



City of Westminster

CONDITIONS MADE BY THE WESTMINSTER CITY COUNCIL PURSUANT TO SECTION 21(2)(b) OF CITY OF WESTMINSTER ACT 1999 APPLICABLE TO TEMPORARY LICENCES GRANTED AFTER 01 MARCH 2017

Definitions

In the conditions unless the context otherwise requires the following expressions shall have the following meanings:

- (i) "Street Trading" shall have the meaning ascribed in Section 2 of the City of Westminster Act 1999
- (ii) "The Council" means the Westminster City Council.
- (iii) "Licence holder" means the person who is licensed under Section 21 of the City of Westminster Act 1999 to carry-on street trading.
- (iv) "Advertisement" means any word, letter, model, sign, placard, board, notice, whether illuminated or not, in the nature, and employed wholly or partly for the purposes of advertisement, announcement or direction and includes any hoarding or similar structure or any balloon used, or adapted for use for the display of advertisements, and references to the display of advertisement shall be constructed accordingly.
- (v) "Awning" means a sheet of canvas or other material, used as a protection against the weather, which projects as an extension of the roof beyond the structure of the stall.
- (vi) "Counterfeit" means any goods bearing a mark identical to or likely to be mistaken for a registered name, mark or logo which has been produced without the authorisation of the registered trade mark holder.
- (vii) "Electrical Supply" means either an electrical supply in the vicinity of a licensed pitch that is accessible through an electricity supply point provided by the Council or an electrical supply of a nearby premises.
- (viii) "Goods" means any goods, wares, merchandise or other articles that are offered, displayed or exposed or possessed for sale or supply on a stall.

- (ix) "Licensed street trading pitch" means a pitch in any street authorised as a place at which a licence holder may engage in street trading, and includes any temporary alternative place approved by the Council or a duly authorised officer of the Council.
- (x) "Pitch Limits" means the authorised ground markings defining the area within which a street trading stall is to be contained.
- (xi) "Premises" means any business, residential or vacant premises immediately behind the licensed pitch.
- (xii) "Receptacle" or "Stall" means any structure occupying a licensed street trading pitch that is used by the licence holder for the display of goods or in connection with his or her business and includes all goods offered or to be offered for sale and any additional structure or equipment used as part of the stall or business. On "isolated pitches" this also includes all refuse created as a result of the business except when it is left outside of the pitch in accordance with the waste collection scheme for the pitch.
- (xiii) "Refuse" includes any waste material.
- (xiv) "Registered Assistant" or "Assistant" means a person who the licence holder has registered with the Council as an assistant to assist them in the business of the stall.
- (xv) "Service" means a service offered for gain or reward.

Change of Details

- 1 The licence holder shall notify the Council in writing of any permanent change of their name, address, telephone number and/or e-mail address within 7 days of the change occurring.

Storage

- 2 The licence holder shall provide suitable and adequate premises for the storage of their receptacle when trading is not taking place.

The licence holder shall provide suitable and adequate provision for the storage of any perishable goods whilst at the licensed pitch, transporting the goods to/from the licensed pitch and away from the licensed pitch when trading is not taking place.

The licence holder shall notify the Council in writing of any change of address or addresses at which the stall and perishable goods are stored when trading is not taking place within 7 days of the change occurring.

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| Registered Assistants | 3 | At any one time, the licence holder shall have no more than three assistants registered with the Council per licensed pitch. |
| | 4 | The licence holder shall provide the Council with written notification of any change in the name, address and/or telephone number of any of their registered assistants within 7 days of the change occurring. |
| | 5 | The licence holder shall notify the Council in writing if a registered assistant ceases to work for them within 7 days of them ceasing. |
| Supervision of Stall | 6 | No trading shall take place unless the licence holder or a registered assistant is present on the stall. |
| | 7 | All registered assistants shall carry photographic identification, such as their Passport, Photo-card Driving Licence or National Identity Card, when working under this licence. The assistant shall produce their photographic identification for inspection by a Council Officer on request. |
| Days and Times | 8 | Trading shall only take place on the days and during the times specified on the licence. |
| Trading Location | 9 | Trading shall only take place at the location stated on the licence or other such temporary location agreed with the Council. |
| Commodities | 10 | Only those goods specified on the licence shall be sold, offered for sale, displayed or exposed for sale, and only those services specified on the licence shall be supplied or offered for supply on the licensed street trading pitch. |
| | 11 | The licence holder shall ensure that there are no counterfeit goods present on the pitch or in any associated storage facilities. |
| | 12 | The licence holder shall keep a record of the name, address and contact number of the suppliers of their goods so that for any item on their pitch, the supplier can be contacted if required. The suppliers' contact details shall be provided to a Council Officer on reasonable request. |

Nature and Type of Receptacle

- 13 The licence holder shall only trade from a receptacle that has been approved by the Licensing Service and that is set-up in accordance with the approved design and layout. The licence holder shall maintain their receptacle to minimise any deterioration in its appearance following the approval by the Licensing Service and shall remove any defacement from their receptacle as soon as is reasonably practicable.
- 14 Receptacles used for the sale of food shall be maintained and regularly cleaned to ensure that food is protected from risk of contamination.

Insurance

- 15 The licence holder shall have third party public liability insurance cover that is effective throughout the time that the licence is in effect that covers the licence holder and all registered assistants whilst working on the stall. The insurance cover shall have a minimum liability of £2,000,000 or to the cover mutually agreed between the Council and the relevant licence holder's Association.
- 16 No trading shall take place unless a copy of the current public liability insurance certificate or other similar evidence that proves the existence of the effective policy is available on the stall. The copy of the insurance policy certificate, or similar evidence, shall be made immediately available for inspection by a Council Officer on request.

Commencement Times

- 17 The licence holder shall not commence setting up their pitch before 7am on any day.

When trading at the following location, the licence holder shall have arrived at their pitch, put their stall in position and started setting up by the following times:

Bell Street	:	09.00am
Church Street	:	09.00am
Berwick Street	:	10.00am
Maida Hill	:	10.00am
Rupert Street	:	10.00am
Strutton Ground	:	11.00am
Tachbrook Street	:	10.00am

The licence holder shall have commenced trading with all goods contained within the pitch area within one hour of the times set out above.

Size and Set-up of Stall	18	<p>The trading area shall not exceed the dimensions specified on the licence and where applicable, any pitch limits marked on the ground, except during immediate re-stocking of the stall.</p> <p>All goods, containers and other articles shall be contained within the licensed pitch area and height and shall not project beyond.</p>
	19	<p>The licence holder shall not connect any part of their stall, advertisements or goods for sale to any other stall or to any electricity bollard, socket pillar, lamp post or other street furniture, except for an electric cable connected to an electrical supply point.</p>
	20	<p>No barriers shall be used on or around a licensed pitch unless specific consent for their use has been obtained from the Council</p>
Head Room	21	<p>The distance above ground level of any part of any roof, awning, or supports of the stall or goods suspended from any of these, shall (unless a dispensation has been granted by the Council) be at least 2.6m. The roof awning or any other projection shall be contained within the pitch area unless otherwise agreed by the Council.</p>
Display of Licence Plate etc.	22	<p>The licence holder shall keep the licence or a copy of the licence that has been certified by a solicitor or notary as a true copy of the original licence and a copy of the conditions on the stall at all times that they are trading. Where the licence holder leaves a registered assistant in charge of the stall, the assistant shall keep the licence and a copy of the conditions on the stall whilst trading. The licence and conditions shall be made available for inspection by a Council Officer on request.</p>
	23	<p>The licence holder shall, at all times that they are trading, display a plate supplied by the Council indicating the licensed pitch number of the stall. This plate shall be kept prominently exhibited on the stall together with the name or business name of the licence holder.</p>
Pricing	24	<p>The licence holder shall ensure that all goods displayed on the pitch, save for works of art or antiques, are priced in such a manner that customers can determine their price without assistance from the licence holder.</p>

**Notices &
Advertisements**

- 25 All advertisements shall be located within the licensed pitch and shall occupy no more than 10% of the surface area of each side of the stall. Advertisements on low screens, aprons or valances below table top level shall occupy no more than 10% of each panel.
- 26 The name of the stall and goods or services on offer shall only be displayed:
- (i) In the case of a kiosk or mobile stall, on a frieze or similar designed high-level place that is equivalent to a fascia sign on a shop front.
 - (ii) In the case of a gazebo, tensioned stall roof or umbrella with a valance, on the valance or on a board inside the stall.
- 27 No advertisement shall be displayed on the licensed pitch that relates to any goods, commodities or services other than those offered for sale or provided on that pitch.
- 28 No advertisements comprising of three-dimensional representations of products (such as, but not limited to, replica ice cream cones, coffee cups or chocolate bars), shall be displayed on the stall.
- 29 No free-standing advertisements shall be located outside of the pitch area.
- 30 No A-board or other free-standing advertisement shall be located within the licensed pitch unless it is part of the stall design that has been approved by the Council.
- 31 No notices shall be displayed in the licensed pitch that would restrict a consumer's statutory rights, such as "No refunds" or "No returns".

Fees

- 32 The licence holder shall pay all pitch fees and electricity & other supply fees or charges to the Council within 4 weeks of them becoming due.

**Licence Holders'
Vehicle**

- 33 **Markets**
When trading on the Berwick Street, Maida Hill, Rupert Street, Strutton Ground and Tachbrook Street markets, the licence holder shall remove their vehicles, unless they are the licensed receptacles, and all other items used for the setup of the stall by the time prescribed in any relevant traffic management order for the pedestrianisation of the street.

When trading on the Church Street market, the licence holder shall remove their vehicles, unless they are the licensed receptacles, and all other items used for the setup of the stall by 10 am.

Prior to the time prescribed in the relevant traffic management order for the pedestrianisation of the street or 10am in the case of the Church Street market, the licence holder shall not leave their vehicle in the street in which they trade unless the vehicle is:

- i) the licensed receptacle;
- ii) parked in approved parking spaces such as meter bays; or
- iii) temporarily parked for the purpose of loading and unloading goods during the set-up of the stall.

Loading and unloading shall be carried out as quickly as possible and the vehicle shall be removed immediately on completion.

The licence holder shall not return their vehicle to the market until 4pm or the time period prescribed in the relevant traffic management order for the pedestrianisation of the street has ended, whichever is later.

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| Sale of Food | 34 | No trading shall take place that involves the sale of food unless the licence holder is complying with all current food safety and food standards legislation. |
| | 35 | If authorised to sell food, the licence holder shall provide a First Aid box on their stall that is readily available for use at all times that they are trading. |
| Health & Safety | 36 | The licence holder must ensure the safety of themselves and other users of the market and must comply with all relevant and current legal requirements for health and safety (including, but not limited to, those relating to electrical, gas and fire safety). |
| Safety of Equipment | 37 | Heat producing equipment (e.g. braziers) shall be so placed within the trading area as to offer maximum safety to the public. The position of such equipment in relation to other goods or materials shall be agreed with the Council's officers. |

Services and Amenities

- 38 Where an electrical supply has been provided by the Council for use by the licence holder:
- (i) No electrical supply other than that provided by the Council shall be used by the licence holder on the stall;
 - (ii) The licence holder shall ensure that all electrical equipment in use on the stall is compatible with the electrical supply and does not either individually or in combination, exceed the rating (maximum amperage) of the supply;
 - (iii) The licence holder shall be liable for the fees incurred in their use of the electrical supply and shall pay all such fees within 4 weeks of them becoming due;
 - (iv) The licence holder and their assistant(s) shall take care when using or working nearby any electrical supply point. The licence holder shall be liable for any costs incurred in repairing electrical supply points due to their or their assistants' reckless behaviour or deliberate misuse of the electrical supply.
- 39 The licence holder shall only use the electrical supply of a premises where no electrical supply point is provided by the Council. In such cases:
- (i) the licence holder shall obtain the written consent of the bill payer and the Council in advance of connecting to the supply;
 - (ii) all supply lines shall be overhead with clearance of at least 2.6m and no cables shall be trailed along the ground;
 - (iii) the licence holder shall ensure that their supply lines are securely installed and suitably protected from damage and water ingress.
- 40 A generator shall only be used where no electricity supply has been provided by the Council and the Council has given consent for the use of a generator by the licence holder. In such cases, no petrol-powered generator shall be used. The generator shall be located within the licensed pitch and so positioned that:
- (i) it is not accessible by the public and does not present a danger to the passing public;
 - (ii) It is kept away from combustible materials and is provided with adequate ventilation;
 - (iii) it does not present a fire or similar hazard risk to the stall or goods displayed thereon; and
 - (iv) it does not cause any noise or fume nuisance.

When refuelling fuel tanks, the generator shall be switched off, all persons shall be moved away from the generator and a fire extinguisher shall be positioned near to the generator.

Only one fuel-can with a capacity of no more than 5 litres shall be stored in the licensed pitch at any one time. It shall be of an approved type for carrying fuel oil. The can shall be stored away from any possible heat source.

Electrical Safety

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All electrical connections shall comply with the current edition of the Institute of Engineering & Technology (IET) Wiring Regulations. The equipment shall be constructed and maintained to prevent danger in compliance with the Electricity at Work Regulations 1989, or any Act/Regulations amending or replacing the same. Appropriate safety devices such as 30mA Residual Current Devices shall be used where necessary, particularly where the electrical equipment will be exposed to adverse conditions or will be used in association with hand held devices.

The licence holder shall arrange for all electrical equipment to be inspected by a competent person at appropriate intervals and shall retain the most recent certificate of inspection on the stall at all times that they are trading. The certificate shall be made available for inspection by a Council Officer on request.

Gas Safety

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The licence holder shall ensure through a system of checks and testing that all gas appliances, flues, pipe work and safety devices are maintained in a safe condition and shall make a visual inspection of these prior to them commencing trading on any day.

The licence holder shall arrange for all gas appliances, flues, pipe work and safety devices to be inspected by a competent person at appropriate intervals and shall retain a copy of the most recent certificate of inspection on the stall at all times that they are trading. The certificate shall be made available for inspection by a Council Officer on request.

- 43 All LPG cylinders, regulators and change-over devices shall be located in the open air or housed in a separate well ventilated, fire-resistance compartment. Any such compartment shall be ventilated at low level to the external air and shall have an exclusive access from outside the receptacle to enable safe access to shut off the cylinders in case of fire. The compartment shall be clearly marked "LPG – Highly Flammable – No Smoking".

Cylinders shall be stored well away from drains, waste water pits and soak-a-ways and shall be protected from tampering and/or accidental damage. Pipes, fittings and fixtures shall be provided with appropriate compression crimped joints. No slip-on rubber hosing shall be used without means of securing them and no hosing secured by work-drive "jubilee clip" type fittings shall be used.

Fire Safety

- 44 No trading shall take place unless adequate fire fighting equipment is provided on the stall that is appropriate for the goods on sale, equipment in use and size of the stall. The licence holder shall provide as a minimum:
- (i) a Class A fire extinguisher of at least 4.5ltrs if they are authorised to sell non-food commodities;
 - (ii) a fire blanket and a Class B extinguisher (Foam or Dry Powder, as appropriate) of at least 4kg/4lt size if they are authorised to use cooking facilities;
 - (iii) a class F type fire extinguisher if they are authorised to use a deep fat fryer;
 - (iv) a dry powder or carbon dioxide fire extinguisher with a capacity of 4kg if they have received consent from the Council to use a generator.

The licence holder shall ensure that all fire fighting equipment has been adequately tested by a competent person and is in good working order.

- 45 The licence holder shall be familiar with the operation of their fire safety equipment and shall position it on the stall so that it is readily available for use at all times that they are trading.
- 46 The licence holder shall ensure that their assistants are all aware of what to do in the event of a fire.
- 47 The licence holder shall keep the pitch clean and tidy and shall avoid a build-up of combustible materials.

Conduct	48	The licence holder and their assistants shall treat the public and Council Officers fairly and with courtesy.
	49	<p>The licence holder and their assistants shall not engage in any criminal activity or anti-social behaviour and, in particular, shall not engage in the following at the pitch:</p> <ul style="list-style-type: none"> (i) Indecent behaviour towards the public or other licence holders; (ii) Acts of violence against any person (including other licence holders) or property and/or the attempt or threat of such acts; (iii) Verbal abuse and/or aggression displayed towards any person; (iv) Intimidation of any other licence holder; (v) Touching, moving or interfering with another licence holder's stall.
Assistance to Council Officers	50	The licence holder and their assistants shall give every assistance to Council Officers in carrying out their duties.
Radios, Etc.	51	The licence holder shall not use or permit to be used on the licensed area or within the immediate vicinity any radio or other equipment or apparatus to produce music or other amplified sound except at a reasonable level within a closed vehicle or where specific consent has been provided by the Council for the use of such equipment in prescribed circumstances and the equipment is used in those circumstances.
Damage	52	The licence holder shall not intentionally permit their stall or accessories to cause damage to the carriageway or footway and shall leave the trading pitch in a clean condition at the end of each trading period.
Refuse	53	The licence holder shall ensure that all refuse arising as a result of their activities, including waste water and oil, is placed in suitable covered containers that are kept exclusively for that purpose and that are approved by the Council. Such refuse containers shall be provided by the licence holder, unless otherwise provided by the Council, and shall be kept as clean as is reasonably possible.
	54	Refuse containers for any non-liquid waste shall be emptied whenever necessary into any vehicle, container or compactor provided by the Council for that purpose. Refuse containers for waste water and oil shall be removed by the licence holder at the end of their trading period for disposal.

Removal

- 55 The licence holder or their assistants shall remove the stall and goods for so long as may be necessary in the event of an emergency or in exercise of the Council's powers and duties when reasonably required to do so by a duly authorised officer of the Council, a police officer or an officer of any other emergency service.
- 56 The licence holder shall not remove their receptacle from the licensed pitch until 4pm on any day that they are trading, unless they are required to do so by a Council Officer or an Officer of an emergency service.
- 57 The licence holder shall remove their stall and goods from the public highway to the place of storage, as stated on the application form or such other alternative place subsequently agreed by the Council in writing, within one and a half hours of either the time prescribed on the licence for the end of trading on that day or the time trading actually ceases (whichever is the earlier) unless prior consent has been granted by the Council for a later removal time or for the receptacle to remain in situ between consecutive trading periods.

Informatives

(These are provided for information and do not form part of the standard conditions)

General

- 1 The grant of a temporary licence shall not be deemed to give any approval or consent which may be needed under any By-law, enactment or regulation other than Section 21 of the City of Westminster Act 1999.

For the avoidance of doubt this includes the requirement to seek and obtain planning permission and/or advertisement consent.
- 2 The marginal subtitles inserted in these conditions are for the purpose of convenience only and shall not in any way affect the meaning or construction thereof.
- 3 These conditions may be dispensed with or modified by the Council in any individual case by means of a licence variation in accordance with the statutory requirements.

- 4 Where in these conditions there is reference to the consent or agreement of the Council, a licence holder may make a request in writing to the Licensing Service for such consent or agreement. Where any such consent or agreement is given, it may on such terms and conditions and subject to such restrictions as may be so specified.
- 5 If a licence holder wishes any of the terms of a licence to be varied or the Council's agreement under these rules application must be made in writing to the Council in accordance with the statutory requirements.
- Supervision of Stall** 6 It is the obligation of the licence holder to make full personal use of the temporary licence which means that the licence holder must personally attend at the stall during the hours and on the days that the licence authorises street trading to be carried on. A registered assistant can be present when the licence holder is temporarily unable to attend at the stall or if the licence holder can provide exceptional reasons as to why he or she was unable to be present for a longer period but a failure to make full personal use of the licence is a ground for revoking the temporary licence in its own right.
- Advertisements** 7 No illuminated advertisement shall be displayed on the outside of the stall or kiosk without an express consent under the Town and Country Planning (Control of Advertisements)(England) Regulations 2007
- Re-letting of Pitches** 8 If the pitch is not utilised by the licence holder by the times set out in the standard conditions without the prior approval of the Council or its representative, the Council may at its discretion re-let the pitch for that day.
- Note: It is the Council's policy normally to only re-let pitches in its street markets.
- Services and Amenities** 10 All electrical supply points provided by the Council for use by the licence holder shall remain the property and responsibility of the Council or its representatives.