

THREE RIVERS DISTRICT COUNCIL

STREET TRADING POLICY 2023



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Definitions:

'Act' means Local Government (Miscellaneous Provisions) Act 1982

'Authorised Officer' means any authorised officer of Three Rivers District Council.

'Consent Street' means a street in which street trading is prohibited without a consent from Three Rivers District Council.

'Licence Street' means a street in which street trading is prohibited without a licence from Three Rivers District Council.

'Non-established markets' are markets that have not been established in law either by charter, prescriptive rights or by statute.

'Prohibited Street' means a street in which street trading is prohibited. Under no circumstances will street trading be allowed.

'Street' includes any road, footway, lay-by, or any other open area to which the public have access without payment.

'Street Trading' means the selling, or exposing or offering for sale, of any article in a street.

'The Council' or 'District Council' means Three Rivers District Council.

'Trader' or 'Consent holder' means the person(s) to whom the consent has been granted or renewed and includes any other person employed or assisting the principal trader.

'Police Officer' means any Police Officer of Hertfordshire Constabulary.

1 Introduction

- 1.1 Street trading is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street. For clarification - a street includes a street, highway or other area (e.g. carpark, park, green, pavement) to which the public have access without payment and as such any land adjacent to the street will also fall within the scope of this Policy. The definition does not include buildings themselves or commercial premises. Under the provisions of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982, a Local Authority may designate streets within its district as “consent” streets or “licence” streets to control street trading, whereby trading would not be permitted without the permission of the Authority.
- 1.2 The Council adopted this legislation in 1984 and all streets in the district currently have either been determined as ‘consent’ streets or ‘prohibited’ streets. No ‘licence’ streets are currently designated by the Authority, but the list of designated streets may be amended to include ‘licence’ streets in future. Currently, anyone who wishes to trade on a consent street must hold a street trading consent. All streets listed in **Appendix II** under ‘prohibited streets’ cannot be used for street trading.
- 1.3 The pandemic situation has seen an increase in demand for Street Trading provision across the district. Street Trading brings vibrancy to an area and increases footfall which in turn benefits other local businesses.
- 1.4 Street Trading also provides a springboard for start-up businesses as well as providing expansion opportunities for existing local business, something which has generated interest within the area.
- 1.5 Street Trading will also provide more consumer choice enhancing the attractiveness of an area to visit.
- 1.6 The Council has agreed that some activities will be exempt from requiring a consent to trade. A list of such activities can be found in paragraph 3.3 of this Policy. In exempting these activities the Council recognises that occasional, community-run events and those of a similar nature, are important to the vibrancy and local economy.
- 1.7 This Policy will guide the Council when it considers applications under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
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2 What is Street Trading

2.1 Definition

- 2.1.1 Street trading is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street.
- 2.1.2 For clarification - a street includes a street, highway or other area (e.g. carpark, park, green, pavement) to which the public have access without payment and as such any land adjacent to the street will also fall within the scope of this policy. The definition does not include buildings themselves or commercial premises.

2.2 Types of streets in Three Rivers

“street” includes—

- (a) any road, footway, beach or other area to which the public have access

without payment, and
(b) a service area as defined in section 329 of the M1 Highways Act 1980,
and also includes any part of a street

2.2.1 “Consent street” means a street in which street trading is prohibited without a consent issued by the district council.

2.2.2 “Prohibited street” means a street in which street trading is prohibited.

2.2.3 “Licenced street” means a street in which street trading is prohibited without a licence issued by the district council. There are no licensed streets within Three Rivers.

2.3 Exemptions

2.3.1 The following activities are not classed as street trading under paragraph 2 Schedule 4 of the Act:

- a person acting under the authority of a pedlar’s certificate
- anything done in a market or fair, the right to hold which having been obtained by a grant, enactment, or order (including those created under Part III of the Food Act 1984)
- trade carried out by a roundsmen e.g., milkmen
- trading in a trunk road picnic area
- trading as a news vendor
- trading which;
 - i. is carried on at premises used as a petrol filling station, or
 - 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 (such businesses must not obstruct the highway)
- selling things, or offering or exposing them for sale, as a roundsman
- the use for 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;
- the doing of anything authorised by regulations made under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916.

2.3.2 The following activities have also been exempted by the Council from requiring a street trading consent:

- Activities which take place on Council (both district and parish) owned land, including;
 - i. parks and green / open public spaces such as Commons along with their associated carparks
 - ii. carparks
- Activities which take place within the boundaries of school premises
- Activities which take place within the curtilage of a residential property
- Buskers
 - i. Non-commercial events organised by charity or community organisation where proceeds are wholly donated to charity or for use to benefit a community organisation. These may include community fetes/carnivals

2.4 Types of street trading activities that require consent

2.4.1 For the purposes of this policy and administering street trading consents within Three Rivers

a) static street traders are those who trade from a fixed location such as a layby or area of land and would include stalls or food vans.

b) mobile street traders are those who remain in location for a limited duration, usually to carry out a transaction, before moving on to another location and would include ice-cream vans.

The following types of activities would require consent:

Commercial events/markets - these include but are not limited to:

- Regular markets
- Farmers markets
- Continental markets
- Seasonal markets

2.4.2 The Council will allow a single application from the person organising the market/event, and may then issue one 'blanket' street trading consent for the market/event. This aims to promote events and encourage traders to attend. The applicant will be held responsible for the street trading activities that takes place.

2.4.3 If the organiser is to apply, the application must be accompanied by a list giving full details of each trader attending the event. This list must include;

- the name of the trader and/or trading business
- contact number and email address for trader
- type of goods for sale
- confirmation that the organiser has ascertained that each trader has the appropriate food business registration if selling food or LA2003 licence if selling alcohol/providing late night refreshment.

2.4.4 Once issued, a copy of the consent must be provided to each trader by the event organiser. The consent must then be displayed by each individual stall holder for the duration of the event.

2.4.5 If however the organiser does not wish to apply for 'blanket' consent then each individual trader will be required to apply.

Mobile traders - these include but are not limited to:

- Ice cream vans
- Food/drinks vans

Individual static traders - these include but are not limited to:

- Food/drinks vendors
- Fruit and vegetable stalls
- Christmas tree sales

2.5 Types of street trading consents

2.5.1 Annual street trading consent

- This consent is issued for a period of one year.
- This consent can be issued for static or for mobile trading
- The consent can be limited to specific days only for example weekdays only or every third Sunday
- This consent can be renewed annually
- Examples of traders: ice-cream vans, monthly markets

2.5.2 Occasional/seasonal street trading consent

- This consent is issued for a period of up to 30 consecutive days
- This consent can be issued to an individual trader or to a market/event
- Examples of traders: Christmas tree sellers, seasonal stalls

2.5.3 One-off street trading consent

- The consent may be issued for up to a maximum of 4 consecutive days.
- This consent may be used where street trading is either taking place as part of an event, or is a one-off event of its own, such as a specialist one-off market.
- This consent may also be used to support events organised by community groups where the event itself is exempt however there are one or two commercial traders (no more than two)
- There are two types of one-off consents;
 - i. Individual one-off consent – this may be used by a single trader when trading as part of an event or if trading on their own. Example: commercial food vendor at a community fete
 - ii. Market/event one-off consent – this may be used by one-off markets/events

2.5.4 The full schedule of fees can be found on the TRDC website via the licensing webpage: <https://www.threerivers.gov.uk/egcl-page/licensing>

2.5.5 The fee schedule is subject to change and based on cost recovery.

3 Key principles taken into account by The Council in the exercise of its Street Trading functions

3.1 Public Safety

3.1.1 If the street trading activity is likely to represent a substantial risk to the public. Factors considered will include:

- obstruction
- fire hazard
- unhygienic conditions
- danger that may occur when a trader is accessing the site.

3.2 Public Order and Nuisance

3.2.1 If the street trading activity could cause disorder, nuisance, or annoyance to the public from matters including:

- noise
- light

- odour
- the behaviour of traders, particularly in residential or quieter areas

3.3 **Appearance of stall/vehicle**

3.3.1 The stall or unit must be maintained in good condition, be of a smart and presentable appearance and meet the specified criteria laid down in the Consent conditions. The general appearance of the stall or unit will also be considered to determine that it will not detract from the appearance of the surrounding area. The operation must not adversely impact on the local environment by way of impact on street surfaces, street furniture and materials (for example, grease marks left on the road). It is recommended that enquiries are made with a licensing officer prior to the purchase of any vehicle or stall.

3.4 **Location of trader(s)**

3.4.1 The Council will consider what benefit a particular street trader will bring to the local area and to persons frequenting that area. Some types of trading may better lend themselves to areas with consistent footfall throughout the year and be targeted for the benefit of local people. Some pitches may be placed in clusters to create an attraction (or as part of event) and some pitches may be placed with a view to seeking a specific type of offering to bring more footfall with an area with existent businesses providing a greater range of consumer choice. Markets are recognised as beneficial to local people, as well as providing opportunities for local businesses to trade, and for bringing more footfall to an area.

3.5 **Site assessment**

3.5.1 Street trading consents will not normally be granted where:

- a) A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site; or
- b) Where there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited; or
- c) There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes; or
- d) There is already adequate provision in the immediate vicinity of the site to be used for street trading purposes; or
- e) There is a conflict with Traffic Orders such as waiting restrictions; or
- f) 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; or
- g) The trading unit obstructs the safe passage of users of the footway or carriageway; or
- h) The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities; or
- i) The site does not allow the consent holder, staff, and customers to park in a safe manner; or

j) The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.

k) The sale of goods which conflict with those provided by nearby shops or markets because it could provide an unfair economic advantage to the holder of the Consent. The type of goods allowed to be sold will be considered on a pitch-by-pitch basis having particular regard to local needs, product diversity and specialism e.g., artisan breads, and appropriateness of the proposed location in terms of space and balance.

l) Trading from lay-by locations is restricted to sites which provide: -

- i. Sufficient width to allow vehicles to park and pass
- ii. Sufficient length to allow several large vehicles to park without causing congestion; and
- iii. A verge (minimum width 1 metre) physically separating the lay by and the highway.

3.6 Environmental Suitability

3.6.1 The Council consider the impact of the proposed operation on the local environment including but not limited to:

- power supply
- carbon footprint
- supply chain
- low food mileage
- packaging
- waste minimisation
- waste disposal
- waste generated by customers
- provision of adequate measures to minimise the environmental impact of the proposed operation
- the offering of alternatives to animal products, particularly in relation to food offerings, or the use of local animal products are considered to make a more positive contribution.
- those that can demonstrate that they are contributing towards driving down carbon footprint and operating in an environmentally friendly manner will be viewed favourably.

3.7 Contribution to local area

3.7.1 The applicants offer will need to positively enhance the contribution in the local area. This may be by offering products not currently available or by providing greater choice for consumers. Preference will be given to those who are resident in the local area and those offering local products

4 Guidance for applicants

4.1 Choosing a trading location/pitch

4.1.1 Before applying for a street trading consent, applicants must first identify suitable trading location(s). It is for the applicant/trader to identify a suitable location, having regard to the requirements laid out in the Policy and their business needs. The Licensing Authority does not maintain a list of suitable sites. The Licensing Authority also does not hold a list of available trading locations. It is for the applicant to determine the business viability of any location. The applicant is expected to conduct this research themselves and provide the information to the Licensing Authority before submitting a full application.

4.1.2 Any pitch/location in use before the approval of this Policy may remain under grandfather rights (an old rule which may continue to apply to some existing street traders, while a new rule will apply to all new applicants) until the consent is renewed. However, any new pitches/locations must meet all of the following criteria:

- a) Safe for public access by foot or by vehicle
- b) Has suitable parking spaces for customers and trading vehicle, if required by location
- c) Suitably lit (if trading after dark) to promote safe access and egress for customers and for visibility by other road users.
- d) Does not breach highway regulations or make hazardous the passage of the public, including people with disabilities, over the highway or otherwise cause a traffic hazard.
- e) Does not impede the passage of emergency vehicle access.
- f) Where adjacent to a highway, there must be a safety barrier of a verge or footpath between the proposed trading location and the carriageway.
- g) Does not cause the loss of parking spaces to residents or businesses. No consents will be granted in an areas of permit parking.
- h) Will not cause a disturbance, damage, interference, annoyance, inconvenience (e.g. noise nuisance, litter, odour etc.) to local residents or businesses.
 - ii. For the Licensing Authority to assess the potential trading pitch, as part of the application the applicant will be required to submit a map of the location with the potential pitch clearly marked out. This relates to static trading only.
 - iii. If the proposed pitch is on private land, to which the public have access without paying, written evidence of the landowner's permission to use that site will also be required as part of the application.
 - iv. The applicant must determine if there is appropriate or necessary planning permission to sell goods from the proposed location. Applicants are required to contact the Planning Department prior to making an application for a consent, to ascertain whether planning permission is required.
 - v. If a pitch of interest is already occupied, or is of interest to two street traders, then a pitch can be shared by splitting either the times or the days on which the traders wish to operate. The street traders must have a written mutual agreement between them, approved by the Licensing

Authority, detailing when the pitch is going to be occupied by both traders. The location can be shared even if the exact pitch, where the trading vehicle is located, is not. The individual traders will need their own consents for the location.

- vi. The Licensing Authority will inform applicants if a pitch is unlikely to meet the criteria. However, advice from the Licensing Authority does not guarantee that a proposed pitch applied for will not be subject to relevant objections during the consultation process following an official application and therefore be deemed unsuitable.

4.2 Trading from a vehicle/trailer

- 4.2.1 The trading and/or towing vehicle used must be compliant with the Driver and Vehicle Standards Agency (DVSA) MOT standards.

<https://www.gov.uk/government/organisations/driver-and-vehicle-standards-agency>

- 4.2.2 The trading and/or towing vehicle must be maintained in a roadworthy condition, taxed, insured, and hold a valid MOT at all times. The type, colour, and dimensions of any trading vehicles to be used will be submitted to the Licensing Authority along with colour photos for approval.
- 4.2.3 Details of where the trading vehicle is to be kept overnight must also be submitted.
- 4.2.4 The trading trailer/vehicle must not be set up as a permanent structure and must be removed from the trading pitch within 30 minutes of the end of the consented hours, unless agreed in writing by the Licensing Authority; and upon any reasonable request made by the emergency services, Highway Authority (Hertfordshire County Council) or similar authority.
- 4.2.5 Maintenance logs must be kept for the trading vehicle and made available for inspection when requested by an authorised officer from the Police, Licensing Authority or DVSA.
- 4.2.6 If a trailer is going to be used as the trading vehicle, it must comply with the relevant laws around maximum weight that can be towed and height restrictions. The driver of the vehicle towing the trailer to and from the location must have the appropriate B3 driving category included on their DVLA driving licence.
- 4.2.7 All vehicles to be used for mobile trading must comply with Euro 6 standards for emissions and be no more than 7 years old at the time of application (including renewals).
- 4.2.8 All renewing vehicles must pass an annual MOT and pass the required emissions test. Should we receive complaints about vehicle emissions, consent holders will be required to provide the Licensing Authority an emissions report from a garage.

4.3 Employees

- 4.3.1 Under the Immigration Act, introduced in 2016, <https://www.legislation.gov.uk/ukpga/2016/19/contents/enacted>, the Home Office granted new duties for local authorities to deal with illegal workers and those who employ them. Anyone employing illegal workers, (those without the right to be working in the UK) can be fined up to £20,000 per illegal worker. The wages of the illegal workers can also be seized as proceeds of crime. You are required to check

the residency status and right to work of anyone who you employ to trade under your street trading consent, and you must include their names on an application form. Proof of their right to work must also be submitted as part of the application.

- 4.3.2 For more information on the Immigration Act, and the duties of employers to check the rights of their employees to work, please review the Home Office guidance. Any trader found to allow an illegal worker to work as part of their trading activities is likely to have their street trading consent reviewed and/or revoked.
<https://www.gov.uk/topic/immigration-operational-guidance>

4.4 **Goods for Sale**

- 4.4.1 Consents will not be granted to traders who propose to sell offensive weapons including imitation firearms, firearms, airguns, swords and crossbows.

- 4.4.2 Traders wishing to sell food items must be registered as a food business with the Environmental Health department in whose area the trading vehicle is stored and where any off-site food preparation takes place.

<https://www.threerivers.gov.uk/egcl-page/food-hygiene-ratings>

4.5 **Advertising**

- 4.5.1 There must be no available means of attracting attention for the purposes of trading or any stands or signs away from the consented pitch. Any trader wishing to display advertising, such as A-boards, will require the approval of both the Planning department as well as the highways authority. Any unauthorised advertising will be removed.

- 4.5.2 Advertising on the trading vehicle must be approved by the Licensing Authority.

4.6 **Waste**

- 4.6.1 Where goods are sold that are for immediate use or consumption, the trader must provide at least one suitably sized waste container with signage requesting the customers to use it. The consent holder is responsible for disposal of refuse and must not use Council, highway or other waste bins. The consent holder has a duty of care to dispose of the commercial waste lawfully.

- 4.6.2 Advice can be sought from the Environment Agency at Environment Agency Website. Further information can also be found on the council's website – [Three Rivers District Council Commercial Waste and Recycling](#)

- 4.6.3 There must be no disposal of liquid waste down the drains or onto the pavement, road, or grassland. This includes waste cooking oil as it leads to blockages, odour, vermin problems and can pollute watercourses. Such action could result in prosecution. Waste oils should also not be disposed of with the rest of the catering or kitchen waste. Section 111 of the Water Industry Act 1991 makes it illegal to permit any substance, which may interfere with the free flow of the sewerage system, to pass down any sewer or drain connecting to a public sewer. This is enforced by Thames Water. Further information about disposal of waste oils from catering premises can be found on the Food Standards Agency website <https://www.food.gov.uk/>.

- 4.6.4 All wastewater from the trading vans' sinks must be collected and disposed of correctly. Officers of the responsible authorities will take the steps that they consider

appropriate if traders are found to be disposing of oils, wastewater etc. in an unlawful or unacceptable manner. Consent holders must also organise adequate sanitation provision for themselves and their employees.

4.7 Opening/Trading hours

4.7.1 Street trading is limited to the days of the week and between the hours stated on the consent.

4.7.2 The consent holder will be allowed 30-minute preparation time prior to the start of their trading hours in order to set up their trading vehicle, and there will be a 30 minute closing time to allow the trader to tidy and pack up. Consent holders are not permitted to trade during the preparation or closing times. If a pitch is shared between two Consent holders who will be operating on the same day, there will be an hour between the end time of the first consent and the start time of the other Consent to allow for the respective closing and preparation time. If the location is shared (for example a lay-by), and not the exact pitch, then the preparation and closing times may overlap, requiring a 30-minute gap between trading times.

4.7.3 Ice cream vans will not be permitted to trade before 09:00hrs and after 20:00hrs.

4.8 Street trading and the Licensing Act 2003

4.8.1 Street traders that will either serve hot food or drink at any time between 23:00-hrs and 05:00-hrs the following day or will sell alcohol will also require a licence under the Licensing Act 2003.

4.8.2 Details of the various licences issued under the Licensing Act 2003 can be found on the Licensing page of the Council's website;

<https://www.threerivers.gov.uk/egcl-page/alcohol-and-entertainment-licensing>

4.9 Trading Near to a School

4.9.1 The Council recognises that a healthy start in life is vital for all children and young people to realise their full potential. In terms of child obesity there are benefits of not having certain traders such as ice cream vehicles and burger vans outside a school. This Policy seeks to support the Council's commitment to reducing obesity and improving dental health.

4.9.2 Accordingly the Council has attached a condition to all street trading consent that states there is a 50 metre exclusion zone around the curtilage of any school, as measured from the school boundary or entrances onto a highway, in which street traders are not allowed to trade. The restriction will only be in place;

- i. during term time, and
- ii. on school days, and
- iii. between the hours of 12-hrs to 14.00-hrs and 15.00-hrs to 17.00 hrs

4.9.3 The restriction applies to all street trading consents, regardless of whom the consent holders are targeting and whether the application is new or for a renewal of an existing consent.

4.10 Ice Cream Van Chimes guidance

- 4.10.1 Code of Practice on Noise from Ice-Cream Van Chimes Etc. in England 2013: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/245699/pb14030-ice-cream-vans.pdf
- 4.10.2 It is an offence under S62 of the Control of Pollution Act 1974 to sound your chimes before 12:00-hrs (noon) or after 19:00-hrs.
- 4.10.3 Traders must not sound chimes as loudly in areas of low background noise or narrow streets as elsewhere and:
- for longer than 12 seconds at a time
 - more often than once every 2 minutes
 - more than once when the vehicle is stationary at a selling point
 - except on approach to or at a selling point
 - when in sight of another vehicle which is trading
 - when within 50 metres of schools (during school hours), hospitals, and places of worship (on Sundays and other recognised day of worship);
 - more often than once every 2 hours in the same length of street
 - louder than LAmax 80dB at 7.5 metres
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5 Application process

5.1 New consent application

- 5.1.1 A new application for a street trading consent must be submitted to the Council at least 30 days before the proposed trading start date. This is to allow the Council time to validate and process the application and to allow for the mandatory 28 day consultation period.

5.2 Renewed consent application

- 5.2.1 Applications for renewal will only be considered for standard consents issued for 12 months. Whilst the application form and required supporting documents remain the same, the consultation process may be waived. Applications for renewal of a consent will normally be granted, provided that no substantiated complaints have been received regarding;
- the way the consent holder has conducted their business
or
 - the consent holder's conduct
and
 - where no relevant objections have previously been received
- 5.2.2 All renewal applications must be submitted a minimum of 4 weeks (28 days) prior to the expiry of the current consent to allow for the 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.
- 5.2.3 The responsibility for ensuring renewal of consent rests solely with the consent holder, the Council will not send out reminders.
- 5.2.4 If a renewal application and fee are not submitted before the expiry date of the current consent, 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 a new consent is granted.

5.3 Application process

5.3.1 All street trading consent applications and renewal applications must consist of:

- a) A fully completed application form. This can be found on our website <https://www.threerivers.gov.uk/egcl-page/street-trading-licence>
- b) The payment of the full fee as appropriate for the type of consent applied for
- c) A clear map/plan showing the precise trading position and its proximity to other similar retail outlets within a 100-metre radius. The proposed position and orientation of the stall, van, barrow, cart etc. is to be shown on the plan. The plan shall also include any additional vehicles that will be parked on the site. NOTE: maps/plans are not required for mobile traders
- d) Colour photographs showing the front, side and rear aspects of the unit/vehicle that will be used for the street trading activity. A digital image(s) to be emailed to licensing.team@threerivers.gov.uk. NOTE: this is only required for vehicles/trailers and not required for stalls
- e) One passport size photograph of applicant
- f) Signed self-declaration by applicant, relating to criminal convictions.
- g) Evidence of right to reside and work in the UK for the applicant
- h) A copy of a current Public Liability certificate of insurance that covers the street trading activity for third party and public liability risks, to a minimum value of £2 million.
- i) Valid food safety/food hygiene certificate(s) (food related trading only)
- j) Evidence of registration of the food business with the appropriate Local Authority and food hygiene rating (food related trading only)
- k) V5, MOT certificate and vehicle insurance certificate NOTE: this is only required if trading from vehicle
- l) Copy of driving licence of applicant NOTE: this is only required if trading from vehicle
- m) Evidence of having a suitable method for waste disposal where applicable
- n) Consent to use the proposed site location (if required) i.e. from the land/property owner, Hertfordshire County Council or Three Rivers District Council.
- o) Any further consents/permissions required i.e., planning permission, authorisation under Licensing Act 2003 if applicable

5.3.2 Incomplete applications will not be validated or processed. The Licensing Authority will return any incomplete or invalid applications to the applicant if a period of 1 month has passed without the application being validated where the applicant has failed to correspond with the Licensing Team.

5.4 Consultations

5.4.1 Before a Street Trading consent is granted the Council will carry out a consultation process with various persons and groups on all applications. The following organisations or persons will be consulted where appropriate:

- a) Three Rivers District Council Environmental Health Department (including Environmental Control and Food and Safety Teams)
- b) Three Rivers District Council Property and Estates Department
- c) Three Rivers District Council Planning Department
- d) Three Rivers District Council Transport and Parking Team
- e) Hertfordshire County Council Highways
- f) Hertfordshire Fire & Rescue Service
- g) Hertfordshire Police
- h) Trading Standards
- i) The appropriate Local Ward Councillor(s) and members of the Regulatory Services Committee
- j) The appropriate Parish or Town Council
- k) Any other person or body the Licensing Authority may consider appropriate depending on the type of application.

5.4.2 In addition to the above, further consultations may be carried out with property owners and occupiers in the vicinity of the proposed site who may be affected by the application. This consultation may require the Licensing Authority to notify the relevant property owner/occupiers in writing, or by requiring the applicant to erect a notice at the proposed site for the consultation period. If the applicant is asked to carry out this further consultation and does not carry this out to the Council's satisfaction, the application may be refused.

5.4.3 Only written representations will be taken into consideration when determining an application. The Council will consider any representations made by a person, business or body that is likely to be directly affected by the application. In addition, the representation must not be vexatious or frivolous and should concern itself only with matters likely to be affected by a successful application.

5.4.4 The consultation period for new and renewal applications will run for 28 days. This allows time for the responsible authorities to consider the application and respond to the consultation. Responses received after this period will only be considered at the discretion of the Licensing Authority.

- 5.4.5 Licensing officers will advise consultees of any relevant history and information in relation to the applicant, including any relevant information that may be received during the consultation period.

6 Criteria used to determine the Application

6.1.1 The Council will use the criteria listed in this Policy below in determining any applications for Street Trading consent. Any representations received will be considered against the criteria. All criteria should normally be satisfied, with equal weight applied to each of the criteria listed. Each case will be assessed on its merits and individual circumstances, where appropriate, may be taken into consideration.

6.2 Suitability of Applicant

6.2.1 When determining an application for the grant or renewal of a consent, the Council will consider all relevant information relating to the suitability of the applicant and any employees including;

6.2.2 Whether they have been cautioned or convicted of any offences of:

- a) Violence
- b) Dishonesty
- c) Drug related offences
- d) Sexual offences
- e) Public Order offences
- f) Food safety or health and safety offences
- g) Any offence resulting in a sentence of imprisonment.

6.2.3 This will involve the applicant making a declaration to confirm their status relating to any 'unspent' cautions or convictions under the Rehabilitation of Offenders Act 1974.

6.2.4 An applicant's history of street trading including whether previous consents have been used appropriately.

6.2.5 An applicant who has been found to have been trading in the district without a valid consent at any time will be prohibited from applying for a consent for a period of 12 months from the date that he was found to be trading without a consent.

6.2.6 The Council will reserve the right to request a basic disclosure check at any time where it considers there is a risk to children and/or vulnerable people.

6.3 Nature of goods:

6.3.1 The type of goods proposed to be sold will be taken into consideration. A street trading consent will not be granted for the sale of the following items:

- a) Firearms and replica firearms
- b) Weapons and replica weapons

- c) Tobacco, tobacco related products and e-cigarettes/vapes
- d) Fireworks and sky lanterns
- e) Helium balloons
- f) Animals
- g) Articles that would typically be sold in sex shops

6.4 **Public Safety:**

6.4.1 The location of the proposed street trading activity should not present a substantial risk to the public in terms of road safety, obstruction, and fire hazard. The term “public” refers to both the applicant’s customers and other members of the public using the street. Reference will be made to the guidelines set out in section 11 on site assessment criteria.

6.5 **Public Order:**

6.5.1 The street trading activity should not present a risk to good public order in the locality in which it is situated.

6.6 **Avoidance of Nuisance:**

6.6.1 The street trading activity should not present a substantial risk of nuisance from noise, rubbish, potential for the harbourage of vermin, smells or fumes to households and businesses in the vicinity of the proposed street trading site.

6.7 **Character of the Area:**

6.7.1 In determining the area for the proposed activity, the following will be taken into consideration:

- a) The presence of similar outlets already existing in the immediate locality of the proposed street trading site.
- b) The general needs of a locality should no comparable outlets exist. Applicants may be asked to demonstrate to the Council the need for the proposed street trading activity.
- c) The quality of the goods sold by the applicant.
- d) The appearance of the applicant’s stall, van, barrow, cart etc.

6.8 **Compliance with legal requirements:**

6.8.1 The proposed street trading activity should be carried out from a trading unit that complies with all relevant legislation, such as food hygiene and health and safety.

6.9 **Consultees’ Observations:**

6.9.1 In relation to the points above, consideration will be given to written observations from any consultees. Any representations made to the proposed street trading activity will be considered in terms of relevance to the application that has been made.

7 Decision

7.1 Grant of consent

7.1.1 If there are no objections to the application, the consent will be granted under delegated authority by the Licensing officers and will be active from the date issued. No trading may take place until a consent has been issued.

7.1.2 The consent granted is specific to the person to whom it is issued. Consents are non-transferable and there can be no sub-letting.

7.2 Refusal of consent

7.2.1 If the Licensing Authority receive valid and relevant objections from any of the consultees, the application may be refused. Valid objections can relate to any matters pertaining to the list in at Section 3(6)(a) to (g) of the Act.

7.2.2 Section 3(6)(2)(i) & (ii) of the Act states that where the Council propose to refuse an application, they shall first serve a notice on the applicant holder as follows:

- specifying the ground(s) on which their decision would be based, and
- stating that within 7 days of receiving the notice he may in writing require them to give him an opportunity to make representations to them concerning it.

7.2.3 In exceptional circumstances whereby objections are received or whereby the additional information from the applicant has been received which should be considered further, the application will be referred to the relevant Committee.

8 Appeal Process

8.1 Appeals are determined by the Regulatory Services Committee.

8.1.1 Decisions of the Regulatory Services Committee and rights of appeal in relation to street trading consents will be in accordance with the provisions set out in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. Where an application is to be referred to a Regulatory Services Committee, an applicant (and if relevant any persons making written objections) will be informed of the decision to refer an application to the Regulatory Services Committee and notified of the date of the hearing of the application.

8.1.2 The applicant can be represented by a solicitor or supported by a friend or colleague. The Regulatory Services Committee will call a sub-committee comprising 3 members, none of whom may be ward councillors to the area under the application and will follow a set procedure that will be notified to the applicant in advance of the meeting, along with an officer report that will be presented at the meeting.

8.1.3 In determining the application, the Regulatory Services Sub-Committee will consider presentations from the applicant, any person or organisation making an objection and the Council's Licensing Officer. Applicants and persons making objections to an application should notify the Council's Democratic Services Section at least five working days in advance of the meeting of any witnesses they intend to call and details of any evidence (written, photographic or other material or media) they intend to present at the hearing.

- 8.1.4 Where objections have been raised to the granting of a street trading consent, the Regulatory Services Sub-Committee will consider the objections or representations made. Only persons who have raised objections to the application will be allowed the opportunity to address the Regulatory Services Sub-Committee and ask questions relating to the application.
- 8.1.5 The Regulatory Services Sub-Committee will consider all the evidence presented to it during the hearing and members may ask questions of the applicant, officers and persons making an objection (if any). After hearing the evidence presented to it, the Regulatory Services Sub-Committee will retire and come to a decision on the application. When a decision has been reached the Sub-Committee will inform the applicant of their decision. The decision of the Regulatory Services Sub-Committee will be confirmed in writing to the applicant within 5 working days of the meeting at which the application was considered.
- 8.1.6 The Regulatory Services Sub-Committee will endeavour to ensure that, when considering an application, that all persons get a fair hearing through:
- a) Considering each case on its merits.
 - b) Using this Policy to assess applications as appropriate.
 - c) Dealing with the application in a balanced and impartial manner.
 - d) Ensuring that the rules of natural justice are applied at the hearing.
 - e) Give equal time to those to make their representations and ask questions at the hearing.

8.2 Further Rights of Appeal

- 8.2.1 There is no right of appeal to the Magistrates' Court against decisions of the Council in relation to street trading consents under the Act. A person aggrieved by a decision of the Licensing Authority, or the Regulatory Services Sub-Committee may make an application to the High Court for Judicial Review of the decision. There are strict time limits for making such applications. For further information about the potential grounds for Judicial Review and the procedure for making an application, applicants should seek legal advice from a solicitor as soon as they receive notice of the decision of the Regulatory Services Committee.
- 8.2.2 If an application is refused either at grant or renewal of a street trading consent, any person aggrieved may appeal to the Magistrates' Court against the decision so long as the reason for the decision falls within one of the categories designated under paragraph 3(6)(d)–(g) of the Act. There is no right of appeal where refusal is based on grounds in 3(6)(a)–(c) of the Act. A right of appeal must be exercised within 21 days of the date when the decision to refuse a consent was notified to the applicant or consent holder.
- 8.2.3 If a street trading consent is revoked, any person aggrieved may appeal to the Magistrates' Court against the decision so long as the reason for the decision falls within one of the categories designated under paragraph 3(6)(d) – (g) of the Act. There is no right of appeal where refusal is based on grounds in 3 (6)(a) – (c) of the Act. A right of appeal must be exercised within 21 days of the date when the decision to refuse a consent was notified to the applicant.

9 Display of consent and badges

- 9.1 Static traders shall always, whilst trading, prominently display the consent issued by the Council.
- 9.2 Mobile traders will be issued with a photo ID badge which must be worn by the consent holder whilst trading. A consent summary will also be issued for the authorised vehicle, which must be displayed in a prominent location inside the vehicle, visible to customers all times whilst trading.
- 9.3 If the consent or badge is lost or damaged the consent holder must contact us as soon as possible to obtain a replacement. A charge will be made for a replacement consent/badge.
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10 Changes to consent

- 10.1 Should the consent holder wish to make minor changes to the consent at any time during the life of the consent, a notification of change of details form must be completed and submitted along with supporting evidence. An administration fee will be charged*. Changes that can be made to consents are:
- Changing the existing consent holders own name/address/contact details
 - Changing the vehicle on a mobile trading consent
- 10.2 For all other proposed changes please contact the licensing department as you may need to make a new application if the proposed change is significant and impacts on the objectives of this policy.

*The fees are publically available via the following link:
<https://www.threerivers.gov.uk/eqcl-page/licensing>

11 Transfer of consents

- 11.1 Street trading consents are non transferable. If there is an agreement between a current consent holder and a proposed new consent holder to take over an existing unit and/or location, the original consent holder must surrender their consent and the proposed new consent holder must submit a new application.
-

12 Return of consent

- 12.1 If the consent holder wishes to surrender their consent they will be required to return all street trading documentation with a written explanation as to why they have ceased trading. No refund will be paid for a surrendered consent.
- 12.2 On expiry, surrender, suspension, or revocation the consent/badge MUST be returned to the Licensing Authority within 7 days.
-

13 Conditions:

- 13.1 Consents will be subject to standard conditions to promote public safety and avoid obstructions, nuisance and annoyance. Other additional conditions may be attached to a consent and will be relevant to the category of consent issued and the nature of the local environment. The Council's standard consent conditions can be seen in **Appendix I**.
- 13.2 The Council may at any time vary the conditions of a street trading consent. Should conditions change during the consent time the amended conditions would come into force once the consent is renewed.
- 13.3 The conditions must be always complied with and failure to do so could lead to the consent being revoked, or not renewed.
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14 Enforcement and revocation

- 14.1 The Council aims to work closely with other enforcement authorities to enforce the provisions of all appropriate legislation. Obtaining consent does not confer the holder immunity in regard to other legislation that may apply, e.g. Public Liability, Health & Safety at Work, Food Hygiene and Safety, Alcohol and Entertainment Licensing, Planning controls, and applicants must ensure all such permissions, etc. are in place prior to trading.
- 14.2 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:
- engaging in street trading in a consent street without being authorised to do so; or
 - contravening any condition of their consent; or
 - making a false statement which they know to be false, in connection with an application for a consent.
- 14.3 Without prejudice to the Council's powers to prosecute for any offences under the Act, the Council may take the following enforcement steps where appropriate dependant on the severity of the breach or offence:
- Verbal / written warning to trader
 - Issue of Fixed Penalty Notice
 - Refuse to renew a consent
 - Revocation of consent
 - Prosecution
- 14.4 In determining what course of action is necessary the following matters will be considered:
- Seriousness of the breach or offence;
 - Previous trading history
 - Level of past compliance
 - Traders response to previous warnings
- 14.5 An Authorised Officer may visit the consent holder 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.

- 14.6 During the consent period, if there are any charges, police investigations, and/or convictions against the consent holder ~~or nominated assistant~~, the consent may be revoked with immediate effect.
- 14.7 A consent may be revoked for any of the grounds listed at paragraph 5(1) of Schedule 4 of the Act as well as for any other reasonable cause. The Council shall not be liable in any circumstances whatsoever to pay any compensation to a consent holder in respect of any revocation.
- 14.8 If a further application for a street trading consent is made following revocation of a previous consent the matter will be passed to the Regulatory Services Sub-Committee for a determination.
- 14.9 Failure of the trader to advise the Council within 7 days in writing of any charges, police investigations and/or convictions or cautions which arise during the term of the consent may result in refusal to grant any future applications.
- 14.10 Where a complaint is received from either the public or another authority, such as the police or local authority, the complaint will be investigated, and the Council may revoke the consent.
- 14.11 Where two consent holders are investigated due to complaints of breaches of conditions or arguments over trading times and areas, both consent holders will be expected to fully participate in mediation. Where issues persist or mediation is refused the Council may consider enforcement action or referral to the Regulatory Services Sub-Committee for a consideration of the matter and a decision on whether to apply additional conditions, revoke or renew Consents for either or both parties.
- 14.12 The Council holds the right to ask traders causing a nuisance to cease the activity that they are conducting and leave the area.
- 14.13 Consent holders must allow access to authorised officers and police officers at all reasonable times.

15 Fees

- 15.1 Fees will be set and reviewed annually on a full cost recovery basis, as part of the Council's fees and charges setting process.
- 15.2 Should an application be refused there will be no refund of the application fee.
- 15.3 Should an applicant wish to withdraw their application a partial refund will be issued minus an administration fee.
- 15.4 Details of the current fees can be found on our website:

<https://www.threerivers.gov.uk/egcl-page/licensing>

16 Review of policy

- 16.1 This Policy will be reviewed from time to time should changes occur in relevant legislation, the nature of street trading generally or because of local considerations within the Three Rivers District. In any case, this Policy will be reviewed within five years of adoption or because of any major legislative changes.
- 16.2 Any minor changes that do not impact on the aims and objectives of the policy or reflect changes in legislation will be made with the approval of the Head of Regulatory Services.
- 16.3 Any significant changes can be approved by the Regulatory Services Committee.

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APPENDIX I

Street trading consent - Standard Conditions

1. Trading may only take place on the days and during the times as specified on the consent.
2. Trading is prohibited from within a 50 metre exclusion zone around the curtilage of any school, as measured from the school boundary or entrances onto a highway. This restriction will only be in place;
 - during term time, and
 - on school days, and
 - between the hours of 12.00-hrs to 14.00-hrs and 15.00-hrs to 17.00-hrs
3. The consent holder shall not sell any type of food, goods or merchandise other than as specified on the consent.
4. Static traders are only permitted to trade from the stationary vehicle/trailer or stall, as detailed on the consent, and in the position indicated by the deposited location plan. In the event of this position being unavailable, for any reason beyond the control of the Council, the position may be relocated at any authorised officer's discretion to another nearby area.
5. Mobile traders are only permitted to trade in locations that are agreed by the Licensing Authority.
6. The trader shall always, whilst trading, provide a suitable receptacle for rubbish and litter and remove the rubbish and litter from the site at the end of the day's trading. The trader shall collect any litter or food waste originating from the business, or which has been deposited on the highway by the customers.
7. The trader shall not deposit fat or other liquid or solid waste onto land or into highway drains.
8. The trader shall not operate in a manner which causes nuisance to the public or other persons in the vicinity. The trader will not be permitted to use loudspeakers, radios, or any amplified sound.
9. No animals shall be present on any stall or vehicle.
10. The trader shall comply with all relevant statutes, regulations and bylaws for the time being in force and with the conditions of the consent.
11. The trader shall comply with all requirements of the Food Hygiene (England) Regulations 2013, Regulation (EC) No. 852/2004 on the hygiene of foodstuffs and any associated legislation.
12. The trader shall maintain a minimum food hygiene rating score of 3. The hygiene rating must be displayed prominently on the stall or vehicle. Where a rating below 3 is obtained, the operator has 3 months to obtain a re-rating of 3 or above. If after 3 months an improvement to 3 or above rating has not occurred, then the business should immediately cease trading until satisfactory remedies have been put in place to the satisfaction of the Council. The consent may be revoked.

13. The trader shall always allow access by any authorised officer or their representatives to ensure that the terms of the consent are being carried out to their satisfaction.
14. The trader shall display the street trading consent, which shall be plainly visible to the public and available for inspection by officers of the Council or Police. In addition, all mobile traders must wear the ID badge issued along with the consent.
15. The trader shall provide insurance to the sum of £2,000,000 to ensure against third party liability claims and to indemnify the Council against all claims, liabilities, actions, demands and expense arising in respect of the grant or renewal of this consent. The trader shall provide insurance certificate upon application and on demand for inspection by the Council.
16. The trader is not permitted to hold any auction sale.
17. If the consent allows the trader to trade from a specific vehicle, or stall, the trader shall only use the approved vehicle or stall and may not trade from any other vehicle or stall. No table, chairs or similar articles shall be placed outside the vehicle/stall without the prior approval of the Council.
18. The trader shall comply with all reasonable requirements of any authorised officer or Police officer, including temporarily ceasing trading where necessary for public order or safety reasons.
19. No child under the age of 17 shall be engaged in the trading.
20. The consent is personal to the applicant and is not transferable to any other person, firm or company.
21. No sub-letting of consents is permitted.
22. The trader may not sell, display or wear any article which is offensive either in writing or pictures - this includes assistants working on static vehicle/stall. The authorised officer's decision as to what is offensive is final.
23. The trader shall reimburse all costs incurred by the Council because of any damage caused by the trader's occupation of the approved site.
24. The Council may revoke the consent at any time and will normally give four weeks' notice of revocation unless earlier revocation is appropriate due to a breach of the conditions or public safety reasons.
25. The trader shall maintain the vehicle/stall in good condition, to the satisfaction of the Council. Any vehicle/trailer must be kept in a roadworthy condition, taxed, always insured and MOT'd where relevant.
26. The trader shall remove the vehicle/stall at the end of each day's trading unless otherwise agreed as part of the application process by the Licensing Authority (static trading).
27. Traders who have a consent to trade in any town centre will not be authorised to do so on any designated market days, or at a time where there is an event of cultural, community or historical significance taking place in the town centre. The Council will notify the trader of the dates when trading is not permitted.
28. The trader shall not place or display any sign or structures on or adjacent to the highway; this includes street furniture such as tables, chairs, gazebo's etc.

29. The trader shall always ensure that the prices of the goods on sale are clearly and visibly displayed.
30. The Council may at any time vary, substitute, or modify the conditions as shown above, provided a copy is then provided to the consent holder in advance of any change or on renewal of their consent.
31. The consent holder will advise the Council in writing of ANY dealings with the Police within 7 days of any reportable incident.
32. Consent holders shall notify the Council in writing of any changes to their contact details, such as home address, telephone, or email, within 7 days. A fee is applicable for the amendment to the consent record(s).
33. The consent holder must notify the Council in writing within 7 days of any charges, convictions or cautions issued during the consent. Failure to do so may result in revocation and/or the refusal to grant any future applications.
34. If a consent holder fails to comply with any of the conditions attached to a street trading consent, the consent may either be suspended for an indefinite period or revoked. The consent holder may also be prosecuted if offences have taken place.

Additional conditions for mobile street traders (Ice cream van traders)

1. ~~Must not stop within 50 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 (unless with the written authority of Head Teacher of any school).~~
2. Must move from position to position, remaining stationary for no more than 15 minutes on any 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 if no other customer is clearly awaiting service.
3. 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.
4. Must not sound chimes before 12:00hrs (noon) or after 19:00hrs.
5. The chimes should not be played when in sight of any other ice cream van (whether moving or stationary) which might reasonably be taken to be in the street for trading purposes.
6. Must not trade within 50m radius from any other street trader.
7. Not stop in any 500 metres section of any street more than once in every two hours.

Additional conditions applicable to Markets

1. The consent holder must keep records of each stallholder present at the market, to include where relevant; the stallholder's pitch number, individuals name and address, business name and address, vehicle registration, brief description of products offered and a contact telephone number. This must be produced on request to an authorised officer.

2. The consent holder must ascertain that all other required authorisations have been obtained where necessary for e.g. food business registration, licence issued under the Licensing Act 2003.

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APPENDIX II – List of current Prohibited/Consent Streets

Prohibited Streets

These are streets where street trading is prohibited and an application for street trading consent will be refused.

Trunk Roads

- A41
- A405 between A41 and Watford Borough boundary.
- A405 - that part which lies between the roundabout at Long Lane and the A412 Denham Way.
- A405 - that part of the road which lies within the Three Rivers District at Garston.

Principal Roads

All of the following roads which lie within the Three Rivers District:-

- A412
- A404
- A4145
- A4008
- A4125

All other roads apart from those listed above are considered as Consent Streets whereby a Street Trading Consent will be required to trade within the District.

In the avoidance of doubt 'a highway is **any public or private road or other public way on land**. It is used for major roads, but also includes other public roads and public tracks'.

For clarification - a street includes a street, highway or other area (e.g. carpark, park, green, pavement) to which the public have access without payment and as such any land adjacent to the street including adjacent verges.

Trading is prohibited within 50m of any school boundary unless written permission is ascertained from the Head Teacher and made available to the Licensing department.