

## Business and Planning Act 2020

# Standard Licence Conditions

### Tables and Chairs on the Highway

The following conditions will be applied to every licence granted under the above Act:

1. This licence is granted in accordance with compliance advice given in the guidance notes issued at the time of application
2. The tables and chairs placed on the highway after the granting of a licence must be in accordance with the details and plans provided at the time of the application. No changes are permitted without prior approval of the Licensing Authority.
3. The amenities must be removed from the public highway at the end of the permitted period each day and in all cases no later than **11pm**. (To be used in all cases, except where consent for picnic tables is granted).
4. All tables and chairs authorised by the licence must be removed by midnight on the day the licence expires unless a renewal licence has been applied for and granted. Renewals must be applied for at least 3 weeks prior to expiry to allow sufficient time for the application to be considered.
5. Failure to pay the licence fee and return the signed licence by midnight on the day the previous licence expires will render the licensee in breach of the Standard License conditions and subject to enforcement.
6. The Licensee shall maintain a public liability insurance policy up to the value of £5 million pounds against any liability, loss or damage, claim or proceeding whatsoever arising under Statute or Common law in respect of the placing and maintaining of the tables and chairs on the highway or their removal there from.
7. The Licensee shall be responsible for keeping the designated area in a clean and tidy condition at all times. Under your duty of care you must ensure that any waste produced is handled safely and in accordance with the law. You must keep all waste safe, prevent it from escaping from your control and ensure that it is only handled or dealt with by persons that are authorised to deal with it.
8. The Licence may be suspended where necessary to allow highway maintenance and any other necessary remedial work to be carried out at the location covered by the licence. A reasonable period of notice will be given to the licensee where possible. The Highway Authority will not be liable for any loss of earnings arising out of the suspension of a licence.
9. Any umbrellas permitted must not protrude beyond the designated boundary of the licensed area. They shall be kept in good condition so as not to detract from the appearance of the street. You are advised that enclosed structures (including

gazebos) and the like will not be permitted within the proposed boundary of the licensed area.

10. If you are permitted to use space heaters, their metric dimensions materials and colour must be specified as part of the application. **You will also be required to submit a formal risk assessment as required by the Management of Health and Safety at Work Regulations 1999 in support of your application.** This should be carried out by a competent person i.e. someone who has knowledge of the law, British Standards, and Health and Safety Executive Codes of Practice and Guidance. In considering an application, the Council will have regard to the inherent safety of the equipment, its location, storage of Liquid Petroleum Gas Cylinders, maintenance and training arrangements. The County Council will consider the adequacy of the risk assessment which must:

- Identify the hazards e.g. fire, explosions, burns, impact from falling equipment/cylinders
- Decide who may be harmed and how
- Evaluate the risks and decide whether proposed precautions will be adequate or whether more could be done. Record findings, review assessment and revise on an annual basis or more frequently if the situation requires it e.g. a significant change in equipment, etc.

11. In areas of significant footfall (to be determined by the Licensing Authority), when in use, the pavement café area will need to be enclosed, to demarcate the licensed area and contain the tables and chairs, thus making it distinguishable to other pavement users, and to assist blind and visually impaired pedestrians.

12. The placing of speakers or any other equipment for the amplification of music within the licensed area is strictly prohibited unless authorised by a premises licence issued under the Licensing Act 2003. Any such authorised music must not cause a nuisance or annoyance to others.

13. Any sales of alcohol within the licensed area must be authorised by a premises licence issued under the Licensing Act 2003.

14. Any material alteration to the Means of Escape, which affects people using the Means of Escape, inside or in the immediate vicinity outside the premises must be recorded in the premises' Fire Risk Assessment as a significant finding. Control measures should be put in place to reduce risk within the area as well as recording them. A review of the hazards and risks should be ongoing throughout the period the premises are in use.

15. This Licence covers the use of amenities by customers for consuming food or refreshment which have been purchased from the licenced establishment. This Licence does not permit the use of the amenities for any other purposes at any time.

16. No additional charge shall be made to customers for the use of the tables and chairs within the licensed area.

17. The licensee may only use the land for the placing of tables and chairs in the course of his business only during the hours permitted by the licence and only within the defined area applied for.

18. No tables and chairs or barriers may be placed in the area until a licence has been granted.

19. No other items may be placed on the highway within the licensed area other than that approved in accordance with the application and the licence when granted. If the premises has a licensed tables and chairs area, then any Advertising Board must be contained within the agreed seating area and not outside the area.

20. This licence will not be renewed automatically. Compliance with the terms of conditions of any previous licence will be taken into account at any application for renewal. The Licensing Authority reserves the right to refuse renewal applications where appropriate.

21. The licensee is responsible for carrying out the reinstatement of the highway in the event of any damage to the highway occurring as a result of the activity (if requested to do so by the Highway Authority). The permanent surface reinstatement shall be carried out to the satisfaction of the Highway Authority.

22. The license is issued to the applicant only and is not transferable.

23. These conditions may be varied where appropriate to reflect any changes in local circumstances.

24. The footway must not be obstructed by patrons standing between tables, chairs and the kerb, or by the personal possessions of patrons.

25. Any fee is for the administration and grant of the licence. No refunds will be made in the event of a surrender of the licence before expiry. There is no automatic right to appeal against refusal of consent.

26. The Highway Authority may withdraw this consent at any time upon giving the licensee seven days' notice in writing. Upon withdrawal of the consent the licensee shall remove the amenities from the public highway and, in default, the Highway Authority may remove the amenities and recover from the licensee its cost in so doing.

### **Enforcement Measures**

Periodic inspections of pavement cafés will be made by the Council to ensure compliance with the Pavement Café licence, guidance and relevant legislation.

### **Breach of Conditions**

27. Where a breach of a license condition is noted, the operator of the pavement café will be served with both verbal and written notice of the offence(s) being committed. The operator will be given 7 days to comply.

28. Where the Licensing Authority serves a notice on the licensee requiring him/her to remedy any breach of the terms of this consent, and the licensee fails to comply

with the notice, the Licensing Authority may itself take the steps required by the notice and recover from the licensee any expenses incurred.

29. A further inspection will be made of the pavement café 7 days after the notice is served. If remedial action has not been taken then a Notice of Contravention will be issued further outlining the nature of the offence(s) and informing the operator that they are to remedy the breach or remove the pavement café from the highway within a period of 7 days from the date the notice is served.

After the 5 working day notice has expired, a further inspection will be made and if it is found the breach has not been remedied then the pavement café furniture will be removed by the Council or the Police and the licence revoked.

30. If the pavement café continues to operate once the licence has been revoked then any objects/furniture occupying the highway will be removed from the area without further notice.

31. Provision must be made for a non-smoking area to be provided.

#### **Unauthorised Pavement Cafés (a café without a valid licence)**

32. Where an unauthorised pavement café is found to be operating without the correct permissions, the operator will be served with both verbal and written notice of the requirement to remove the pavement café by the Highway Authority from the highway within 7 days.

33. After the 7 day notice has expired, a further inspection will be made and any objects/furniture occupying the highway will be removed from the highway without further notice.

34. An inventory detailing the confiscated items will be made and a receipt issued to the licence holder/operator. Items removed by the Highway Authority will be subject to a release fee. This fee will be reviewed annually. If the items are not collected within 21 days of the date of seizure the Highway Authority will dispose of them.

35. Persistent variances from the conditions will result in the licence being revoked. No part of the fee shall be refunded should the licence be revoked