



## CIVIC GOVERNMENT (SCOTLAND) ACT 1982

### STREET TRADERS LICENSING

#### NOTES FOR GUIDANCE

- 1 A Street Trader's Licence shall be required for street trading by a person whether on his own account or as an employee.
- 2 Street trading means doing any of the following things in a public place:-
  - (a) hawking, selling, or offering or exposing for sale any article; or
  - (b) offering to carry out or carrying out for money or monies worth any service, to any person in the public place and includes doing any of these things there in or from a vehicle or in or from a kiosk or moveable stall except where it is done in conjunction with or as part of a retail business being carried on in premises abutting the public place.
- 3 A Street Trader's Licence shall not be required for:-
  - (a) the sale of newspapers only;
  - (b) the sale of milk by or on behalf of a person registered under Section 7 of the Milk and Dairies (Scotland) Act 1914;
  - (c) the sale of coal, coke or any solid fuel derived from coal or of which coal or coke is a constituent;
  - (d) any activity in respect of which a certificate under the Pedlars Act 1871 has been granted;
  - (e) any activity in respect of which a Licence is required under this Act apart from this Section; or
  - (f) organising or participating in a public charitable collection within the meaning of sub-section (16) of Section 119 of the Act in accordance with permission granted under that Section.
- 4 Where an application for a Street Trader's Licence is made in respect of an activity which:-
  - (a) Consists of or includes food business within the meaning of regulations made under The Food Hygiene (Scotland) Regulations 2006 and Food Safety Act 1990, General Food Hygiene Regulations 2004; and

- (b) (i) involves the use of a vehicle, kiosk or moveable stall, the applicant must produce a certificate issued by the Director, Education, Communities and Economy, Fairfield House, Lothian Road, Dalkeith, stating that the vehicle, kiosk or moveable stall complies with the requirements of any relevant regulations made under The Food Hygiene (Scotland) Regulations 2006, and Food Safety Act 1990, General Food Hygiene Regulations 2004; or (ii) includes food business within the meaning of regulations made under Section 16 of the Food Safety Act 1990, a certificate must be produced stating that the vehicle, kiosk or moveable stall complies with the regulations.

**\*For an appointment please contact the Environmental Health Officer  
(Tel - 0131 271 3345)**

- 5 In terms of the Children and Young Persons Act 1937, licences will not be granted to children under the age of 17 years.
- 6 All questions must be answered. Failure to do so may result in the application being delayed or possibly conviction.
- 7 **Subject to the provisions of the Rehabilitation of Offenders Act 1974, ALL CONVICTIONS MUST BE DECLARED including those not resulting in imprisonment or fines e.g. Admonitions, Community Service Orders, Compensation Orders, Deferred Sentences, Probation Orders, etc.**

If you are unable to provide this information you are advised to delay the submission of the application. You can make application for a list of convictions recorded against you at any Police Station on payment of a fee of £10. Some form of identity should be produced when making application for this. The list that you obtain from the Police will not include driving offences, e.g. speeding, etc. so you are requested to take care to ensure that any such offences are added. The Police normally take 10-15 days to process applications in respect of convictions imposed in Scotland - convictions imposed in England will require separate application and the process will take 15-30 days.

**Failure to make a full declaration may lead to refusal of the application, prosecution and, if any omission is discovered after the Licence has been granted, suspension.**

- 8 Completed application forms must be accompanied by cheques/postal orders made payable to Midlothian Council or cash (and where application is made for a static site, plans showing the kiosk and site). If application forms are delivered by hand, applicants or their agents should deliver them to Reception, Midlothian House, 40-46 Buccleuch Street, Dalkeith, EH22 1DN. If the application is made for a particular location, a plan of the location must be submitted with the application.

## 9 Static Sites

- 9.1 There will be a presumption in favour of granting licences to Street Traders wishing to locate in low amenity areas e.g. industrial estates or within cartilage of business premises where their presence is visually acceptable and will not result in an adverse effect on traffic movement and safety.

There will be a presumption against the grant of licences in the following circumstances:-

- (a) in streets that have a significant formal layout and plan which would be undermined by the presence of additional items in the street scene;
- (b) within the setting of certain historic buildings or places which are internationally significant where the siting of Street Traders has an adverse affect;
- (c) within certain areas not regarded by the Council as suitable for street trading operations except in exceptional circumstances;
- (d) where a high density of licensed Street Traders already exists; and
- (e) in/at important gateways to Midlothian and places of interest.

9.2 Applicants for licences for static sites must:-

- (i) for a period of 21 days beginning with the date on which the application was submitted, display a Notice at the proposed site confirming that application has been made and after the expiry of the 21 day period, duly certify that this Notice has been posted;
- (ii) provide, with the application form, plans of the kiosk and site which should not be within 200 yards of any shop or business premises in which are sold articles of the same description as those intended. The plans must:
  - (a) contain the name and address of the application and of the person who prepared them;
  - (b) be signed by the applicant or agent as relative to the application;
  - (c) be drawn clearly, (i) to a scale of not less than 1/50 to illustrate the dimensions of the kiosk and (ii) to a scale of not less than 1/1250 to illustrate the location.
- (iii) cause public notice to be given of the application in a newspaper circulating in the area.

9.3 Applicants should be aware that Lothian Joint Valuation Board make entries on the Valuation Roll for fast food street traders under certain circumstances. In very general terms:-

(a) if a licence holder trades from a static site, on a street or lay-by etc and drives away at night an entry is not made; and

(b) on private land and there is a lease in place, an entry will be made, whether or not they are there 24 hours a day.

If an entry is made in the Valuation Roll, a licence will no longer be required. However, the trader will be liable for Business Rates, etc.

9.4 If the proposed site is on a road, the approval of the Council's Road Services Officer is required. Please contact Mr Ian Thomson in the first instance, 0131 561 5295, ([ian.thomson@midlothian.gov.uk](mailto:ian.thomson@midlothian.gov.uk))

9.5 If the proposed site is on private land and there is a lease in place, planning permission is required.

It is the applicant's responsibility to ensure that they have the correct planning permission in place prior to using a site for any purpose. Ideally this should be established before applying for a licence. If they have any queries about the suitability of a site for a certain use then they should approach the planning authority directly for advice. Pre-Application Advice can be sought here:-

[http://www.midlothian.gov.uk/info/180/development\\_management\\_planning\\_applications/279/planning\\_information\\_and\\_guidance](http://www.midlothian.gov.uk/info/180/development_management_planning_applications/279/planning_information_and_guidance)

10 If you intend to trade in a trunk road layby, please contact the Scottish Office, Roads Directorate, Victoria Quay, Leith, Edinburgh EH6 6QQ, before submitting your application. They do not generally discourage Mobile Traders provided such trading does not constitute or create a danger to trunk road traffic. They will insist that (a) the lay-by should be kept free of litter; (b) there should be no advertising on verges etc; and (c) trading should take place only during hours of daylight.

11 The fee is £212.00. On receipt of the application, the Council will consult the Chief Constable and he will report on the background of the individual. If authority is given for the grant of the Licence, the Licence will be issued.

12 Any changes in material circumstance must be intimated by means of the appropriate application form and the relative fee of £73.

13 When licensed, all licensees are required to carry with them an Identification Card bearing their photograph. The conditions of licensing are as attached.

### Business Gateway Midlothian

If you are starting a business, or if you already run your own business and could use some extra support and advice please email [BG@midlothian.gov.uk](mailto:BG@midlothian.gov.uk) to register, an Adviser will then be allocated to provide a range of support services for businesses including support from a network of partners.

If you would like to know how Midlothian Council collects, uses and shares your personal information, please visit our website [www.midlothian.gov.uk](http://www.midlothian.gov.uk) to access our online Privacy notice