

## **BUSINESS AND PLANNING ACT 2020**

### **PAVEMENT LICENCE CONDITIONS**

#### **NATIONAL CONDITION**

##### **Annex A: National condition**

The Secretary of State publishes this condition in exercise of his powers under [clause 5(6)] of the Business and Planning Act 2020

##### **Condition relating to clear routes of access:**

It is a condition that clear routes of access along the highway must be maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of [Inclusive Mobility](#).

#### **LOCAL CONDITIONS**

##### Use of the area.

1. The licence holder will be responsible for ensuring that the designated area is set out and managed in a way that maintains appropriate levels of social distancing during Covid-19 restrictions as defined by Government Guidance.
2. A minimum 2m width of unobstructed footway must remain available to passing pedestrians (taking into account street furniture, street lights etc.) In areas of high foot fall more than 2m of unobstructed highway may be required to allow for social distancing of pedestrian traffic.
3. All customers using the area covered by the Pavement Licence will be required to be seated.
4. It will be the responsibility of the licence holder to keep the licensed area clean and free of litter, during licensed/operational hours. Commercial waste from the licence holder's operations must not be disposed of in the litterbins provided by the Council.
5. Licence holders will be required to remove any umbrella or parasol if it obscures CCTV coverage and interferes with the detection and prevention of crime and disorder.
6. The licence holder shall ensure that the Pavement Licence area is properly supervised by a member of staff at all times when it is open.
7. Alcoholic drinks must be served in polycarbonate or shatterproof glasses where available.
8. Alcohol can only be consumed in the designated Pavement Licence area if the premises has a licence to sell alcohol

9. All food and drink to be served to the table. Customers not allowed to purchase food away from the tables or to stand whilst consuming food and drink.
10. No music is allowed outside in the Pavement Licence area.
11. Use of the Pavement Licence area must cease by 23.00hrs.
12. Where gas heaters are used, the connections, including the regulator, hose & clips must be fit for purpose and checked on a regular basis.
13. Applicants shall seek to maintain a smoke free environment. A “smoke-free seating condition” is a condition that, where the furniture to be put on the relevant highway consists of seating for use by persons for the purpose of consuming food or drink, the licence-holder must make reasonable provision for seating where smoking is not permitted.
14. Whilst the provision of Pavement Licences is encouraged, it is essential that they are properly managed and that you consider appropriate ways to minimise/control any potential adverse effect e.g.: smell and fumes, unsightly litter and refuse or excessive late night noise. Concern over such issues will be particularly significant for premises located in residential areas or close to domestic dwellings.
15. All food premises must be registered (Link) with the District Council. All pavement café operations must comply with the relevant food safety and Covid Secure requirements.
16. Once a licence is granted or deemed to be granted, the applicant will also benefit from deemed planning permission to use land for anything done pursuant to the licence while the licence is valid. This does not, for example mean that limits to the hours of operation imposed by planning permission or a lawful established use are made invalid by the granting of a pavement licence. It is the applicants responsibility to ensure they remain in compliance with planning law

#### Management of the highway.

17. Tables and chairs shall not be affixed to the highway
18. The furniture should be of a high quality and uniform style within the licensed area and should complement the surrounding area. Any furniture should be safe and suitable for the intended purpose and of a design that can be easily removable.
19. Umbrellas will be permitted where they do not obstruct pedestrian or vehicle visibility. Where umbrellas are used, these must be fabric type (i.e. not reflective). They may display a small logo up to 150 mm x 450 mm in the size of the establishment’s name, but there may be local restrictions preventing the display of brand names or brewery logos. Umbrellas are to be positioned so as

to avoid overhanging outside the enclosure or impairing vehicle/pedestrian sight lines.

20. Non-furniture items e.g. menu boards, signs and portable gas heaters also need to be approved as part of the enclosed licensed area and any unacceptable clutter or intrusion into sight lines will need to be removed if it is seen to be causing a problem.
21. No signs, displays, balloons, promotional items or bindings for the purpose of support are to be attached to street furniture.
22. Furniture should be safely removed at the end of the specified hours detailed within the Pavement Licence and be stored away from public areas in such a location where it is safe, secure and unable to be accessed by members of the public.
23. The area, when in use should be demarked by suitable temporary barriers that protect the safety of pedestrians and users whilst clearly identifying the café or drinking area' This is to be a portable barrier which is of a suitable colour and construction so as to be distinguishable to other pavement users and particularly the assist blind and visually impaired pedestrians, i.e. detectable by a stick and of a contrasting colour.
24. The enclosure shall be removed outside the licensable areas or when the pavement café is not intending to operate within the licensed period, including the end of every trading day.
25. Where repair, maintenance or alteration of the pavement/highway is to be undertaken, the County Council will endeavour to give the licence holder notice unless it is urgently required as a Covid 19 control measure. The County Council will not be liable for any loss of earnings whilst repair/maintenance is carried out. The licence holder must allow the County Council reasonable access for such works.
26. There will be no compensation or liability for loss of business resulting from a temporary restriction on occupation of the highway or operation of the pavement licence area by a legitimate authority (e.g. Police, Statutory undertakers, County Council or local District Council) or for any other reason.
27. The County Council (in its capacity as local highway authority) and others will need access at various times (including emergencies) for maintenance, installation, special events, improvements, etc. Wherever possible, advance notice will be given.
28. Where a charter is in place for the holding of any market or street fair, and the area is required by that fair or market, the holder of the licence must remove all furniture and items associated with the licence from that location for the duration of the market or fair.

29. The local District Council may also require daily access for cleaning the highway, usually in the morning before 9 am, but the applicant should check local arrangements with the District Council.
30. The licence holder will be responsible for any damage, including stains', to the highway.

#### Compliance and Enforcement.

31. The Council reserves the right to suspend/revoke the licence in the event of a breach of any term or condition, or when it deems that the area is no longer suitable. The granting of a temporary licence does not convey any ongoing legal entitlement to use the highway.
32. The Council shall be entitled to suspend the temporary licence on the occurrence of a special event, as a Covid 19 control measure, or any other circumstance, which the Council considers to necessitate a temporary suspension.

#### Legal

33. The licence holder shall indemnify the Council against all actions, proceedings, claims, demands and liability which may at any time be taken, made or incurred in consequence of the use or presence of the chairs and tables and other objects.
34. The licence does not authorise any unlawful interference with the convenience of persons using the highway or affects the rights of owners of the premises adjoining the highway or the rights of the Utility Companies. You must give access to emergency services.
35. The subletting of the permission granted by the licence is prohibited.
36. Licence holders are required to obtain public liability insurance covering the business for up to £5,000,000 at all times the pavement café is operational. It is the responsibility of the licence holder to forward up to date copies of insurance certificates as and when they expire. Failure to comply with this condition can constitute an offence under the pavement café policy and enforcement action can be taken.
37. The grant of a Pavement Licence shall not be deemed to give any approval or consent which may be needed under any byelaw, enactment or regulation other than cafes under section 115c of Part VIIA of the Highways Act 1980. For the avoidance of doubt this includes the requirement to seek and obtain planning permissions and/or advertisement consent.