

## **MARKET RULES & REGULATIONS**

These regulations are applicable to all traders.

### **1. Regular Lettings**

- 1.1 The allocation of pitches will be designated by the Council. A pitch will be 3 metres by 3 metres and the Council may allow more than one pitch per trader.
- 1.2 Pitches made vacant by termination of a regular trader will be allocated at the discretion of the Council.
- 1.3 A regular reservation of a pitch will only be registered after the completion by the prospective regular trader of a signed undertaking to sell only a fixed type of goods upon the official form provided. Requests for a change to a different type of goods must be made in writing to the Council whose decision shall be final and binding upon the trader. Only one classification of goods to be sold from each pitch.
- 1.4 The sub-letting of pitches or any part thereof is prohibited. Regular traders may not dispose of or transfer the reservation of any pitch thereof.
- 1.5 The Council has the right to move a trader from time to time from their regular pitch, if deemed necessary.
- 1.6 The Council may, at their absolute discretion cancel the market on any given day and the Council shall not be liable for any loss incurred as a result of the cancellation

### **2. Attendance**

- 2.1 Traders and all attending the open air market will observe and carry out the instructions and directions of Council officers or of the appointed person.
- 2.2 The normal open market hours are from 8.00am to 2.00pm.
- 2.3 Setting up may commence at 6.00 am to 8.00 am with all vehicles off the highway by 8.30 am. Clearing away at the end of the market can commence no earlier than 2.00pm. The market areas must be left clear of all stalls, goods and litter by 3.30pm.
- 2.4 Regular traders shall ensure that the stalls or pitches in their occupation are open for business during operating hours unless prior permission of the Council Officer has been obtained for the closing of the pitch.
- 2.5 The trader shall be present at the stall or pitch throughout the market day and not delegate this apart for periods of up to a maximum of 4 weeks per calendar year for holidays and to notify the Council in writing in advance of such periods.
- 2.6 Traders may have up to 4 weeks per calendar year for holidays and will not be charged a pitch fee if at least two weeks notice has been given to the Council. Agreements for periods over 4 weeks may be allowed at the discretion of the Council.
- 2.7 Absence due to sickness must be notified at the earliest opportunity. Absences extending beyond 1 week must be supported by a medical certificate and further medical certificates must be furnished on request to the Council. Other absences must be notified in advance.
- 2.8 The Council may reallocate pitches on a permanent basis if a trader is absent without an acceptable explanation for more than 2 consecutive weeks in any 3 month period or 5 non consecutive weeks in any 3 month period.
- 2.9 The Council reserves the right to reallocate any pitch if the regular trader is absent for any reason.
- 2.10 A trader shall inform the Council immediately of any change of address and other contact details.
- 2.11 The Council will reallocate a pitch/pitches if a trader leaves the market.

### **3. Use of Stalls**

- 3.1 Traders will be allocated a pitch or pitches each measuring 3 metres by 3 metres (area of land on the highway in a designated position) and must provide their own stalls and covers in green/white which must be clean, well maintained, of good standard, inflammable, properly anchored and with no overhead projections.
- 3.2 A trader shall not erect any trestle, dress rail or permit any other article to be displayed on the market outside the defined area of the pitch.
- 3.3 A trader shall secure any broadloom carpets on display with retaining clips of a type to be approved by the Council.
- 3.4 Stalls or pitches must occupy a designated place which must be approved by the Council. This stall or pitch cannot be moved without prior permission.
- 3.5 A trader shall not provide any lighting to the stall.
- 3.6 No trader shall use or permit the use of any oil, solid fuel, electrical or gas heaters and generators without prior permission from the Council.
- 3.7 Every trader is required to exhibit his contact details and pitch number and to register their name and address with the Council.
- 3.8 No trader may make a change in the type of goods sold as prescribed on the signed undertaking (see regulations 1.3) except with the prior permission of the Council and the completion of a new undertaking.
- 3.9 Nothing herein contained shall be construed as requiring the Council to permit a trader to transfer from one pitch to another, but if such is permitted a trader shall continue to sell goods previously permitted to be sold on his usual pitch.
- 3.10 A trader selling food products shall comply with the Food Hygiene Legislation or any other statutory legislation or re-enactment thereof from time to time in force.
- 3.11 A trader selling food products may only sell pre-cooked and prepared food products which may be pre-wrapped. No food products requiring to be cooked on the stall/premises will be permitted.
- 3.12 All traders shall comply with the Guidance provided by Regulatory Services for Mobile Units at Markets & Special Events. (see copy attached).
- 3.13 All traders shall comply with the provisions of the Children and Young Persons Act 1933 to 1963 or any other statutory modification thereof and any such trader shall comply with all Byelaws.
- 3.14 A trader shall not permit any dogs, cats or other animals (whether domestic or otherwise) to come onto any pitch on any part of the market except where the animal is a guide dog for a registered blind person.
- 3.15 No trader shall sell or permit to be sold any animals domestic or otherwise or give cause to be in contravention of the Pet Animals Act 1951 as amended by the Pet Animals Act 1983 or any statutory modification or re-enactment thereof from time to time in force.
- 3.16 A trader shall not conduct an auction at or on any stall or pitch.
- 3.17 A trader shall not during the course of trading on the market, generally tout for custom. No person shall, to the annoyance of any other person, ring any bell or blow any horn or use any other noisy instrument or loudspeaker to attract the attention or custom of any person to any sale or to any goods intended for sale.
- 3.18 A trader shall not use the method of selling known as 'demonstrating'.
- 3.19 A trader shall conduct his trading in such a way as to ensure so far as is reasonably practicable that any persons present on the open market whether a trader or member of the general public there for any purpose whatsoever, is not exposed to any risks to their health and safety and shall in all respects comply with the Health and Safety at Work Act 1974 or any statutory modification or re-enactment thereof from time to time in force.
- 3.20 Traders shall not use radios or any equipment for the reproduction of sound and/or vision on stalls or pitches in their occupation except where permission has been granted by the Council when such is required in connection with the trader's business and the bringing of such equipment on to the open market for any other purpose is forbidden. Any trader using such equipment shall be responsible for any fee payable to the Performing Rights Society or to any other body in respect of the broadcasting of sound or pictures or copyright or otherwise.

- 3.21 The decibel (noise) level of such will be entirely at the discretion of the Council.
- 3.22 No trader shall sell or permit to be sold ornamental weapons or replica guns, fireworks or anything else which, in the opinion of the Council is considered to be a risk to anyone attending the open market.
- 3.23 No trader shall sell or permit to be sold any item that contravene:-  
Copyright, Design and Patents Act 1988  
Trade Descriptions Act 1968  
Trademarks Act 1994  
Video Recording Act 1984 and similar associated legislation.
- 3.24 Traders must comply with the minimum age requirements as determined from time to time by Trading Standards on Age Restricted Sales.
- 3.25 Trader's stalls must be covered by good quality canvas type material.
- 3.26 Traders must not block the pedestrian access on the High Street and must at all times keep the emergency access lane free.

#### **4. Stalls, Vehicles, Stands**

- 4.1 All privately owned stalls, vehicles or stands on the open market must be constructed to a high specification acceptable to the Council and must be inflammable and kept in a good state of repair, totally at the expense of the trader. All equipment, including stalls, must be properly anchored.
- 4.2 Traders who have such equipment or vehicles, irrespective of whether such traders are the actual owners or hirers, must indemnify the Council as provided for in Section 6 of these Regulations against any claim for damages or injury to persons or property arising from such equipment, however this may be caused.

#### **5. Vehicles and other articles of carriage**

- 5.1 Unless directed by the Council, vehicles will not be allowed on the open market between 8.00am – 2.00pm and should at all times be brought on only for such time as is needed to expeditiously load and unload goods to and from stalls or pitches. Unloading is permitted from 6.00am to 8.00am and loading is permitted from 2.00pm-3.30pm. In order to minimise congestion in the High Street traders will be allocated a strict time span when they can bring vehicles into the area for loading/unloading purposes.
- 5.2 Pedestrian access on pavements shall be available at all times. Vehicles must not at any time be parked on the High Street, without the strict permission of the Council.
- 5.3 Vehicles may park in the town centre car parks at the owner's expense and tickets must be on display in the vehicle. Any parking penalties will be the responsibility of the vehicle owner.
- 5.4 Boxes and containers must only be brought by traders on to the open market at such times when they will cause no obstruction to vehicles and pedestrians, or cause inconvenience to other traders.
- 5.5 All persons manoeuvring vehicles on the market shall be appropriately qualified to drive the type of vehicle and hold valid insurance cover.

#### **6. Liability and Insurance**

- 6.1 A trader, employee or attendant shall have no claim against the Council for any loss or damage sustained through fire, theft or other cause whatsoever.
- 6.2 The Council will not be responsible for personal injury or death unless the personal injury or death has been caused by the negligence of the Council or its Officers or Agents.
- 6.3 A trader shall have no claim for compensation for loss of goodwill or otherwise on the termination of his/her pitch or at any other time.
- 6.4 A trader shall indemnify the Council from and against all actions, proceedings, damage, claims, losses or outgoings of whatever nature arising out of the traders use of any

stall, pitch, vehicle or stand etc. on the open market and shall take out a policy for public liability and products liability insurance for a minimum sum of £5 million each or other sum as determined from time to time by the Council and provide a copy of the current policy to the Council on request.

- 6.5 It shall be the responsibility of the trader to insure his stock, fixtures, fittings and any other valuables brought onto the market against damage by fire, theft, flood or any adverse weather conditions.

## **7. Conduct of Traders**

- 7.1 Traders and their employees or attendants are required to conduct themselves in an orderly manner and are not permitted to do any act which may cause the public to congregate around the stall or pitch in such a manner to cause an obstruction to another stall or gangway or behave in such a manner as to bring the Market into disrepute.
- 7.2 A trader, employee or attendant shall not act in any way which contravenes these Regulations or causes nuisance, annoyance or danger to other traders or the public, or damages any property of the Council.
- 7.3 A trader shall be responsible for the actions of his/her employees and attendants and if in the opinion of the Council, an employee or attendant has acted in any way which contravenes these Regulations or causes nuisance, annoyance or danger to other traders or the public or damages any property of the Council, the trader should seek the immediate removal of that employee or attendant.
- 7.4 The Council can seek the immediate removal of a trader, his employees, attendants or any other person associated with the trader, who, in the Council officer's opinion, is causing a nuisance, annoyance or danger to other traders or the public or who damages any property of the Council.
- 7.5 Damage or failure of equipment belonging to the Council shall be reported immediately to the Council and no attempt whatsoever shall be made to affect a repair. No person shall interfere with any plant or equipment belonging to the Council.
- 7.6 The giving and receiving of gratuities is strictly against the policy of the Council.
- 7.7 Public conveniences are available in both shopping centres or at Pitmans Close.

## **8. Payment of Charges**

- 8.1 The charges levied for any pitch shall be such sums as may be laid down by the Council from time to time.
- 8.2 All charges levied by the Council will be paid by traders monthly in advance (by the last Wednesday of the previous month) by sending a cheque to Southend Borough Council c/o Town Centre Management, Pier Offices, Eastern Esplanade, Southend on Sea, Essex, SS1 1EE or paid at the Visitor Information Centre at the Pier entrance.
- 8.3 A bond in the sum of £100 is to be paid upon entering into an Agreement with the Council to trade on the market which will be kept as security in the event of non payment of pitch fees.
- 8.4 All cheques to be made payable to Southend Borough Council.
- 8.5 The Council will give receipts for cash payments only.
- 8.6 The Council will not make a charge for holidays taken if at least 2 week's notice has been given to the Council.
- 8.7 The Council will not make a charge for weeks where the market falls on Christmas Day, Boxing Day or New Year's Day. On these days the Market will not run.

## **9. Procedure for dealing with complaints**

- 9.1 Complaints by traders in respect of any matters affecting the open market must be brought to the attention of the Council in writing, for investigation, relevant action and, if necessary, notification to the complainant of the result.

- 9.2 If a complainant is not satisfied with the action taken by the Council on any complaints then the matter may be referred by letter to the Group Manager for Enterprise & Tourism.
- 9.3 Disputes of any kind must be reported directly to the Council.

## **10. Penalties**

10.1.1 Any act or omission which contravenes one or more of these Regulations may be subject to a penalty. The penalties are as follows:-

- Verbal warning (confirmed in writing)
- Written warning
- Final written warning
- Suspension
- Permanent Ban

*Further penalties / procedures may apply through the Council's Corporate Enforcement Policy as used by Regulatory Services when dealing with formal action against businesses.*

- 10.2 The penalty imposed for any particular incident will depend on the seriousness of the breach and any previous penalties imposed.
- 10.3 If a trader is suspended by the Council the facts will be reported to the Group Manager for Enterprise & Tourism.
- 10.4 The trader will be notified in writing of such a report and may, if he/she so wishes submit a written representation to the Group Manager for Enterprise & Tourism.
- 10.5 Any decision made by the Group Manager for Enterprise & Tourism will be final and binding and will be notified to the trader in writing.

## **11. Glossary**

- 11.1 'Council' means Southend Borough Council.
- 11.2 Appointed Person – a nominated stall holder which may be changed without notice by the Council.
- 11.3 'Open Market' means the place dedicated by Southend Borough Council where the market is held.
- 11.4 'Pitch' means the 3 metres by 3 metres area of land that a stall may be situated in a position as designated by the Council. Some stall holder may hire more than one pitch with the Council's permission.
- 11.5 'Stalls' shall include, unless the context otherwise requires, and where so ever situated upon the market, any stall, table, stand, equipment or any other device used by a trader shall for the purposes of the regulations be considered within this meaning, normal size is 3 metres by 3 metres.
- 11.6 'Demonstrating' shall mean that by action a person includes the functional purposes of the goods displayed and all that this implies.
- 11.7 'Auction' shall mean person bidding against one another for the purposes of securing goods being sold on the market becoming their property by offering the higher bid.
- 11.8 'Trader' shall mean a person who regularly occupies a pitch on the open market to expose for sale any goods or who seeks to distribute information or promotional literature.
- 11.9 'Vehicle' means a motor vehicle as defined in Section 190 (1) of the Road Traffic Act, 1972 and any cycle, tricycle, cart, wagon or trailer.