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MARKETS LICENSING POLICY

Burnley Market Rights

Burnley Council owns the market rights to operate, licence or if necessary, prevent through legal action all markets within a $6^{2/3}$ miles radius of any market it operates or licences. These market rights were first granted by Edward 1 on 6th June 1294, to Henry de Lacy Earl of Lincoln.

As markets in Burnley grew particularly during the industrial revolution, there was a need to ensure that the local authority had control over such activity given that the markets were both important for feeding the working class and giving the authority profit and prestige.

As such many local Authorities including Burnley pursued Acts of Parliament to empower their market rights and layout the rules and regulations surrounding such activity hence The Burnley Market Act received Royal approval in 1865.

This is, therefore, a modern grant to operate markets each day of the week and as such gives Burnley Council the associated powers to preserve the Market Rights that accompany it.

If a market is set up without first obtaining the necessary licence from the Borough Council, the market will be unlawful, and subject to legal action. the Council will take whatever legal action is deemed necessary to prevent that market taking place.

Managing Market Rights

Market Rights are used by the Council to manage markets and fairs that take place within the $6^{2/3}$ miles radius to ensure that the retailing environment is a safe and successful one which includes ensuring compliance with legal requirements.

It protects tenants who operate from Burnley Market from rival market competition that may affect their business, and the council's financial interests arising from rental income should such a rival market impact on tenants' business to the extent that they no longer operate from Burnley Market.

A strategic view is also necessary to avoid concentrating too many markets or fairs within a limited location which could lead to a lack of vitality and viability. We use market rights to manage the markets that take place within the borough, and to benefit the retailing and entertainment environments.

What is a market event?

The Council's markets policy is intended to cover all market events held within the Council's area. In order that potential market operators are fully aware of the Council's definition of a market the following guidelines are provided:

- The legal definition of a market, as set out in the Local Government Act (Miscellaneous Provisions) 1984, is a "concourse of buyers and sellers numbering five or more" (this means that the public are entitled to attend market events to buy and sell).
- A market will comprise not less than five stalls, stands, vehicles, whether moveable or not or pitches from which articles are sold.
- There will be an operator of the market who will be responsible for the organisation and delivery of

the event.

- The term “market event” includes car boot sales, antique and craft markets, general markets, farmers' markets, charity markets, tabletop sales and Christmas Markets etc.
- A market may sometimes be held as an integral part of an event such as a festival, and where this arises the market element will fall within the Council's markets policy.

Conditions & Criteria

The qualifying conditions that must be met and the criteria that will be considered before a licence will be issued are as follows: - ~~SET OUT FIRST WHAT TYPE OF MARKETS ARE ACCEPTABLE, BEING CLEAR THAT GENERAL RETAIL MARKET IS NOT.~~

- Every application is considered on an application-by-application basis
- General retail type markets **will not** be acceptable.
- There must be no economic detriment to Burnley Borough Council or its traders on established markets. Goods must be mainly specialist in nature including but not limited to artisan markets, craft markets, farmers markets, antiques markets and vintage markets or for fundraising purposes to be granted a licence.
- ~~There must be no economic detriment to Burnley Borough Council or its traders on established markets. It is unlikely that the Borough Council will licence any wholly general retail market or any market type event that contains a substantial element of general retail. Goods must be mainly specialist in nature including but not limited to artisan markets, craft markets, farmers markets, antiques markets and vintage markets or for fundraising purposes to be granted a licence.~~
- The type of goods to be sold, **to MUST** be agreed with the Council
- The suitability of the site, including but not limited to the nature of the surface, access and egress for buyers, vendors, and emergency vehicles.
- Where applicable proof must be provided that the site owner has given permission for their land to be used for the purpose of holding a market.
- The appropriateness of the site taking into consideration the proximity to residential property/major road junctions.
- The availability of on and off-street parking, external to the site, for use by buyers.
- The intended frequency of the market.
- The likely effect on the local amenity of the market.
- Local opinion on the holding of the market.
- Arrangements for dealing with any noise, litter, or environmental damage.
- Regard to the overall size of the market.
- Health and safety of vendors and buyers, including access to toilet facilities if the market is to be over 4 hours in duration and the provision of acceptable first aid facilities
- Food vendors must be registered with Environmental Health and have a Food Standards Rating of at least 3 (or 5?). For information on how to become registered and for charities and one-off events please go to www.burnley.gov.uk/business/environmental-health. Please also see also www.cieh-national-guidance-for-outdoor-and-mobile-catering.pdf
- Car boot sales should be restricted to the sale of used goods Agreement to or a proven good record of consultation with relevant emergency services.
- Obtaining planning consent where required.
- A total prohibition against the sale of livestock or live animals, explosive materials of any kind and illegal or counterfeit goods on the site.
- A total prohibition against gaming or betting on the site

- If operated on a Sunday, the market complies with the Sunday Trading Act in that it will not allow trading for more than a maximum of 6 hours.
- Premises that are subject to Non-Domestic Rateable Charge with Retail use permission and including any associated nearby land are excluded

The Council reserves the right to agree the goods to be sold by the market and the number of stalls. The licence as issued will exempt the Borough Council from any liability or loss arising from the operation of the market. The licence may be revoked at any time at the discretion of the Market Manager.

The licensee is also responsible for ensuring adequate public liability insurance is taken out to cover any damage or loss arising from the market and to keep the Borough Council indemnified against any such loss. The licensee must also comply with trading standards guidelines, health and safety requirements and other statutory provisions laid down by the Council.

[Burnley Borough Council Owned and Operated Public Realm, Land and Buildings](#)

Commercial operators of market type events who wish to use Borough Council owned and operated public realm areas within Burnley and Padiham Town Centres or the Council's Parks will be required to complete an Events Safety Notification Form <https://burnley.gov.uk/wp-content/uploads/2022/03/Event-Safety-Notification-form-v3-Sept-2021.pdf>. Operators may be required to pay additional rental fees and to cover any costs incurred by the council for the use of, for example, electricity, water and waste management and where applicable a proportion of any business rates liability.

[Exemptions](#)

If your event will have only 4 paying traders/vendors in attendance it is not considered to be a market for the purposes of payment of a licence fee. However, the event may still need to meet other planning considerations depending on its frequency, and you may wish to contact the relevant Planning Authority to establish if this is the case.

Burnley Borough Council does not consider events organised by Charitable bodies and Community Groups, where stalls are manned by volunteers from the organising group, regardless of the number, to be a market, i.e. where a toll for trading space is not being paid to the organiser, such as jumble sales, Christmas Fayres and Charity Fayres and therefore a licence is again not required.

[Other Approvals](#)

It is important to emphasise that any approval given by the Council in respect of its market policy does not remove the requirement for other relevant approvals to be obtained.

The operator of a market should ensure that where the market is being held on private land, the approval of the landowner is obtained. The Council may wish to receive evidence of such approval. Planning permission might also be required, and any market operator should consult with the Council's Planning Department to ascertain whether any planning considerations are relevant.

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.

Enforcement

The Council will monitor the application of its markets policy and any market event which is established after the date of the implementation of this markets policy will be subject to the Council's requirements.

Any market which is not approved by the Council will be subject to legal action and the Council will seek an appropriate remedy in the courts to prevent the market being held and/or damages as appropriate.

In addition, 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 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 operator concerned or any person or organisation associated with the operator.

Stakeholders

Once the application has been received and where appropriate several stakeholders shall be consulted including: -

- Head of Economy & Growth
- Markets Manager
- The Burnley Business Improvement District Manager
- Environmental Health
- Health & Safety Officer
- Highways

The Head of Economy & Growth or her representative shall have discretion to include any other stakeholders she believes necessary.

The applicant will be expected to engage with the above stakeholders and businesses in the vicinity of where the market is proposed to take place.

On receipt of all comments from stakeholders if no objections are received and there are no material considerations then the Licensing Officer may issue a Market Rights Licence. The Licensing Officer shall have discretion to place such obligations and conditions on the licence as are reasonable in all the circumstances.

The decision of the stakeholders is final.

Fees

The licence fee structure acknowledges different types of organisations and is given in the table below. Each application will be considered on an individual basis however, the table below outlines the fee applicable.

| Category | Type of Event/Type of Operator | Fee + Vat per event per day |
|-----------------|--|------------------------------------|
| 1 | Not for Profit Charitable Markets (see | £0 |

| | exemptions) | |
|----|--|---------|
| 1a | Registered Charity/Fundraising based events where tolls are charged under 50 vendors | £20.00 |
| 2 | Commercially operated Markets | |
| | 50 Vendors or less | £100.00 |
| | 51-100 Vendors | £200.00 |
| | 101-150 Vendors | £300.00 |
| | 151-200 Vendors | £400.00 |
| | 201-300 Vendors | £500.00 |
| | Over 300 Vendors | £600.00 |

For registered charity/fundraising events and specialist market the payment must be made with the application. For commercial markets a non-refundable payment of £100.00 must accompany the application form. Any balance due must be paid within 7 days of the event.

Burnley Borough Council reserves the right to verify the number of stalls present on the day of the market to ensure that this does not exceed the size of market event applied for. Should your market not take place on the date applied for, the licence may be transferred to another date but if this is not possible for whatever reason the licence fee will not be refunded.

Fees are subject to annual review as part of the Council's annual review and setting of fees and charges.

[Appeals and Complaints](#)

Should you be dissatisfied with any decisions made by the Council with respect to the implementation of its Market Rights Policy you may make a complaint or appeal under the Council's Complaints Policy using the on-line application form <https://burnley.gov.uk/council-democracy/complaining-about-council-service/>

APPLICATION FOR A LICENCE TO OPERATE A SPECIALIST, COMMERCIAL OR CHARITABLE/FUNDRAISING MARKET

NAME OF ORGANISOR

ORGANISATION

ADDRESS

.....

.....

TEL NO(s)

EMAIL ADDRESS

NAME AND ADDRESS OF THE OWNER OF THE SITE ON WHICH IT IS PROPOSED TO HOLD THE MARKET.

NAME

ADDRESS

.....

TEL NO(s)

NAME OF SITE AND FULL ADDRESS IF DIFFERENT FROM OWNERS ADDRESS: -

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1. IF YOU ARE APPLYING FOR A FUND-RAISING MARKET LICENCE AS A DEFINED ORGANISATION, PLEASE STATE THE PURPOSE OR BENEFICIARY TO WHICH THE PROCEEDS OF THIS MARKET EVENT WILL GO OR THE REGISTERED CHARITY?

(Burnley Council reserve the right to contact the charity or beneficiary)

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2. DATE(S) OF PROPOSED MARKET(S) OR INTENDED FREQUENCY
(THE FIRST MUST BE NO LESS THAN 28 days PRIOR TO THE DATE OF SUBMISSION OF THIS FORM)

| <u>Market No.</u> | <u>Intended Date(s)</u> | <u>Proposed Opening Times</u> |
|-------------------|-------------------------|-------------------------------|
| 1 | | |
| 2 | | |
| 3 | | |
| 4 | | |
| 5 | | |
| 6 | | |
| 7 | | |
| 8 | | |
| 9 | | |
| 10 | | |
| 11 | | |
| 12 | | |

3. PLEASE PROVIDED DETAILS OF HOW YOU WILL COMPLY OR HAVE ALREADY COMPLIED WITH THE CONDITIONS RELEVANT TO THE ISSUE OF THIS LICENCE

(Please note not all conditions will be applicable to every market event, if this is the case please state, 'not applicable' and state the reason why?)

4. What type of event do you intend to hold? If applicable what percentage of traders will be professional retailers?

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5. What steps have been taken or will be taken to ensure the suitability of the site, including but not limited to, the nature of the surface, access and egress for buyers, vendors and emergency vehicles?

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6. If applicable, please provide proof that the site owner has given permission for their land to be used for the purpose of holding a market or if you are the landowner proof of ownership

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7. Allowing for the proximity of the market to residential property what steps have been or will be taken to minimise noise and other nuisance to residents?

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8. What provision is there for on street and off-street parking for buyers if all parking requirements cannot be contained within the site?

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9. Is there likely to be any detriment to the local amenity? If so, what and what steps have been or will be taken to alleviate this?

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10. Have efforts been made to canvas the opinion of local people to the proposed market? If the answer is "yes" please provide details of the results of the research.

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11. What arrangements have been made or will be made to deal with: -

- a. Noise
- b. Litter
- c. or any other environmental damage?
- d. How will refuse from the market be disposed of to ensure you comply with relevant legislation?

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12. How many stalls will there be at your event and how has that figure been arrived at?

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13. How will you ensure that health and safety legislation is complied with: -

- a. the safety and well-being of both buyers and sellers?
- b. What toilet facilities are to be made available if the market is likely to last more than 4 hours?
- c. What first aid facility will you be providing?

d. Please provide a fire risk assessment if the cooking of food will be present.

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14. Have you consulted with the Emergency Services and Highways if a street market in respect of the proposed market? If so, what are the results of that consultation? *(Please provide written details of any consultation and responses)*

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15. Does your market require planning permission? *(If so, please provide written confirmation that permission has been granted by the relevant Planning Authority.)*

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16. What arrangements are you making to ensure the following: -

- a. all goods sold are legal, non-counterfeit or copies
- b. that goods do not contain explosive material
- c. that there are no live animals are to be sold at the market.

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17. What procedure are you putting in place to ensure no gaming or betting takes place at the market?

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18. If the market is to be operated on a Sunday, what provisions are you making to ensure the event complies with the Sunday Trading Act?

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DECLARATION

I hereby declare that all the above questions have been answered to the best of my knowledge and ability and that if anything changes prior to the event taking place I will inform Warrington Borough Council (Market's Service) immediately.

I include with this application: -

1. The appropriate fee. (See table of charges on Page 3)
2. Where applicable written permission of the landowner to use the site for a market or written proof that I am the landowner.
3. Copy of any planning permission granted. (If applicable)
4. Event plan to include a fire risk assessment if the cooking of food on site is being permitted.
5. Site owner's permission
6. 2 Character References around the suitability to run a market either indoor or outdoor

I understand that the market(s) I have applied for cannot take place until such time as I have paid the applicable fee and a licence has been issued by Burnley Council's Market's Service.

NAME..... SIGNATURE DATE

Please return this application form 28 days prior to the date of your proposed market to: -

markets@burnley.gov.uk stating in the subject header **APPLICATION TO HOLD A MARKET**. Please mark for the attention of Marie Shaw. For any information, please call 01282 477300