



## **Market Policy**

This document is provided to market operators and to give guidance to those persons wishing to hold private, commercial and/or charity markets together with car boot sales or similar.

## **1. Introduction**

- 1.1 Three Phase Property Ltd t/a Frodsham Markets recognises the important contribution that markets can make to the local economy and the character of an area. They can deliver economic growth & regeneration; they offer an opportunity for small & new 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 town centre and local business projects. Combined with a focus towards outside shopping and hospitality, it adds to the experience.
- 1.3 The purpose of this Market Policy is to create a market trading environment that complements the surrounding area and retail offer, is sensitive to the needs of all users of our town centre 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 Whilst recognising that there are many different types of market activities, the Market Policy is intended to cater for each type. In particular, the Market Policy distinguishes between commercial markets and those that are largely community based with a strong charitable element. Sections 7 & 8 of the Market Policy deals with the different types of market activities and sets out the 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 local communities within it;
  - Offer opportunity for youth traders, 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 local policies and relevant legislation;
  - Support charitable fundraising events with a benefit fund that sees financial contributions going back in to the community; 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, this licensing policy is available online and there has been consultation with The National Association of British Market Authorities (NABMA) together with existing operators and management.
- 2.2 This policy may be reviewed from time to time and any revisions made to the policy shall take effect on publication of the policy (as revised) on our website.

### **3. Charter Markets**

3.1 By Royal Charter:

- Frodsham

### **4. Market Rights**

4.1 The town of Frodsham is legally entitled, by virtue of historic Royal Charter, to operate a weekly market. The Charter owners have market rights and one of these rights is a common law right to be protected from disturbance. An example of a disturbance would be another market or fair within six and two thirds of a mile ("the Area") from the site of the Charter Market. Another market or fair can be held within this distance if you are issued with a licence and/or a licence fee is paid.

4.2 Any market other than a market operated by the Charter owners will be subject to this policy.

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

5.1 Market Policy is intended to apply to all market events held in the Area, that are not a Charter market.

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 and/or a licence fee is paid to the Charter owners.

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 Market Policy.

5.6 This market policy does not apply to street trading activities. Street trading is controlled by a separate licensing process which is provided by Cheshire West and Chester Council.

### **6. Licensing of Markets under Market Policy**

6.1 Consent to a market, by the grant of a market licence and/or issuance of a licence fee, is to be given prior to the event taking place. Any market that takes place without such a licence/licence fee in place shall be in breach of the Market 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/to whom the licence fee is addressed ("the Market Operator") and are not transferrable.

6.3 We 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. We 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 objective of helping to create a thriving local economy that is attractive and welcoming and does not prejudice the overall market offer.
- A lawfully operated market, Charter market or other market which has been issued a licence and/or paid a licence fee, is entitled to the right of protection within a common law distance of six and two third miles from the existing market - measured 'as the crow flies'. This is a common law entitlement and is part of market rights.
- 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 there is a reasonable likelihood of disturbance to the business activity of the established market.
- Please note that, irrespective of this 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 Charter owner and/or local Council/other authorities 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 Charter owners and its employees against any claim, howsoever arising. Details including name and address of insurance company and policy number must be provided and upon each renewal date updated details produced and emailed to the Charter owner *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 will be entered into between the Market Operator and the Charter owner and such licensing agreement should ideally be signed by both the Charter owner 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 deemed 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/statutory authorities in the interest of public safety.

Any other requirements the Charter owners 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 Charter owner if requested. Whilst it is acknowledged that some traders will be selling goods for their own purposes, the Charter owner 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 Charter owner's 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 licence fee may 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 local Council.

8.6 Where practical, a licensing agreement will be entered into between the operator and the Charter owner, and such licensing agreement is to be concluded before the market takes place.

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

9.1 An electronic version of the Charter owner's Markets Policy, together with the relevant market licence Application Form, can be viewed and downloaded from [www.frodshammarkets.com](http://www.frodshammarkets.com)

9.2 The application accompanied by the relevant fee should be completed and submitted to [threephaseproperty@yahoo.co.uk](mailto:threephaseproperty@yahoo.co.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 \(hse.gov.uk\)](http://www.hse.gov.uk/event/)

- Has the operator held other events within the area, 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 local policy.

9.4 The Charter owner will aim to deal with applications within a period of 21 days of receipt. Applicants are urged to apply as early as possible to ensure adequate time to consider the relevant matters in an appropriate way. In considering the application, the Charter owner 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 Charter owner reaching its decision or the application being refused.

9.5 The Charter owner may 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, Cheshire West 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 the Charter owner.

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

- 9.8 Where an application is refused, the Charter owner may 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 Charter owner'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 the Charter owner. The Charter owner 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 Charter owner determines to refuse an application for a market licence, it will contact the applicant and notify them but is not required to set out the reasons for its decision in writing.
- 10.2 There may be a discretionary but no statutory right of appeal against the refusal to issue a market licence.

## **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 Charter owner in determining the application.
- 11.2 The additional fee is payable once the application has been granted by the Charter owner 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.
- 11.6 The administration fee for each Market Rights Licence is £65.
- 11.7 A late application administration fee of £65 will apply to each Market Rights Licence where the application is received less than 21 days in advance of the proposed market. Where this applies, the total administration fee will be £130 for each Market Rights Licence,
- 11.8 Licence fees depend upon the type of market and the number of trading positions (calculated by multiplying the number of trading spaces and trading days). For Car Boot Sales the licence fee is £2 per trading position. The licence fee for all other markets is £7 per trading position up to 30 trading positions and £10 per trading position beyond 30 trading positions. Food and/or drink positions have a flat fee, regardless of the total number of trading positions, which is £15.
- 11.9 The legal fee for each Market Rights Licence is £350 plus VAT. Legal fees only apply to licences required to be issued in consultation with a legal professional such as for large or regular markets and where a bespoke licence agreement is required. Legal fees do not apply in most cases.

For example:

- For a licence to hold a car boot sale with 10 trading spaces over three trading days, the fee is calculated as follows:  $10 \times 3 = 30$  @ £2 is £60 plus administration fee of £65, total £125.
- For a licence to hold a market with 15 trading spaces over three trading days, the fee is calculated as follows:  $15 \times 3 = 45$  @ £7 is £315 plus administration fee of £65, total £380.

## **12. Other Approvals**

- 12.1 It is important to emphasise that any approval given by the Charter owner 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 Cheshire West and Chester Council 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.
- 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.
- 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.

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

- 13.1 Market licences will be granted for a maximum 12-month period. Operators should resubmit 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. However licence fees remain payable for the original period given 7.1 above.

## **14. Enforcement**

- 14.1 The Charter owner will monitor the application of its Markets Policy and any market event which is operated after the date of the adoption of this Market Policy.
- 14.2 Any market which is not approved by the Charter owner under its Markets Policy will be subject to legal action and the Charter owner 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 Charter owner will run the risk of the licence being terminated by the Charter owner with immediate effect on such terms as the Charter owner determines and, in such circumstances, the Charter owner 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 Charter owner 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 Charter owner 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 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.

15.6 Where the market is held on the public highway, market vehicle parking should be considered as most locations cannot accommodate all day parking.

15.7 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.

15.8 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.

15.9 Market loading and unloading must not cause any trip hazards.

15.10 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.

15.11 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, the minimum width allowed should accommodate a double pushchair/buggy. 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 Charter owner 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 Charter owner.

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 relevant statutory body.

**This list is not exhaustive, additional conditions may be added or removed to the licence dependant on the type and size of the event.**<sup>20326</sup>