

Thurrock Council – Street trading policy

Local authorities have a legal discretion to regulate street trading in their administrative area.

Purpose of the policy

This policy is to control street trading across the borough of Thurrock by means of a Street Trading Consent Scheme, whereby specific streets are prohibited from street trading at any time and the remaining streets are Consent Streets.

Trading from Consent Streets is also prohibited unless the trader has applied for and received a written Consent to Trade from Thurrock Council. Any such Street Trading Consent will contain restrictions on the location and permitted times for trading, type of goods sold and contain clear rules, which must be adhered to in order for the trader to obtain and retain the Street Trading Consent.

The conditions are to protect public health and reduce nuisance to neighbouring properties and are clearly laid down in the application and guidance pack given to applicants and attached to any Street Trading Consent given.

Definitions

"Street Trading" is defined in paragraph 1 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 – hereinafter called "the Act" – as "the selling or exposing or offering for sale of any article (including a living thing) in a street".

"Street" is defined in the Act above as including:

- "any road, footway, beach or other area to which the public have access without payment"
- "a service area" as defined in section 329 of the Highways Act 1980

Any part of a street is a "street" for the purposes of the Act.

Exemptions

The Act at paragraph 1(2) of Schedule 4 states that the following types of trade are not street trading:

- a pedlar trading under the authority of a pedlar's certificate granted under the Pedlar's Act 1871
- anything done in a market or fair, the right to hold which was acquired by virtue of a grant, enactment or order
- trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980
- trading as a news vendor
- trading carried out at premises used as a petrol filling station or used as a shop or in a street adjoining premises so used and as part of the business of that shop
- selling things or offering or exposing them for sale as a roundsman

Prohibited streets

See Appendix 1 for the list of Prohibited Streets in Thurrock. It is a criminal offence for any person to engage in street trading in that street. Streets will be designated as prohibited where it is anticipated that such trading would cause:

- noise or nuisance to residents living in the locality,
- would reduce public safety to persons crossing or using the street or to road users.

Consent streets

If a street is designated as a "Consent Street", then street trading without a consent is a criminal offence under The Local Government (Miscellaneous Provisions) Act 1982.

When granting or renewing a consent, the council may attach any reasonable condition. Furthermore the council can, at any time, vary the conditions attached to the consent. Any such variations will be notified in writing to the named person in receipt of the Consent to Trade and will take effect immediately or on the date of the notification letter.

There is no right of appeal against any council decision made in regard of a street trading consent. The consent cannot be granted for a period of time exceeding 12 months and can be revoked at any time.

Considerations when assessing an application for a Street Trading Consent

Public safety

The proposed location of the activity should not present a risk to the public in terms of highway safety and obstruction. Where any proposed trading is within 50 metres of a school entrance, the council will seek the views of the school.

Prevention of crime and disorder

The proposed activity should not present a risk to public order. This is likely to be more of an issue in respect of applicants wishing to trade at later hours.

Prevention of public nuisance

Consideration will be given to measures taken to reduce the risk of nuisance from noise, refuse, vermin, fumes and odours.

Suitability of the trading unit

The trading unit should be of a good quality design, safe construction and add to the quality of the street scene. The unit shall comply in all respects with any legal requirement relating to the trading activity proposed and in particular with the following legislation and any consequent amendments:

- The Food Safety Act 1990
- The Food Hygiene (England) Regulations 2006
- Food safety requirements made under the European Communities Act 1972

- Health and Safety at Work etc. Act 1974 and any regulations made under it
- Environmental Protection Act 1990
- Licensing Act 2003.

Suitability of the applicant

Previous failures, without reasonable excuse, to comply with the above legislation, failure or neglect in paying Consent to Trade fees may result in a Consent being refused, revoked or not renewed.

Number of Street Trading Consents

Consents may not be issued where Thurrock Council considers that sufficient traders already exist in that locality and that additional traders may cause risks to public safety or nuisance to the occupants of neighbouring properties.

Duration of Consents and fees

Street Trading Consents will normally be issued for one of the following periods:

- daily
- quarterly
- annually

A Street Trading Consent cannot be issued for more than one year. Street Trading Consents issued for new sites – that is, sites where Street Trading has not occurred in at least the previous 12 months – will only be issued for an initial 3 month period. If no significant objections relating to public safety or nuisance, have been raised by the police, Highways department or relevant authorised officer of Thurrock Council during the 3 month period, the Consent can be extended to a maximum of one year from the date of first issue.

All fees must be paid in advance.

If a Consent is surrendered by the Consent Holder, the unused portion of the fee will be refunded from the date that the Consent to Trade is surrendered and the Trading Plates are returned to the Licensing Team.

If the site used by the Mobile Trader requires cleaning or refuse removed due to the business of that Consent Holder, then the council will charge the appropriate hourly rate for that service, plus the cost for taking the refuse to an authorised waste disposal site. This will be in addition to the standard charges for the Consent to Trade.

Failure to maintain payments may result in the Consent being revoked and will result in the Consent not being renewed.

Conditions and enforcement

Standard conditions (attached at appendix 2) will be attached to every Consent, detailing the holder's responsibility to maintain public safety, prevent nuisance and preserve the amenity of the locality.

Additional conditions may also be attached limiting the days and hours when street trading is permitted, the goods which may be sold, the size of the trading unit or pitch or any other relevant matter.

Failure to comply with these conditions may lead to revocation or non-renewal of the consent.

The following are offences under the above Local Government (Miscellaneous Provisions) Act 1982 and will be considered for prosecution:

- street trading in a prohibited street
- street trading in a Consent street without a relevant Consent to Trade
- street trading with a Consent to Trade, but not complying with the times or location stated within the Consent to Trade

All decisions regarding enforcement action will be made in accordance with the Public Protection Department Enforcement Policy and the Enforcement Concordat adopted by Thurrock Council.

Appendix 1 – Prohibited streets

Streets prohibited by Thurrock Council:

- South Road, South Ockendon
- Romford Road, Aveley
- Lodge Lane, Grays
- Stanford Road between the A128 and London Road, Stanford le Hope
- A1306 westwards from the A1012
- B1335 Stifford Road, South Ockendon
- East Tilbury Road, Linford

Streets prohibited and enforced by the Highways Agency:

- A13 between Wennington (A1306) and the A1089 junction at Baker Street
- A13 link roads between A282/M25 junctions 30 and 31 and A282 Canterbury Way
- A1089 between the A13 junction and the London Tilbury Cruise Terminal

Appendix 2 – General conditions for street trading consents

The council will not grant a Street Trading Consent to persons under the age of 17 years and no person employed by a Consent Holder to assist him/her in the street trading shall be under the age of 16 years.

The consent granted is specific to the person it is issued to and is non-transferable.

No trading stall, vehicle, etc., is permitted to remain at the locality in question outside the permitted hours. It must be removed at the end of each trading day and not returned until the agreed trading commencement hours the following day.

Planning permission

The land from which you intend to trade may require planning permission for such use. It is your responsibility to check with the council's planning department prior to applying for a Consent.

Location of static trading units

Static units (Class A) must not trade from any area other than the site defined in their Consent to Trade. If the Consent Holder wishes to move the trading unit to another site he/she must apply for a new Consent to Trade.

Trading site

Trading at the site defined in the Consent to Trade must not cause any risk to public safety and must comply with the conditions detailed in the section of the application and guidance pack called "Site Assessment".

Goods sold from the trading vehicle

The Consent Holder can only sell goods identified in the Consent to Trade. If he/she wishes to sell different or additional goods, he/she must apply for a new Consent to Trade.

Trading times

The Consent Holder shall not trade within the borough of Thurrock outside the time and days permitted by the Consent.

Legal requirements of the trading unit

The mobile vehicle, stall, barrow etc. must at all times comply with the requirements of the Food Safety Act 1990, Food Hygiene (England) Regulations 2006 and the Health and Safety at Work etc. Act 1974 and any other relevant public safety legislation.

Sanitary provision

The Consent Holder when operating on a static site shall have access to suitable and sufficient sanitary (toilet) facilities for both the Consent Holder, and any persons employed in the street trading activity. If you are intending to use sanitary facilities belonging to a local business or domestic residence, you must provide written confirmation of that permission with your application form. The sanitary accommodation arrangements will be inspected by Thurrock Council.

Private and Thurrock Council land

You must provide written confirmation of permission obtained from Thurrock Council's Lands department or the private land owner for the land where the stall/vehicle is to trade from and be stored when not trading.

Possession of a street trading consent does not, in any way, override parking restrictions or other traffic regulations for either the Consent Holder or his customers.

Change of home address

The consent holder must inform the Council of a change in his/her home address during the period of the consent within 7 days of such a change taking place.

Trading unit identification plates

All vehicles, stalls, carts or other devices used for street trading will be required whilst trading to display a trading unit identification plate. The plate is issued by the council and remains the council's property throughout the duration of the Consent. The plate should be displayed in a prominent position on the trading unit, so that it is clearly visible to members of the public using the trading unit.

The trading unit identification plate must be returned to the council if the Consent Holder ceases to trade and surrenders his/her Consent.

Condition of the stall/vehicle

The Consent Holder must ensure that the appearance of the stall/vehicle is of a high standard and the structure and procedures comply with all relevant legal requirements – in particular, the Food Safety Act 1990, the Health and Safety at Work etc. Act 1974, the Food Hygiene (England) Regulations 2006, the Environmental Protection Act 1990 and associated regulations.

The Consent Holder shall not place on the street or in a public place any furniture or equipment other than as permitted by the Consent and he must maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance or exit from any premises.

Behaviour

The consent holder shall at all times be clean and respectable in his dress and person and behave in a civil, orderly and courteous manner.

Trading shall not take place in such a manner as to cause nuisance or annoyance to persons whether using the street or otherwise.

Ice cream van chimes

The Consent Holder must comply with the provisions of the Code of Practice on Noise from Ice Cream Van Chimes etc. 1982 – that is, it is an offence to sound the chimes so as to cause annoyance. Do **not** sound the chimes:

- for longer than 4 seconds at a time – use an automatic cut out device
- more often than once every 3 minutes
- when the vehicle is stationary

- except on approach to a selling point
- when in sight of another ice-cream van which is trading
- when within 50 metres of schools (during school hours), hospitals and places of worship on Sundays and any other recognised days of worship
- more often than once every 2 hours in the same street
- louder than 80 dB(A) at 7.5 metres distance from the vehicle
- as loudly in quiet areas or narrow streets as elsewhere

It is also an Offence under the Control of Pollution Act 1974 to sound chimes:

- before midday and after 7pm
- at any time, in a way which gives reasonable cause of annoyance

Refuse

The consent holder shall in no circumstances, deposit litter, rubbish or refuse in the street, but shall at all relevant times provide adequate and proper containers for the disposal of such refuse from his vehicle and customers and shall encourage his customers to use those containers. The consent holder shall tidy up, clear up and clean up all refuse, litter etc. before leaving the locality and take the refuse and containers with him/her.

The Consent Holder must ensure that waste liquids arising at the stall are not disposed of into any highway channel, gully or manhole or in any other manner likely to cause pollution of any surface water channel.

All refuse generated by the business must be taken to a licensed waste disposal site. Consent Holders must identify their method of waste disposal at the time of application and keep records of their waste arrangements, which must be made readily available to authorised officers from Thurrock Council on request.

Access by council and police officers

Consent Holders must allow access to authorised officers of the council, and police officers, at all reasonable times.

Street Trading Consents

The conditions attached to all Street Trading Consents stipulate that a Consent Holder cannot assign, let, sell, rent or otherwise part with his interest or possession of a Street Trading Consent.

If a Consent Holder or his/her employee is requested to move the stall/vehicle by an authorised council officer, a police officer, or an officer of the Thurrock fire or ambulance service, he/she shall immediately comply with that request.

The council may vary the Conditions attached to the Consent at any time.

Price list

All Consent Holders must clearly display a price list for the foods on offer for sale.

Insurance

All Consent Holders shall have and maintain an insurance policy against public liability and third-party risks. A minimum insurance cover of £2million shall be obtained by the Consent Holder and shall cover the operator's vehicle or stall and any additional equipment under his control such as generators, etc.

If food is sold, the insurance shall specifically cover against food poisoning to the same amount. The insurance certificate or cover note shall be produced to the Licensing Team before the Street Trading Consent is issued and at any other time on demand during the currency of the Consent.

Renewal

The consent holder must apply to the council for a renewal at least 14 days prior to the date of the current consent's expiry. If an application for renewal is not received by the expiry date, the consent will lapse. It is a criminal offence to engage in street trading without holding a current consent.

Prospective applicants are most strongly advised to seek the necessary permissions, consents and, where appropriate, planning permissions before making a commitment to any financial outlay and before applying for the Street Trading Consent.

Appendix 3 – Draft consent classes and fees payable

Consent Class A

Consent Class A is for vehicles, stalls, barrows, etc., which trade from one place for more than one hour before moving on.

The Consent may be given for either daytime trading, between the hours of 7am and 5pm, or evening trading from 5pm to 2am.

If you wish to trade between 11pm and midnight, you will also need to apply for a late night refreshment Premise Licence. There is a fee for this in addition to the Consent to Trade fee, and it requires additional documentation and approval.

Consent Class B

Consent Class B is for mobile food vehicles, carts, etc., which trade in any one place for no longer than one hour in each trading period.

Regardless of where street trading takes place, holders of Class B Consents are restricted to trading from any one place for a maximum of one hour. After 60 minutes have elapsed, street trading may not take place within 500 yards of the site mentioned above and the applicant may not return to a place from which he has previously traded until the following trading day.

Fees

Current consent fees are published at www.thurrock.gov.uk/street-trading-consent

Street Trading Consents for which fees are not payable

The following Street Trading activities have been deemed by Thurrock Council to not require the payment of fees to the council:

- non-commercial car boot sales
- farmers markets
- fetes, carnivals and similar community based and run events
- sales of articles by residential occupiers within the curtilage of their properties, or on land contiguous with it
- within the curtilage of Tilbury, South Ockendon and Grays markets controlled by the relevant market authority