



## **Market Policy**

This document provides policy and guidance for persons wishing to hold private, commercial and/or charity markets together with car boot sales or similar across the district of Epping Forest.

## 1. Introduction

- 1.1 Epping Forest District Council (“the Council”) recognises the important contribution that markets can make to the local economy and the character of an area. Markets can deliver economic growth & regeneration; they offer an opportunity for small businesses to get started for a relatively modest financial outlay, help increase town centre vitality and contribute in a number of ways to the local communities they serve.
- 1.2 The promotion of markets is an important inclusion in the town centre regeneration projects for Epping, Loughton, Ongar, Waltham Abbey, Buckhurst Hill, and the district as a whole and is particularly relevant, following the coronavirus pandemic which has redirected community focus towards the outside shopping and hospitality experience.
- 1.3 The purpose of this policy is to create a market trading environment that compliments the surrounding area and retail offer, is sensitive to the needs of all users of our town centres and provides a diversity of choice for consumers. It seeks to encourage and stimulate investment from local traders and to create a quality and sustainable offer to our residents and visitors.
- 1.4 The Council recognises that there are many different types of market activities and accordingly, the Markets Policy is intended to cater for each type. In particular, the Markets Policy distinguishes between commercial markets and those that are largely community-based with a strong charitable element. Sections 7 & 8 of the Markets Policy deals with the different types of market activities and sets out the Council's approach when considering applications in respect of such markets.
- 1.5 This policy has been written with a view to supporting the following objectives:
  - Recognise the importance and contribution of markets to the wellbeing of the local economy;
  - Enhance the economic diversity of the area;
  - Protect and, where possible, enhance the amenity and character of the District and local communities within it;
  - Offer opportunity for local traders and businesses;
  - Provide traders with guidance and clarity;
  - Encourage residents to spend locally on their High Streets and support their local business community;
  - Ensure coherence with Council policies and relevant legislation; and
  - Promote fairness, transparency, and consistency.

## 2. Consultation and Review of the Market Policy

- 2.1 There is no statutory requirement to consult before determining this licensing policy however to ensure openness and transparency, prior to implementing this policy the Council has chosen to consult with the following:
  - The National Association of British Market Authorities (NABMA)
  - The National Market Traders Federation (NMTF)
  - Members of the Council, including Town and Parish Councils
  - Local businesses
  - Existing operators
  - Essex Police
  - Essex Fire and Rescue
  - Essex Highways
  - Essex Trading Standards

- Epping Forest Planning Authority
- Environmental Health
- Relevant Council services responsible for licensing, economic regeneration, legal services, and town centre operations

2.2 A copy of the policy was also placed on the Councils website inviting comments.

2.3 This policy may be reviewed from time to time by the portfolio lead for Technical Services. Any revisions made to the policy shall take effect on publication of the policy (as revised) on the Councils website. The policy will also be submitted to the Councils Licensing Committee for overview at 5-year intervals, or sooner if deemed appropriate.

2.4 Anyone wishing to comment on this policy may do so in writing to the Licensing Team Manager, Epping Forest District Council, Civic Offices, 323 High Street Epping CM16 4BZ or via the Councils comments, compliments and complaints page on the Councils website at [Comments, compliments and complaints – Epping Forest District Council \(eppingforestdc.gov.uk\)](https://www.eppingforestdc.gov.uk/comments-compliments-and-complaints) .

### **3. Council and Charter Markets**

3.1 Epping Forest District Council licenses private operators to operate the following markets:

- North Weald Market – every Saturday and Bank Holiday Monday between 8am & 3pm

3.2 The Town Councils in the following areas either do or can operate a market by virtue of an historic Royal Charter:

- Waltham Abbey Market – every Tuesday and Saturday
- Epping Market – every Monday
- Ongar Market – first Sunday of every month

### **4. Epping Forest District Council's Market Rights**

4.1 The towns of Epping, Waltham Abbey and Ongar are legally entitled, by virtue of historic Royal Charter to operate weekly markets. In more recent times, powers have been vested in local authorities under, what is now, Part III of the Food Act 1984, to hold markets and have the right to licence and control the frequency of markets within their district.

4.2 Part III of the Food Act 1984 allows either Parish or District Councils to be the Market Authority and Epping, Loughton and Ongar Town Councils have elected to be Market Authority for their Parishes. As such Epping, Loughton and Ongar Town Council enjoy the rights and responsibilities for the establishment of all commercial and community-based markets within its area. Whilst the district council is the current market authority for all other areas, any future proposals by other Parish or Town Councils to become a market authority will be reflected in an updated Market Policy document.

4.3 In addition to the regular Council markets listed above, the Council, where it is the Market Authority, may also operate occasional market events, such as plant and craft fairs, Christmas and summer markets, festivals, and other themed markets across the district. Accordingly, the above list is subject to change and shall be updated as part of a periodic review of the Council's Markets Policy.

4.4 Any market other than a market operated by Epping Forest District Council or a Charter market, or a market operating within the Epping, Loughton, or Ongar Parish, will be subject to this policy.

4.5 The Council has also adopted Section 37 of the Local Government (Miscellaneous Provisions) Act 1982 that requires any person intending to hold a temporary market to notify the Council in advance, so that if appropriate, the Council can take steps to remove the permitted development rights to hold such a market and require the operator to apply for planning permission to do so.

4.6 This right has been exercisable for many years and this policy takes into account the relevant legislation.

## **5. What is a market event and who does the market policy apply to?**

5.1 The Council's Markets Policy is intended to apply to all market events held in the district of Epping Forest, (but not Epping, Loughton, or Ongar Parish), that are not a Charter market or are not operated by Epping Forest District Council.

5.2 The legal definition of a market is a 'concourse of buyers and sellers' (this means that the public are entitled to attend market events to buy and sell). It should be comprised of not less than five stalls, stands, vehicles (whether moveable or not) or pitches from which articles are sold by a range of different sellers.

5.3 A market may be held either outdoors or indoors and on public or private land and includes car boot sales, antique and craft markets, general markets, food markets, farmers' markets and charitable markets but does not include jumble or table-top sales held for charitable or community purposes. However, this list is not exhaustive.

5.4 There will be an operator of the market who will be responsible for the organisation and delivery of the market event. A Market Operator means the person, body, or organisation to which a market licence is granted by the Council.

5.5 A market may sometimes be held as part of a wider event. When this arises the market element (comprising of 5 or more stalls) of the event shall be subject to the Markets Policy. Where a premises licence for a wider event (which includes a market element) has been issued by the Council then a separate licence may not be required. However, this requirement shall be determined on a case-by-case basis.

5.6 This markets policy does not apply to street trading activities. Street trading is controlled by a separate licensing process and relates to the granting of individual trader consents. Further information about street trading activities can be found on the Epping Forest District Council website: <https://www.eppingforestdc.gov.uk/licensing/apply-for-a-licence/street-trading/>

## **6. Licensing of Markets under the Council's Market Policy**

6.1 The Council's consent to a market, by the grant of a market licence, must be given prior to the event taking place. Any market that takes place without such a licence shall be in breach of the Markets Policy and may be subject to the enforcement action described in Section 14 below.

6.2 Market licenses are issued to the Market Operator identified in the application ("the Market Operator") and are not transferrable.

6.3 The Council shall consider applications in respect of the following categories of market events:

- a) Commercial markets; and
- b) Community-based markets (operated for a good cause or special event, with a strong charitable element).

The criteria set out in Section 5 above will be relevant in respect of both Commercial and Community-based markets.

## **7. Commercial Markets**

7.1 A commercial market is one which is operated for profit and where the traders are engaged in a business activity of selling goods for their own purposes. The Council shall consider applications in respect of commercial markets whilst also having regard to the following matters:

- No market shall be authorised unless it can be demonstrated that the proposed market complements existing retail activity in the local area and supports the Council's objective of helping to create a thriving local economy that is attractive and welcoming and does not prejudice the overall market offer.

- A lawful Council operated market, Charter market or other market which the Council has issued a licence, is entitled to the right of protection within a common law distance of six and two third miles from the existing market on the same day - measured 'as the crow flies. This common law entitlement is part of a local authority's market rights and has been upheld by a Court of Appeal.
- Equally, a new market will not be permitted to operate within the common law distance of the established market, on a different day or days, if it can be proved that there is a reasonable likelihood of damage to the business activity of the established market. However, the evidential burden of proof is placed on the person or organisation raising the objection to show that this is or will be the case.
- Please note that, irrespective of this Council's Policy, an established market owner is entitled to take its own private legal action against any rival market by virtue of s.50 (2) of the Food Act 1984.
- The applicant is required to provide a site plan showing the extent of the proposed market area and proposed layout of stalls.
- Design of stalls must enhance the visual appearance of the area and be constructed in a suitable style and of appropriate materials i.e., simple, functional stalls with canopies or awnings of traditional or modern design.
- The applicant is required to undertake a risk assessment in relation to the proposed operation of the market and make this available for inspection by the Council upon request.
- The applicant must ensure that all other necessary consents and licences have been obtained prior to the market taking place. All traders must comply with any relevant statutory requirements, bylaws, and other legislation.
- Where necessary consultation with police, fire, health & safety, and highways should be carried out together with any other relevant body.
- The relevant application fee must accompany the application. The licence fees for any markets licence consist of a non-refundable fixed application fee and a sliding scale fee based on both the size of the market and the frequency with which the market is to be held.
- All market traders must hold a current public liability insurance policy with cover of at least £5,000,000.00 (five million pounds) for any one claim. The policy must indemnify the Council and its employees against any claim, howsoever arising. Details including name and address of insurance company and policy number must be provided to the Council and upon each renewal date updated details produced and filed in the Council office prior to the market taking place.
- All trading standards guidelines, health and safety requirements and any other relevant legislation must be adhered to. Food businesses with articles exposed or offered for sale for human consumption shall comply with current food & hygiene regulations and be able to demonstrate the required certification.
- Food businesses trading should have a minimum food hygiene rating of 3 (standards are generally satisfactory) or above.
- Type of goods to be sold. The goods must complement and not conflict with goods sold by other retailers in the immediate area.
- Consideration being given to the adjacent retail offer to each individual pitch and limiting the number of those selling similar goods. This encourages diversity of offer and operators should seek to complement rather than compete.
- Demonstrates a preference to the use of local traders and businesses.

7.2 Following outline approval of an application a licensing agreement must be entered into between the Market Operator and the Council and such licensing agreement must be signed by both the Council and the Market Operator before the market takes place. The licence

agreement will cover the issues set out in this section and all other matters the Council deems to be relevant including, but not limited to the following:

- Waste disposal arrangements. Applicants have a legal responsibility under the Environmental Protection Act 1990 and other related legislation to safely contain and legally dispose of any waste produced.
- Road closures and traffic management
- Noise and nuisance
- Health & Safety
- Power usage
- Market Operator agrees to allow access to appropriate Council Officers in the interest of public safety.

Any other requirements the Council consider appropriate.

## **8. Community – Based Markets**

- 8.1 Community-based markets are normally organised by local communities or groups with the intention of raising funds for a specific cause or celebrating a special event.
- 8.2 The markets must be operated on a non-profit basis to assist a charity or community, and the operator shall supply relevant information to the Council if requested. Whilst it is acknowledged that some traders will be selling goods for their own purposes, the Council will look for the event to have a strong charitable element in the way the event is organised.
- 8.3 Where a market is being operated on behalf of a registered charity, the operator must provide written permission from the charity organisation to raise funds on their behalf.
- 8.4 Community-based markets with up to 24 stalls will not require a market licence however, the Councils expectation is that they shall comply with the market rules and conditions detailed in this policy as a matter of good practice. Those with 25 or more stalls will require a market licence to which a fee will apply.
- 8.5 In respect of any licence the operator must have adequate insurances, comply with Trading Standards guidelines, health and safety requirements and any other legislative requirements or other statutory provisions laid down by the Council.
- 8.6 Where applicable, a licensing agreement will be entered into between the operator and the Council, and such licensing agreement must be concluded before the market takes place. This agreement will include and insist on such other requirements as are deemed appropriate to ensure consumer and public safety standards.

## **9. Process for Determining Market Applications**

- 9.1 An electronic version of the Council's Markets Policy, together with the relevant market licence application form, can be viewed and downloaded from [Licensing - Epping Forest District Council \(eppingforestdc.gov.uk\)](http://licensing-eppingforestdc.gov.uk).
- 9.2 The application accompanied by the relevant fee should be completed and submitted to [licensing@eppingforestdc.gov.uk](mailto:licensing@eppingforestdc.gov.uk)
- 9.3 The application process will consider such matters as (but not limited to):
  - Has an adequate Event Management Plan been completed with the inclusion of any relevant Risk Assessments? The purpose of the risk assessment is to:
    - a) Identify elements of the event or infrastructure that could cause injury or illness
    - b) The likelihood that someone could be harmed and how seriously (the risk)
    - c) What action will be taken to eliminate the hazard, or if this is not possible, control the risk

The risk assessment will form an important part of the overall event management plan however, the event management plan should consider wider issues including noise levels and the likelihood of noise disturbance to local residents, crime and

disorder, evacuation, parking, stewarding and marshals, staff training, ingress, and egress of attendees etc.

Further details on event planning can be found on the Health and Safety Executive website here [Event safety - Running an event safely \(hse.gov.uk\)](https://www.hse.gov.uk/event-safety)

- Has the operator held other events within the district, if so, how many and at what frequency?
- Previous applications being refused, or licence being revoked.
- Has permission been granted by the venue/landowner?
- Potential risk to the public in terms of highway safety and obstruction such as interference with sight lines, junctions, accesses, pathways, and crossings.
- Free flow of pedestrians or vehicles in the street, with particular regard for the visually impaired or those with other physical disability.
- Road safety, including existing traffic orders and waiting restrictions.
- The nature of goods to be traded. Including those deemed inappropriate or to have an adverse health or environmental risk.
- Likelihood of activity to present crime and disorder or anti-social behaviour risk.
- Whether the grant would create conflict with the trade of existing businesses.
- Likelihood of noise, odour and litter or encourage vermin.
- Comments received from consultees.
- Obtaining of any other required permission or consent.
- Conflict with any other Council policy.

9.4 The Council will aim to deal with applications within a period of 28 days of receipt. Applicants are urged to apply as early as possible to ensure that the Council has adequate time to consider the relevant matters in an appropriate way. In considering the application the Council will require sufficient information to deal with all the issues set out in the criteria listed above and covered on the application form. Failure to provide full information as highlighted above may lead to a delay in the Council reaching its decision or the application being refused.

9.5 The Council will consult on applications and in doing so it will share information with other agencies as appropriate including the relevant Town and Parish Council, the Police, Essex County Council Highways, Planning and Environmental Health etc.

9.6 Where an application has been submitted, in an area legally entitled, by virtue of historic Royal Charter to operate weekly markets, the automatic presumption will be to refuse permission, unless the application is supported by that Parish or Town Council.

9.7 The guidelines detailed in sections 7 & 8 of this policy will be applied when an application is made and received by the Council.

9.8 Where an application is refused, the Council will set out the reasons for its decision in writing. If the applicant wishes to appeal the decision it should do so, in writing, within fourteen days of the Council's written decision. Please see section 10 in respect of the appeals procedure below.

9.9 All decisions to grant a market licence are made at the discretion of Epping Forest District Council. The Council may issue a licence for up to one year or a lesser period where appropriate if the trading activity is seasonal or of a temporary nature.

## **10. Appeals Process**

10.1 If the Council determines to refuse an application for a market licence, it will contact the applicant and set out the reasons for its decision in writing.

10.2 There is no statutory right of appeal against the refusal to issue a market licence. However, the applicant may appeal against the decision through the Epping Forest District Council complaints procedure.

- 10.3 If the applicant wishes to appeal the decision it should do so, in writing, within fourteen days of the Council's written decision, setting out the reasons why the applicant believes the decision is unwarranted.
- 10.4 On receipt of an appeal request the decision will be reviewed by the Service Manager for Technical Services and the applicant informed of the outcome in writing.

## **11. Market Fees**

- 11.1 A reasonable administrative fee will be charged for applications. The fees are set on a cost recovery basis, taking into consideration the time and cost to the Council in determining the application. If the application is successful, there will be an additional fee to cover the cost of ongoing compliance visits.
- 11.2 The additional fee is payable once the application has been granted by the Council. An agreement between the applicant and the Council will be drawn up by the Council and this will require the appropriate fee to be paid at least 7 days prior to the event taking place.
- 11.3 The fees are payable annually and are determined on the type, size, and frequency of the market. Please refer to current fees schedule for full details.
- 11.4 Fees do not include any other fees that may be charged for the operator to comply with other relevant legislation, for example, a Game Licence, Alcohol Licence, Planning or Highways permission.
- 11.5 Fees are reviewed annually and are available on the Council's website.

## **12. Other Approvals**

- 12.1 It is important to emphasise that any approval given by the Council in accordance with this Market Policy shall not remove the requirement for any other relevant approvals, consents, or licences to be obtained by the Market Operator.
- 12.2 Where the market is being held on private land, the Market Operator must ensure that approval from the relevant landowner is obtained prior to submitting the market application.
- 12.3 The Market Operator should also consult with the Council's Planning Department to ascertain whether planning consent is required for the market to operate. Any market held in the same location for 14 or more days in a calendar year will require planning consent. Contact: [Planning.Admin@eppingforestdc.gov.uk](mailto:Planning.Admin@eppingforestdc.gov.uk) / 01992 564000.
- 12.4 The Market Operator shall be responsible for any temporary road closures and associated traffic management arrangements that may be required in order to facilitate the operation of the market. Essex County Council has legal powers to temporarily close roads and divert traffic in order to facilitate various types of events. Applications for temporary road closures in relation to markets should, in the first instance, be addressed to Essex County Council (see [www.essex.gov.uk](http://www.essex.gov.uk) for more information).
- 12.5 Attention is also drawn to the provisions of the Licensing Act 2003 in respect of any entertainment provided at the market or where a Temporary Events Notice might be required in respect of the sale of hot food or alcohol. Contact: [licensing@eppingforestdc.gov.uk](mailto:licensing@eppingforestdc.gov.uk) / 01992 564000.
- 12.6 The Council has approved the adoption of Section 37 of the Local Government (Miscellaneous Provisions) Act 1982. This Section deals with temporary markets and any operator of a temporary market, together with the occupier of land on which the market is to be held, are required to give to the Council not less than one month's notice of the holding of the market.
- 12.7 Any notice given by the operator and the occupier of the land shall state:
- 12.8 The full name and address of the person intending to hold the market
- 12.9 The day or days on which it is proposed that the market will be held and its proposed opening and closing times
- 12.10 The site on which it is proposed that the market will be held; and



- 12.11 The full name and address of the occupier of the land if he is not the person intending to hold the market.
- 12.12 It is important to emphasise that the requirements of Section 37 are quite separate to the licensing of events under the Council's Markets Policy set out in Section 9. The operator and the occupier of the land should ensure that a notice is given to the Council under the requirements of Section 37 as soon as proposals for a temporary market are under consideration. This will enable the Council to consider a proposal and indicate its likely view on a subsequent application for a markets licence.

### **13. Renewing or Termination of the Market Licence**

- 13.1 Market licences will be granted for a maximum 12-month period. Operators should re-submit their application if they wish to continue to operate a regular market. This must be done at least one month before their current market licence expires. No reminders will be sent.
- 13.2 The market licence may be terminated by either party by giving twenty-eight days' notice in writing.

### **14. Enforcement**

- 14.1 The Council will monitor the application of its Markets Policy and any market event which is operated after the date of the adoption of this Markets Policy.
- 14.2 Any market which is not approved by the Council under its Markets Policy will be subject to legal action and the Council may seek an appropriate remedy in the courts to prevent the market being held and/or damages as appropriate.
- 14.3 Any Market Operator acting in contravention of any market licence granted by the Council will run the risk of the licence being terminated by the Council with immediate effect on such terms as the Council determines and, in such circumstances, the Council reserves the right to refuse any future applications for market licences submitted by the Market Operator concerned or any person or organisation associated with the Market Operator.
- 14.4 Any costs associated with enforcement action deemed necessary as a result of the Market Operator's failure to comply with the Market Policy will be recovered from the Market Operator.
- 14.5 It is the responsibility of the Market Operator to ensure compliance with the conditions of the market licence. This includes ensuring that all traders are aware and comply with relevant conditions.
- 14.6 The Council will deal with complaints about markets using its existing policies depending upon the complaint.

### **15. Market Rules and Conditions**

- 15.1 The Market Operator shall not permit the sale, exchange or giving away of live animals, birds, fish, reptile, or other livestock on the marketplace.
- 15.2 No firearms (real or imitation), air weapons, sheath knives, cut-throat razors, hunting/fighting knives, bows or crossbows may be available for sale (domestic cutlery is permitted). The sale of any item that may be deemed to be of a harmful, objectionable, or offensive nature, or that is prohibited by current Acts of Parliament, is not permitted.
- 15.3 No goods may be displayed or sold which in the opinion of the Council are inappropriate, or likely to cause offence to other traders or members of the public.
- 15.4 Loudspeakers, instruments, or other noise generating appliances are not to be used or shall be so moderated as not to cause any nuisance, annoyance, or disturbance.
- 15.5 Where the market is held on the public highway, there must be an absolute minimum of 0.450 metres from the kerb edge to a market stall/person serving at the market stall.
- 15.6 Vehicles to unload and load the market are not exempt from existing parking restrictions/taxi bays/disabled parking bays, therefore it is important to consider where they can park safely without having an impact on any other highway user.

- 15.7 Where the market is held on the public highway, market vehicle parking should be considered as most locations cannot accommodate all day parking.
- 15.8 Where the market is held on private land, the Market Operator must ensure that there is adequate parking on the market site for both sellers and buyers.
- 15.9 Where applicable, the Market Operator must ensure that there are sufficient stewards on duty to control traffic entering and leaving the market site and to control parking on the site in a safe manner.
- 15.10 Market loading and unloading must not cause any trip hazards.
- 15.11 Traders/the Market Operator must supply their own stalls, including any tables and awnings. Awning and stalls used must be stable in all weather conditions and not present a danger or trip hazard to other market/highway users.
- 15.12 Clear routes of access along the highway must be maintained, taking into account the needs of disabled people, older people, and those with mobility needs. A width of 2m should be maintained but where this is not possible, 1.5m will be the minimum width allowed. Market stalls must be located to ensure that queues do not impede access routes.
- 15.13 Market stalls should be allocated positions that ensure any queues do not block the footways.
- 15.14 Stalls should not have goods spread across the footway in front of them.
- 15.15 The Market Operator must provide suitable receptacles for the disposal of litter and ensure that all rubbish is removed from the vicinity of the market at the end of the day's trading.
- 15.16 Traders shall not bring onto the market any inflammable liquids, gases, fireworks, or similar articles which may cause fire or explosion. The exception being a gas supply for cooking food upon such conditions as the Council may direct.
- 15.17 No goods may be displayed or sold that are counterfeit or in breach of copyright or patent.
- 15.18 Any electrical equipment sold must be safe and comply with the relevant British / European standards.
- 15.19 All traders must familiarise themselves with the conditions of the licence issued by the Council.
- 15.20 All incidents, accidents and "near misses" involving Traders, their staff or members of the public must be recorded and reported as soon as possible to the Council.

**This list is not exhaustive, additional conditions may be added or removed to the licence dependant on the type and size of the event.**