



Street Trading in West Somerset

West Somerset Council
Environmental Health & Licensing Unit
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STREET TRADING

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1.0 LEGISLATION

- 1.1 In accordance with Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982, West Somerset Council has adopted the Street Trading Consent Scheme, which covers the selling or exposing or offering for sale of any article in a designated street.

CONSENT STREETS

- 1.2 From the 1st January 2007 all streets in West Somerset are deemed to be Consent Streets. A Street Trading Consent is required before any person can trade on a street which has been classified as a Consent Street in West Somerset.

It should be noted that at the Tourism & Leisure Committee Meeting held on 7th December 1993, Members nominated that the use of Wellington Square would only be considered for Charities and Non-Commercial organisations, and that no selling should be undertaken on the Square. Therefore any Street Trading application for this area will not be given consent for use by the land owner.

'A' ROADS IN WEST SOMERSET

- 1.3 Currently, only three specific 'pitches' on 'A' roads have been designated in West Somerset as suitable for Street Trading from a static pitch. The relevant pitches are:

- Bicknoller Layby on the A358
- Green Triangle Layby at Holford
- Shervage Woods Layby on the A39 at Holford

No more than one stall is permitted at each pitch at any time.

The pitches become vacant very infrequently and are then allocated on a first come first served basis.

All other areas and laybys on 'A' roads within West Somerset are generally considered unsuitable for trading due to highway and road safety issues, consequently consent is unlikely to be given to trade from any area or layby situated on an 'A' road in West Somerset other than for the above-mentioned pitches. (Future alterations to layout of roads in West Somerset may result in previously unsuitable locations becoming available).

You should contact the Licensing Unit to ascertain whether any pitches are available.

DEFINITION OF STREET

- 1.4 The definition of 'street' is defined under the Local Government (Miscellaneous Provisions) Act 1982 as including:

- “(i) any road, footway, beach or other area to which the public have access without payment, and
- (ii) service areas as defined under Section 329 of the Highways Act 1980,

and also includes a part of a street.”

DEFINITION OF ‘STREET TRADING’

- 1.5 ‘Street Trading’ means the selling or exposing or offering for sale of any article (including a living thing) in a street but this does not include:
- a) trading as a pedlar under the authority of a ‘Pedlars Certificate’ (issued by a Police Authority)
 - b) trading at fairs and markets which have a right to trade
 - c) newsvendors trading in the sale of newspapers and periodicals only, provided that they are not sold from a stall or similar structure or, if they are, that it stands on the carriageway of a street and its dimensions do not exceed one metre in length, two in height and does not occupy a ground area of more than 0.25 square metres.
 - d) trading as a petrol filling station or shop.
 - e) selling things as a ‘roundsman’ e.g. milkman.
 - f) trade carried out in a street adjoining a shop provided it is part of the business of the shop (such business must not obstruct the highway or pavement area).

- 1.6 Under Section 7 of the Local Government (Miscellaneous Provisions) Act 1982, the Council may:
- a) attach such conditions as it considers reasonably necessary;
 - b) vary those conditions or revoke the Consent at any time.

There is no right of appeal against a variation, refusal to grant or refusal to renew a Street Trading Consent.

RELEVANT OFFENCES

Extract from the Local Government (Miscellaneous Provisions) Act 1982

- 1.7 (1) A person who –
- a) engages in street trading in a prohibited street; or
 - b) engages in street trading in a licence street or 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 vehicles; or
 - ii) from a portable stall
- e) without first having been granted permission to do so under paragraph 7 (8) above; or
contravenes a condition imposed under paragraph 7(9) of the Act, shall be guilty of an offence, (i.e. where permitted to trade and the permitted hours).
- (2) 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.
- (3) Any person who, in connection with an application for a street trading licence or 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.
- (4) 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.

2.0 POLICY

- 2.1 The trader shall provide a service which is of benefit to the public.
- 2.2 The number of traders in any one area shall be limited so as not to cause undue concentration.
- 2.3 The siting and operation of any trader shall be such that it does not cause any problems of highway safety, obstruction to users of the highway or conflict with the requirements of emergency vehicles.
- 2.4 Each application for grant or renewal of Street Trading Consent will be considered on its merits.
- 2.5 Standard conditions will be imposed unless circumstances dictate otherwise. Additional conditions may be imposed at the discretion of the Local Authority.
- 2.6 Uses involving the sale of food and noise emission shall meet the requirements of the Environmental Health & Licensing Department of the Council and these should be identified before a consent is considered.
- 2.7 The appearance and use 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.
- 2.8 The use shall not be likely to cause problems of noise, smell, litter, excessive queuing or late night disturbance, especially in residential streets.
- 2.9 The use shall be compatible with the character of the area in which it is proposed to be situated.
- 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 is not enough space in the street for the applicant to engage in the trading in which s/he desires without causing undue interference or inconvenience to persons using the street.
 - b) That there are already enough traders trading in the street from shops or otherwise, in the goods in which the applicant desires to trade.
 - c) That the applicant is unsuitable to hold a consent by reason of having been convicted of an offence, or for any other reason.

- d) That the applicant has at any time been granted a Street Trading Consent by the Council, and has persistently refused or neglected to pay fees due to them for it or charges due to them for services rendered.
- e) That the applicant has, without reasonable excuse, failed to avail himself/herself to a reasonable extent of a previous Street Trading Consent.
- f) An applicant or operator of the stall is under the age of 17 years.
- g) That a trader has failed to comply with the conditions attached to the Consent.
- h) That street trading in a particular location will conflict with a legally constituted market or market franchise rights.
- i) That street trading in a particular location will conflict with concessions granted to traders.
- j) That the street trading may damage the structure or surface of the street.

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.

2.13 Trading may not be undertaken from any parking place within the area administered by West Somerset Council, in accordance with the West Somerset (Off-Street Parking Places) Order 1992: Part II: S16.

FEES

2.14 The fees are payable for each unit and/or site.

2.15 In the event of an application being refused, the Council will refund the fee paid, minus a 20% administrative fee.

2.16 Where a Consent has been revoked or surrendered, the Council will refund 15% of the Consent fee in respect of each unexpired calendar month.

2.17 The fees are reviewed annually and any changes made are applicable from the 1st April of each year.

3.0 GENERAL NOTES

3.1 Any person wishing to sell or offer for sale any article in a consent street, including the following examples:

- ❖ Fish and Chip vans
- ❖ Kebab and Burger vans
- ❖ Ice Cream vans
- ❖ Indian and Chinese Food vendors
- ❖ Flower Sellers
- ❖ Hot and/or Cold food and/or drink

must apply for Street Trading consent.

N.B. If the list above does not cover the type of items you wish to sell, it does not mean that you are exempt from the requirement to obtain Street Trading Consent, you must check with the Licensing Officer in all cases.

3.2 If you are selling food your business will also need to be registered with the local authority where your trailer is stored. If your trailer is to be stored outside West Somerset, please let us know and we will put you in touch with the relevant local authority (see notes on Registration of Food Premises)

3.3 Where an application to trade applies to land owned by this Authority or the highway, permission from the relevant department will be required and should be obtained before a Street Trading Consent application is made. A separate charge may be made for this.

3.4 Where an application to trade applies to land in private ownership, permission from the land owner is required and should be obtained before a Street Trading Consent application is made. The land owner may make a separate charge for this.

3.5 Applications will be considered from organisers of markets, car boot sales, fetes, carnivals and similar community events on the basis of one block Consent for the market or event in question. The market or 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.

3.6 Wherever trading is taking place, planning permission may be required. Before any Street Trading Consent application can be considered, written notice from the relevant Planning Authority that planning permission has been granted or is not applicable is required.

3.7 Whenever late night catering is taking place (anytime between 23:00 and 05:00 the following day), a Premises Licence is required under the Licensing Act 2003.

3.8 It is not intended that the various approval processes will permit duplication in terms of consideration of issues. Issues covered by the Planning or Premises Licence process will not therefore be covered by the Street Trading Consent application process other than where required as part of the conditions.

4.0 APPLICATION PROCESS

4.1 Only fully completed applications will be considered, on a first-come first-served basis.

4.2 Correctly completed applications consist of:

- a) Completed application form, giving full details of the stall, goods to be sold etc.
- b) A site plan (to scale) clearly indicating the exact trading location. Applications for mobile consents (i.e. ice cream vans) must detail specific areas they wish to trade from. Separate consents must be obtained to trade in Minehead or Dunster or on 'A' roads.
- c) A photograph (passport size and type – the photograph must be recent with no headgear worn) of the applicant and one standard photograph of the stall/vehicle/barrow to be used. (If any assistant is to be named on the Consent, a photograph (as detailed above) of each assistant to be included together with the additional fee for each assistant to cover the cost of the additional badge(s)).
- d) Planning approval or written confirmation from the relevant Planning Authority that approval is not required (new applications only)
- e) Application fee (you are advised to contact the Licensing Unit to ascertain the current fee applicable)
- f) Public Liability Insurance (minimum of £5m)
- g) Copy of consent from land owner for use of the land.

4.3 Completed applications should be forwarded to the Licensing Unit, West Somerset Council, 20 Fore Street, Williton, Taunton, Somerset, TA4 4QA.

5.0 CONDITIONS

- 5.1 Schedule 1 - Standard conditions are attached to Street Trading Consents where appropriate. For a list of the conditions, see appendix 'A'.
- 5.2 Schedule 2 – Conditions relating to the sale of hot and/or cold food are also attached to Street Trading Consents that include the sale of food. For a list of the conditions, see appendix 'B'.

6.0 CODE OF PRACTICE FOR THE USE AND/OR STORAGE OF LIQUEFIED PETROLEUM GAS IN MOBILE SHOPS, SNACK BARS AND STALLS

STORAGE OF L.P.G. CYLINDERS

6.1 If stored externally, these should be:

- a) Sited on a firm standing.
- b) Fitted in an upright position with the valve uppermost in an upright stand or otherwise securely held.
- c) Protected from accidental damage or interference.
- d) So sited that the top is below the level of the stall openings, or 1 metre away from such openings.

If stored internally:

- a) Cylinder should be kept in a compartment that is gas-tight from the interior having half-hour fire resistance.
- b) The compartment should be sufficient to contain spare cylinders.
- c) The compartment should be positioned away from the service area.
- d) Access to the compartment must only be from the exterior of the vehicle and must be fitted with a lock.
- e) Compartment ventilation must be at both high and low levels.
- f) The compartment must be identified with a suitable sign conforming to B.S. 5378 1 1980, E.G. 'L.P.G. HIGHLY INFLAMMABLE'.

6.2 The total quantity of L.P.G. available at a premises should not exceed 50kg.

GAS PIPES AND FITTINGS

6.3 All ferrous pipework and fittings to be protected from corrosion. Non-ferrous pipes to be drawn copper or stainless steel with compression-type fittings.

6.4 No pipes to be run through box sections or cavities.

6.5 All joints and unions to be easily accessible.

- 6.6 Pipes to be securely fixed in position.
- 6.7 Flexible hoses to be as short as possible. Only hoses conforming to BS 3212 are to be used and should be changed every two years. All hoses should be secured with proper hose clips.
- 6.8 All valves and fittings to be tested with soapy water at regular intervals to ensure that they are gas tight.

WARNING NOTE – ALL L.P.G. EQUIPMENT IS DANGEROUS UNLESS INSTALLED PROPERLY AND REGULARLY MAINTAINED BY COMPETENT PERSONS. PROFESSIONALLY QUALIFIED PERSONNEL SHOULD CARRY OUT ALL INSTALLATIONS AND MAINTENANCE. THE USE OF L.P.G. SHOULD BE TREATED WITH RESPECT AT ALL TIMES.

FIRE EXTINGUISHERS

- 6.9 A dry powder extinguisher conforming to BSEN3 must be provided.
- 6.10 Extinguisher size to be determined using the following table:

<u>Length of Vehicle</u>	<u>Extinguisher Capacity</u>
Up to 3.5 metres long	1 x 2 kg
Between 3.5 & 4.5 metres long	1 x 4 kg
Over 4.5 metres long	1 x 6 kg

- 6.11 Extinguishers should be mounted on wall brackets approximately 1 metre from floor level and adjacent to the exit.
- 6.12 A competent person must service extinguishers at least once per year.
- 6.13 All staff must be trained with regard to procedures in case of fire.

VENTILATION

- 6.14 Ventilation in the vehicle or trailer must be sufficient to provide oxygen for gas burning appliances and to remove the products of combustion. This should be by means of permanent vents at high and low levels.

7.0 SUMMARY OF THE CODE OF PRACTICE ON NOISE FROM ICE CREAM VAN CHIMES ETC 1982

7.1 It is an offence to sound your chimes before 12:00 (noon) or after 19:00. It is also an offence to sound your chimes in such a way as to give reasonable cause for annoyance. A code of practice approved by the Government gives guidance on methods of minimising annoyance caused by your chimes. The main points of the code of practice are:

DO NOT SOUND YOUR CHIMES:

- ❖ **For longer than 4 seconds at a time**
- ❖ **More often than once every 3 minutes**
- ❖ **When the vehicle is stationary**
- ❖ **Except on approach to 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 days of worship).**
- ❖ **More often than once every 2 hours in the same length of street.**
- ❖ **Louder than 80dB(A) at 7.5 metres.**
- ❖ **As loudly in quiet areas or narrow streets as elsewhere.**

REMEMBER:

It is an offence to sound your chimes before 12:00.

It is an offence to sound your chimes in a way which gives reasonable cause for annoyance.

8.0 NOTES ON REGISTRATION OF FOOD PREMISES

8.1 What is registration?

Registration of premises used for a food business (including market stalls, delivery vehicles and other moveable structures) is required by law. Registration will allow local authorities to keep an up-to-date list of all those premises in their area so they can visit them when they need to. The frequency of the visits will depend on the type of business.

8.2 Who needs to register?

If you run a food business for 5 or more days in any 5 consecutive weeks, you must notify (or arrange for someone else to notify) the local authority about any premises you use for storing, selling, distributing or preparing food. Food premises includes restaurants, hotels, cafes, shops, supermarkets, staff canteens, kitchens in offices, warehouses, guest houses, delivery vehicles, buffet cars on trains, market and other stalls, hot dog and ice cream vans etc.

8.3 If you use vehicles for your food business in connection with permanent premises such as a shop, or warehouse, you only need to notify the local authority how many vehicles you have. You do not need to register each vehicle separately. If you have one or more vehicles but no permanent premises, you must tell the authority where they are normally kept.

8.4 Anyone starting a new food business must register with the local authority at least 28 days before doing so.

8.5 The majority of premises will have to be registered. However, certain premises are exempt from registration eg, some which are already registered for food law purposes, certain agricultural premises, motorcars, tents and marquees (but not stalls), some domestic premises and some village halls. You should contact your local authority if you think you might be exempt.

8.6 How do I register?

By filling in the food premises registration form. Registration cannot be refused and there is no charge. The registration form must be sent to your local authority. The address can be found in the telephone directory. If the form is sent to the wrong address your application will not take effect until it is received at the proper place. If you use premises in more than one local authority area, you must register with each authority separately.

8.7 You must tick all the boxes which apply to your business, answer all the questions and give all the information requested. Seasonal businesses operating for a certain period each year should give the dates between which they will be open in answer to question 9. If you

have any questions your local authority will help you. It is an offence to give information which you know is false.

8.8 What happens to the information given on the form?

The local authority will enter the details on its register. A register of addresses and the type of business carried on at each will be open to inspection by the general public. Records of the other information provided will not be publicly available.

8.9 Changes

Once you have registered with the local authority, you only need to notify them of a change of proprietor, if the nature of the business changes, or if there is a change of the address at which moveable premises are kept. The new proprietor will have to complete an application form.

These notes are provided for information only and should not be regarded as a complete statement of the law.

1.0 SCHEDULE 1 - STANDARD CONDITIONS

- 1.1 The holder of this Consent (and where appropriate joint holders of this Consent) and any person employed by him to assist in trading shall produce it on demand when so required by a Police Officer or a duly authorised officer of the West Somerset Council. The badges issued to the licence holder must be worn at all times when trading.
- 1.2 The holder shall return this Consent and any badges issued to him immediately on revocation or surrender of the Consent.
- 1.3 The holder shall not trade otherwise than strictly in accordance with this Consent and shall not use the street for any trading purpose other than the purpose and times as permitted by the Consent.
- 1.4 The holder shall notify the Environmental Health & Licensing Team Leader at West Somerset Council, 20 Fore Street, Williton, Taunton, Somerset, TA4 4QA immediately of any convictions or proceedings arising out of the use or enjoyment of the permit by the holder of this Consent.
- 1.5 Where appropriate, the holder of any street trading consent and the stall and/or vehicle must comply with all relevant road traffic and highways legislation.
- 1.6 Where appropriate, the holder of the street trading consent and the stall and/or vehicle must comply with all relevant food hygiene legislation.
- 1.7 The consent holder shall only trade from a stall or vehicle approved by the Council in writing.
- 1.8 The consent holder shall maintain the stall or vehicle in a clean state and its structure shall be kept in good order, repair and condition to the satisfaction of an Officer of the Council authorised in writing under the appropriate legislation.
- 1.9 The consent holder shall conduct his/her business in such a manner to ensure that he/she does not:
 - a) cause a nuisance to the occupiers of adjoining property;
 - b) cause an obstruction to the vehicles or pedestrians in the street;
 - c) cause a danger to occupiers of adjoining property or to other users of the street;
 - d) cause an obstruction to the emergency services.
 - e) trade from any areas where parking restrictions are in existence,
 - f) compromise junction visibility and visibilities to any pedestrian crossing locations,
 - g) trade from areas where it is considered unsafe for the public to wait and shall not reduce the width of available footpath requiring pedestrians to enter the carriageway.

- 1.10 Refuse storage must be provided 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.
- 1.11 The consent holder shall keep his trading position and the immediately 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.
- 1.12 A copy of the consent, suitably protected against the weather shall be displayed in a prominent position on the stall or vehicle at all times when trading is taking place.
- 1.13 Any stall or authorised vehicle used for trading shall 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, Highways Authority or officer of the Council.
- 1.14 No process or operation shall be carried out which would give rise to a nuisance by reasons of noise, vibration, smoke or smell.
- 1.15 Nothing in this Consent shall purport to grant to the holder any other licence or permissions required under any other Enactment or requirement and the holder is specifically advised to obtain such other approvals as may be required.
- 1.16 All L.P.G. installations shall be in accordance with the code of practice.
- 1.17 Any Consent holder who sells food shall be registered with the Council's Environmental Health Unit in accordance with the relevant regulations and shall comply with the additional conditions attached as schedule 2 to these conditions.
- 1.18 No signage/objects/advertising shall be placed on the highway or area surrounding the vehicle/cart/stall/barrow. If seats and/or tables are to be provided, a pavement licence must be obtained from the Highways Authority and notified to the Local Authority prior to installation of the tables/chairs.
- 1.19 The name and address of the operator and other address at which the trailer is normally kept or garaged must be conspicuously and legibly displayed upon it in a place where the public may view it.
- 1.20 Failure to comply with any condition attached to the Street Trading Consent may result in the revocation of such consent.
- 1.21 The Council reserve the right to vary the conditions attached to the Consent or to revoke such Consent at any time.

- 1.22 The Consent remains the property of West Somerset Council and is not transferable. The Consent cannot be sold to a third party.
- 1.23 Itinerant street traders (i.e. those who move from place to place) shall not remain for more than one half hour in any street.
- 1.24 Trading may not be undertaken from any parking place within the area administered by West Somerset Council, in accordance with the West Somerset (Off-Street Parking Places) Order 1992: Part II; S16.

2.0 SCHEDULE 2 – CONDITIONS RELATING TO THE SALE OF HOT AND/OR COLD FOOD

- 2.1 The general conditions applicable to all street traders must be complied with.
- 2.2 All floor areas to be covered with suitable material properly fitted with a minimum of joints.
- 2.3 Wall and ceiling finishes should be smooth, impervious and all joints properly sealed to provide surfaces which can be effectively cleaned.
- 2.4 Doors should be flush finished. All windows should be properly decorated and free from ornamentation, such as curtains.
- 2.5 Suitable locker provision to be made for any shoes, handbags or outdoor clothing kept on the stall.
- 2.6 All working surfaces and cupboard areas should be of laminated plastic or preferably stainless steel construction so as to be smooth, hard, impervious and capable of being effectively cleaned.
- 2.7 An impervious container with plastic liner should be provided on the stall for temporary reception of refuse and waste prior to disposal.
- 2.8 All meat products (not stored in sealed cans or vacuum packed) intended for human consumption shall be maintained at a temperature below 5 degrees C. or above 70 degrees C. prior to sale. The core temperature of cooked food must be checked to ensure it has reached above 75 degrees C. for 30 seconds before the heat source is removed.
- 2.9 All cooking equipment should be maintained in a clean and hygienic condition, and if gas fired, should be provided with a suitable shut-off tap between the gas distribution pipework and each appliance. This tap must be sited so as to enable easy access to it for isolation of the appliance in case of emergency.
- 2.10 A stainless steel sink of suitable size must be provided for the washing of utensils and equipment only. A supply of hot and cold water or water at a suitably controlled temperature must be provided over the sink. Cold water only is acceptable where the sink is used solely in connection with the sale of fish, fruit or vegetables.
- 2.11 A separate wash hand basin for the exclusive use of staff must be provided with an adequate supply of hot and cold water at a suitably controlled temperature. Soap, nailbrush and suitable drying facilities should be available at the basin.

- 2.12 Waste water must be collected from washing facilities into sealed containers outside the trailer and the waste disposed of into a foul drainage system.
- 2.13 A first aid kit comprising suitable and sufficient bandages and blue waterproof dressings must be available on the vehicle (stall) at all times.