trader is notified of the decision against which they wish to appeal. The decision of the Senior Management shall be final in all respects.

- 8.3 Applicants wishing to renew their consent should do so by completing a Street Trading Consent Application form and submitting this to the Council 12 weeks prior to the start of the consent period. Application forms can be found on the Council's website <http://www.colchester.gov.uk/article/15594/Become-a-Street-Trader>
- 8.4 At this renewal time, the Markets and Street Trading Manager may consult with some or all of the consultees listed in Section 2 to determine if the street trader is a cause for concern or has been the subject of complaints over the past 12 months. In their application traders will need to be able to demonstrate that they are continuing to meet the Council's "criteria for assessment on applications" as set out in section 7.2 above.
- 8.5 Where a renewal application has been made and the trader is compliant with all the "criteria for assessment," there have been no substantiated complaints, no enforcement issues and all fees have been paid on time, the consent will be renewed. Applicants will be informed of the outcome of their application within 4 weeks of receipt of their completed application form.
- 8.6 If a renewal application is not made within 4 weeks of the start of the consent period the Council will treat the pitch as vacant.
- 8.7 Where a renewal application has been made and there is evidence of non-compliance with the Council's "criteria for assessment" or where there have been complaints or enforcement issues or fees have not been paid on time, then the application will be referred Head of Service for determination.

9.0 Fees

- 9.1 Fees will be set and reviewed annually on a full cost recovery basis. The level of fees applicable takes into account the location, the duration of the consent, trading hours, articles to be sold and the enforcement of the terms and conditions of any individual consent. Where trading ceases during the term of a consent, refunds will not be given for any outstanding period of less than one month.
- 9.2 For a list of current fees, please view our web page at <http://www.colchester.gov.uk/article/15594/Become-a-Street-Trader>. Fees for static consents are determined at the grant of application.
- 9.3 All fees must be paid in advance electronically or trading cannot take place. If arrears occur, trading will be prohibited until the arrears are cleared. Fees will continue to apply during this period.

10.0 Transfers

- 10.1 A Street Trading Consent cannot be transferred or sold to another person (Consent may be transferred to a member of the Consent Holder's immediate family in the event of the Consent Holder's ill health or death).
- 10.2 The sub-letting of a pitch is prohibited.

11 Variations

- 11.1 Variations of a Street trading consent can be made for the following purposes:
- Change of vehicle / unit.
 - Change of hours (only on static applications).
 - Days of trading.
 - Change of items to be sold.
- 11.2 The application must be made on the Council's prescribed application form along with the fee and any necessary supporting documentation.
- 11.3 A change of minor details can be made in writing with supporting documentation with a nominal fee for example:
- Change of existing consent holders name (not a transfer).
 - Removal of an existing consent holder on a joint application.
- 11.4 Variations for the following will **not** be permitted and will require a new application:
- Change of Consent holder.
 - Adding a new Consent holder.
 - Change of site(s).

12 Trade Waste Disposal

- 12.1 Applicants have a legal responsibility under the Environmental Protection Act 1990 and other related legislation to safely contain and legally dispose of any waste produced from your business.
- 12.2 Applicants may be prosecuted should they not comply with the above requirements.
- 12.3 For further information on this, please contact Waste Services at <http://www.colchester.gov.uk/businesswaste>

13 Conditions and enforcement

- 13.1 A set of Management Regulations are attached in Appendix 3.
- 13.2 Failure to comply with one or more of the conditions may lead to revocation or non-renewal of a street trading consent.

14. Contact Information

- 14.1 The street trading function is part of the Community Services department of Colchester Borough Council.
- 14.2 Our address is:

Colchester Borough Council

Sheepen Road

Colchester

Essex CO1 1WG
- 14.2 To ask about any street trading issue, please visit
<http://www.colchester.gov.uk/article/15598/Contact-Us>

TRANSPORTATION COMMITTEE, 17TH AUGUST, 1987Part 1 (Minutes not requiring approval of the Council)

Present:- Councillor Sandford (Chairman);
 The Mayor (Councillor J.W. Lampon),
 Councillors Bayliss, E. Bird, J. Bird, Chapman,
 Mrs. Davis, Miss J.I. Fulford, Leader,
 Russell, Sanderson and Mrs. Yates.

Substitute Member:- Councillor Spendlove for Councillor Smith.

41. Minutes

The Minutes of the meetings held on 3rd and 6th July, 1987 were confirmed as a correct record.

42. Highways Depot, Jarmin Road, Colchester // Contract BM574

A Report by the Borough Property Services Officer was submitted on the need to replace valley gutters at the Highways Depot in order to protect the vehicles and materials stored in the building. Details of the two tenders received for the work, for which no financial provision had been made in the revenue estimates, were also submitted.

RESOLVED that, subject to the agreement of the Policy and Finance Committee to a supplementary estimate of £2,870, the tender submitted by Brock Roofing Limited (the lowest at £2,870) be accepted for this work.

43. Street Traders

The Committee considered a Report by the Town Clerk on the powers available to the Council to control street trading. The Committee also considered a letter dated 15th August, 1987 from Danbury Ice Cream Limited.

RESOLVED -

(i) That, in view of the escalating problems associated with street traders, the powers contained in Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 be implemented with effect from 16th November, 1987 and that the Town Clerk be authorised to advertise the Council's intention to designate as consent streets all the streets and ways to which the public have access within the main town centre area surrounded by and including High Street, Queen Street, St. Botolph's Street, Osborne Street, St. John's Street and Head Street together with Crouch Street from Headgate to Balcerne Hill and Castle Bailey, Museum Street and Cowdray Crescent and Church Street and Balcerne Passage.

(ii) That a further Report be presented to the next meeting on the terms and fees to be imposed on any consents granted and on the attitude of the owners of the private shopping precincts to street trading.

44. John Harper Street, Colchester (14)

A Report by the Borough Engineer was submitted which suggested amendments to the St. Paul's Area Residents' Parking Scheme in respect of John Harper Street, Colchester to enable more non-residents to park in that road.

RESOLVED that, subject to the consent of Essex County Council and to consideration of any objections which may be received, the Council make Orders pursuant to the provisions of the Road Traffic Regulation Act 1984 with the following effects:-

TRANSPORTATION COMMITTEE, 28TH SEPTEMBER, 1987

Part 1 (Minutes not requiring approval of the Council)

Present:- Councillor Sandford (Chairman);
The Mayor (Councillor J.W. Lampon);
Councillors Bayliss, E. Bird, J. Bird, Chapman,
Miss J.I. Fulford, Leader, Mrs. Liddy,
Russell, Sanderson, Smith and Mrs. Yates.

59. Minutes

The Minutes of the meeting held on 17th August, 1987 were confirmed as a correct record.

Councillor Miss J.I. Fulford declared her pecuniary interest in the following item and left the meeting. It was discussed.

60. Draft Stanway/Birch Action Area Plan

A Report by the Borough Planner was considered on the transportation elements of the above Plan which involved the extension of Tollgate Road southwards, improvements to Dyers Road, Church Lane and Warren Lane, Stanway and the possible construction of a southern link road from Dyers Road to Shrub End. A series of suggested traffic management measures were also included should they prove necessary to reduce environmental problems created by heavy goods traffic.

RESOLVED that the Planning Committee be informed of this Committee's support for the proposals contained in the Draft Plan.

Councillor Miss J.I. Fulford here returned.

61. Review of the Adopted Colchester Borough Local Plan

The Borough Planner submitted his Report on the proposed review of the Adopted Colchester Borough Local Plan.

RESOLVED that consideration be deferred until the results of the public consultation on the document are known.

62. Street Traders (43)

A Report by the Town Clerk was considered on the criteria which might be adopted for administering applications for street trading consents. A letter dated 21st September, 1987 from Mr. F. Mussi objecting to the proposed designation of consent streets was also submitted together with a letter dated 10th September, 1987 from Essex Police setting out their observations on the proposed system. The Report pointed out that the owners of the Lion Walk and Kingsway Shopping Precincts and the Culver Centre had indicated that they were generally opposed to street trading on their property.

RESOLVED -

(1) That the streets set out in the schedule below including all forecourts, roads, footways or other areas adjacent to such streets for a distance of 20 metres, to which the public have access without payment, be designated as consent streets pursuant to paragraph 2(1)(c) of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 and that this resolution take effect on 16th November, 1987.

Schedule

Arthur Street	High Street	St. Nicholas Street
Balkerne Passage	Kingsway	Trinity Street
Bank Passage	Lion Walk	Trinity Square
Castle Bailey	Long Wyre Street	Victoria Place
Church Street	Museum Street	Vineyard Gate
Cowdray Crescent	Osborne Street	Vineyard Street
Crouch Street (from Headgate to Balkerne Hill)	Pelhams Lane	and All Streets forming Culver Centre
Culver Street East	Queen Street	including:-
Culver Street West	Red Lion Yard	Culver Square
Culver Walk	Short Wyre Street	Culver Arcade
Eld Lane	Sir Isaac's Walk	Shewell Walk
Head Street	St. Botolph's Street	St. John's Wynd
	St. John's Street	
	St. Nicholas Passage	

(ii) That consents specify the days and hours of trading, the articles to be traded, the type of stall or container to be used and be subject to conditions providing that trading shall not cause obstruction of the street or danger, nuisance or annoyance to persons in the street, or damage the surface of the highway or discharge waste water on to it.

(iii) That trading be restricted to a specific location specified in the consent and that the trader be required to provide suitable receptacles for litter and for the disposal thereof.

(iv) That each trader be required to display his name and address when trading and that he be required to move temporarily from his pitch, if necessary, to enable vehicles to deliver goods etc. to neighbouring shops or if so required by the Police or traffic wardens or by an authorised officer of the Council.

(v) That, if the trader is trading in food, he be required to comply with all relevant regulations and with any requirements of the Chief Environmental Health Officer.

(vi) That the Town Clerk be authorised to include any additional conditions to consents which may be desirable in any particular case.

(vii) That an annual fee of £1,000 be charged for a twelve month consent, payable quarterly in advance or by such other method as the Borough Treasurer may approve, with three and six month consents being issued for a fee of £260 or £520 respectively.

(viii) That a fee of £20, payable in advance, be charged for a consent for not more than six days provided that a further short term consent will not be issued before the expiry of one month from the date of expiry of the first consent.

(ix) That no charge be made for the issue of a consent to any registered charity or any other voluntary body at the discretion of the Town Clerk.

(x) That no consents be issued within the private precinct areas without the prior approval of the owners.

(xi) That no consent be issued for trading on any Sunday.

(xii) That initial applications for consents be considered at the next meeting and that the Police be consulted on each application before any consent is issued.

63. St. George's Area, Colchester // Prevention of Through Traffic (124-1986/87)

The Committee considered the Borough Engineer's Report which stated that Essex County Council's Traffic and Road Safety Sub-Committee did not support the proposed Traffic Regulation

TRANSPORTATION COMMITTEE, 9TH NOVEMBER, 1987

Part 1 (Minutes not requiring approval of the Council)

Present:- Councillor Sandford (Chairman);
The Mayor (Councillor J.W. Lampon);
Councillors E. Bird, J. Bird, Chapman,
Mrs. Davis, Miss J.I. Fulford, Leader,
Russell, Sanderson, Smith and Mrs. Yates.

Substitute Member: Councillor Mrs. Fowler for Councillor Bayliss.

76. Minutes

The Minutes of the meeting held on 28th September, 1987 were confirmed as a correct record.

77. A134 Horkesley Hill, Little Horkesley

A Report by the Borough Engineer was submitted on the dangers and problems caused by the recent occupation by gypsy caravans of land abutting the A134 and the access road to Anglian Water's pumping station at Horkesley Hill, Little Horkesley.

RESOLVED -

(1) That, in order to prevent damage to the road and buildings on or near it and for avoiding danger to persons or other traffic using that road or any other road in the vicinity, the Council, being so satisfied, subject to consideration of any objections that might be received, make an Order under Section 1 of the Road Traffic Regulation Act 1984 to prohibit the use by vehicles at all times, other than those authorised, of the access road to the Anglian Water pumping station off the A134 Horkesley Hill, Little Horkesley.

(11) That, if no objections to the proposal are received, the Borough Engineer be authorised to erect suitable bollards, gates, fencing, etc. physically to prevent vehicular entry to the sections of the road concerned.

78. Road Traffic Orders - Castle Bailey, High Street and Crouch Street, Colchester

The Town Clerk submitted his Report on a request from the Police that the Council make further Traffic Orders to assist the control of the parking spaces for the disabled in Castle Bailey and the hackney carriage stands in Crouch Street and in High Street near St. Nicholas Street.

RESOLVED that the Council, subject to consideration of any objections that might be received, make further Orders under Section 1 of the Road Traffic Regulation Act 1984 to prohibit the waiting of vehicles and the loading of vehicles at all times in the under-mentioned lengths of High Street and Crouch Street, Colchester and to prohibit the waiting of vehicles between the hours of 8.00 a.m. and 6.00 p.m. on any day in the under-mentioned length of Castle Bailey, Colchester.

High Street on its south side from a point 35.7 metres west of its junction with St. Nicholas Street eastwards for a distance of 25 metres.

Crouch Street on its north side from a point 51.6 metres west of its junction with Head Street eastwards for a distance of 30 metres.

Castle Bailey on its north side between the entrance to the Castle Park and the Castle Inn Yard.

79. Essex Act 1987

The Committee considered the Town Clerk's Report on those elements of the Essex Act 1987 relating to transportation and associated matters.

RESOLVED that the Policy and Finance Committee be requested to recommend that the Council -

(i) Delegate to the Transportation Committee the power to administer Sections 5 (awning over highways, etc.), 6 (grass verges, etc.), 11 (touting, hawking, photographing, etc.), 23-28 (houseboats), 44 (contributions by Council towards buoys, etc. outside district) and 100 (protection for Brightlingsea Harbour Commissioners) of the Essex Act 1987.

(ii) Delegate the power to serve Notices under Section 5 to the Town Clerk in consultation with the Borough Engineer.

(iii) Delegate the power to erect suitable Notices under Section 6 to the Borough Engineer and the power to take any prosecutions arising therefrom to the Town Clerk.

(iv) Delegate the power to negotiate relevant tonnage rates under Section 100 to the Borough Treasurer.

80. Priorities and Budgetary Process 1988/89 (55)

The Borough Treasurer submitted his Report on items within the budget for 1988/89 where extra costs were envisaged as a result of the priorities established by the Committee at its meeting on 17th August, 1987. It was also suggested that an order of priority be established for those items and further items which had been identified since August 1987 and were considered suitable for inclusion in the budget priorities for 1988/89.

RESOLVED -

(i) That the items included within Schedules A and B of the Borough Treasurer's Report be accorded the following order of priority:-

<u>Division of Service/Detail</u>	<u>Order of Priority</u>
Street furniture, etc.	1
Traffic management measures including residents' parking schemes	2
Grass cutting - provision for additional areas and more frequent attention	3
Provision of hackney carriage stands	4

(ii) That the items included within Schedule C of the Borough Treasurer's Report be accorded the following levels of priority:-

<u>Division of Service/Detail</u>	<u>Order of Priority</u>
Town Centre Paving	
- Church Street	1
- Long Wyre Street	2
- High Street between East and West Stockwell Streets	3
- Balcerne Gardens Arts Park	4

(iii) That the items included within Schedule F of the Borough Treasurer's Report be accorded the following levels of priority:-

- | <u>Division of Service/Detail</u> | <u>Order of Priority</u> |
|---|--------------------------|
| Interrogation system for car park machines | 3 |
| Contribution to footbridge at Nunns Road Car Park | 3 |
81. Street Naming
- The Borough Engineer reported that Stanway Parish Council had suggested the name "Osiers Close" for a development off Wheatfield Road, Stanway.
- RESOLVED that the name "Osiers Close" be approved.
82. Concessionary Travel Scheme (144-1986/87)
- The Committee considered a Report by the Borough Treasurer which stated that Essex County Council had agreed to support a half fare concessionary travel scheme for the extended categories of handicapped people back-dated to 1st April, 1987. Handicapped and disabled women below the age of 60 and men below 65 would be eligible under the scheme and the County Council would assume responsibility for 90% of the cost of the half fare pass and reimburse 90% of the value of concessionary travel tokens issued provided this did not exceed the cost of a half fare pass. The County Council had also agreed to meet the cost of a full fare concession for blind persons who enjoyed this benefit up to 1st April, 1987. The Report also stated that a request had been received for the concessionary travel scheme to be extended to allow the disabled to use tokens on selected local taxi services.
- RESOLVED -
- (i) That the details of the County Council's scheme for half fare concessions for handicapped and disabled people be welcomed.
- (ii) That the appropriate officers be asked to prepare a Report for submission to the next meeting on the possibility of extending the use of tokens by the handicapped for travel on selected local taxi services.
83. Harbour Undertaking // Financial Return for the Six Months ended 30th September, 1987
- The Borough Treasurer presented a Report giving details of approximate expenditure and income for the above period and showing an actual deficit of £12,264 compared with an estimated deficit of £6,330. It was possible that the estimated surplus for the year of £12,160 would not now be achieved.
- RESOLVED that the position be noted.
84. Herbicides and Chemicals used in Grounds Maintenance
- The Borough Engineer submitted a Report providing details of the Council's use of chemicals for grounds maintenance, all of which were registered under a scheme controlled by the Ministry of Agriculture, Fisheries and Food.
- Minute 92 of the Recreation, Tourism and Arts Committee, 6th October, 1987, was also submitted.
- RESOLVED -
- (i) That the decision of the Recreation, Tourism and Arts Committee be noted.
- (ii) That the Borough Engineer be requested to ascertain whether health checks had been carried out on users of the chemicals.

(iii) That a further Report be submitted on the findings of the Environmental Health Committee and including the implications of discontinuing the use of chemicals and herbicides in work controlled by this Committee.

85. British Rail Meeting at Chelmsford

The Town Clerk reported that following consultation with the Chairman and Group Spokesmen of the Committee in accordance with Standing Order No. 23(1), it was agreed that Councillor Smith should represent the Council at a meeting held in Chelmsford on 2nd November to discuss rail services in the County and that attendance at the meeting should be an approved duty. A note of the meeting would be prepared by the County Council in due course.

RESOLVED that the position be noted.

86. Storm Damage

The Committee considered a Report by the Chief Officers which catalogued the problems which arose during and in the aftermath of the hurricane on the night of 16th October. A further Report on the financial implications and the efficacy or otherwise of the Emergency Peacetime Plan would be submitted in due course.

RESOLVED -

(i) That the contents of the Report be noted.

(ii) That the Mayor be requested to express the Committee's sincere thanks to the Army and to the emergency services for their considerable assistance during this period.

87. Local Government Act 1972

RESOLVED that under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item headed "Street Traders" on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 7 of Part 1 of Schedule 12A to the Act.

88. Street Traders

The Committee considered a Report by the Town Clerk which included the applications received for street trading consents.

RESOLVED -

(i) That the applications numbered 5, 15, 16, 19 and 20 in the Town Clerk's Report be agreed but that in respect of application number 20, no trading be permitted in Culver Square.

(ii) That the remaining applications be refused.

(iii) That it be a condition of any consent that no street furniture shall be used in any way whatsoever in connection with the sale of articles and that at all times whilst trading the street trader shall display a copy of any consent granted.

(iv) That the principle of granting consents for the Annual Mayor's Charity Market be agreed.

(v) That the power to grant, refuse or revoke street trading consents be delegated to the Town Clerk after consultation with the Chairman and Group Spokesmen of the Committee.

(vi) That power to prosecute offences under Paragraph 10 of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 be delegated to the Town Clerk.

Management Regulations for Street Trading in Colchester



Issue date / reference: V1: October 2015.

Introduction

The need for Street Trading Regulations

Street Trading activities are an essential ingredient of a vibrant and lively Town and in Colchester there is a strong demand for legitimate small scale street trading. They offer an opportunity for small businesses to get started with a relatively modest outlay.

The purpose of this Street Trading Policy is to create a trading environment in which street trading complements the surrounding environment and retail offer, is sensitive to the needs of all users of the town centre and provides diversity in terms of consumer choice.

The policy seeks to encourage investment from street traders and to create an environment where high quality street trading activity is achieved. The Council intends to ensure that visitors and local people alike receive an excellent standard of customer service, enjoy a positive experience and want to visit again.

With these goals in mind these regulations set out the terms and conditions which must be adhered to by a Trader granted a consent to trade in the Council's Street Trading pitches. These regulations define the Council's rights as the operator, and the standards and obligations the Council is placing on the Street Trader.

Any Trader who is granted a consent to trade must accept and agree unreservedly to abide by these regulations.

These regulations are intended to be fair and reasonable whilst providing the flexibility of the Council's street trading operation to meet the potential future needs of the customers. These regulations also set out penalties for breach and include a fair and clearly defined process to appeal certain decisions taken by the Council's management team.

These regulations have been devised in the best interests of the estate management of the area as a whole and all traders, shoppers and the Landlord. They will be enforced as such and must be read in conjunction with your consent.

These regulations replace any regulations previously issued by the Council.

In the event of any conflict of interpretation the consent terms shall take precedence. In the event of any dispute concerning application of these regulations, the decision of the Market & Street Trading Manager as Landlord's representative, will be final.

The Council's commitment to street traders

The Council commits that it will administer the street trading operation in such a way as to ensure:

- a safe and welcoming environment in which to trade;

- the continuous development and promotion of street trading events to attract new shoppers and traders;
- a balanced street trading offering with limited duplication of both core and competing secondary product lines; while understanding that having no duplication could be detrimental to street trading. The Council reserve the right to allow some duplication such as seasonal products.
- a fair and thorough application process for Traders wishing to apply to trade or introduce a new product line;
- a right of appeal against suspension, termination or refusal to transfer a trading consent with a defined process and time table; and
- open and two-way communication with all Traders, either directly or through their nominated representatives.

Future changes

These regulations may be revoked, amended or supplemented in such manner and to such extent as the Landlord may, in their absolute discretion from time to time, direct. Traders are required to familiarise themselves and their employees, agents and consentors with same.

Colchester Borough Council may change these regulations at any time in the future. Prior to changing these regulations the Council will consult with Traders for not less than four weeks and will then give four weeks' written notice before any change takes effect.

The operation of the street trading is the responsibility of the Market & Street Trading Manager (and his/her delegated colleagues) who is entrusted and authorised to apply discretion and judgement in the interpretation of the regulations.

Definitions

- Appeal process** means the process applied by the Council for dealing with appeals submitted by Traders against decisions taken by the Council's management team.
- Casual trader** means any trader granted a consent to trade and to pitch a stall in the street trading for a single day.
- Council** means Colchester Borough Council.
- Equipment** means portable rails and stands, generators, bins and other receptacles.
- Exceptional circumstances** means circumstances that could not be reasonably foreseen and for which there was insufficient time to take the necessary action to resolve the situation arising from those circumstances.
- Goods and services** include provisions, commodities, articles and services permitted by the Council to be brought into the street trading for the purpose of sale.
- Consent** means the consent issued to a trader in the form prescribed by the Council which permits casual Traders, interim Traders and permanent Traders to trade in the street trading in accordance with these regulations.

- h) **Landlord** means Colchester Borough Council and its duly-authorised representatives i.e. the Market & Street Trading Manager and other Colchester Borough Council staff.
- i) **Street trading** means street trading held in Colchester.
- j) **Street trading day** means a day on which street trading are authorised by the Council to open for trading.
- k) **Street trading hours** means the hours of operation of street trading.
- l) **Market & Street Trading Manager** means the officer responsible for the operation of street trading.
- m) **Shoppers' Charter** means the Shoppers' Charter approved by the Council and which all traders agree to recognise and abide by.
- n) **Permanent Trader** means any Trader granted a consent to trade on a regular basis.
- o) **Serious misconduct** means conduct on the part of the Trader or of their staff which the Council considers so unreasonable that it destroys the trust necessarily required for the continuance of the Trader's consent.
- p) **Site** means the place allocated by the management team to the Trader upon which the Trader is permitted to trade.
- q) **Stall** includes a frame, canopy, link, gutter and awning, trailer, pitch or space used or intended to be used for the sale of goods or services.
- r) **Trader / Stallholder** means a person or legal entity offering goods or services for sale granted a consent to trade from a stall on the street trading and are interchangeable and includes casual Traders, interim Traders and permanent Traders.
- s) **Byelaws** are rules made by a local authority for the regulation of its affairs or management of the area it governs.

1. Compliance Requirements

- (1.1) Traders are required to comply with the directions of the Market & Street Trading Manager at all times.
- (1.2) Traders are required to comply with, and ensure compliance by their employees and other persons acting upon their behalf, the provisions of their consent, these Management Regulations, the Shoppers' Charter and Food Stall Guidance, any and all Acts of Parliament, statutory regulations, byelaws or rules and regulations made by a competent authority or notified by the Landlord.
- (1.3) Traders are required to conduct themselves in a manner which does not cause a danger, annoyance, nuisance or impediment to any other persons, traders, neighbouring businesses, members of the public or Landlords' representatives. This includes the use of threatening or abusive behaviour, foul language, substance abuse or drunkenness whilst attending street trading.
- (1.4) Goods that are counterfeit, offensive or dangerous may not be sold via street trading.
- (1.5) Traders are required to comply with any supplementary rules or regulations as may be notified by the Landlords by way of general notice or declaration from time to time.

2. Trading Days

- (2.1) Trading days are: Monday - Sunday of each week.
- (2.2) The street trading will be closed on Christmas Day. Other days will be advised with at least 2 months' notice unless there are exceptions circumstances.

3. Hours of Access and Trading

- (3.1) Access for setting-up shall be no earlier than 0500 hrs. on the day of trading.
- (3.2) All stalls shall be occupied by 0900 hrs unless otherwise directed by the Market & Street Trading Manager.
- (3.3) If an unoccupied stall is the subject of a monthly consent then the Trader will remain liable for payment of the fee for that day notwithstanding his/her non-attendance.
- (3.4) All vehicles and rollcages, pallet-lifters or other equipment must be removed from the street trading by 0845 hrs.
- (3.5) Permitted trading hours are 0830 – 1700 hrs on each trading day unless otherwise directed by the Landlord.
- (3.6) Vehicles shall not return onto the street trading before 1600 hrs and must be removed by 1800 unless otherwise directed by the Market & Street Trading Manager.
- (3.7) Stalls shall be kept clean, tidy, stocked and attended in accordance with your consent during trading hours.
- (3.8) In the event of temporary absence of the Trader a responsible adult person shall be left in control of the stall.
- (3.9) Works affecting the street trading. Whenever possible, Traders will be given prior notice of maintenance and other work on and around the street trading which could affect their trading activities. The Council will not be liable for any direct or consequential loss arising from work affecting the street trading.

4. Access by Vehicles

- (4.1) Traders shall comply with the permitted access hours and any traffic management directions made by the Market & Street Trading Manager .
- (4.2) Traders are required to comply with all Traffic Regulation Orders affecting the public highway. Details are available from the Colchester Borough Council website: www.colchester.gov.uk/markets
- (4.3) Whilst loading / unloading all vehicles must be positioned so as to avoid obstructing other vehicles in road and deliveries to adjacent stalls or shops. Vehicles must be unloaded and loaded without delay and not left unattended with their engine running. Once unloaded or loaded they must be removed from without delay.
- (4.4) Only vehicle types and trailers authorised by the Market & Street Trading Manager shall be brought into the area.. All vehicles and trailers shall be roadworthy, insured and in possession of an MOT certificate and current road fund licence. All drivers must possess a full UK driving licence and be insured to drive same.
- (4.5) Parking on pedestrian crossings, public or private access roads, passageways, pavements or property in the vicinity of the street trading is prohibited. Traders and their employees should park in town centre car parks.
- (4.6) Any spillages of oil, fuel or any liquid must be immediately cleaned-up and reported to the Market & Street Trading Manager. Vehicles that leak oil or fluids will not be allowed onto the street trading and the filling or emptying of fuel tanks whilst attending the area is expressly prohibited.

5. Terms for Consents

- (5.1) Traders are granted a consent to occupy a specific “pitch” (space for a stall) on specified day/s of the week in return for a fee (“charge” or “fee”) payable in advance.
- (5.2) Consents are for a term of between 1 day to 1 year and do not create entitlement to trade for any longer period. The Market & Street Trading Manager will contact Traders prior to the end of the consent to establish if the Trader wishes to continue hire for a further consent period.
- (5.3) Traders may be deemed to be “casual” traders if they apply for a stall a week in advance when payment, insurance and vehicle documents will need to be shown.
- (5.4) Casual traders do not benefit from the allocation of a particular pitch. The Landlords’ intention is to ensure occupancy of all pitches. The Market & Street Trading Manager may allocate casuals to unoccupied stalls and pitches at their discretion and will take into consideration past attendance and the goods being offered.
- (5.5) Traders are expected to attend in person on all the trading days specified in their consent. Non-attendance by a consented Trader without good reason may result in non-renewal of your consent. In the event of non-attendance the Market & Street Trading Manager has the discretion to waive the fee payable for that day in exceptional circumstances.
- (5.6) It is the responsibility of traders to notify the Market & Street Trading Manager or his/her designated colleague of any delay in attending (for example, because of illness, vehicle breakdown or other reasonable cause beyond the trader’s control). In the absence of doing so, Traders who fail to attend their stall by 08.15 may not be permitted to trade on that street trading day. No refund of stall fees will be paid in these circumstances. The Council may reallocate the stall to another Trader in such circumstances.
- (5.7) For all other absences Traders must advise the Market & Street Trading Manager as soon as is reasonably possible in advance of the trading day and by no later than 07.30am on the trading day in question. The Council reserves the right to reallocate the pitch for that

day. No 'like for like' product line will be allocated in place of the absent Trader. Failure to attend without formally notifying the Market & Street Trading Manager, other than in exceptional circumstances, and after two un-notified absences per consent period, will be considered a disciplinary offence.

- (5.8) It may be necessary to relocate pitches from time to time. The Landlords will give Traders as much notice as possible in this event. However, this may be on the street trading day itself in exceptional circumstances.
- (5.9) The Trader must not assign, transfer, sub-consent or licence the benefit of this consent to any other person or company.
- (5.10) Annual Leave Entitlement: A two week annual leave entitlement from April to March will be provided to Street trading Traders who are subject of a 6 month or annual consent.
- (5.11) Traders will be expected to give the Market & Street Trading Manager two weeks' notice in writing of any intended annual leave. This is required to allow the Council sufficient time to plan for filling the space vacated by the permanent consented Trader. During the time the Trader is absent the Council may reallocate their pitch/es to another Trader.
- (5.12) The number of Traders given annual leave on any one trading day will be limited to a maximum of 5 individual traders.
- (5.13) The Council reserves the right to refuse holiday requests for any reason whatsoever if it feels that there would be a detrimental effect to the financial viability of the Street trading.
- (5.14) The Council reserves the right to charge any Trader the full cost of repair or renewal to any Council property related to street trading where, in the reasonable opinion of the Council, the Trader or anyone working with the Trader caused the damage.
- (5.15) Any temporary structure erected as part of street trading must be suitable for the purpose intended, of good condition and erected by competent persons.
- (5.16) Traders must not leave any goods, articles or equipment outside street trading hours without the prior written consent of the Market & Street Trading Manager.
- (5.17) Where access to the interior of street trading pitch is restricted by a kerb Traders must offer mobility impaired customers an assisted shopping service.

6. Payment of Fees

- (6.1) Traders' fees are payable by Standing Order in advance of trading days and must be set up as soon as practically possible after entering into the consent.
- (6.2) Failure to maintain a Standing Order may result in termination of consent.
- (6.3) Where there is non-attendance by a Trader not agreed with the Market & Street Trading Manager in advance no refunds of fees will be given.
- (6.4) If adverse weather conditions or similar prevent trading for part or the whole of the day the Market & Street Trading Manager has the discretion to close all or part of street trading.
- (6.5) Non-attendance by a Trader on a regular basis or without good reason may result in termination of their consent.
- (6.6) The fee for the collection of unpaid stall fees on each occasion will be £10.

7. Size of Pitches

- (7.1) Stall pitches are sized as per the stall layout plan and rents are calculated per stall as per the schedule of fees as set out by the Landlords on the Colchester Borough Council website: www.colchester.gov/markets Pitches and stalls are licensed individually or as multiples of same and rents calculated accordingly.
- (7.2) Stall sizes are shown in Appendix 2 of the Street Trading Policy, pitches shown represent the licensed trading area. The space in front of the stall is for the purpose of serving

customers and pedestrian access only. 'Standing out' of stock onto the pavement is not permitted.

- (7.3) All storage and stock must be held within the licensed trading area.
- (7.4) Traders shall use only the stall(s) or pitch(es) licensed or allocated to them. They shall restrict their stall and any goods display area to within the extent of the licensed area. Extension bars beyond the boundary of the licensed pitch are not permitted except to dimensions and location(s) expressly authorised by the Market & Street Trading Manager which can be withdrawn at any time. The standing-out of goods on the ground in circulation aisles outside the pitch is forbidden.
- (7.5) Any goods which are hung from overhangs must not obstruct circulation aisles or present any risk of injury to the public or passing traffic.
- (7.6) Traders are required to provide cable mats (at their own expense), to ensure that trailing cables do not present trip hazards or any other hazard and are suitably protected.
- (7.7) All traders using liquid petroleum gas (LPG) must conform to LPG Code of Practice 24 and have the current annual Gas Safety Inspection certificate **on site**.
- (7.8) All traders using LPG must provide a suitable, serviceable fire extinguisher which must be located near the appliance (also see Fire).
- (7.9) Suitable hazard signage must be displayed so as to comply with the Health and Safety (Safety Signs and Signals) Regulations 1996.
- (7.10) All pallets, trolleys, rollcages, pallet-lifters or other equipment brought into the street trading area by a Trader must either be removed or stored within a stall during trading hours. They must not be used as an addition to a stall or for displaying goods or storing refuse.
- (7.11) Traders must exercise due care and attention of the stall frame, the canopy, awning and electricity supply at all times.

8. Charity Stalls

- (8.1) The number of charity stalls will be limited to 5% of the total number of stalls in any one trading day.
- (8.2) Charity stalls can be booked no more than two weeks in advance subject to availability.
- (8.3) The use of stalls at 50% discount by charities remains subject to these Management Regulations.
- (8.4) The Landlord reserves the right to terminate discounted bookings without notice.

9. Traders' Signage

- (9.1) All Traders of foodstuffs shall display their name and address in a prominent position on the stall. All other traders shall display a prominent sign showing no less than their name and the number of their stall.

10. Sale of Fresh Food

- (10.1) It is the responsibility of Traders to ensure all edible goods sold on via street trading are handled, displayed, priced and sold in accordance with trading standards' requirements and food safety regulations. Best practice concerning the sale of fresh food is contained in a separate food safety document 'Guidance to Mobile Traders at Markets & Outside Events' and forms part of these regulations.
- (10.2) All fresh foods must be stored and displayed in accordance with the EU food hygiene regulations and all edible goods including greengrocery stored displayed and sold at least

18 inches (0.5 metres) from the ground to protect all foodstuffs from the risk of contamination.

- (10.3) Some types of goods may require refrigeration.
- (10.4) Traders of foodstuffs must possess a Chartered Institute of Environmental Health Level 2 certificate in Food Safety in Catering (more details can be found here: www.colchester.gov.uk and search for Food Hygiene Courses).

11. Refuse Disposal

- (11.1) No waste or refuse shall be brought into the street trading area. Only waste or refuse generated during the course of that days' trade is allowed.
- (11.2) Traders shall keep their stall(s) and the surrounding area free of trade waste/refuse and litter during trading hours and remove it as necessary.
- (11.3) Traders shall not discharge any noxious or foul liquid waste onto the paving except for washings discharged directly to the street gulleys. At close of trading any gulley into which washings have been discharged shall be rinsed with clean water and the surrounding area left clean and tidy.
- (11.4) Traders shall not place any waste into a refuse compactor, cardboard baler or collection vehicle.
- (11.5) At the end of the street trading day, and at regular intervals throughout it, Traders must ensure their stall and surrounding area is cleaned and clear of all refuse and waste, and the surfaces around their pitch left safe and without hazard to others. All stall(s) and pitch(es) shall be left clean and clear of refuse at the close of trading.
- (11.6) Traders have a legal duty of care to maintain the health and safety of their employees, other Traders and visitors to their stall. It is also the sole responsibility of Traders to ensure the safe management of waste in and around their stall, which if not handled properly can cause surfaces to become hazardous for slips, trips and falls.
- (11.7) Waste Disposal employees are not authorised to enter a Trader's stall to collect waste, and it is solely the Trader's responsibility to prepare all waste for collection using the appropriate methods.
- (11.8) Traders are required to comply with the recognised cleansing standards, which have been adopted by the council.
- (11.9) The Council will carry out the regular cleansing of the street trading area as necessary to maintain their effective operation.
- (11.10) Traders must ensure that their stall and any adjoining passages, whether used by them or in conjunction with other Traders, are properly swept from time to time and shall ensure that litter is not allowed to accumulate.
- (11.11) Traders who produce food waste must dispose of it in the correct food waste receptacle as directed by the Council.
- (11.12) Traders must flatten any cardboard waste they produce and dispose of it in the correct recycling cardboard container.
- (11.13) Traders must not put their trade waste in public litter bins.
- (11.15) A supplementary charge of £25 will be levied upon Traders who fail to comply with these requirements on any street trading day.

12. Prohibited Goods

- (12.1) Traders shall not bring onto the street trading any inflammable liquids, gases, fireworks or similar articles which may cause fire or explosion. The exception being a gas supply for cooking food upon such conditions as the Market & Street Trading Manager may direct.

- (12.2) No goods may be displayed or sold which in the opinion of the Market & Street Trading Manager are inappropriate, dangerous or likely to cause offence to other traders or members of the public.
- (12.3) No goods may be displayed or sold that are counterfeit or in breach of copyright or patent.
- (12.4) No mains-powered electrical goods may be sold except for new items still in their original packaging.
- (12.5) Secondhand or used electrical goods may not be sold, even if PAT-tested.

13. Health & Safety Requirements

- (13.1) All Traders are required to undertake a risk assessment for their pitch as any change to operation occurs. This is to include set up, break down, supplier deliveries as well as trading and should be provided to the Market & Street Trading Manager. The form for the risk assessment can be found on www.colchester.gov.uk/markets . The Market & Street Trading Manager reserves the right to refuse trading if the risk assessment is not submitted or if, in the opinion of the Market & Street Trading Manager, is not suitable and sufficient for purpose.
- (13.2) The Landlord shall not be liable for damage to any property or for any losses claims demands actions proceedings damages costs or expenses or other liability incurred by the Licensee or any employee of the Licensee or any person or body authorised by the Licensee to be within the Street trading area. Nor shall the Landlord be liable for any such loss suffered by a visitor or member of the public except where caused by the proven negligence of the Landlord and shall indemnify the Landlord against all actions proceedings costs claims demands damages charges and expenses whatsoever arising out of the discharge of the Consent to trade.
- (13.3) Fuel supply is to be used to assist trading only.
- (13.4) All traders are required to comply with all health and safety directions issued by the Market & Street Trading Manager. Such instructions are supplemental to and do not vary these regulations.
- (13.5) There are significant health & safety risks posed to themselves, the public and other traders whilst traders deliver goods and assemble or dismantle stalls. Traders must input to and be aware of the street trading's risk assessment (available on www.colchester.gov.uk/markets) and devise and implement suitable safeguards to minimise risks in their working methods using the risk assessment form provided.
- (13.6) If adverse weather conditions or similar present a risk to trading for part or the whole of the day the Market & Street Trading Manager has the discretion to close the street trading.
- (13.7) All electrical equipment must be PAT (Portable Appliance Tested) and a certificate of proof must be presented on application for a license to trade.
- (13.8) Smoking is not permitted by Traders, their employees and suppliers within or near street trading stalls in line with 2007 legislation which banned smoking in enclosed/substantially enclosed workplaces and public spaces. Traders should not serve members of the public in any instances whilst smoking. This is to protect traders, their employees, suppliers, neighbouring traders and their stock as well as customers.
- (13.9) All traders are required to:
 - *Familiarise themselves with all Health and Safety instructions issued by the Market & Street Trading Manager.*
 - *Ensure all employees agents and consentors are adequately informed, instructed, supervised and trained in health and safety matters.*
 - *Take reasonable care of their personal health, safety and welfare and that of others who may be affected by their acts or omissions.*

- *All persons shall wear high visibility vests when setting up/dismantling stalls and loading goods.*
- *Make available and ensure the use by themselves and all employees or staff of appropriate personal protective clothing and equipment suited to the task.*
- *Assist the Landlords by reporting any accident or incident that has or may cause injury to a person or damage to plant or property.*
- *Co-operate and comply with all directions of the Landlords to ensure compliance with all statutory responsibilities and to ensure all instructions regarding health and safety issues are understood and applied by employees, agents and consentors.*

(13.10) Traders are required to pay particular attention to the hazards of:

- *Vehicle movements – Reversing, towing stall trailers and unattended stall trailers.*
- *Stall erection – Handling of components and stability of partly-constructed frames.*
- *Sheeting – Fixing of stall sheets and clips during windy conditions.*
- *Trip hazards - Stall components, stock and electrical cables that create a trip hazard.*
- *Electrical safety - Power and lighting distribution from the supply boxes.*
- *Training – The use of unsupervised or untrained staff to set up and dismantle stalls.*
- *Working at height – set up and dismantling of stalls when standing on steps or trailers*

14. Accidents

- (14.1) All accidents and “near misses” involving Traders, their staff or members of the public must be reported immediately to the Market & Street Trading Manager for investigation and entry in Colchester Borough Council’s Incident Report form (IRF07). It is the responsibility of Traders to report all notifiable accidents and “near misses” occurring during stall set up and dismantling to the HSE, as required by legislation.
- (14.2) Traders should ensure their stalls are equipped with a First Aid Kit.

15. Traders’ Insurance and Identity Requirements

- (15.1) All licensed and casual Traders are required to hold and maintain valid insurance cover for third party public and products liability with a limit for claims of not less than £5 million, and employers’ liability insurance cover with a limit for claims of not less than £10 million. By virtue of their consent and these regulations each Trader shall extend a matching indemnity to the Landlords and their agents, employees and authorised representatives. Traders shall provide evidence of insurance cover upon application for a consent to trade.
- (15.2) Prior to the first days’ trading Traders will be required to supply proof of your right to work in the UK. (UK Passport, driving licence or national insurance number will be sufficient). This data will be kept secure and confidential between the parties.

16. General Conditions

- (16.1) No animal shall be brought onto the street trading except as authorised by the Market & Street Trading Manager.
- (16.2) No child shall be employed upon the street trading except in accordance with statutory legislation.
- (16.3) The “pitching” of goods (shouting to advertise their availability) is allowable at the discretion of the Market & Street Trading Manager.
- (16.4) Any sale by auction, canvassing, street trading research or personal questionnaire or any stall advertising or promoting a political or religious organisation is expressly forbidden.

- (16.5) Radios or other sound equipment may be played subject to the approval of the Market & Street Trading Manager approval but not so loudly as to cause nuisance to other Traders, neighbouring businesses or the general public.
- (16.6) Traders shall not display or sell any goods other than those described on their consent, or in the case of a casual Trader those described to the Market & Street Trading Manager on the day of trading.
- (16.7) Traders may only extend or change product lines with the agreement of the Market & Street Trading Manager (which shall not be unreasonably withheld).

17. Conduct, Disciplinary, Complaints and Appeals Procedure

- (17.1) Traders are responsible for their own conduct and that of anyone working on or in connection with their stall at all times while they are on the street trading.
- (17.2) A breach of these regulations/terms and conditions by anyone working on or in connection with a Trader's stall will be deemed to be a breach by the trader.
- (17.3) Traders will be liable to immediate suspension and/or termination for breaches of the regulations arising out of their conduct by the Market & Street Trading Manager which is considered by the Council to be gross misconduct. In the event that a consent is terminated, the Trader shall not be entitled to compensation from the Council. The circumstances of the case will be considered by the Head of Service.

Examples of gross misconduct which will normally justify termination of a consent are outlined below:

- Dishonesty.
- Under the influence of alcohol or illegal substances.
- Assaulting a member of the public, Council staff or another Trader.
- Verbal abuse, the use of foul or abusive language, harassment, intimidation, discrimination or bullying towards a member of the public, Council officers or other Trader(s).
- Interfering in any way with the business of another Trader.
- In the reasonable opinion of the Market & Street Trading Manager, the Trader brings the street trading into disrepute.
- Failure to comply with the requirements of consumer protection legislation.
- Failure to comply with the requirements of food hygiene regulations.
- The Trader has been convicted of selling counterfeit products or has received a formal caution, formal warning or such other similar measure from the Trading Standards Service or any other enforcement agency.
- The Trader has persistently failed to make payment of the fee, within the time limit set.
- The Trader has failed to comply with the health and safety legislation affecting the street trading sites or any health and safety requirements notified to the Trader by the Council.
- The Trader consistently fails to honour a direct debit for the payment of stall fees.
- The Trader fails to attend the pitch they are licensed to attend for 5 weeks or more during the course of a 6 month consent, 10 weeks for a year consent.
- The Trader persistently infringes the Street trading Regulations.

In the event that a Trader's consent is suspended rather than terminated and there is no prescribed penalty, the length of suspension will be decided by the Head of Service.

All complaints involving stallholders and staff are dealt with in accordance with Colchester Borough Council's formal complaints procedure (more details here: <http://www.colchester.gov.uk/article/12804/Compliments-Complaints-And-Comments>)

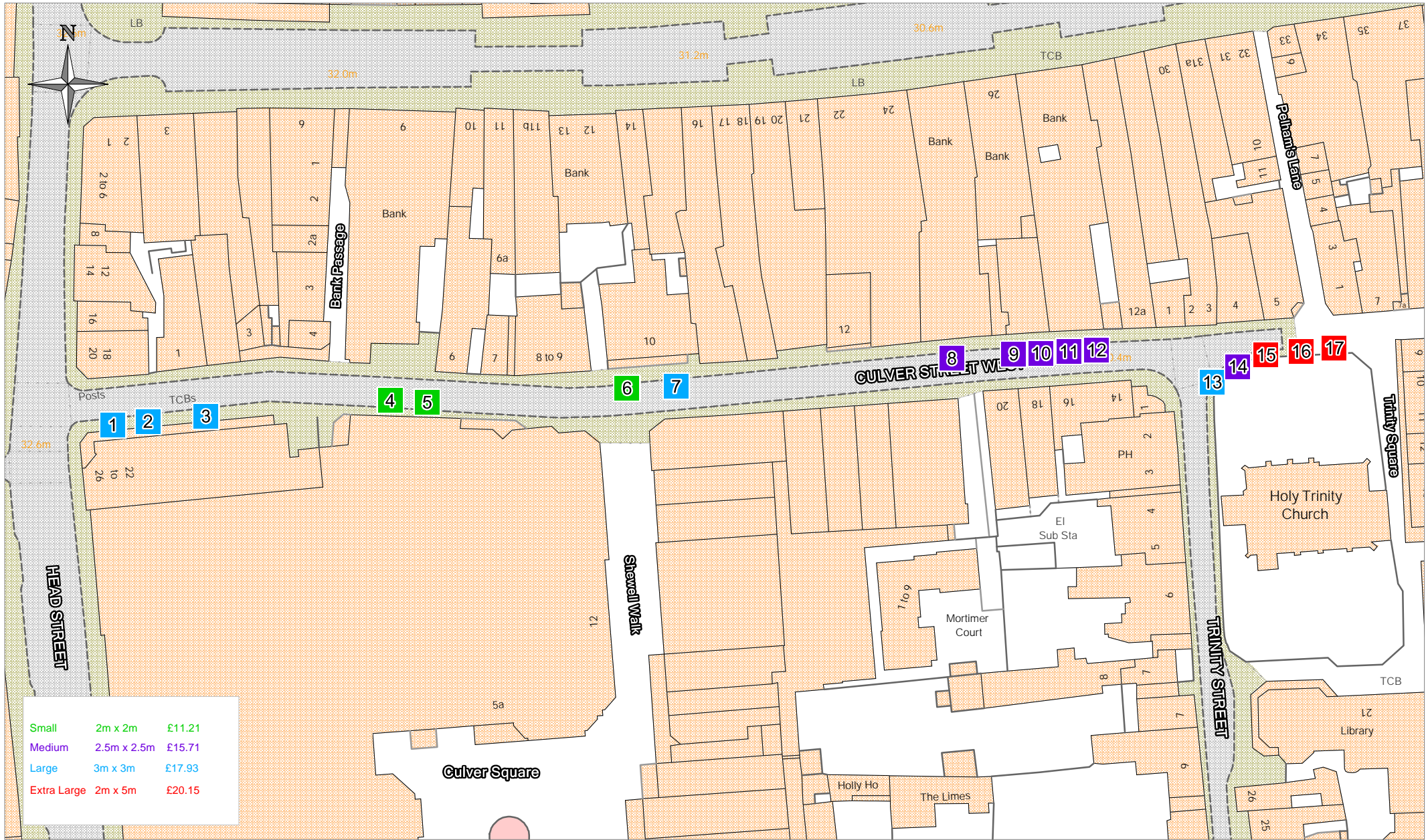
Complaints should be made in the first instance to the Market & Street Trading Manager who will seek to resolve same and issue a direction. If the complainant is not satisfied with the result he or she may complete the form in the link above which commences Colchester Borough Council's complaints procedure.

- (17.4) Complaints will be treated in confidence and all parties notified of the complaint and given the opportunity to respond. The complainant will be required to substantiate same under normal rules of evidence. If complaints are found to be vexatious then disciplinary action will be taken against the complainant.
- (17.5) Complaints made by a member of the public against any Trader will be notified to him/her in private and the Trader requested to resolve the dispute.
- (17.6) Any substantiated complaints may result in the revocation of a Trader's consent.
- (17.7) Breaches of rules or regulations will normally be discussed with the Traders concerned as soon as the Consent & Street Trading Manager is aware of any breach. Traders will normally be asked to correct any breaches or comply with any rules in the first instance.
- (17.8) If a Trader does not comply with a verbal request, or if a further breach occurs on the same day, then a formal written notice will be issued as soon as possible.
- (17.9) Any written notice issued in (17.8) will remain active for a period of 6 months, if a further written notice is issued during this period the Trader will be automatically suspended for the next trading day.
- (17.10) If any Trader incurs two periods of suspension in any period of 12 months then their consent will be terminated. Traders will be permitted to reapply for a pitch but will be placed at the bottom of any waiting list.
- (17.11) Traders suspended or removed from the Street trading are still liable to the fees due for any period of absence under their consent.
- (17.11) Disciplinary matters will, in the first instance be dealt with by the Market & Street Trading Manager and if necessary be referred to the appropriate Council Manager.
- (17.12) The Council will discuss any issue and give reasons for their decision in the first instance.
- (17.13) If a Trader is not satisfied with the explanation or decision they may contact the Council who will review any action and respond in writing stating their decision if required.
- (17.14) A Trader who has been suspended from the street trading or whose consent has been terminated, or has been refused permission to transfer their consent to another Trader, may appeal in writing to the **Head of Service** within five working days from, but not including, the day the Trader is notified of the decision against which they wish to appeal.
- (17.15) The Trader is entitled to request a hearing to make representations to explain why the decision against which they wish to appeal should be overturned. Such request must be made at the time of submitting the written appeal.
- (17.16) The **Head of Service** will conduct the hearing of the appeal in person within 28 days of receipt of the written appeal.
- (17.17) In considering any appeal the **Head of Service** will have regard to any relevant documentation and may call to give evidence such person, including the Trader in question, as he/she considers appropriate.
- (17.18) Traders attending an appeal will be entitled to bring with them a friend or colleague or, if they are a member of the National Street trading Traders' Federation, a local representative of the NMTF who are allowed to speak on their behalf.
- (17.19) The written decision of the **Head of Service** will be sent to the Trader within 14 days of the hearing to the registered address of the Trader, and will include an explanation of the

reasons for the decision. There shall be no further appeal from the decision of the **Head of Service**.

(17.20) Any complaint regarding a Council employee by a Street Trader should go to the **Head of Service** or to the **People & Performance Manager** within the HR Service for management of the complaint.

Street Trader Pitches: Proposed



Street Trader Pitches: Proposed

