



## **COLCHESTER STREET TRADING & MARKETS**

### **RULES AND REGULATIONS**

**Local Government (Miscellaneous Provisions) Act 1982, Section 3, Schedule 4**

**The Friday and Saturday Market Charter was signed by Richard the Lionheart  
in 1189**

#### **1. Definitions**

- The Council means Colchester City Council.
- Market inspector shall be the person or persons nominated to act in this role by the Council.
- Street trading means trading at designated pitches within the Borough of Colchester as licensed by the Council.
- Stall means vehicle, space, table, pitch, trailer or any space where goods are sold.
- Site means the place allocated to a street trader.
- Primary Street trader means the person in whose name any agreement for a site is issued and who is responsible for any other worker, street trader or employee.
- Street trader means any person named on any agreement for a site.
- Trading Rights means the right to occupy a stall on an allocated site.
- Agreement means either the "casual" or monthly written notice between the street trader and the Council setting out the dates a site is available and the type of goods to be sold.
- Waiting list means any potential street traders awaiting a suitable position.

**NOTE** Any reference to action by the Council shall include any member of staff employed by them for the purpose of market and street trading operation and management.

#### **2. General**

##### **The Council's commitment to street traders and markets**

The Council commits that it will administer the market operation in such a way as to ensure:

- a safe and welcoming environment in which to trade

- the continuous development and promotion of the markets and market events to attract new shoppers and traders
- a balanced market offering with limited duplication of both core and competing secondary product lines
- a fair and thorough application process for Traders wishing to apply to trade or introduce a new product line
- a right of appeal against suspension, termination or refusal to transfer a trading contract with a defined process and timetable
- open and two-way communication with all Traders, either directly or through their nominated representatives.

### **Future changes**

These regulations may be revoked, amended or supplemented in such manner and to such extent as the Landlords may, in their absolute discretion from time to time, direct. Traders are required to familiarise themselves and their employees, agents and contractors with same.

Colchester City Council may change these regulations at any time in the future. Prior to changing these regulations the Council will consult with Traders for not less than four weeks and will then give four weeks' written notice before any change takes effect.

The operation of the market is administered under street licences under the Local Government (Miscellaneous Provisions) Act 1982, Section 3, Schedule 4 is the responsibility of the Markets & Street Trading Manager (and their delegated colleagues) who is entrusted and authorised to apply discretion and judgement in the interpretation of the regulations. It is underpinned by market rights established in 1189 by Royal Charter signed by Richard the Lionheart.

- 2.1 Nothing in these rules or regulations shall be deemed to create the relationship of landlord and tenant between the Council and street trader.
- 2.2 "Stallage Rights" are granted by the Council subject to observance of all of these regulations or rules by the street trader.
- 2.3 The "primary street trader" is the person to whom stallage rights are given. The primary street trader may name up to 3 other persons on the agreement. These persons shall be the primary street trader's spouse, children or bona fide business partners.
- 2.4 Stallage rights will normally be granted on a monthly basis but provision for a casual (single day) agreement may be considered. Subject to the payment methods outlined below.

- 2.5 Payment for stallage rights must be paid in advance and be received before the 20<sup>th</sup> day of the preceding month to the contract period. Payments can be made via BACS, via online payment link, and via debt/credit card by calling 01206 282266. The payment line will be open Monday – Friday from 09:00 to 15:00 (except BH). If Payment is not received in time, then trading will not be permitted and/or discounts revoked (see 2.6).
- 2.6 The following discounts are available to those who maintain their account as per 2.5.
- 10 - 15 days 10%
  - Over 15 days 20%
  - Extra 5% off for permanent Street Traders who book three months or more before 15<sup>th</sup> December of any given year
- 2.7 Failure to maintain payments in a timely fashion may result in termination of contract. The fee for the collection of unpaid stall fees or charges on each occasion will be £10.
- 2.8 Non-attendance by a Trader on a regular basis or without good reason may result in termination of their contract.
- 2.9 Street traders must comply with any instructions given by the Council's officers. Stall spaces will be let only on the street trading pitches available.
- 2.10 The Council reserves the right to alter any stall location, change the layout or vary the trading times on any occasion. The Council reserves the right in their absolute discretion to refuse stallage rights to any person or persons for any reasons.
- 2.11 If any street trader contravenes any of these rules and regulations herein the Council shall invoke against the primary street trader the procedures set out in the Disciplinary Section of these rules and regulations.
- 2.12 If the stallholder is unable to attend due to bad weather, unsuitability of pitch or whatever reasons, **no refunds** will be granted under any circumstances.

### **Trading Hours and Stallage**

- 2.13 The trading site will be available for setting up between 05:30 and 09:00. Street traders must be set up ready to trade between the hours of 9am and 4pm. Street traders' vehicles must be removed by 08:30 and will not be allowed back on site until 16:00. Stallholders must be clear of the Street area by 18:00.
- 2.14 The market inspector may vary these hours on any day for any reason. In the event of adverse weather conditions or the trader's absence, no refunds will be made.

- 2.15 A street trader shall be in attendance personally at the site for a period of at least four consecutive hours between 09:00 and 16:00 on any approved day.
- 2.16 All vehicles and roll-cages, pallet-lifters or other equipment must be removed from the market site or street pitch by 08:45 hrs
- 2.17 Street traders shall not offer for sale any goods, which by reason of size, smell, noise, condition or nature are, in the opinion of the council, objectionable for any reason. Any goods identified as objectionable shall be removed forthwith from the area by the street trader.
- 2.18 Restrictions will apply to the sale of goods by street traders. Colchester City Council operates a balance of trade policy at all its city centre market sites (High St, Culver St West, Culver St East, St Nicholas Square) and avoids duplication of offering.
- 2.19 Parking on pedestrian crossings, public or private access roads, passageways, pavements or property in the vicinity of the market site is prohibited. Any spillages of oil, fuel or any liquid must be immediately cleaned-up and reported to the Markets & Street Trading Manager. Vehicles that leak oil or fluids will not be allowed onto the market and the filling or emptying of fuel tanks whilst attending the market is expressly prohibited.
- 2.20 Stalls or units must be of a size, shape and condition that meets the approval of the market inspector. The street trader must also trade from within the boundary of the stall and must not erect any tables/stalls in addition to the stall or trade from outside the boundary.
- 2.21 All passageways and viewing points reserved for pedestrians must be kept free of obstruction with particular attention to dropped kerbs for wheelchair access. This includes A-frames which are not permissible outside the boundary of the stall.
- 2.22 Certain locations require the units to be fully mobile in the event of access being required by emergency vehicles. Street traders will be notified if allocated one of these positions. Street traders must not block any fire exits of premises adjacent to their pitches.
- 2.23 Traders must advise the Markets & Street Trading Manager as soon as is reasonably possible in advance of the trading day if they have been delayed or are unable to attend. The Council reserves the right to reallocate the pitch for that day. No 'like for like' product line will be allocated in place of the absent Trader. Failure to attend without formally notifying the Markets & Street Trading Manager, other than in exceptional circumstances, and after two un-notified absences per contract period, will be considered a disciplinary offence.
- 2.24 Essex County Council Trading Standards have developed a Code of Practice for markets and boots sales. Colchester City Council supports this and

requires street traders to always comply with this Code of Practice. Copies of this code of practice are available from the market inspector.

- 2.25 Street traders are required to display a permit allowing entry to any sites otherwise denied entry under Traffic Restriction Orders

### **Promotional Activities and Charity Fundraising**

- 2.26 Street licences issued for promotional activities and charity fundraising are subject to the following:

- Leafleting is not permitted in the Town Centre
- A promoter of disposable products should provide waste collection with their stall
- Charity Fundraisers must provide a gazebo or similar structure that provides a clearly identifiable boundary which the fundraiser/s must operate within
- Charity Fundraisers must hold a collection licence in addition to their street licence when accepting cash donations.

- 2.27 Failure to comply with the rules set out in 2.26 will result in licence being revoked, and immediate cessation of promotional or fundraising activity. No refunds will be made.

### **Restrictions**

- 2.28 Street traders cannot sell the following restricted items:

- Any inflammable liquids, gases, fireworks or similar articles which may cause fire or explosion
- Goods may be displayed or sold which in the opinion of the Council are inappropriate, dangerous or likely to cause offence to other traders or members of the public
- Counterfeit goods or goods in breach of copyright or patent
- Mains-powered electrical goods except for new items still in their original packaging
- Second-hand or used electrical goods, even if PAT-tested

- 2.29 No animals or pets are permitted within or adjacent to stalls.

- 2.30 Smoking is not permitted by Traders, their employees and suppliers within or near stalls/pitches in line with 2007 legislation which banned smoking in enclosed/substantially enclosed workplaces and public spaces. Traders should not serve members of the public in any instances whilst smoking. This is to protect traders, their employees, suppliers, neighbouring traders and their stock as well as customers.

- 2.31 Any sale by auction, canvassing, market research or personal questionnaire or any stall advertising or promoting a political or religious organisation is expressly forbidden.
- 2.32 Radios or other sound equipment may be played subject to the approval of the Markets & Street Trading Manager, but not so loudly as to cause nuisance to other Traders, neighbouring businesses or the general public.
- 2.33 Traders shall not display or sell any goods other than those described on their contract, or in the case of a casual Trader those described to the Markets & Street Trading Manager on the day of trading.
- 2.34 Traders may only extend or change product lines with the agreement of the Markets & Street Trading Manager (which shall not be unreasonably withheld) but will be governed by balance of trade policy.

### **3. Safety, Nuisance and Identification**

- 3.1 It is the street trader's responsibility to ensure the site is kept clean and tidy during the day and is left clean and tidy at the end of each trading day. Any refuse, litter or spillages must be deposited in the appropriate receptacle or cleaned up. It is the street trader's responsibility to remove all waste during and at the end of each market day. Street traders are expected to separate waste for recycling.
- 3.2 Generators are permitted but they must be of the silent running type, the noise level must equate to a car ticking over and must not exceed 65DB(A) measured at a distance of one metre from the source. Street traders must have appropriate firefighting equipment, which is regularly serviced and maintained. Generators must not be placed in a position where a disturbance may be caused.
- 3.3 Street traders must display either their trading name and address or the Council's official licence notice on all trading days.
- 3.4 Dismantling of stalls and units must not commence before 4pm on any day unless otherwise directed by the market inspector.
- 3.5 The primary street trader shall indemnify the Council against all costs, claims and demands resulting from damage caused to the market area by the primary street trader, street traders and any employees in and about the exercise of stallage rights.
- 3.6 The primary street trader shall indemnify the Council, its employees and agents from and against all costs, claims and demands in respect of bodily injury to or illness or disease of third-party property arising from the occupation and use of the site.

- 3.7 All licensed and casual Traders are required to hold and maintain valid insurance cover for third party public and products liability with a limit for claims of not less than £5 million, and employers' liability insurance cover with a limit for claims of not less than £10 million.

Traders shall provide evidence of insurance cover upon application for a contract to trade.

Product licence should also be held for non-perishable items. The indemnity is at the trader's discretion.

- 3.8 Prior to the first days' trading, Traders will be required to supply proof of their right to work in the UK and that of employees working on their behalf, paid or unpaid. Typically a valid passport or work permit is sufficient– check here for full details: [www.gov.uk/government/publications/acceptable-right-to-work-documents-an-employers-guide](http://www.gov.uk/government/publications/acceptable-right-to-work-documents-an-employers-guide)

This data will be kept secure and confidential between the parties.

#### **4. Sale of Fresh Food**

- 4.1 It is the responsibility of Traders to ensure all edible goods sold on the market are handled, displayed, priced and sold in accordance with trading standards' requirements and food safety regulations. Best practice concerning the sale of fresh food is contained in a separate food safety document 'Guidance to Mobile Traders at Markets & Outside Events' and forms part of these regulations.
- 4.2 All fresh foods must be stored and displayed in accordance with the Food Safety team hygiene regulations and all edible goods including greengrocery stored displayed and sold at least 18 inches (0.5 metres) from the ground to protect all foodstuffs from the risk of contamination.
- 4.3 Some types of goods may require refrigeration.
- 4.4 Traders of foodstuffs must possess a Chartered Institute of Environmental Health Level 2 certificate in Food Safety in Catering (more details can be found here: [www.colchester.gov.uk](http://www.colchester.gov.uk) and search for Food Hygiene Courses).
- 4.5 When you start a food business, or take over an existing one, you must register with the Food Safety Team here and allow 28 days for an inspection <https://www.colchester.gov.uk/food-businesses/>

#### **5. Subletting, Assignment of Rights and Sale of Good Will**

- 5.1 Primary street traders are not permitted to sublet their stallage rights.

- 5.2 Upon the death of any primary street trader the Council will permit a spouse or child to take over the agreement, provided that the new street trader complies with the street trading rules and regulations and continues to sell the same line of goods for the remainder of the current contract period.

## **6. Conduct, Disciplinary, Complaints and Appeals Procedure**

- 6.1 Traders are responsible for their own conduct and that of anyone working on or in connection with their stall at all times while they are on the market.
- 6.2 A breach of these regulations/terms and conditions by anyone working on or in connection with a Trader's stall will be deemed to be a breach by the trader.
- 6.3 Traders will be liable to immediate suspension and/or termination for breaches of the regulations arising out of their conduct by the Markets & Street Trading Manager which is considered by the Council to be gross misconduct. In the event that a contract is terminated, the Trader shall not be entitled to compensation from the Council. The circumstances of the case will be considered by the Head of Service.

Examples of gross misconduct which will normally justify termination of a contract are outlined below:

- Dishonesty.
- Under the influence of alcohol or illegal substances.
- Assaulting a member of the public, Council staff or another Trader.
- Verbal abuse, the use of foul or abusive language, harassment, intimidation, discrimination or bullying towards a member of the public, Council officers or other Trader(s).
- Interfering in any way with the business of another Trader.
- In the reasonable opinion of the Markets & Street Trading Manager, the Trader brings the market into disrepute.
- Failure to comply with the requirements of consumer protection legislation.
- Failure to comply with the requirements of food hygiene regulations.
- The Trader has been convicted of selling counterfeit products or has received a formal caution, formal warning or such other similar measure from the Trading Standards Service or any other enforcement agency.
- The Trader has persistently failed to make payment of the fee, within the time limit set.

- The Trader has failed to comply with the health and safety legislation affecting the market sites or any health and safety requirements notified to the Trader by the Council.
- The Trader consistently fails to honour the payment of stall fees.
- The Trader fails to attend the market they are licensed to attend for 6 weeks or more during the course of a calendar year.
- The Trader persistently infringes the Street Trading Regulations.

**In the event that a Trader's contract is suspended rather than terminated and there is no prescribed penalty, the length of suspension will be decided by the Head of Service.**

Complaints should be made in the first instance to the Markets & Street Trading Manager who will seek to resolve and issue a direction. If the complainant is not satisfied with the result they may submit a complaint via this link: [Make a complaint · Colchester City Council](#)

- 6.4 Complaints will be treated in confidence and all parties notified of the complaint and given the opportunity to respond. The complainant will be required to substantiate same under normal rules of evidence. If complaints are found to be vexatious then disciplinary action will be taken against the complainant.
- 6.5 Complaints made by a member of the public against any Trader will be notified to them in private and the Trader requested to resolve the dispute.
- 6.6 Any substantiated complaints may result in the revocation of a Trader's contract.
- 6.7 Breaches of rules or regulations will normally be discussed with the Traders concerned as soon as the Markets & Street Trading Manager is aware of any breach. Traders will normally be asked to correct any breaches or comply with any rules in the first instance.
- 6.8 If a Trader does not comply with a verbal request, or if a further breach occurs on the same day, then a formal written notice will be issued as soon as possible.
- 6.9 Any written notice issued in 6.8 will remain active for a period of 6 months, if a further written notice is issued during this period the Trader will be automatically suspended for the next trading day.
- 6.10 If any Trader incurs two periods of suspension in any period of 12 months then their contract will be terminated. Traders will be permitted to reapply for a pitch but will be placed at the bottom of any waiting list.
- 6.11 Traders suspended or removed from the Market or street trading are still liable to the fees due for any period of absence under their contract.

- 6.11 Disciplinary matters will, in the first instance be dealt with by the Markets & Street Trading Manager and if necessary be referred to the appropriate Council Manager.
- 6.12 The Council will discuss any issue and give reasons for their decision in the first instance.
- 6.13 If a Trader is not satisfied with the explanation or decision they may contact the Council who will review any action and respond in writing stating their decision if required.
- 6.14 A Trader who has been suspended from the market or whose contract has been terminated, or has been refused permission to transfer their contract to another Trader, may appeal in writing to the **Head of Service** within five working days from, but not including, the day the Trader is notified of the decision against which they wish to appeal.
- 6.15 The Trader is entitled to request a hearing to make representations to explain why the decision against which they wish to appeal should be overturned. Such request must be made at the time of submitting the written appeal.
- 6.16 The **Head of Service** will conduct the hearing of the appeal in person within 28 days of receipt of the written appeal.
- 6.17 In considering any appeal the **Head of Service** will have regard to any relevant documentation and may call to give evidence such person, including the Trader in question, as they considers appropriate.
- 6.18 Traders attending an appeal will be entitled to bring with them a friend or colleague or, if they are a member of the National Market Traders' Federation, a local representative of the NMTF who are allowed to speak on their behalf.
- 6.19 The written decision of the **Head of Service** will be sent to the Trader within 14 days of the hearing to the registered address of the Trader, and will include an explanation of the reasons for the decision. There shall be no further appeal from the decision of the **Head of Service** Breaches of rules or regulations will normally be discussed with the street trader concerned as soon as the market inspector is aware of any breach. Street traders will normally be asked to correct any breaches or comply with any rules in the first instance.

## **7. Markets & Street Trading Management**

- 7.1 Council officers will act openly, honestly and without favour.