LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
STREET TRADING

POLICY

This Policy will be applied to street trading activities in the Warwick District Council Area to ensure consistency in decision making. Each application will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration.

1. **Definitions of terms used in these Guidelines**

Within the terms of the Warwick District Council's Street Trading Consent Scheme the following definitions apply:

The Council:-	Warwick District Council.
Street Trading:-	The selling or exposing or offering for sale of any article (including a living thing) in any street,
Street:- Includes:	(a) any road, footway, or other area to which the public have access without payment. (b) a service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street.
Consent Street:-	Means a street in which street trading is prohibited without the consent of the Council.
Consent: -	A consent to trade on a street granted by the Council, pursuant to Paragraph 7, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
Consent Holder:-	The person or company to whom the consent to trade has been granted by the Council.
Authorised Officer:-	An officer of the Council authorised by it to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

2. **Submission of the application**

An application for a Street Trading Consent must be made to the Council in writing. The Application Form is included in this policy document at Appendix 2.

The following will be required to be submitted with the application

(a) A completed and signed Street Trading Consent Application Form.

(b) The full fee as appropriate.

(c) Where the proposed street activity is from a fixed position, a copy of a map of at least 1:1250 scale. The map should clearly identify the proposed site position by marking the site boundary with a red line.

(d) Three colour photographs of the stall, van, barrow, cart etc that will be used for the street trading activity.

(e) An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks.

3. **Consultations on applications made**

Before a Street Trading Consent is granted or renewed the Council will carry out a consultation process with various persons and groups. In particular the following organisations or persons are consulted.

- Warwickshire County Council Highways
- Warwickshire Constabulary
- Local Councillor(s)
- The appropriate Parish or Town Council
- The appropriate Town Centre Manager.

Written observations from the above organisations will be sought and taken into consideration when determining an application.

4. **Site Assessment**

Street Trading Consents from static locations will <u>not</u> normally be granted where:

- 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
- Where there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited, or
- There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes, or

- There is already adequate like provision in the immediate vicinity of the site to be used for street trading purposes, or
- There is a conflict with Traffic Orders such as waiting restrictions, or
- 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
- The trading unit obstructs the safe passage of users of the footway or carriageway, or
- The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities, or
- The site does not allow the Consent Holder, staff and customers to park in a safe manner.
- The proposed site is a busy dual carriageway and/or a designated clearway

5. **Compliance of the Street Trading Unit**

The vehicle, van, trailer, stall or other device to be used for the proposed street trading activity must comply in all respects with the legal requirements relating to the type of street trading activity proposed. In particular the unit to be used shall comply with the following legislation:

• Food Premises (Registration) Regulations 1991.
• Food Safety Act 1990.
• European Communities Act 1972/Food Safety Act 1990 (and regulations made there under).
• The Food Safety (Temperature Control) Regulations 1995.
• Health and Safety at Work etc Act 1974 and any Regulations made under this Act.
• Environmental Protection Act 1990.

6. **Determination of the Application**

The Licensing Services manager, acting on delegated powers will issue the consent in the absence of representations. When there are representations, the application will be referred to the Council's Regulatory Committee who will use the criteria listed below to make their determination of the application, with equal weight applied to the criteria listed. Each case will be assessed on its merits and individual circumstances, where appropriate, may be taken into consideration.

a) Public Safety: The location of the proposed street trading activity should not present a substantial risk to the public in terms of road safety and obstruction. The term "public" refers to both customers requesting the street trading activity, and other members of the public using the street.

b) Public Order: The street trading activity should not present a risk to good public order in the locality in which it is situated. Observations from the Warwickshire Police will be taken into consideration.

c) Avoidance of Nuisance: 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. Observations from Council Officers shall be taken into consideration.

d) Needs of the Area: The sufficiency of other trading outlets will be taken into consideration in relation to:

1. The presence of like outlets already existing in the immediate locality of the proposed street trading site.
2. The general needs of a locality, should no comparable outlets exist

Applicants will have to demonstrate to the Council the need for the proposed street trading activity in relation to either points 1 or 2 above, whichever applies.

e) Compliance with legal requirements: The proposed street trading activity should be carried out from a trading unit that complies with the relevant legislation.

f) Consultees Observations: In relation to points a) – d) above, consideration will also be given to written observations from consultees. Any objections made to the proposed street trading activity will be considered in terms of relevancy and appropriateness to the application that has been made.

g) Permitted Trading Hours: The Council generally will only permit street trading between 08:00 and 18:00. Any trading outside these hours will have to be approved by the Regulatory Committee. Street Trading outside the guideline hours will be assessed in terms of the criteria detailed above. The Council however retains the right to specify permitted hours of trading that are less than those specified above if local circumstances dictate.

h) Market days: Those Consent Street licensees who have consent to trade in the town centres will not be able to do so on Market days on the Parade in Leamington, Market Square in Warwick, Abbey End in Kenilworth or any area designated by the Council from time to time.

7. Approval of Applications

On approving the application the Council will issue a Street Trading Consent to which conditions will be attached. The Consent will also

contain specific terms such as days and hours when street trading is permitted, the goods that may be sold. A copy of the Council's standard conditions, which are attached to Street Trading consents, are shown at Appendix 3. Additional conditions may be attached if special circumstances apply to the Consent being granted by the Council.

The conditions attached to the Consent form part of the approval to carry out street trading in the Warwick District Council controlled area. They MUST be complied with at all times and failure to do so could lead to the Consent being either revoked, or not renewed.

Consent Holders are therefore requested to familiarise themselves with the terms and conditions attached to the Street Trading Consent and comply with the requirements.

8. Issue of Street Trading Consents

A Street Trading Consent for any particular site will be issued for a maximum period of 12 months.

In all cases when a Consent has expired, and an application has not been submitted to the Council for renewal within 14 days, a new application will have to be made. If the renewal is made after the expiry date, but before the end of 14 days thereafter, a 10% administration fee will be added. After the expiry of the 14 days, the application will be required to go through the full consideration process outlined in these guidelines.

If a cheque is dishonoured by a bank this will result in the revocation of the Street Trading Consent issued by the Council unless payment of the outstanding fees is made in cash within 5 working days. In such cases an administration charge will also be imposed on the Consent Holder. If an application is refused then a full refund will be made, less an appropriate administration charge.

Street Trading Consents will be issued only at the Council Offices. The applicant must attend in person to collect any documentation.

9. Decision to refuse or revoke

If the Council is unable to grant a Street Trading Consent the applicant will be notified in writing within 21 days.

10. Refusal of Applications

The Local Government (Miscellaneous Provisions) Act 1982 does not allow any legal appeals against the decision of the Council in relation to the refusal of Street Trading Consents. A person aggrieved by a decision of the Regulatory Committee may seek a Judicial Review of the decision, should it be felt necessary. If the applicant wishes to do this, they should seek their own independent legal advice.

11. General Information on Street Trading Consents

Persons under the age of 17 years: The Council will not grant a Street Trading Consent to persons under the age of 17 years.

Access by Council and Police Officers: Consent Holders should 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 shall not assign, sub-let or part with his interest or possession of a Street Trading Consent.

Variance of conditions: The Council may at any time vary the conditions of a Street Trading Consent.
The Consent granted is specific to the person to whom it is issued and is ***non-transferable and there can be no sub-letting.***

12. Enforcement of Street Trading

The Council will actively enforce the provisions of the Street Trading legislation within its area in a fair and consistent manner. All enforcement activities will comply with the Service Enforcement Policy.

13. Complaints against the Service

The Council has a Corporate Complaints Procedure copies of which are available from the Council Offices or on the Council's website www.warwickdc.gov.uk

14. Standard Conditions

(a) The subletting of consents is prohibited

(b) Any stall, barrow, vehicle used in connection with a street trading consent shall be kept in good condition and so presented as not to detract from the appearance of the street.

(c) The consent holder shall be responsible for the temporary storage of refuse, liquid and other deleterious material accumulated or created whilst trading and its subsequent removal from the site and shall satisfy the Council regarding its proper disposal;

(d) The consent holder shall be responsible for collecting, removing all litter within 50 metres in any direction of the stall or vehicle and disposing of it in a proper manner

(e) No sullage water from the washing of food equipment or hand washing shall be allowed to discharge to ground and the consent holder shall satisfy the Council regarding its proper disposal

(f) The consent holder shall ensure that at all times whilst trading in a consent street, a sign bearing his name and address and the expiry date of his consent shall be displayed on the vehicle /stall in such a position as to be clearly visible to all customers at the vehicle/stall;

(g) The consent holder if intending to sell food from a mobile vehicle or stall must operate from a vehicle/stall constructed and managed so as to comply with the relevant hygiene regulations made under the European Communities Act 1972/Food Safety Act 1990 (and regulations made there under). If you are unsure regarding your responsibilities under this legislation, please contact Food Safety on 01926 456713 or email on foodsafety@warwickdc.gov.uk

(h) The consent holder shall not obstruct the street or cause danger to persons using the street

(i) The consent holder shall not cause any nuisance or annoyance (whether to persons using the street or otherwise)

(j) Those Consent Street licensees who have consent to trade in the town centres will not be able to do so (within 50 meters of any market stall) on days where there is a market on the Parade in Leamington, in Market Square in Warwick, in Abbey End in Kenilworth or any area designated by the Council from time to time.

(k) Consents will be issued for the period ending 31st October each year and application to renew will have to be made at the end of this period. There is no part or pro rata rate. Applicants who apply in June, for example, will have to pay a full year's fee to be licensed until the end of October of the same year. Fees may be increased for individual permits based on the sale location and items sold.

(l) The consent holder shall not trade from a vehicle parked in the lay-by outside the Royal Pump Rooms, the Parade, Leamington Spa, or in the entrance to the park opposite

(m) The consent holder if intending to sell food from a mobile vehicle or stall must operate from a vehicle/stall constructed and managed so as to comply with the relevant hygiene regulations made under the European Communities Act 1972/Food Safety Act 1990 (and regulations made there under). If you are unsure regarding your responsibilities under this legislation, please contact Food Safety on 01926 456713 or email on foodsafety@warwickdc.gov.uk

(n) Ice cream vendors who wish to operate within the district ***must*** obtain a Criminal Records Bureau check through the Council and pay the necessary

fee. A CRB check will have to be completed every three years, or more frequently, at the discretion of the Council

(o) The Council generally will only normally permit street trading between 08:00 and 18:00

(p) A street trading consent is required to trade in all the streets covered by Warwick District Council. A street included any road, footway, beach or other area to which the public have access without payment and any part thereof. All forecourts, footways or other areas adjacent to any consent street shall be deemed to be part of the street. This means that anyone trading on such areas next to a consent street must hold a consent and comply with the conditions of the consent.