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**SCARBOROUGH BOROUGH COUNCIL**

# **Street Trading Policy**

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# SCARBOROUGH BOROUGH COUNCIL'S POLICY ON STREET TRADING

## Local Government (Miscellaneous Provisions) Act 1982 Schedule 4

A Street Trading Consent is required if you wish to sell any articles (including a living thing) in a street to which the public have free access **without payment**. This includes **privately owned land**.

### 1.1 Policy Interpretation

Throughout this Policy:

**'The Act'** means the Local Government (Miscellaneous Provisions) Act 1982 Schedule

**'The Council'** means Scarborough Borough Council;

**'Consent'** means Street Trading Consent;

**'Consent Holder'** means Street Trading Consent holder;

**'Consent Area'** means the approved area/site for street trading;

**'NYCC Highways Authority'** means North Yorkshire County Council Highways Authority;

**'The vehicle/stall'** means any stationary van, cart, barrow, other vehicle or portable stall;

**'Authorised Officer'** means a Council Officer authorised under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982; and

**'Authorised Assistant'** means the individual who has been authorised by the Council to trade and has been provided with an identification badge;

### 1.2 Introduction

- a) This Policy will deal with all applications for Street Trading Consents within the Borough of Scarborough and it will guide the Council in considering applications for Consents. It will inform applicants of the parameters within which the Council will make decisions.
- c) This Policy recognises that North Yorkshire County Council is the principal Highways Authority with responsibility for the maintenance of highways and the Council will continue to work cohesively with the NYCC Highways Authority in all aspects related to street trading in the Borough of Scarborough.
- d) The Council is mindful of its duty under s17 of the Crime & Disorder Act 1998 where the Council has a duty to exercise its functions on, and the need to do all that it can to prevent crime and disorder in its area.

## **2. POLICY OBJECTIVES, REVIEW & CONSULTATION**

### **2.1 Policy Objectives**

The overall objectives of this Policy are to:

- a) regulate the amount of street trading within the Borough;
- b) ensure that any permitted street trading is properly regulated as to where, when and how it takes place;
- c) prevent obstruction of the Borough's highways;
- d) ensure that street traders and those that they employ are 'fit and proper' to hold a permit;
- e) ensure the safety of the public and of the traders permitted to trade;
- f) ensure that any activities do not cause nuisance or annoyance to the general public and those traders surrounding the permitted street trader;
- g) permit temporary or occasional street trading, where appropriate; and
- h) create a street trading environment that complements premises-based trading, is sensitive to the needs of residents, provides diversity and consumer choice and seeks to enhance the character, ambience, vibrancy and safety of the local environment.
- i) To ensure that appropriate safeguarding measures are in place for children and vulnerable persons and, where concerns are raised, the North Yorkshire safeguarding procedure will be implemented.
- j) To balance the needs of the Borough's residents and permanent traders with the need to encourage local business into the community thereby enhancing the image of the Borough.

2.2 The Council recognises the importance of local businesses to the local economy and that occasional or community run events and those of a similar nature are important factors.

### **2.3 Policy Review**

2.4 This Policy will be kept under review and a full consultation exercise carried out when major changes are made to it. It is anticipated that major reviews of the Policy will take place every 5 years. However, the Policy will be regularly evaluated and may be changed at any time to reflect minor, administrative or legislative changes or to amend any inconsistencies between the legislation and policy without a full consultation process being carried out. Any such changes will be agreed by Full Council.

2.5 Examples of "major changes" are changes that are:

- a) likely to have a significant financial effect on consent holders; or
- b) likely to have a significant procedural effect on consent holders; or
- c) likely to have a significant effect on the community.

## 2.6 Consultation

2.7 In determining this Policy the Council has undertaken widespread consultation and has consulted with the following people and bodies:

- Existing licensed traders based in Town centres
- Other known street traders
- General public via an on-line survey on the Council's web-site
- The Council's Overview & Scrutiny Board
- The Chamber of Trade
- North Yorkshire Police
- North Yorkshire County Council
- North Yorkshire Fire and Rescue Service
- Other interested stakeholders such as the Council's Estates, Property, Legal, Finance, Economic Development and Tourism Services.

2.8 The Council has taken into account the views of all the appropriate bodies and organisations.

## 3. LEGISLATION RELATING TO STREET TRADING

### 3.1 Definitions

3.2 Street Trading for the purposes of the Act is defined as: *"the selling or exposing or offering for sale of any article (including a living thing) in a street"*.

3.3 A street is defined as *"any road, footway, 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, and also includes part of any street"*.

### 3.4 Exempted street trading activities

3.5 Some types of street trading are legally exempt from the need to obtain a Street Trading Consent.

3.6 A Street Trading Consent is **not required** if you are:

- a) A pedlar with a valid pedlar's certificate issued by a chief constable of police
- b) Trading in a charter market or a statutory market
- c) Trading in a trunk road picnic area under the Highways Act 1980
- d) Trading as a news vendor within a maximum area of 0.25 square metres and only sell newspapers and periodicals
- e) Trading as a roundsman
- f) Undertaking a permitted street collection
- g) Trading on premises used as a petrol station or on the street adjoining premises used as a petrol station and you own the shop or petrol station
- h) Trading in a kiosk placed on a highway under the Highways Act 1980
- i) Operating refreshment facilities under the Highways Act 1980.

3.7 As a matter of policy, a Street Trading Consent will also **not be required** for the following activities:

- a) Sales of articles by householders on land within the curtilage of their property, for example garage sales.
- b) Goods from working farms or smallholdings sold at the premises where they were produced.
- c) Trading as part of an established travelling fair where permission for the event has already been granted by Scarborough Borough Council.
- d) Non-commercial, community or charitable events where the profits are not used for private gain or are wholly passed to a charity, educational organisation or community based organisation.
- e) Annual events that are essentially non-commercial i.e. community or charitable events provided that:
  - the event organisers have consulted with residents and businesses prior to holding the event.
  - a letter of intent from the event organisers is submitted to the Licensing Authority a minimum of 10 working days prior to the event providing details of the event.
  - traders attending the event are pre-booked by the event organisers.

### **3.8 Street Designation**

3.9 Scarborough Borough Council has adopted Schedule 4 of the Act for the whole of its area and on 9 May 2017 made a Resolution to determine that all streets within the Borough of Scarborough are designated as 'consent streets' with effect from 9 May 2017. The effect of this designation is that street trading in any street within the Borough is not permitted without first obtaining Consent from the Council.

3.10 Any person who engages in street trading without first obtaining Consent from the Council is guilty of an offence.

### **3.11 Examples of Street Trading**

#### **3.12 Special Events (including Commercial Events, Non-chartered, Continental or Themed Markets and Farmer's Markets etc.)**

3.13 Events held to raise funds for charitable purposes; community projects or other similar worthy causes are expected to fall within the exemptions outlined at Section 3.7 of the Policy. In cases of doubt, an Authorised Officer using delegated powers shall determine whether an event is eligible to benefit from the exemption or not.

3.14 In respect of commercial events, non-chartered markets etc. it is recognised that some of these events the Consent fee for such events is determined by the number of traders attending the event. Organisers of these events should ensure that any additional costs for obtaining the relevant Consent is reflected in the fee they charge traders.

### **3.15 Car Boot Sales**

3.16 Organisers of a car boot sale to which the public have access **without payment** must apply for Consent.

### **3.17 Commercial selling of vehicles on the highway**

3.18 The commercial selling of a vehicle on the highway falls within the scope of street trading and therefore a Consent is required from the Council. Additional restrictions are set out in Section 3 of the Clean Neighbourhoods and Environment Act 2005. This states that a person is guilty of an offence if at any time, acting in the course of a business selling motor vehicles, he leaves two or more motor vehicles parked within 500 metres of each other on a road or roads where they are exposed or advertised for sale.

### **3.19 Mobile Traders**

3.20 When an applicant for Consent seeks to trade from various different locations for short periods of time, e.g. fish and chip van or ice cream van, a Consent may be granted for multiple locations. Traders must comply with the additional conditions applicable to mobile traders outlined in this Policy (**see Appendix A4**).

## **4. APPLICATION PROCESS**

### **4.1 Application Process for New Street Trading Consent**

4.2 Consents may be applied for a maximum period of 12 months but shorter periods are also available.

4.3 An application for a Consent must be made by an individual either on line or in writing on the Council's approved application form. The individual applying for the Consent shall be the person responsible for the day-to-day management of the vehicle/stall and shall normally be present whilst trading is taking place. It is recognised that one individual may hold two or more consents and as such, it may not always be practical to be present whilst trading is taking place. Application forms are available from the Council at the address below or can be downloaded from the Council's website. The appropriate fee and required supporting documentation must accompany the application form.

4.4 Where the application is made on behalf of a company or corporate body the application must be made by the individual who is to be responsible for the day-to-day management of the vehicle/stall and who shall normally be present whilst trading is taking place.



4.5 The following must be submitted with the application form:

- a) A completed and signed Consent Application Form.
- b) An application fee of £100 for those seeking to street trade for up to 3, 6 or 12 months which is payable for an initial enquiry into the suitability of a proposed location. If the site is not approved then the £100 fee will be retained to cover administrative costs. If the application is approved the applicant must submit the balance of the relevant consent fee before the Council will issue the consent.
- c) A colour photograph of the applicant and any Authorised Assistant(s)
- d) Full names and addresses of all Authorised Assistant(s).
- e) A colour photograph of the vehicle/stall from which trading is proposed to take place
- f) Dimensions of the vehicle/stall and any identifying marks, e.g. vehicle registration, etc.
- g) In respect of an application for Consent to trade from a fixed site, a location plan of where the vehicle/stall will be positioned in an appropriate scale to identify the exact location of the vehicle/stall and surrounding areas and streets. The plan must clearly identify the proposed street trading site and the ground dimensions it will cover. In some instances further clarification of the exact location of the vehicle/stall may be required and applicants should note that this may delay the application process. This does not however apply to mobile traders.
- h) In respect of an application for Consent for mobile trading, a list of the sites from which trading is proposed to take place and proposed start and finish times of trading.
- i) A valid insurance policy for public liability of at least £2 million.
- j) Where the consent area is on private land written approval from the land owner;
- k) A basic criminal disclosure check with a date within three months of the application
- l) Any additional information the Council may reasonably require.

4.6 Once the above documents and relevant application fee have been submitted, the Council will carry out all necessary consultations in accordance with section 5 of this Policy before making a decision on whether or not to grant a Consent.

#### **4.7 Renewals**

4.8 Applications for renewal will only be considered for Consents of 12 months. The full renewal fee will need to be submitted with the completed application form. Applications for renewal of a Consent will be granted provided that no substantiated complaints have been received regarding: (i) the manner in which the Consent Holder has conducted their business; or (ii) the consent holder's or authorised assistant's conduct; and (iii) where no relevant objections have been received. In addition a new basic criminal record disclosure will only be required every 3 years.

4.9 All renewal applications must be submitted a minimum of 4 weeks prior to the expiry of the current Consent to allow for processing of the application. Generally no further consultation will be necessary when dealing with a renewal application, however, the Council reserves the right to consult where there are, or have been, concerns raised in the previous Consent period.

4.10 The responsibility for ensuring renewal of Consents rests solely with the consent holder, the Council will not send out reminders. If a renewal application and fee are not submitted then the Consent will lapse. A renewal application will not be accepted after the expiry of any existing Consent. The effect of this will be that a trader will not be permitted to trade until a new application and fee has been submitted and the Consent is granted.

#### **4.11 Fees**

4.12 Fees will be set, on a full cost recovery basis, by Full Council and will be reviewed on an annual basis. Current fees are published on the Council's website.

4.13 The application fee specified in section 4.5b) above must be paid upon application for a Consent. Failure to submit this fee upon application will result in the application or renewal being rejected.

4.14 Where the application for a grant or renewal of a Consent is refused, or subsequently withdrawn by the applicant, the application fee of £100 will be retained to cover the Council's administrative costs.

4.15 Where the Consent is revoked or surrendered the Council shall refund a pro-rata proportion of the application fee paid based on the outstanding number of full months for which the fee was paid. However, a reasonable administration fee will also be deducted in all such circumstances.

4.16 Although in some cases there may be no fee applicable, a Consent is still required in order for the Council to monitor trading in the area. Where there is any doubt on whether or not a trader is exempt from a Consent fee an authorised officer using delegated powers shall make the final decision.

4.17 Where trading is proposed on Council owned land, a fee will also be payable to the Council as landowner in respect of the use of its land. This will be calculated in accordance with usual valuation principles.

#### **4.18 Data Protection Act and Fair Processing**

4.19 Scarborough Borough Council will use the information you provide for the administration and regulation of street trading. We will comply with the Data Protection Act 1998 and will not disclose information about you to anyone outside Scarborough Borough Council, nor use information about you for other purposes, unless it is lawful to do so.

- 4.20 Scarborough Borough Council is under a duty to protect the public funds it administers. To this end we may use the information you provide for the purpose of the prevention or detection of crime, or for the assessment or collection of any tax or similar duty. We may also share this information with, or obtain information from, other public bodies administering public funds or law enforcement agencies.
- 4.21 Further information about our use of personal information can be found on the Council's website or by contacting the Council's Data Protection Officer.

## **5. DECISION MAKING**

### **5.1 Process**

- 5.2 Following receipt of a fully completed application for Consent, the Council will consult with the following:

- North Yorkshire Police
- NYCC Highways Authority
- Relevant Ward Councillors
- North Yorkshire Fire & Rescue Service
- The Council's Planning and Economic Development Services
- North York Moors National Parks Authority (where the site falls within the National Park)
- The Council's Environmental Services Department (Commercial Regulation and Cleansing services)
- The Council's Tourism and Culture Department (where relevant)
- The Council's Estates' Department (where the site is owned by the Council)
- North Yorkshire County Council's Trading Standards Service
- The Council's Safer Communities Department
- The Council's Legal Services Department
- The Council's Finance Department

In some cases additional consultation may take place as deemed appropriate for the circumstances of the application.

- 5.3 A period of 10 working days will be permitted commencing the day after the Council has received the application for consultees to respond with any objections or comments relating to the application for Consent. If no response is received from any consultees it will be assumed that they do not have objections/representations to make concerning each application.
- 5.4 All objections will be assessed against the principles set out in this Policy. An authorised Officer with delegated powers shall determine whether an objection is relevant.
- 5.5 In considering any application for the grant or renewal of a Consent, the Policy Objectives and the following factors will be taken into account:

## **5.6 Public Order**

Whether the street trading activity(ies) represents, or is likely to represent, any risk to public order.

A Consent will not be issued for a location or time period that may lead to or increase incidences of crime and disorder.

## **5.7 Public Nuisance**

Whether the street trading activity(ies) represents, or is likely to represent, any risk of nuisance to the public or other traders from noise, misbehaviour, odour, littering or other nuisances. In particular the Council's Byelaws must be complied with.

Particular regard to this will be had in respect of Consents in predominantly residential areas.

## **5.8 Public Safety**

Whether the location of the street trading activity(ies) represents, or is likely to represent, a significant risk to the public from the point of view of obstruction, fire hazards or unhygienic conditions, or danger that may occur when a trader is accessing the site.

## **5.9 Needs of the area**

Whether the demand for the articles proposed to be sold is already met in the geographical area by adequate and sufficient provision of other trading outlets already existing.

## **5.10 Highway Requirements**

The effect on users of the highway.

Whether there is sufficient space for a trader to engage in trading without causing undue interference or inconvenience to persons using the highway.

## **5.11 Suitability of Applicant**

Whether or not the applicant/consent holder is suitable to hold a Consent by reason of having been convicted of any offence, received a caution, failed to comply with a financial agreement with the Council, or for any other reason.

## **5.12 Suitability of Locations**

Consents to trade from static locations will not normally be granted where:

- Road safety would be compromised either from the siting of the trading activity itself, or from customers visiting or leaving the site;
- There would be a significant loss of amenity caused by additional traffic or disturbance (e.g. noise, odour, fumes, etc.);
- There is a conflict with Traffic Management Orders such as waiting restrictions;
- The site or pitch obstructs either pedestrian or vehicular access or traffic flows or places pedestrians in danger when in use for street trading purposes;
- The trading unit obstructs the safe passage of users of the footway or carriageway;
- The pitch interferes with sight lines for any road users such as at road junctions or pedestrian crossing facilities; or
- The site does not allow the Consent Holder, staff and customers to park in a safe manner.

## **5.13 Suitability of Vehicle/ Stall**

Whether the Vehicle/Stall is of a smart appearance such as to enhance the local environment

## **5.14 Environmental**

What impact the proposed trading might have on the local environment, including street surfaces and material, power supply, carbon footprint, supply chain, packaging, waste minimisation, waste disposal and waste created by customers and what mitigating measures are proposed to minimise environmental impact.

What impact the proposed trading might have on the character, ambience, vibrancy and diversity of the street scene within the Borough

## **5.15 Food Traders**

Whether or not an applicant seeking consent to trade in hot or cold food holds a current Level 2 Hygiene Certificate.

This list is not exhaustive and each application will be considered on its own merit.

- 5.16 As NYCC Highways Authority is the principal authority for the maintenance of highways any application for a Consent that prevents NYCC Highways Authority from undertaking its duties or compromises highway safety will be refused or revoked if NYCC Highways Authority recommends such action.

## 5.17 Decisions and Appeal

5.18 An Authorised Officer with delegated powers is authorised to:-

- a) Grant Consents under the Act to applications and renewal applications and attach such conditions as the Council deems necessary;
- b) Refuse any application for Consent where:
  - i. in the opinion of the Authorised Officer the application does not comply with the Council's criteria or Policy;
  - ii. objections have been received from any of the following consultees (North Yorkshire Police, North Yorkshire Fire & Rescue Service, NYCC Highways Authority) on the grounds of public or highway safety.
- c) Refer applications to the Licensing Sub-Committee for determination where:
  - i. Any matter may be referred to the Licensing Sub-Committee for final determination if an Authorised Officer considers this is appropriate for the particular circumstances of the case particularly if the issue is of a sensitive nature or may attract media attention.

5.19 The applicant and objector(s) will be advised that the application will proceed to a hearing of the Licensing Sub Committee within 20 working days from the end of the consultation period.

5.20 Following the determination of a new application, renewal or revocation, there is **no right of appeal** under the legislation against refusal to issue or renew a Consent. Therefore if an applicant is aggrieved by the Council's decision they have the option to make a corporate complaint or seek a Judicial Review of the decision made.

5.21 The Scheme of delegation which summarises key decision makers can be found in **Appendix B**.

## 6. GRANT OF CONSENT AND CONDITIONS

6.1 Following determination the Consent will be:

- a) Granted with standard conditions;
- b) Granted with standard and additional conditions; or
- c) Refused

6.2 Where a Consent is granted, the applicant will be issued with a Consent that must be available for inspection by an Authorised Officer or Police Officer at all times when trading. This Consent will specify the time and days authorised for trading including the consent area, type of vehicle/stall and description of goods for sale.

- 6.3 Standard conditions that will be attached to all Consents can be found at **Appendix A1** to this Policy. When granting or renewing a Consent the Council may attach such additional conditions as it considers necessary to any Consent. Additional conditions will be attached in respect of Consents for Markets, Special Events and Mobile Trading, **Appendices A2, A3 and A4**.
- 6.4 Failure to comply with the conditions of any Consent may lead to revocation or non-renewal of the Consent or prosecution.
- 6.5 The Council retains the right to amend and vary the conditions of a Consent at any time.
- 6.6 Consents shall not be assigned or transferred to any other person. If a business is sold the new owner of the business must apply to the Council for a new Consent and must not trade until the application has been processed and approved.

## **7 ENFORCEMENT**

- 7.1 In considering any enforcement action, the Council will bear in mind the Human Rights Act, in particular:
- Article 1, Protocol 1 – peaceful enjoyment of possessions.
  - Article 6 – right to a fair hearing
  - Article 8 – respect for private and family life
  - Article 10 – right to freedom of expression
- 7.2 The Council sets out below the principles to be applied in exercising its functions with regard to inspection and enforcement. The Council in carrying out its regulatory functions will follow the Statutory Code of Practice for Regulators, namely:
- Proportionate: only intervening when necessary
  - Accountable: justifying its reasons
  - Consistent: standards and rules to be joined up and implemented fairly
  - Transparent: simple and user friendly
  - Targeted: focused on the problem.
- 7.3 Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 sets out the offences for non-compliance with the provisions as set out in this Policy. Offences for which a person may be convicted and fined include for example:
- a) engaging in street trading in a consent street without being authorised to do so; or
  - b) contravening any condition of their Consent; or
  - c) making a false statement which he knows to be false, in connection with an application for a Consent

- 7.4 An Authorised Officer may visit the Consent Holder or Consent Area and inspect the vehicle/stall or other vehicle or premises that the applicant trades from to ensure compliance with the conditions and criteria set down within this Policy. Periodic inspections may occur during the consent period to ensure full compliance.
- 7.5 Standard conditions will be attached to all Consents detailing the holder's responsibilities to maintain public safety on the highway, avoid nuisance and generally preserve the amenity of the locality. Additional conditions may also be attached to a Consent. Failure to comply with any conditions may lead to revocation, non-renewal of the Consent or prosecution.
- 7.6 The Consent may be revoked, not renewed or conditions altered at any time by the Council by notice in writing. This may be for the following reasons although the list is not exhaustive:
- Non-compliance with policy, conditions or relevant legislation;
  - causing a nuisance to local residents/businesses;
  - changes in local conditions, e.g. parking restrictions;
  - the consent holder receiving a criminal conviction or caution;
  - compromising highway safety;
  - preventing NYCC Highways Authority from undertaking its duties;
  - street works necessitating a temporary suspension of the Consent; or
  - any other reasonable grounds
- 7.7 The Council retains the right to revoke the Consent without notice and without being liable to the consent holder or any other person for any loss sustained directly or indirectly, if it is considered to be in the best interest of the community and, if in the opinion of an authorised officer under delegated powers, that such action is necessary to promote the objectives within this Policy or for any other reasonable cause. Reasons will be provided for any revocation.

## **8. Contacts**

- 8.1 Applicants can contact Licensing Services at:

Licensing Services  
Scarborough Borough Council  
Town Hall  
St. Nicholas Street  
Scarborough  
YO11 2HG

e-mail: [licensing.services@scarborough.gov.uk](mailto:licensing.services@scarborough.gov.uk)

Telephone: 01723 232323



**APPENDIX A1**  
**STREET TRADING CONSENT STANDARD CONDITIONS**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 SCHEDULE 4**

- |                           |  |
|---------------------------|--|
| <b>Conditions</b>         | <ol style="list-style-type: none"><li>1. The Consent will stipulate the consent area, the type of vehicle/stall and description of goods and any other relevant information. The consent holder must comply with all conditions outlined in this Policy.</li><li>2. Failure to comply with any condition attached to the Consent may result in the revocation of such Consent.</li></ol>   |
| <b>Display of Consent</b> | <ol style="list-style-type: none"><li>3. A copy of the Consent shall be prominently displayed on the vehicle/stall to which it relates whilst trading is taking place so that it can be seen and read by persons intending to purchase any article.</li></ol>  |
| <b>Approval</b>           | <ol style="list-style-type: none"><li>4. Where the consent area is on private land the applicant for the Consent must first obtain prior written approval from the landowner and this must accompany the application.</li><li>5. Where the consent area is on publicly-maintained highway, unless approval is obtained from NYCC Highways Authority, no street trading activities will be allowed.</li><li>6. Where the consent area is on Council or NYCC owned land, unless approval is obtained from the Council or NYCC, no street trading activities will be allowed.</li></ol>   |
| <b>General</b>            | <ol style="list-style-type: none"><li>7. The grant of a Consent shall not be deemed to give any approval or consent which may be needed under any Byelaw, enactment or regulation other than Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.</li><li>8. The consent holder shall meet all statutory duties and obligations placed upon them relevant to the nature of the street trading, e.g. Planning consent, Health and Safety at Work, etc. Act 1974, Environmental Protection Act 1990, Food Safety Act 1990, Food Safety and Hygiene Regulations 2013, Regulation (EC) No. 852/2004, Regulatory Reform (Fire Safety) Order 2005, Cleaner Neighbourhoods &amp; Environment Act 2005, Licensing Act 2003. This list is not exhaustive and it is the responsibility of the consent holder to ensure full compliance of all relevant legislation in particular any relevant Highway legislation.</li><li>9. The consent holder is not and shall not hold himself out as being the servant or agent of the Council whether orally or in writing.</li></ol> |

10. The consent holder shall not hold himself out as having the power to make, vary, discharge or waive any byelaw or regulation of any kind.
- Age** 11. Consent holders and authorised assistants must be 17 years of age and over.
- Liability** 12. The consent holder must have a valid insurance policy for public liability providing cover to a minimum amount of £2,000,000, a certificate of which must be produced upon application.
13. There may be times when the permitted area will be unavailable due to utility, maintenance or construction works. This is a normal function of NYCC Highways Authority and utility companies and will not, therefore, be subject to compensation.
14. Nothing contained in these conditions shall relieve or excuse the consent holder or his employees or agents from any legal duty or liability and the consent holder shall indemnify the Council in respect of all claims, actions, demands or costs arising from the consent.
15. No damage shall be caused to the public highway as a result of the street trading activity taking place and the consent holder shall reimburse the Council's and/or NYCC Highways Authority's costs in repairing any damage caused.
- Commodities and Goods** 16. The consent holder shall not sell any type of food, goods or merchandise other than that specified in the Consent.
17. The consent holder must confine the selling of goods and merchandise within the approved consent area and will not be permitted to erect additional tables, awnings or any other structure.
18. There shall be no sale of goods that are likely to conflict with those provided by nearby shops and premises.
19. No live animals (e.g. mammal, reptile, fish or bird shall be permitted to be sold from any stall or vehicle.
20. The consent holder shall not knowingly allow the sale of any counterfeit/fake material and shall comply with any relevant Trading Standards legislation.
21. The consent holder shall not knowingly allow the sale of offensive weapons.

<b>Provision of Hot Food and Sales of Alcohol</b>	22. No trading of hot food or drinks shall be permitted before 5am or after 11pm or sales of alcohol unless a Premises licence has been issued or a Temporary Event Notice served on the Council and not objected to, in accordance with the Licensing Act 2003.
<b>Auction</b>	23. The consent holder shall not hold any auction or like sale.
<b>Trading Days &amp; Times</b>	24. Trading may only take place on the days and during the times specified on the Consent.
<b>Position</b>	25. The consent holder shall trade only from the consent area indicated on the Consent.
<b>Subletting/ Transfer</b>	26. The consent holder may employ any other person to assist in the conduct of the business but may not let, assign or part with his interest or possession under this Consent or any part thereof but he may surrender it at any time. The rights granted by the Consent cannot be sublet, transferred or shared with any other person or party and is personal to the consent holder.
<b>Change of address</b>	27. Consent holders shall notify the Council of any changes to their contact details as soon as it occurs, such as home address, telephone or email. A fee is applicable.
<b>Authorised Assistant(s)</b>	28. Consent holders shall notify the Council of any changes of authorised assistant(s) with their full names and addresses as soon as the changes occur. The consent holder shall also notify the Council of any changes of contact details of an authorised assistant(s). A fee is applicable.
<b>Badges</b>	29. The consent holder and authorised assistant(s) shall wear a street trader identification badge provided by the Council (cost to be borne by the consent holder) displaying the Consent number, the consent holder's trading name and the trader's/authorised assistant's name together with the Consent expiry date. However in respect of Special Events only the main organiser will be required to wear a street trader identification badge.  30. Where there are changes to any authorised assistant(s) the identification badge must be returned to the Council to avoid any fraudulent activity.
<b>Conduct</b>	31. Consent holders and any authorised assistant(s) shall ensure that the public and authorised officers are treated with courtesy at all times. Consent holders shall ensure that their authorised assistant(s) are competent, courteous and helpful.

- Risk Assessments**
32. The consent holder shall carry out a risk assessment to ensure that highway safety is not compromised and shall not prevent NYCC Highways Authority from undertaking its duties. The Council will revoke a Consent following any reasonable request from NYCC Highways Authority.
33. The consent holder shall carry out a fire risk assessment. If fire extinguishers are required they must be maintained in a satisfactory condition and regularly checked by a competent person or company.
- Nuisance/Danger**
34. The consent holder shall conduct their business in such a manner so as to ensure that they do not:
- (a) cause a nuisance to the occupiers of adjoining properties;
  - (b) cause an obstruction to the vehicles or pedestrians on the highway;
  - (c) cause a danger to occupiers of adjoining property or to other users of the highway; or
  - (d) cause annoyance or inconvenience to the users of the highway
- Vehicles/Stall**
35. A consent holder may trade in a consent street from a vehicle/stall. The consent holder shall only trade from a vehicle/stall described in the Consent.
36. Any vehicle/stall used must be positioned entirely within the approved consent area.
37. Any vehicle/stall used by a consent holder in the course of street trading shall be constructed and maintained in accordance with any relevant legislation and to the satisfaction of all reasonable requirements of the Council as to its construction, safety, appearance and any display of advertisements. A high standard of presentation and appearance will be expected. In addition, the consent holder shall maintain the stall or vehicle in a clean state at all times and its structure shall be kept in good order, repair and condition.
38. The vehicle/stall shall not be left unattended at any time and shall always be supervised by a person over the age of 17 years.
- Removal of Vehicle/Stall**
39. Vehicle/stalls shall be easily and immediately removable.
40. Outside of the permitted daily trading period the consent holder shall remove the approved vehicle/stall from the consent area together with any and all objects or things of any nature whatsoever placed by the consent holder in the

consent area (whether directly and ancillary to street trading or otherwise) which for the avoidance of doubt shall include (but shall not be limited to) planters, ornamental devices of any description, furniture, portable or other fencing, waste bins, heating and lighting apparatus, unless the Council has agreed otherwise previously in writing.

41. The consent holder or authorised assistant(s) shall remove the vehicle/stall and goods within a reasonable time after the expiry of the time for trading specified in the Consent.
42. The consent holder or authorised assistant(s) shall remove the vehicle/stall and goods for so long as may be necessary in the event of an emergency or in exercise of the Council's or NYCC Highway's powers and duties, if reasonably required to do so by an Authorised Officer or Police Officer.

**Road Closures**

43. No consent holder shall trade at his/her authorised consent area on dates when road closure directives are in place for special events otherwise than with the permission of the organisation applying for the closure order.

**Highway Surface**

44. The consent holder or his authorised assistant(s) shall not make any excavations or indentations of any description whatsoever in the surface of the highway or place or fix any equipment of any description on or in the said surface.

**Highways**

45. The consent holder and the vehicle/stall must comply with all relevant road traffic and highways legislation. Possession of a Consent does not override parking restrictions or other traffic regulations.

**Consent holder's vehicle**

47. A consent holder shall not leave his vehicle/stall in the street in which he trades, apart from in approved parking spaces, except for the purpose of loading and unloading goods. Such loading and unloading shall be carried out as quickly as possible and the vehicle removed immediately on completion. This condition shall not apply when waiting restrictions are in force.

**Refuse and Waste**

48. The consent holder and authorised assistant(s) must provide adequate refuse storage adjacent to the sale area. The storage must be of a substantial construction, waterproof and animal proof. The trade waste must be removed at the end of each working day or if the amount of refuse warrants it, when the container is full, whichever is the sooner. Public litterbins are not to be used.
49. The consent holder and authorised assistant(s) will be

responsible for keeping the area surrounding the vehicle/stall in a clean and tidy condition.

50. The consent holder shall make such provisions as are necessary to prevent the deposit on any street of solid or liquid refuse and no discharge shall be made into any surface water drains.
51. The consent holder or authorised assistant(s) shall comply with any directions given by the Council from time to time regarding the handling, storage and removal of refuse.

**Advertisements and Signage**

52. No advertisements shall be displayed on the consent area that relates to any goods, commodities or services other than approved in the Consent.
53. No advertising is permitted other than on the stall or vehicle. The fixing of signs or marking of the highway or street furniture is specifically prohibited by NYCC Highways Authority.
54. No poster, advertisement, signage or decoration of an unsuitable material or nature shall be displayed, sold or distributed on or about the vehicle or premises. For example, any material in breach of the Obscene Publications Act 1959, any material that is considered indecent, scandalous, offensive or likely to be harmful to any person likely to purchase it. Material may also be considered unsuitable if it is of such a nature as to distract motorists on the highway.
55. No signage, A boards or other such objects shall be placed on the highway or area surrounding the vehicle/stall. External tables and chairs may only be used upon written approval from the Council after first obtaining the appropriate highways permission from NYCC Highways Authority.

**Lighting**

56. Any lighting provided at the consent area by the consent holder must be approved by the Council. If the consent area is located on, or adjacent to, the public highway, the lighting must also be approved by the Highways Authority. Strobe lights will not be used in any circumstances.

**Laybys**

57. Only lay-bys which are separated from the main carriageway, e.g. by a grassed or tarmac verge will normally be considered for street trading activities. As part of the consultation, following receipt of an application, advice will be sought from NYCC Highways Authority with regard to the size of the lay-by and to ensure that there is safe access and egress. Applicants shall ensure that any location supports the aims and objective of this Policy and should take the following into account when deciding on a location:
  - Traffic flow – applicants should ensure there are enough potential customers to sustain a business.

- Size of lay-by – applicants should ensure there is sufficient room for numerous cars/lorries, etc.
  - Proximity to competition – applicants must consider current trading of similar goods in the area. Consent will normally be refused where there are similar trading of goods in the area.
  - Toilet facilities – applicants must consider such facilities are provided if selling hot food and drinks.
  - Access to and egress from lay-by – applicants must ensure that there is safe access into and egress from the lay-by.
  - Crossing a carriageway - applicants must ensure that customers are not obliged to cross a carriageway to access the lay-by.
58. The consent holder, where relevant, shall ensure that the whole of the lay-by and adjacent verge/footpath (but not the carriageway) to a distance of 10 metres be kept free of litter and refuse at all times whilst resident.

## **APPENDIX A2**

### **Additional conditions applicable to markets**

59. The consent holder shall keep records of each stallholder present on the market, to include the stallholder's name and company name (if relevant), their address, vehicle registration and a contact telephone number. This must be produced on request to an authorised officer.
60. The consent will relate to the duration of the market and may include special additional conditions in addition to the Standard Consent Conditions, according to the individual merits of the market.
61. If additional street cleansing is required as a result of the event, a charge may be levied in accordance with the Council's fees and charges. Any additional street cleansing will be referred to the Council's cleansing department.

## **APPENDIX A3**

### **Additional conditions applicable to Special Events**

62. At such special events the Council will issue a single Consent to the individual organising the event, rather than to each individual trader. This individual is expected to be available for the duration of the event.
63. The Consent will relate to the duration of the special event and may include further specific conditions in addition to the Standard Consent Conditions, according to the individual merits of the event.

**APPENDIX A4**  
**Additional conditions applicable to Mobile Street traders**

64. Mobile operators must:

- Move from position to position remaining stationary for no more than 5 minutes on a residential street to initially attract customers and thereafter only long enough to serve customers present. The vehicle must move on as soon as the last customer has been served and no other customer is clearly awaiting service
- Ensure that any stopping position does not infringe any parking or traffic requirements or cause obstruction of the highway and does not present any dangers to highway users.
- Not stop in any 400 metres section of any street more than once in every two hours.
- Not stop within 400 metres of any school grounds from an hour before the start of the school day until an hour after the end of the school day.



## APPENDIX B

### SCHEME OF DELEGATION

Matter to be dealt with	Authorised Officer with delegated powers	Cabinet member with responsibility for Licensing services	Relevant Committee
Setting of Fees			<b>Full Council</b>
Revocation of consent	✓		<b>Licensing Sub-committee</b> ✓
Changes to consent conditions	✓		<b>Licensing Sub-committee</b> ✓
Grant or renewal for a street trading consent	✓		<b>Licensing Sub-committee</b>  ✓ Where deemed necessary by the authorised officer
Review of Policy and conditions		✓ Minor changes to Policy	<b>Full Council</b> Significant changes to Policy
Exemption of fees	✓		
Use of lighting	✓		
Local good cause regarding car boot sales	✓		
Community or similar event	✓		