

EAST DEVON DISTRICT
COUNCIL



STREET TRADING IN SIDMOUTH

Licensing Service
East Devon District Council
Knowle
SIDMOUTH
EX10 8HL

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Appendix A - Standard Conditions

1. Legislation

- 1.1 East Devon District Council has under section 3 of the Local Government (Miscellaneous Provisions) Act 1982 adopted Schedule 4 of that Act with regard to Street Trading within the district.

Consent Streets

- 1.2 A Consent Street is a street where street trading is prohibited without the consent of the District Council. In Sidmouth only the Esplanade and Promenade are currently designated as consent streets and it is the policy of the Council to only issue 50 street trading consents at one time on the roadside of the Esplanade during the period of this years Folk Festival (1 August 2008 to 8 August 2008).

Prohibited Streets

- 1.3 A Prohibited Street is a street where street trading is at all times forbidden by law. In Sidmouth the following streets are currently designated as prohibited streets,
- All Saints Road
 - Blackmore View
 - Church Street
 - Coburg Road - between Coburg Terrace and Church Street
 - Dove Lane - and the lane between Dove Lane & New Street
 - Fore Street
 - Fortfield Place
 - Fortfield Terrace
 - Glen Road, - south of Manor Road
 - Ham Lane and East Street - from the Esplanade to Fore Street
 - Ham Playing Field
 - High Street
 - Manor Road
 - Market Place
 - Mill Street, - west of its junction with Russell Street
 - Millford Road, - north of the ford
 - New Street
 - Old Fore Street
 - Peak Hill Road – east from its junction with Cotmaton Road.
 - Prospect Place
 - Radway, - south of the Post Office
 - Salcombe Road
 - Sid Road, - south of Redwood Road
 - Station Road - between Knowle Drive and The Esplanade
 - Streets adjoining the Three Cornered Plot (Known as The Triangle)
 - The Beach – from the mouth of the River Sid westwards to a point opposite Clifton Cottage.
 - Vicarage Road, - south of Connaught Road

Definitions

- 1.4 **Consent Street** – means a street in which street trading is prohibited without the consent of the District Council.

News Vendor – means a person trading where, the only articles sold or exposed or offered for sale are newspapers or periodicals and provided that they are not sold from a stall or similar structure or, if they are, that the structure stands on the carriageway of a street and its

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dimensions do not exceed one metre in length or width, two metres in height and it does not occupy a ground area of more than 0.25 square metres.

Prohibited Street – means a street in which trading is prohibited

Street – includes any road, footway, beach or other area to which the public have access without payment, and a service area as defined in section 39 of the Highways Act 1980.

Street Trading – means the selling or exposing or offering for sale of any article (including a living thing) in a street but does not include:

- a) trading as a pedlar under the authority of a 'Pedlars Certificate'
- b) anything done at a market or fair which have a right to be held.
- c) trading as a news vendor
- d) trading at a petrol filling station or shop.
- e) selling things, or offering or exposing them for sale as a roundsman.
- f) trading in a street adjoining a shop provided it is part of the business of the shop.

Relevant Offences

1.5 The Local Government (Miscellaneous Provisions) Act 1982 provides as follows:

Schedule 4, paragraph 10

1 A person who -

- a) engages in street trading in a prohibited street; or
- b) engages in street trading in a consent street without being authorised to do so under this Schedule: or
- c) contravenes any of the principal terms of a street trading licence; or
- d) being authorised by a street trading consent to trade in a consent street, trades in that street:
 - i) from a stationary van, cart, barrow or other vehicle; or
 - ii) from a portable stall,without first having been granted permission to do so under paragraph 7 (8) (of this schedule); or
- e) contravenes a condition imposed under paragraph 7 (9) (of this Schedule), shall be guilty of an offence.

1.6 It shall be a defence for a person charged with an offence under sub-paragraph (1) above to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

1.7 Any person who, in connection with an application for a street trading consent, makes a false statement which he knows to be false in any material respect, or which he does not believe to be true, shall be guilty of an offence.

1.8 A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding **level 3** on the standard scale.

2. Policy

2.1 All applications will be considered individually on their merits.

2.2 Pitches will be allocated on a first come first served basis.

2.3 All street trading consents will be limited to daily trading hours between 8.00 am and 8.00 pm.

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- 2.4 Applications will be encouraged provided they are for goods to be sold from a stall, cart, barrow or other non-motorised vehicle that is in sympathy with the surroundings, adds colour and character to the locality and complies with all relevant legislation.
- 2.5 The siting and operation of any stall, barrow etc. operated by a Consent Holder or people employed by them shall be such that it does not cause any problems of highway safety, obstruction to users of the highway, or conflict with the requirement of emergency vehicles.
- 2.6 The appearance of associated equipment or structures shall be of good quality and the precise appearance of the facility shall be identified before a consent is granted.
- 2.7 The use shall not be likely to cause problems of noise, smell or litter, or be inappropriate to the character of the event with which the permit is connected.
- 2.8 The council will not permit trading unless the Consent Holder or people employed by them have a current insurance policy against public liability and third party risks. The minimum insurance cover shall be £2,000,000, and must cover the use of the Consent Holder's vehicle, stall, barrow and any additional equipment under their control.
- 2.9 Standard conditions will be imposed unless circumstances dictate otherwise. Additional conditions may be imposed at the discretion of the Local Authority.
- 2.10 Where the imposition of conditions is not adequate to control potential problems, applications will be refused.
- 2.11 Refusal or withdrawal of street trading consents will be normal in the following circumstances:
 - a) That there are not enough pitches available in the street for the applicant to engage in the trading in which she/he desires without causing undue interference or inconvenience to persons using the street.
 - b) That there are already enough Consent Holders or people employed by them trading in the street from shops or otherwise, in the goods in which the applicant desires to trade.
 - c) An applicant or operator of the stall is under the age of 18 years.
 - d) That a Consent Holder or people employed by them has failed to comply with the conditions attached to the Consent.
 - e) That the street trading may damage the structure or surface of the street.
 - f) When adverse comments are received from the consulted parties
- 2.12 The Council may at any time revoke a consent or vary the conditions of an existing consent where there are reasonable grounds for so doing.

Fees

- 2.13 The fees for individual pitches will be charged at a daily rate of £15 or the current fee then in force.
- 2.14 Pitches may be booked for a single day or for the duration of the folk festival.

3. General Guidance

- 3.1 Applications will be considered from the organisers of the folk festival on the basis of one block Consent for the event in question. The event organiser in receipt of a block Consent will become responsible for all the individual trading activities, including the collection and payment of the relevant fees to the Council, where appropriate.

4. Application Process

- 4.1 Only fully completed applications will be considered.
- 4.2 Applications will be considered and consent to trade from pitches will be issued on a first-come first-served basis.
- 4.3 Correctly completed applications consist of:
 - a) Completed application form, giving full details of the stall, goods to be sold etc.
 - b) A photograph of the stall/vehicle/barrow to be used.
 - c) Application fee (you are advised to contact the Licensing Service to ascertain the current fee applicable).
 - d) Proof of Public Liability Insurance (minimum of £2m) being in place.
- 4.4 Completed applications should be forwarded to the Licensing Manager, Licensing Service, East Devon District Council, Knowle, SIDMOUTH, EX10 8HL.

Consultation

- 4.5 Details of all applications for street trading consent will be circulated to
 - the Police
 - Trading Standards
 - the Highways Authority
 - the Council's Environmental Health
 - Local residents and businesses who may be affected by your application may also be consulted before any Street Trading Consent may be granted

Revocation

- 4.6 The Council may revoke a Street Trading Consent after it has been granted. This may be for a variety of reasons such as: non-compliance with the conditions, non-payment of the fee or because other agencies, for example, the highways department require access to the trading location.
- 4.7 Should the Council revoke a Street Trading Consent the Council shall not in any circumstances whatsoever be liable to pay any compensation to the Consent Holder or people employed by them in respect of such revocation.
- 4.8 If an application is refused or a Street Trading Consent is revoked there is no statutory right of appeal against the Council's decision other than seeking the High Court's permission for judicial review.

5. Conditions

- 5.1 The Local Government (Miscellaneous Provisions) Act 1982 provides for Local Authorities when granting a street trading consent to "attach such conditions to it as they consider reasonably necessary". Conditions may also be imposed which limit the location of trading and the hours of trade.
- 5.2 A list of standard conditions that the Council may seek to impose upon any street trading consent issued is included at **Appendix A**.
- 5.3 The Act also provides for Local Authorities at any time to:

- a) vary the conditions of a street trading consent; or
- b) revoke the street trading consent.

6. Inspections

- 6.1 An authorised officer of the council will inspect any stall, van, barrow, cart or other non-motorised vehicle from which it is intended to trade.

Standard conditions that the Council may seek to impose upon any street trading consent issued are included at Appendix A

1. The Consent Holder or people employed by them must produce this Street Trading Consent on demand when so required by a duly authorised officer of East Devon District Council a Police Officer or a Police Community Support Officer.
2. The Consent Holder or people employed by them must return this Consent to East Devon District Council immediately on revocation or surrender of this Consent.
3. The Consent Holder or people employed by them must trade strictly in accordance with this Consent.
4. The Consent Holder or people employed by them must notify the Licensing Manager, Knowle, Sidmouth, EX10 8HL immediately of any convictions or proceedings arising out of the use or enjoyment by the Consent Holder or people employed by them of this Consent.
5. The Consent Holder or people employed by them must not cause any obstruction of the street or danger to people using it and must not permit people to gather around them or any cart, barrow, other vehicle or stall included in this Consent so as to cause a nuisance or annoyance or danger to any people lawfully using the street.
6. The Consent Holder or people employed by them must not use or suffer or permit any music playing, music re-producing or sound amplification apparatus or any musical instruments radio or television receiving sets whilst trading under this Consent.
7. The Consent Holder or people employed by them must not place on the street or affix to any equipment placed on the street any advertising material of any description whatsoever except with the previous consent in writing of the Licensing Manager.
8. The Consent Holder or people employed by them must not make any excavations or indentations of any description whatsoever in the surface of the street or place or fix any equipment of any description in the said surface.
9. The Consent Holder or people employed by them shall not do or suffer anything to be done in or on the street which in the opinion of the Council may be or become a danger, nuisance or annoyance to or cause damage or inconvenience to the Council or to the owners or occupiers of any premises within the locality or to members of the public.
10. The Consent Holder or people employed by them must keep their trading position and the adjacent area in a clean and tidy condition during the permitted hours and also leave the same in a clean and tidy condition and unobstructed at the end of each daily period of use under the terms of this Consent.
11. The Consent Holder or people employed by them must at all times whilst trading provide at their own cost and expense suitable receptacles for the deposit refuse and remove them and their contents from the site at the end of each day's trading. Any litter or food waste originating from the business and deposited on the highway by customers shall be collected by the Consent Holder or people employed by them.
12. Any stall, or authorised vehicle used for street trading must be immediately removable at all times in the event of an emergency or at any other time be removed at the request of any officers of the emergency services or officer of the Council.
13. No stall must remain situated for longer than 30 minutes after the authorised trading times.

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14. The Consent Holder or people employed by them are not permitted to hold any Auction Sale.
15. The Consent Holder or people employed by them or his employees are expressly forbidden to sell, display or wear any article which is or is intended to be offensive either in writing or pictures.
16. The Consent Holder or people employed by them shall not trade in or issue any glass items or vessels.
17. The Consent Holder or people employed by them must comply with all reasonable requirements of the Licensing Manager, or any other authorised officer of the Council, a Police Officer or a Police Community Support Officer.