

# Regulatory Committee

09.30am, Monday, 21 October 2019

## Licensing Policy Development – Street Trading update

Executive/routine	
Wards	All
Council Commitments	

### 1. Recommendations

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- 1.1 It is recommended that the Regulatory Committee:
  - 1.1.1 notes the contents of this report, and affirms the terms of the existing street trading policy as set out in Appendix 2;
  - 1.1.2 considers the proposals and changes to policy detailed in paragraphs 4.6 to 4.9 and 4.17, if the committee supports these in principle and instructs consultation on these;
  - 1.1.3 notes the commitment that further work will be undertaken by Council officers in relation to the wider plans for the use of Mound Precinct and Playfair Steps, following the completion of the construction work;
  - 1.1.4 agrees that in the meantime no changes will be made to the High Street (with the exception of the area outside 329 High Street) and Playfair Steps/Mound Precinct, as recommended in paragraph 4.12;
  - 1.1.5 Agrees that no further licences are granted for the area outside 329 High Street as recommended in paragraph 4.13; and
  - 1.1.6 Agrees to introduce a daily rate for Charitable organisations as recommended in paragraph 4.20

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## Licensing Policy Development – Street Trading update

### 2. Executive Summary

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- 2.1 At its meeting on 1 February 2016 the Regulatory Committee agreed to adopt new conditions for street trading and market operator licensing. This report reaffirms the policy considered by the committee at that time. It proposes a number of changes in paragraphs 4.6 to 4.9 and 4.17, following the adoption of the Public Spaces Protocol now in operation throughout the city.

### 3. Background

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- 3.1 Street Trading and Market Operator are optional licensing activities within the Civic Government (Scotland) Act 1982 (Appendix 1). In 1983 the City of Edinburgh Council, by way of resolution, exercised its powers to adopt these activities and developed a Street Trading policy.
- 3.2 The Street Trading policy creates the ability to control and manage activity. It ensures that traders operate within the same general constraints that apply to any other business, including that they comply with relevant legislation and meet the same minimum standards that any responsible business should observe.
- 3.3 A number of city centre locations have been redeveloped to improve the quality of the public space. This has led to competing demands for the use of public space, and there has been an increase in the volume of licence applications for street trading. Areas particularly affected by this increased demand and lack of available space include Castle Street, High Street, Hunter Square and Grassmarket.
- 3.4 Following a period of consultation, a draft policy and conditions for street trading and market operator licensing were developed (Appendix 2). On 1 February 2016 the Regulatory Committee agreed to adopt these documents, including new conditions for street trading and market operator licensing, and to carry out further consultation on the use of a small number of public spaces throughout the city.
- 3.5 At the Transport and Environment Committee meeting on 2 June 2015 it was agreed that the development of a ‘manifesto’ on the use of public spaces should commence, in order to provide a clear policy statement that provides a basis for the balanced use of the city centre's civic spaces. The manifesto is now referred to as

the Public Spaces Protocol (PSP). The outcome of the public space protocol consultation was [reported](#) to the Transport and Environment Committee in March 2018.

## 4. Main report

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### **City Centre Public Realm Space**

- 4.1 Public realm space continues to attract significant demand from street traders, market operators, parades and processions and event organisers.
- 4.2 The City Centre Public Spaces Protocol approved by both the Economy Committee and the Transport and Environment Committees looks, long term, at the city's aspirations for use of public spaces. On 7 May 2018 the Regulatory Committee as part of its deliberations on High Street Trading heard from the relevant Council Officers on the content of the Public Spaces Protocol. This indicates that a clear and transparent approach is required to establish a set of guidelines on the use and management of these spaces, recognising that mono-use or over-use of space does not protect the city from excessive commercial use of civic space
- 4.3 The City's World Heritage Site status, historic buildings or places which are internationally significant are also required to be considered as part of this process.
- 4.4 Applicants seeking a street trading licence and who are seeking to use Public Spaces controlled by the Council will have separately had to ensure that their intended operations satisfy this approved Council Policy.
- 4.5 The policy and conditions for both street trading and market operator licensing have been revised in conjunction with the principles of the Public Spaces Protocol. To ensure a consistency of approach and remove any ambiguity that may exist between the two policies, the opportunity is taken to reaffirm the street trading and market operator policy (Appendix 2). Applicants seeking to use public spaces will additionally have to comply with the Public Spaces Protocol.

### **High Street/Hunter Square trading**

- 4.6 When the Regulatory Committee last considered Street Trading in the High Street and Hunter Square it agreed that any trading should continue on a temporary basis as previously agreed, albeit it acknowledged that the presumption against the sale of hot food could be departed of during the period of the August festivals. Officers are not proposing that any further changes should be made.
- 4.7 The High Street is one of the main Fringe locations. During August the High Street is a long standing event space and normal street trading is suspended during this period. The suspension of normal street trading extends to Hunters Square, which was part of that event space until 2012.
- 4.8 There is an outstanding remit which asked for Council officers to meet with Edinburgh High Street and Playfair Steps Traders Association (EHSPSTA) and there have been a number of meetings as a result. The association advises that it is

keen to work with Council officers, the Edinburgh World Heritage Trust and local businesses. The association has put forward a number of proposals (Appendix 3) which include:

- 4.8.1 implementation of a code of conduct and a set of core principles for traders;
- 4.8.2 creation of a standard for street trading stalls with regard to look, size and structure, reducing the size of the existing stall from 10 x 10 feet to 8 x 8 feet. The stalls would all have a uniform approach and be constructed of a metal frame, fixed tarpaulin roof with skylight and black edge drip effect;
- 4.8.3 installation of anchor points which would create clear delineation of stances and remove the need for unsightly ballast currently used as part of the wind management plans
- 4.8.4 increasing the number of stalls in Hunter Square to six;
- 4.8.5 allow trading in Hunter Square during the month of August;
- 4.8.6 reinstate the street trading stances outside 249 High Street and increase the number to seven;
- 4.8.7 retain the existing four stances outside 329 High Street

The association has acknowledged that trading at these locations may be required to be suspended for events in the area, i.e. royal visits, Armistice day services etc. EHSPSTA has indicated a willingness to invest in new stalls and coverings to improve the whole look of what is on offer, and to create something that is of value to the area.

- 4.9 EHSPSTA also requests that consideration is given to allowing its members to use of Hunter Square during the Festival. Their position that Hunter Square has not been used as an event space for a number of years and the area has been utilised by other street traders. EHSPSTA has asked that consideration should be given to allow existing traders to trade in this area year-round.
- 4.10 These proposals would amount to a significant change of approach to the current policy and as such Council Officers cannot progress these further without a clear view from the Committee on whether amending the Policy in this way is desirable. Committee is advised that there are some reservations to this use as can be seen from the comments received (Appendix 4).
- 4.11 If the committee is supportive of the proposals of the association it recommended that this would require further consultation with other stakeholders in the city centre area takes place prior to the committee reaching a final decision.
- 4.12 It is recommended not to reinstate trading in front of 249 High Street at this time. Council officers will keep this position under review and will report back to the committee following developments at 329 High Street and Playfair Steps/Mound Precinct.
- 4.13 The Council is in the process of completing the sale of the office space at 329 High Street. The sale is due to complete at the beginning of December 2019, however

the purchaser will be allowed entry to the building before this date to carry out some initial works. At the same time, contractors on behalf of the Council will be working within the building to complete separation work from the remainder of the City Chambers. To enable this piece of work it will be necessary to cordon off an area to the front of the building with fencing. Property and Facilities Management have asked that no further licences are granted for this until the work is completed.

### **Mound Precinct and Playfair Steps**

- 4.14 The area at the bottom of the Playfair Steps to its junction with the south side Mound Precinct has accommodated street trading for a number of years. Initially street trading at this location was intended to have utilised just the railings, but in more recent years this has expanded to include market type stalls. Demand for these stances has been significant over the years.
- 4.15 Historically there have been two annual street trading stances within the Mound Precinct. Stance 1 is on the East side of the Mound Precinct, 25 feet from Princes Street, and Stance 2 is on the West side of the Mound Precinct, 25 feet from Princes Street. In addition, there are 13 stances on Playfair Steps. The current position has now been expressly set out in the street trading policy, rather than the previous position where separate rules applied. In doing so it is intended that no change is made in that regard but merely that existing policies are brought together in one policy document.
- 4.16 ‘Celebrating Scotland’s Art: The Scottish National Gallery Project’ is a major construction and expansion project involving redevelopment of Princes Street Gardens. In order to protect public safety during the necessary works it was necessary to suspend Street Trading Licences at Playfair Steps & Walkway and to amend the trading dates for The Mound Precinct.
- 4.17 Committee is asked to note that it remains the intention that further work should be undertaken by Council officers in relation to the wider plans for the use of this area following the completion of the works. In relation to Playfair Steps, it is as yet unclear whether the revised layout will enable street trading to continue at this location
- 4.18 As previously reported, National Galleries Scotland, Police Scotland and Council officers have reservations about the continued use of the Mound Precinct and Playfair Steps for Street Trading, in part due to possible security issues at the location. In addition, there are concerns about pedestrian access and congestion caused by the stances in Playfair Steps, especially during the Festival and festive periods

### **Charities and Community Groups**

- 4.19 Charitable organisations and community groups previously highlighted the cost of trading. In their view the conditions are onerous, however many manage markets and street trading on a daily/weekly basis, necessitating an element of management control and responsibility.

- 4.20 Charitable organisations and organisers of one day events have previously highlighted a need for a one day licence. It is proposed to introduce a daily rate for charitable organisations to address these concerns
- 4.21 Historically, in addition to an annual licence, charitable organisations have been able to obtain a Street Trader's Licence for a period of up to six months. The purpose of the six month licence was to allow charities that had previously operated a Public Charitable Collection to also sell charity related goods, e.g. pin badges. There are also a small number of charities which operate a seasonal market in the city. It is proposed that this arrangement continues, and no changes are recommended

## **5. Next Steps**

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- 5.1 Council officers will monitor the implementation of the proposed changes and provide a further update to the committee in 12 months.
- 5.2 Further engagement with traders and relevant parties will be carried out in respect of Playfair Steps and Mound Precinct.

## **6. Financial impact**

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- 6.1 Overall the change to policy will not create any additional costs to the Council budget. The Council's scale of fees for licensing applications was approved with effect from 1 April 2019. Any costs implementing policy changes will be contained within the current ring-fenced income generated from licence application fees.

## **7. Stakeholder/Community Impact**

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- 7.1 The development of policy in respect of licensing of street traders is part of a wider place-making role for the Council. It is essential that all strategic aims of the Council are considered and that the Street Trading policy is consistent with these aims.
- 7.2 The policy framework and conditions continue to support:
- 7.2.1 a safe, clean and well-maintained environment;
  - 7.2.2 a more attractive environment for those living in, working in and visiting the city;
  - 7.2.3 an improved, more diverse, retail offer; and
  - 7.2.4 an environment that promotes and protects the economic wellbeing of the city.
- 7.3 Destination markets and street trading can be a draw for tourists and can bring a wide variety of stalls, commodities and cultures. Licensed street trading activities can

also assist in the prevention of illegal street trading, by displacing undesirable criminal activity and hawking.

- 7.4 Conversely, if poorly managed, street trading and markets can have a negative effect on an area leading to obstruction to pedestrians, a visually unappealing and untidy street scene, sale of poor quality goods which do not meet local needs and an increase in complaints to the Licensing Authority.
- 7.5 There is a need for a common set of rules that would apply to all street traders and market operators. As with any business, these should not cause nuisance or inconvenience to their neighbours, or to the community, within which they are located.

## **8. Background reading/external references**

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- 8.1 [Review of Street Trading Policy report](#) to Central Local Development Committee on 7 January 2004
- 8.2 [Licensing Policy Development Street Trading report](#) to Regulatory Committee on 4 April 2014
- 8.3 [City Centre Public Spaces Manifesto update report](#) to Transport and Environment Committee on 2 June 2015
- 8.4 [Licensing Policy Development – Street Trader Licensing update report](#) to Regulatory Committee on 25 September 2015
- 8.5 [Licensing Policy Development – Street Trader Consultation update report](#) to Regulatory Committee on 1 February 2016
- 8.6 [Public Spaces Protocol report](#) to Transport and Environment Committee on 9 March 2018

## **9. Appendices**

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- 9.1 Appendix 1 - Statutory background
- 9.2 Appendix 2 - Street Trading Policy
- 9.3 Appendix 3 - Street Trading and Market Operators conditions
- 9.4 Appendix 4 - Proposals by the Edinburgh High Street and Playfair Steps Traders Association High Street and Hunters Square
- 9.5 Appendix 5 - Council Officer Responses to EHSPSTA Hunter Square Proposals

## Statutory Background

The Civic Government (Scotland) Act 1982 differentiates between activities which **must** be licensed (mandatory), and those which a local authority may elect to license (optional) if it sees fit. The purpose for regulating both mandatory and optional activities is not to restrict trade or competition, but to help prevent crime and disorder, ensure public safety and protect the environment. If an authority wishes to license an optional activity it must do so by way of resolution. Both street trading and market operator licensing are optional licensing activities and the City of Edinburgh Council exercised its powers to adopt these licensing activities in 1983.

### Street Trading

A licence is required for street trading by a person whether on their own account or as an employee. Street trading means doing any of the following things in a public place:

- (a) hawking, selling or offering or exposing for sale any article;
  - (b) offering to carry out or carrying out for money, or money's worth, any service;
- and includes doing any of these things in or from a kiosk or moveable stall not entered in the valuation roll, except where it is done in conjunction with or as part of a retail business being carried out in premises abutting the public place.

The Civic Government (Scotland) Act 1982 provides exceptions from the requirement to hold a Street Trader's Licence. These include:

- (a) the sale of newspapers;
- (b) sale of milk on or on behalf of a person registered under section 1(3) of the Food Safety Act 1990;
- (c) sale of coal, coke or solid fuel;
- (d) activities in respect of which a certificate is required under the Pedlars Act 1871;
- (e) other activities in respect of which a licence is required under the Civic Government (Scotland) Act 1982; and
- (f) organising or participating in a public charitable collection;

### Market Operator

A licence, to be known as a 'market operator's licence', shall be required for carrying on a private market.

The Act provides exceptions from the requirement to hold a market operator's licence. These include:

- (a) functions held by charitable, religious, youth, recreational, community, political or similar organisations;
- (b) markets held only for the sale of livestock, fodder or grain.

"Private market" means a market, whether covered or not, carried on by any person other than a local or public authority at which goods are offered by more than one seller for sale by retail to the public.



## Street Trading Policy

### 1. Street Trading Policy

The aim of the Street Trading policy is to grant a licence to traders:

- 1.1 Where the location is acceptable in respect of planning, transportation and safety;
- 1.2 In low amenity areas such as industrial estates; and
- 1.3 Within the curtilage of business premises where their presence is visually acceptable and will not result in an adverse effect on traffic movement or safety.

However, it is recognised that this may be difficult to achieve in areas within the city centre due to high pedestrian flow and lack of identifiable sites.

### 2. City Centre and Areas of Special Interest

Unless the Council makes a specific exemption to the policy it is highly unlikely that street trading or market operator licences will be granted in the following circumstances:

- 2.1 In streets that have a significant formal layout and plan form, which would be undermined by the presence of additional items in the street. These include the New Town, and in particular George Street.
- 2.2 Within the World Heritage Site, conservation areas and areas of important landscape value, the use of portacabins or other large units of similar scale e.g. metal containers used for freight, are not considered suitable in these locations.
- 2.3 Within the setting of certain historic buildings or places which are internationally significant, including in particular HM General Register House, the Royal Scottish Academy and National Gallery, Parliament Square, St Giles Cathedral and the Signet Library. These areas should be retained as open space.
- 2.4 Where key views are likely to be adversely affected by the presence of street trading stances.
- 2.5 At important gateways to the city. This will include the approach to, and roundabout at, Edinburgh Airport and principal traffic routes in the centre of the city
- 2.6 Within certain areas not regarded by the Council as suitable for street trading or market operations except in exceptional circumstances. Longstanding factors that would make a location unsuitable include areas of high pedestrian footfall, narrow footways and busy arterial routes. It is proposed that streets affected by this should include:
  - 2.6.1 Princes Street;
  - 2.6.2 The Lawnmarket/Parliament Square

- 2.6.3. George IV Bridge;
- 2.6.4. Lothian Road
- 2.6.5. North Bridge
- 2.6.6. South Bridge
- 2.6.7. Lothian Road
- 2.6.8. St Giles Street
- 2.6.9. Waverley Bridge

2.7 Within certain high profile areas where all suitable locations are current being heavily utilised:

- 2.7.1. Castle Street;
- 2.7.2. Rose Street;
- 2.7.3. Grassmarket;
- 2.7.4. Mound Precinct;
- 2.7.5. Playfair Steps; and
- 2.7.6. The Meadows.

It is proposed that no further licences are granted in these areas, however if in the future a suitable location becomes available this can be reviewed.

2.8 Any additional licences in the vicinity of the main sporting stadiums at Tynecastle, Easter Road, Meadowbank and Murrayfield. These locations are already well served by existing Street Trader's Licences and additional licences would only be granted when an existing location becomes available.

### **3. Mobile Zones**

- 3.1 Street trading mobile zones were first introduced in the city in 1984 following a number of complaints about the number of mobile traders operating in one area. The zones were based largely on the residential population and popular street trading locations at the time. The zones were revisited as part of the policy review in 2004 and re-adopted.
- 3.2 While the zones were introduced to control the sale of ice cream from vehicles, they are now utilised for all mobile street trading activity. The purpose of mobile trading zones is to control and manage areas in which traders can operate. The current system restricts city wide trading and limits numbers to ensure balance for local communities and existing commercial activity.
- 3.3 The specified zones in which street traders are permitted to trade are included in Appendix 3. Princes Street, George Street, Rose Street, the Mound Precinct and the Royal Mile were excluded from the trading zones as being unsuitable for this type of activity. A street trader will not be licensed for more than two zones at any one time

### **4. High Street/Hunter Square Trading**

- 4.1 Street trading in the High Street and Hunter Square is intended to be temporary in nature, and given demand for space traders should not expect to be consistently trading on the High Street.
- 4.2 Given the historic nature and prominence of the High Street and Hunter Square, neither location is considered suitable for the sale of hot and cold food, although this may be relaxed in Hunter Square during the month of August.
- 4.3 The High Street is one of the main Fringe locations. During August both the High Street and Hunter Square are considered event spaces and normal trading is suspended during this period.
- 4.4 Trading at these locations may be required to be suspended for events in the area i.e. Royal visits, Armistice day services, parades and processions etc.
- 4.5 Stances in the High Street and Hunter Square will be subject to the following criteria:
  - 4.5.1. Stances will be allocated on a weekly basis (Monday – Sunday);
  - 4.5.2. Trading hours will not exceed 10:00 – 20:00hrs daily;
  - 4.5.3. Multiple applications by individuals linked to one business will not be accepted and will be returned;
  - 4.5.4. Traders will be required to indicate whether or not they are the sole trader and if they intend to apply for employee licences;
  - 4.5.5. Traders will display, in a prominent position, so that it may easily be read by customers or suppliers, a notice containing the name of the trader and/or business and details if their trading address;
  - 4.5.6. A separate licence application will be required for each date applied for. The practice of adding multiple dates to one application will not be accepted;
  - 4.5.7. A separate licence application will be required for each location applied for i.e. Hunter Square/High Street. The practice of naming specific stances will no longer be accepted;
  - 4.5.8. The relevant application fee is submitted at time of application;
  - 4.5.9. Applicant will provide the following information/documentation:
    - name of business and/or trader;
    - details of the stall to be used, including dimensions (not to exceed 8ft in length);
    - wind management plan (it is no longer appropriate to produce a generic wind management plan the plan must reflect the actual stall);
    - type of goods sold;
    - public liability insurance;
    - tax reference of the business/trader;
    - photograph of proposed stall;
    - type of goods sold (which will then be detailed on the licence);
    - a copy of public liability insurance including cover for employees where appropriate.

## 5. Mound Precinct and Playfair steps

- 5.1 The area at the bottom of Playfair Steps to its junction with the south side of Mound Precinct has accommodated street trading for a number of years. Initially street trading at this location was intended to have utilised just the railings, but in more recent years this has expanded to include market type stalls.
- 5.2 Annual trading stances are restricted to:
  - 5.2.1. Two within the Mound Precinct: stance 1 on the East side of the Mound Precinct, 25 feet from Princes Street, and stance 2 on the west side of the Mound Precinct, 25 feet from Princes Street
  - 5.2.2. 13 Stances on Playfair Steps

## 6. Licensing Criteria

All licence applications will be subject to the following criteria:

- 6.1 In general, the issuing of licences will be limited to areas of retail, business and entertainment activity e.g. retail parks and industrial estates. Street traders/market operators shall not be permitted in streets that are predominantly residential:
- 6.2 Street traders must not obstruct or restrict pedestrian or vehicular traffic or cause a danger to road users.
- 6.3 Street traders/market operators must obtain all necessary and appropriate consents prior to making an application, and in particular the consent of the owners of any land on which a stance is to be situated or which is adjacent to any stance. The grant of a licence does not imply that the owner has consented or that there is a right to occupy the space
- 6.4 The precise location of the proposed stance must be marked on an Ordnance Survey Map with a box and a distance in metres given to the nearest junction. The location of the stance should be clearly described:
  - 6.4.1. The precise location of the proposed stance must be marked on an Ordnance Survey Map with a box and a distance in metres given to the nearest junction. The location of the stance should be clearly described, giving:
    - the name of the street;
    - the side of the street (e.g. north, south etc);
    - the name of the nearest side street; and
    - the distance in metres from the nearest side street.
- 6.5 all street trading stances and markets will be mapped to clearly identify locations
- 6.6 Stances will be clearly delineated. This may be achieved by placing brass studs or wind management anchors in the pavement where the Council directs

- 6.7 Street trading/market operations and the stalls, kiosks, vehicles or mobile units associated with these shall only occupy a stance during trading hours
- 6.8 At the end of trading hours the licence holder shall promptly remove and take away any stall, kiosk, mobile unit or vehicle and all other ancillary equipment placed on or in the vicinity of the trading stance
- 6.9 Street trading is considered to be of a temporary nature and traders shall not be allowed to permanently occupy any stance. Licences will be granted on either a temporary or annual basis dependant on location
- 6.10 Stances sited on the footway should normally be located outwith pedestrian desire lines, for example at suitable recesses
- 6.11 Where a high density of annual Street Trader's Licences already exists, further licences will only be considered where there is significant additional space identified to accommodate them
- 6.12 Consideration will be given to how any stall or trading unit will be set up at the specified location. Driving over a public pavement will not be allowed and another means of placing a unit will be required. This will include any deliveries to or servicing of any unit, stance or stall
- 6.13 When locating street trading stances, consideration should be given to access to street furniture by utilities and other owners of cabinets, manholes and access covers etc. A trader shall move when asked to do so by an owner or their representative wishing to access their apparatus
- 6.14 Maintaining the integrity of the paved surfaces, roads and pavements is important for the future maintenance of the streets being utilised. It is therefore vital that every effort is made by a licence holder to protect the road and pavement surfaces from damage caused by either placing or removing a unit or stall. Protection should also be given from any footings or stabilisers while the unit/stall is in place
- 6.15 Amenity areas may have to be shared by street trading activities and tables and chairs being used by adjoining properties as part of the café culture within the city. In these circumstances agreements need to be reached with the relevant service departments prior to the grant of a licence
- 6.16 Planning permission is required for open air markets if the land is used for this purpose for more than 28 days in a year. This is not 28 days per market operator, as any permissions go with the land not the applicant. It is the responsibility of the person using the land for open air market operations to obtain planning permission for this purpose
- 6.17 A Street Trader's Licence is required for street trading by a person whether, on their own account or as an employee
- 6.18 Employee licences will be issued to provide assistance to the actual licensed traders, but not for the purposes of operating the business on behalf of someone else.

## **7. Duration of Licence**

- 7.1 A licence granted under the Civic Government (Scotland) Act 1982 can be issued for a period of no more than three years, or shorter period if the Council decides. Both Street Trader's and Market Operator's licences will be limited to a period of one year. Once an annual licence has been granted this will prevent another licence being issued for the same location and trading hours.
- 7.2 Temporary licences can be issued for a period of no more than six weeks, or a shorter period if the Council so decides, and are mainly used in connection with public entertainment or an event. Temporary licences will be limited to a period of 28 days. The main exception to this is street trading in the High Street and/or Hunter Square, where licences are allocated on a weekly basis due to the high volume of demand for stances.
- 7.3 Temporary licences for street trading, not linked to public entertainment or an event, will be for a maximum period of seven days
- 7.4 In circumstances where the demand is far greater than the actual number of temporary stances available, allocation will be by way of a ballot system. This would apply to areas such as the High Street and Hunter Square
- 7.5 The issue of an annual Market Operator's licence or Street Trader's Licence could prevent other licences from being granted for the same location and hours of operation. To prevent an annual licence from restricting other trading opportunities in public realm space, it is proposed that an annual Market Operator's licence should only be considered in cases where the operator's trade is at a frequency of at least once per calendar month, and those dates should be clearly identified on the licence

## **8. Hours of Operation**

- 8.1 Street trader and/or market operator trading hours will normally be considered to operate between the hours of 10:00 – 20:00hrs daily.
- 8.2 Between April and October street traders will be expected to trade between 10am – 4.30pm (or other agreed hours). This should be considered as a minimum trading period
- 8.3 There will be a presumption against street traders selling food between 23:00hrs and 5:00hrs except in exceptional circumstances at the discretion of the Licensing Sub Committee.
- 8.4 Licence holders wishing to trade between 23:00hrs and 5:00hrs will also require a Late Hours Catering Licence. A Late Hours Catering Exemption certificate can also be granted for a period of up to two months to allow trading on a temporary basis

**Street Trading and Market Operators conditions**

**Standard Conditions – All Street Traders**

1. The holder of a Street Trader's Licence shall not be less than 18 years of age.
2. The licence holder shall not carry on business on any street so as to unreasonably obstruct road users or affect their safety.
3. The licence holder shall carry on business subject to any direction which the Police or authorised officers of the City of Edinburgh Council may reasonably be required to give.
4. The licence holder shall not, without the consent of the Licensing Authority, sell or offer or expose for sale any goods or carry out or offer to carry out for money or money's worth any service at any place other than as specified in their licence. In particular, no goods or articles of an objectionable or indecent character shall be sold or offered or exposed for sale.
5. The licence holder shall on all occasions, when carrying on business, behave in a proper and civil manner, and shall not carry on business in such a way as to cause a nuisance or annoyance to any person.
6. The licence holder shall at all times conduct business and position any vehicle used in connection with the business in such a manner that no danger is likely to arise to any other person.
7. Where vehicles are to be used to site or locate street trading units they must follow the Highway Code at all times. This includes NOT driving over public pavements to access an area or to place the unit on a stance. Vehicles may only drive over a pavement at specific designated locations where the kerb has been lowered for this specific purpose for vehicles. Pedestrian dropped crossings should not be used. This will include any deliveries to or servicing of any unit, stance or stall.
8. The licence holder shall only trade from the location or stance detailed on the licence. Any temporary relocation of stance can only be made with the consent of the appropriate Executive Director.
9. The licence holder shall obtain all necessary and appropriate consents prior to commencing trading from any stance, and in particular the consent of the owners of any land on which a stance is to be situated or which is adjacent to any stance.
10. The licence holder shall at all times when trading wear the identity card which is issued with the licence. The licence must be displayed on any vehicle or stance.
11. The licence holder shall not lend to or allow any other person to use any licence or identity card issued by the Council.
12. The licence holder shall not sub-let the use of the site to a third party.

13. Licence holders shall have a Public Liability insurance policy to the value of £1 million
14. The licence holder shall trade only during the hours of operation stated in the licence.
15. All temporary structures shall be designed, erected and maintained to suit their intended purpose. The design and erection shall be to the satisfaction of the Council's appropriate Executive Director.
16. Traded goods must be kept on and traded from the vehicle, trailer or stall. At no time shall such goods be permitted to lie or stand on the surrounding area or be left against adjacent walls or railings.
17. Where the licence allows the holder to sell from a vehicle, kiosk or moveable stall at an approved stance, the vehicle, kiosk or moveable stall shall be capable of being speedily and easily removed.
18. At the end of trading hours on each working day, the licence holder shall immediately remove the vehicle, kiosk or moveable stall from the approved stance and all other ancillary equipment placed on or in the vicinity.
19. The licence holder shall, during business hours and at the end of each day, ensure the collection and removal of any paper, garbage or other refuse which may be produced, or may accumulate in the course of trading on any pavement around the stance within a distance of 25 metres either side. If adjacent stances, to which the street trading licence conditions apply, are within 25 metres, any distance to be cleaned shall be the mid-point between the two stances.
20. Any stall or trading unit should not be connected to any utility service i.e. water, gas or electricity supplies either on a permanent or temporary basis and should not therefore be arranged by a Licence holder.
21. All generators must be used and stored in accordance with manufacturer's guidance.
22. The licence holder shall ensure that all music, amplified music and/or vocals are controlled to the satisfaction of the consent of the appropriate Executive Director.
23. The Health and Safety at Work etc Act 1974 and all other relevant health and safety legislation must be complied with at all times by the licence holder.
24. Any Authorised Officer of the City of Edinburgh, Fire Officer or, Police Constable or Council shall be permitted to enter and inspect any vehicle, trailer or stall at any time and all reasonable directions and requirements of such officers or of the City of Edinburgh Council must be complied with.
25. A Licence holder who changes his address shall within 14 days thereafter give notice thereof to the Licensing Authority and shall produce his licence to the Licensing Authority who shall update the particulars of such change of address.
26. If, during the currency of the licence, the licence holder is convicted of any offence, they shall, within 28 days, provide full details of such convictions, in writing, to the Licensing Authority.



## **Additional Street Trading Conditions – Food Trading**

1. When any vehicle, trailer or stall is trading in food, all requirements of Food Safety legislation must be complied with, to the satisfaction of the appropriate Executive Director.
2. A valid food hygiene certificate must be provided to the Licensing Authority at time of application for a licence

The licence holder shall ensure that the food hygiene certificate and relevant documentation are valid, maintained and available for inspection by any authorised officer of the Council at any time during trading hours and at any other reasonable time. Relevant documentation includes:

- Food Hygiene Training certificates for all that will be working on the stall.
  - PAT certificates (electrical safety certificates) for electrically operated equipment;
  - Gas Safety certificates for any LPG operated equipment. This must be issued by a Gas Safe registered engineer, who is registered to do LPG, Non-Domestic, and Mobile Catering; and
  - A copy of the Pressure Vessel Test for any espresso type coffee machine being used.
3. On the renewal of licence a food hygiene certificate, the licence holders will provide the Licensing Authority with a copy of the new certificate.

## **Additional Street Trading Conditions – Vehicles and Mobile Units**

1. The licence holder shall only trade from the vehicle or trailer detailed in the licence.
2. The vehicle or trailer shall be roadworthy, and if it is to be used for trading during the hours of darkness it shall have appropriate lighting and reflectors to ensure that it is visible to other road users.
3. The vehicle or trailer shall be maintained in a sound condition so as not to leak oil or other substances onto the pavements or roads. Such an occurrence may damage the integrity of the surfacing used on the pavement and road. Failure to comply may incur costs being recovered to repair any damage caused.
4. The licence holder shall not use whistles or other sound producing devices apart from chimes and loudspeakers to attract business.
5. The licence holder shall comply with all statutory provisions relating to noise and in particular with the provisions of section 62 of the Control of Pollution Act 1974 relating to the use of loudspeakers in streets.

6. Where the licence allows the holder to trade from a vehicle, kiosk or moveable stall other than at a fixed stance, the licence holder shall remain in the same place only for the time it takes to serve the queuing customers and shall then move on.

### **Specified Trading Zones for Mobile Street Traders**

The specified zones in the City of Edinburgh local authority in which street traders are permitted to trade shall be the streets within the including and following boundaries (with the exception of Princes Street, George Street, Rose Street, the Mound Precinct and the Royal Mile).

1. Queensferry Road, Hillhouse Road, Telford Road, Groathill Road North, Ferry Road, Pennywell Road, Marine Drive.
2. Marine Drive, Pennywell Road, Ferry Road, Groathill Road North, Telford Road, Queensferry Road, Dean Park Crescent, Comely Bank Avenue, East Fettes Avenue, Ferry Road, Granton Road, Wardie Steps to Lower Granton Road.
3. Granton Road from Wardie Steps to Ferry Road, East Fettes Avenue, Comely Bank Avenue, Dean Park Crescent, Queensferry Road, Queensferry Street to Princes Street, Waterloo Place, Regent Road, Easter Road, Leith Links to Seafield Road.
4. Seafield Road, Leith Links, Easter Road, Regent Road, Waterloo Place, North Bridge, South Bridge southward to Lady Road, Peffermill Road, Duddingston Road West, Duddingston Road, Southfield Place, Brighton Place, Bath Street to Promenade.
5. Bath Street, Brighton Place, Southfield Place, Duddingston Road, Duddingston Road West, Niddrie Mains Road, Newcraighall Road.
6. Newcraighall Road, Niddrie Mains Road, Peffermill Road, Lady Road, Gilmerton Road.
7. Gilmerton Road from City Boundary, Craigmillar Park northwards to North Bridge, Princes Street, Lothian Road, Earl Grey Street, Home Street, Leven Street, Bruntsfield Place, Morningside Road, Comiston Road, Biggar Road.
8. Biggar Road, Comiston Road, Morningside Road, Bruntsfield Place, Leven Street, Home Street, Earl Grey Street, Lothian Road, Shandwick Place, West Maitland Street, Dalry Road, Ardmillan Terrace, Slateford Road, Lanark Road.
9. Lanark Road, Slateford Road, Ardmillan Terrace, Gorgie Road, Calder Road.
10. Calder Road, Gorgie Road, Dalry Road, Haymarket Terrace, West Coates, Roseburn Terrace, Corstorphine Road, St John's Road, Glasgow Road.
11. Glasgow Road, St John's Road, Corstorphine Road, Roseburn Terrace, West Coates, Haymarket Terrace, West Maitland Street, Shandwick Place, Queensferry Street, Queensferry Road.

12. In the north by the shore at South Queensferry, in the east by the Edinburgh City Boundary, in the south by the River Almond and in the west by the Edinburgh City Boundary.
13. In the north by the River Almond, in the east by the Edinburgh City Boundary, in the south by the Calder Road (A71) and in the west by the Edinburgh City Boundary.
14. In the north by the Calder Road (A71) in the east by the Edinburgh City Boundary and in the south east, south and west by the Edinburgh City Boundary.

### **Standard Conditions – Market Operators**

1. Market operators will supply an Events Management Plan and Risk Assessment when they make an application. This will be available for inspection at any time when the market is in operation by any Authorised Officer of the City of Edinburgh, Fire Officer or Police Constable.
2. Licence holders shall have Market Operator Public Liability insurance with a minimum value of £5 million for any one claim.
3. Market operators will not sub-let the use of the site to a third party.
4. Any Authorised Officer of the City of Edinburgh, Fire Officer or, Police Constable shall be permitted free access to the whole of the market premises/area at any time and all reasonable directions and requirements of such officers or of the City of Edinburgh Council must be complied with. The licence holder shall obtain all necessary and appropriate consents prior to commencing trading from any stance and in particular the consent of the owners of any land on which such a stance is to be situated or which is adjacent to any such stance.
5. It is the licence holder's responsibility to inform the Council and other road users that a market will be in place between specific dates. The Licence holder must give the Council a minimum of seven days' notice, prior to the market being erected, to allow notification to other road users.
6. The licence holder shall ensure that the layout of the market and its stalls conforms to the configurations shown in the plan lodged with the application and approved for licence. The licence holder shall not, without the consent of the Licensing Authority, alter or amend the site or the premises or the layout of the site or of the premises. Nor shall the licence holder increase the number of stalls within the site from that specified on the licence.
7. Exit routes must be kept free of obstruction at all times whilst the market is open.
8. Wires, ropes or cables crossing any of the public areas must be out with the reach of the public, or installed to avoid any hazard to the public.
9. No motorised vehicles shall be permitted in the area used for the market during the hours of operation.
10. The licence holder shall not permit trading outwith the trading hours specified in the licence.

11. The licence holder must maintain an accurate register with individually numbered pages and entries showing:
  - (i) The date of each occasion upon which the market is open for business to the public
  - (ii) The name, permanent address, telephone number and place of business address of each trader, the nature of the goods sold and the registration marks of all vehicles used in connection with each trader.
  - (iii) The register must also identify, on each occasion the market is open for business, the location within the market where each trader has a trading position.
12. The licence holder shall take all reasonable steps to ensure that all details of trading unit operators which are required to be registered are completed no later than four hours from the time of the market opening.
13. The licence holder shall ensure that the register and such other documents as are maintained shall be available for inspection on the licensed premises by any Police Constable, Fire Officer or Authorised Officer of the Council at any time when the market is open for business, and at any other reasonable time.
14. The licence holder shall ensure that registers and such other documents as are maintained must be retained by the licence holder for a minimum of two years.
15. The operator will provide details of all individual stallholders, including equipment, scope of business and type of product to the **Licensing Manager**, at least one week before the event.
16. The licence holder shall nominate in writing to the Council a suitable person who shall be responsible for the day-to-day running of the market and shall be in charge of and present at the market at all times when the market is open for business, with the exception of reasonable absences. The licence holder shall not, without the consent of the Licensing Authority, change the nominated person responsible for the day-to-day running of the market.
17. The licence holder shall comply with all reasonable requirements of the Scottish Fire and Rescue Service relating to fire precautions and safety.
18. The licence holder shall have a fire risk assessment and written evacuation policy for the site.
19. Adequate means of escape and firefighting facilities must be maintained during all hours of operation.
20. The number of persons admitted to the premises shall be controlled to ensure there is no overcrowding or numbers in excess of the evacuation capacity of the escape routes.
21. The premises shall be adequately illuminated to the satisfaction of the Council. Any emergency or escape route lighting shall be by a maintained system throughout the

premises, kept in proper working order and in operation when the premises are open to the public.

22. A person, who is suitably qualified and equipped shall be nominated as a First Aider, and they will be in attendance in the market during trading hours and also while stalls are being erected and dismantled.
23. The licence holder or his/her agents shall take all reasonable precautions and exercise due diligence to ensure that no trader known or reasonably believed to be displaying for sale solely or mainly counterfeit merchandise (including contraband products) is permitted to trade upon the market. The licence holder or his/her agent shall also exercise due diligence in ensuring to the best of their ability that no such merchandise is displayed for sale as part of any trader's overall stock of goods.
24. The Health and Safety at Work etc Act 1974 and all other relevant health and safety legislation must be complied with at all times by the licence holder.
25. When any stall is trading in food, all requirements of the Food Safety legislation must be complied with, to the satisfaction of the appropriate Executive Director.
26. The licence holder shall ensure that the food hygiene certificate and relevant documentation are valid, maintained and available for inspection by any authorised officer of the Council at any time during trading hours and at any other reasonable time. Relevant documentation includes:
  - Food Hygiene Training certificates for all that will be working on the stall.
  - PAT certificates (electrical safety certificates) for electrically operated equipment;
  - Gas Safety certificates for any LPG operated equipment. This must be issued by a Gas Safe registered engineer, who is registered to do LPG, Non-Domestic, and Mobile Catering; and
  - A copy of the Pressure Vessel Test for any espresso type coffee machine being used.
27. Adequate litter bins shall be provided by the licence holder for use by the public and shall be distributed throughout the market site. All dropped or windblown litter must be collected after close of trading and removed with the other commercial waste.
28. The licence holder shall ensure that adequate and suitable provision is made for the storage and removal of refuse and other waste from the premises; that a suitable litter bin of adequate capacity is provided outside the premises during all hours of opening.
29. The licence holder shall ensure that all music, amplified music and/or vocals are controlled to the satisfaction of the appropriate Executive Director.
30. The licence holder shall provide suitable and sufficient public sanitary accommodation on the site or in the premises for traders, their employees and the public, all to the satisfaction of the Licensing Authority.

31. All generators must be used and stored in accordance with manufacturer's guidance.
32. Wherever possible, all electrical and fuel controls must be made inaccessible to members of the public; failing which there must be suitable protection in place: all electrical installations must be certified as complying with current I.E.E. Regulations.
33. All temporary structures shall be designed, erected and maintained to suit their intended purpose. The design should meet with the approval of the appropriate Executive Directors.
34. The licence shall not be effective until the licence holder has received final clearances from the appropriate Executive Directors confirming that the premises may be operated.
35. The licence holder shall ensure that publicity material advertising events occurring on the premises is not distributed in such a manner as to produce litter.
36. The licence holder is responsible for the clearing of the area of all stalls and associated goods, debris, tools and any traffic management placed by them including all refuse as a result of the market, prior to vacating the site.

NOTE: Additional conditions may be attached at the discretion of the licensing authority.

## **Proposals by the Edinburgh High Street and Playfair Steps Traders Association High Street and Hunters Square (EHSPSTA)**

**From:** GR [mailto:grgapinski@hotmail.co.uk]  
**Sent:** 23 April 2019 16:22  
**To:** Gordon Hunter <Gordon.Hunter@edinburgh.gov.uk>  
**Subject:** Revised street plans to follow.....

Hi Gordon,

Please find following the proposal dialogue as discussed. The revised street plans showing 6 stalls on hunter square to follow.

This document is a proposal to address problems which have historically been associated with Street Trading on the High Street and Hunter Square. It aims to improve upon and raise the standards of the current offering which is in operation, and re-invent Street Trading on Edinburgh High Street and Hunter Square.

Last year in October, The Edinburgh High Street and Playfair Steps Traders Association (EHSPSTA) voted in a new board and internally implemented a policy to address certain issues, to create a cohesive voice and promote equity amongst its members. As there had been a number of issues in the past between street traders and the council, a key element in moving forward was to create an open dialogue with the council licensing board in order to create a stronger working relationship and drive up standards and improve upon the current offering in these trading areas. In order to achieve this, EHSPSTA has initiated a number of changes within its own organisation, and have pursued a strategy to actively communicate and consult with organisations such as Edinburgh World Heritage Trust, local shops and restaurants as well as the Licensing Department at Edinburgh City Council.

Our association has implemented a Code of Conduct for its trader members with a set of core principles to create a cohesive look which befits the World Heritage of Edinburgh's Royal Mile. As such, EHSPSTA has begun to standardised street trading stalls with regard to look, size and structure.

Each of the EHSPSTA members are small, local and independant business's, and each offer something different to what is currently available at the many retail outlets which line the High Street from top to bottom. Many are local artisans and Scottish crafters, offering something a bit more unique and more boutique than the overwhelming mass produced tartan and fridge magnets - It offers a variety from the 'usual.' This is something as an organisation the EHSPSTA are very keen to promote. Particularly given the World Heritage location. It is our view, and also the view of some of the organisations that we have spoken to, and is something that can only benefit the local economy and also the City itself.

We have begun conversations with Edinburgh World Heritage Trust to create a suitable design for the stalls to make them fit better in their environment - Hunter Square and the Royal Mile. These talks have been extremely invigorating and encouraging.

Each member of the association has shown a willingness to invest in new stalls and coverings to improve the whole look of what is on offer, and create something that is of value to the area rather than an embarrassment and 'eyesore.' It is an expensive process, but there is a commitment and willingness to improve and to create something wonderful for locals and visitors alike. The High Street has a fantastic history of street trading, such as the Lucken Booths, and this is something which we would like to draw upon. We understand that the high street is an active place and we acknowledge and are more than happy to comply with council regulations and periods that close off roads due to other events.

With support from council policy and regulation, and input from organisations such as Edinburgh World Heritage Trust, we believe EHSPSTAcn work in close unison, to create a re-imagined Street Trading experience for locals and visitors alike, updated and revitalised, and an asset to Scotlands capital city. We would hope this to be an ongoing project, whereby channels of dialogue between all parties concerned can act together, to create something of benefit to all.

Best regards,

Gerry

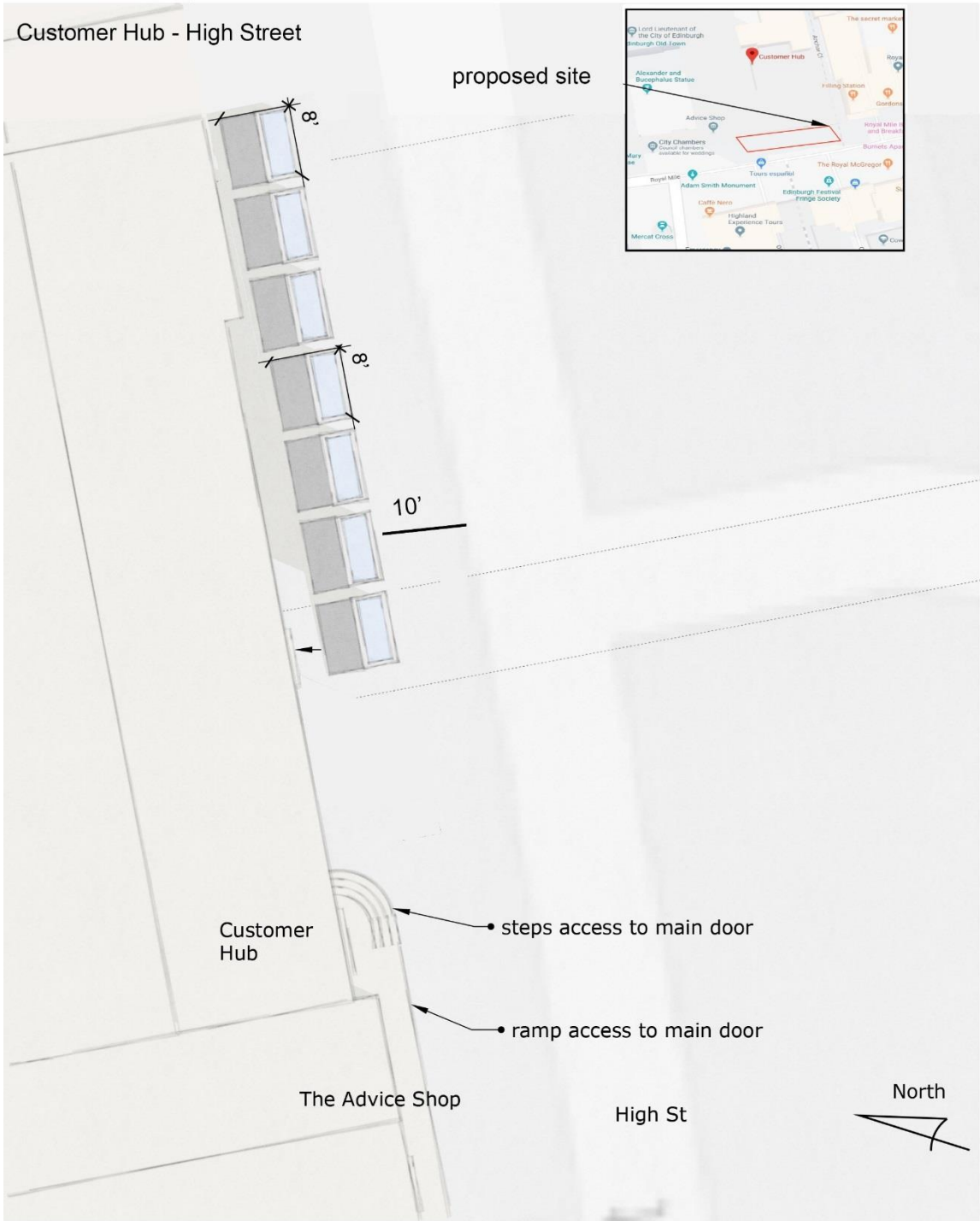




## **EHSPSTA Hunter's Square**

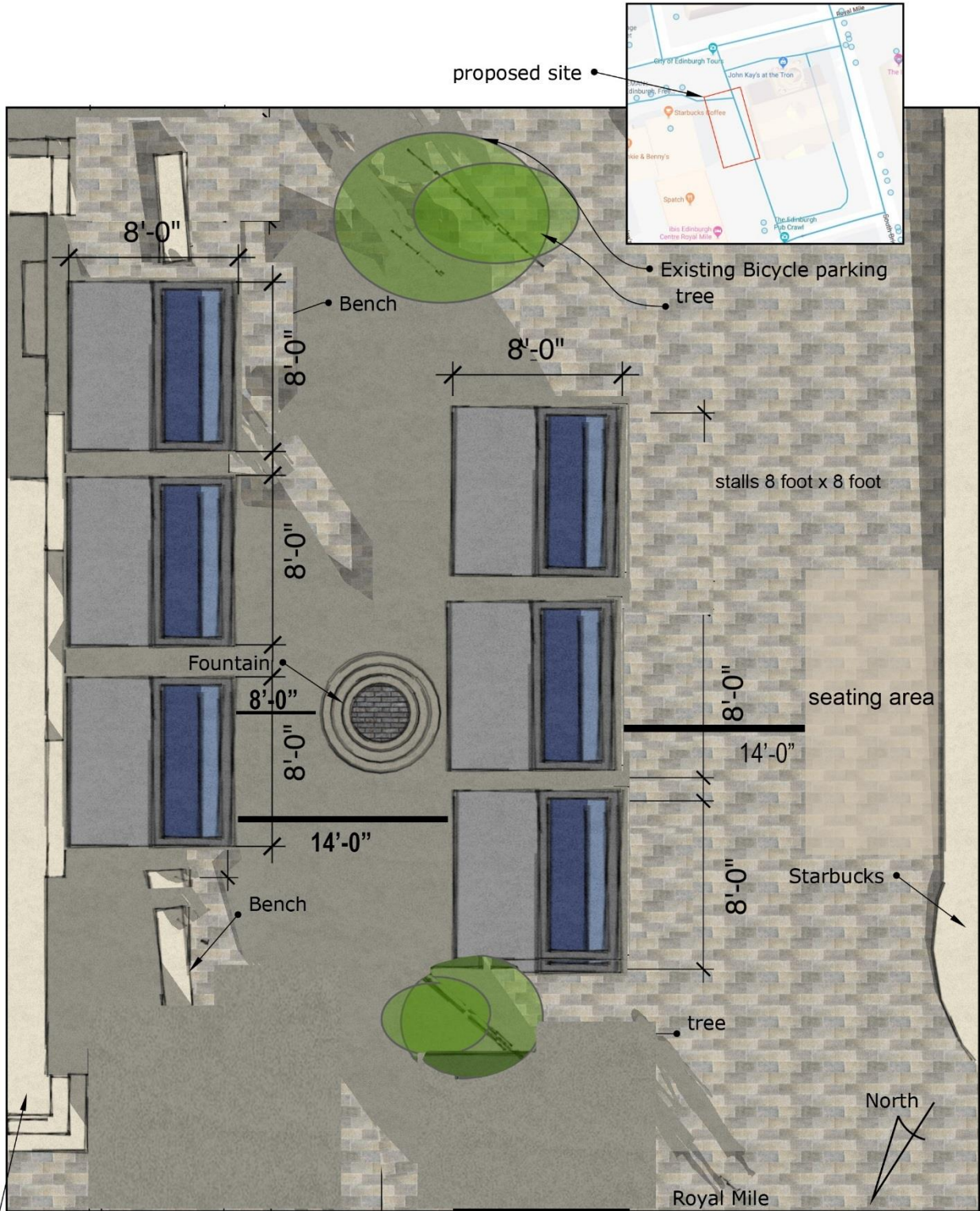
Street Trading Proposal  
February 22nd 2019

Version: 2



It is proposed that suspended stalls are re-instated outside the customer hub on the High Street. As stalls are now smaller (8 foot x 8 foot), seven stalls in total can be accommodated. This leaves plenty of space ensuring there is no obstruction to council office as was previously, when stalls were there before suspension. Public walkway over 10 feet.





Walkway for public at its narrowest (in front of circular statue) 8 foot (over two metres)  
At all other points exceeding 14 foot.

Tron Kirk



This document is a proposal to improve standards and re-invent Street Trading on Edinburgh High Street and Hunter Square.

Through consultation with all traders currently operating within this area, local shops and restaurants, and with the Licensing Department at Edinburgh City Council, EHSPSTA has initiated a proposal to utilise street trading spaces currently used and areas previously occupied by street trading.



The aims of this proposal are to standardise street trading stalls with regard to look, size and structure. This will be more befitting of a World Heritage site than that which is currently offered.



With support from council policy and regulation, and input from organisations such as Edinburgh World Heritage Trust, we believe EHSPSTA can work in close unison, to create a re-imagined Street Trading experience for locals and visitors alike, updated and revitalised, and an asset to Scotlands capital city.

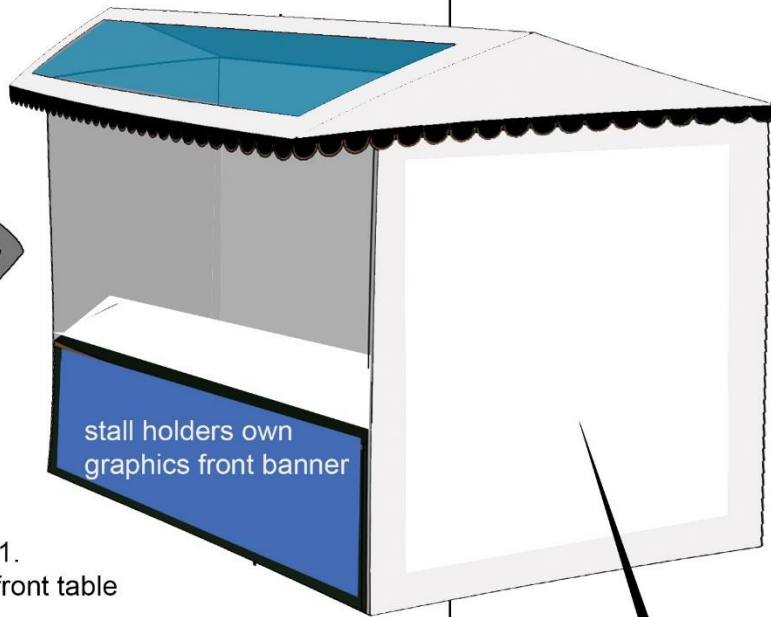


We would hope this to be an ongoing project, whereby channels of dialogue between all parties concerned can act together, to create something of benefit to all.



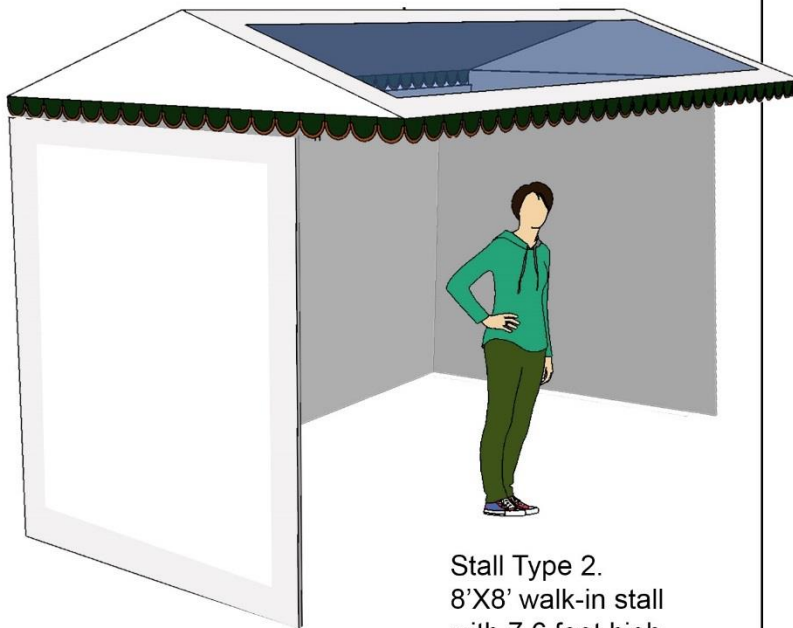
Proposed stall construction

8 foot x 8 foot  
Metal Frame stall  
Fixed tarpaulin  
roof with skylight  
and black edge  
drip effect.  
at least 7.6 foot  
high over hang



Stall Type 1.  
8'X8' with front table

Printed tarpaulin side  
panels. Images to be  
decided upon after  
consultation with  
Edinburgh World  
Heritage Trust.

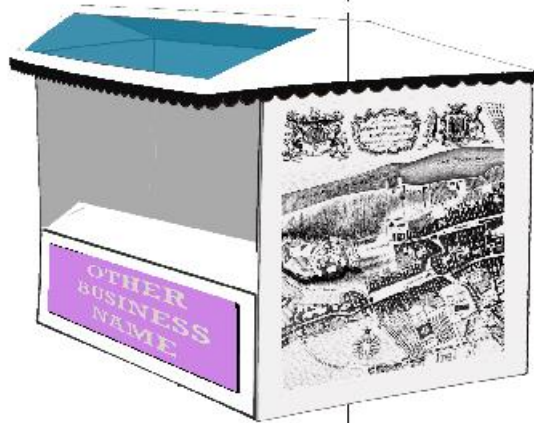


Stall Type 2.  
8'X8' walk-in stall  
with 7.6 foot high  
overhang

Graphics to be decided upon after consultation with Edinburgh world heritage Trust.



Example printed side banner tarpaulin and stall holders own front banner.





## Council Officer Responses to EHSPSTA Hunter Square Proposals

**From:** Chris Mcgarvey  
**Sent:** 05 April 2019 13:43  
**To:** Gordon Hunter  
**Subject:** RE: High Street Hunters Square Street Trading proposals

Hello,

See attached comments on these proposals as well:

- What footway width remains after the trading units are set up? This must comply with the Edinburgh Council Street Design Guidance. A minimum of 2m clear footway should be available from the trading unit. These dimensions should be shown on the plans.
- The canopy/overhang needs to be a certain height 2.25m (or thereabout I cant remember the exact height but will clarify) so that they do not cause an obstruction. No goods should be hung from the canopy
- Goods should not be displayed on the footway and should be contained within the trading unit.
- I do think the proposals shown do seem to be quite excessive and I would prefer to see Hunter Square remain at 6 traders units.
- The proposals for the High Street look as if they block fire doors/emergency exits.
- I also have concerns about the number of traders on the High Street and how the loading / unloading will be carried out. This could potentially cause more congestion in the area in the mornings whilst the pedestrian area is open to vehicles.

Happy to discuss further

Chris

**Chris McGarvey**

**Senior Transport Team Leader**

City Centre Roads Team | South East Locality | Place

**From:** John McNeill  
**Sent:** 29 March 2019 15:51  
**To:** Gordon Hunter  
**Subject:** RE: High Street Hunters Square Street Trading proposals

Hi Gordon, I'd welcome a meeting on this but initially I think we should be very wary of aligning with one organisation as this may well have to be tendered if in use for extended periods. I also think we must get Planning on board as this looks to be going down a "market" route rather than individual traders.

Economic Development and Anna Herriman should be involved as well.

John

John McNeill | Senior Public Safety Officer | Culture & Events Office | Cultural Strategy | Place Directorate | City of Edinburgh Council |  
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