



Brighton & Hove City Council

Pavement Licence Conditions

The following conditions will be introduced to apply to all Pavement licences issued under the Business and Planning Act 2020 ('the Act') or any subsequent legislation which replaces this.

1. Terms:

- 1.1 The term "licence" used below refers to any Pavement licence issued by the Highway Enforcement Team.
- 1.2 A "licensee" is deemed to be the body or individual to whom the licence has been issued
- 1.3 A "licensed area" is that area of public highway covered by the licence.
- 1.4 I agree that all information I provide in any licence application will be true to the best of my knowledge and that I will not wilfully omit any necessary material. I understand that if there are any wilful omissions, or incorrect statements made, my application may be refused without further consideration or, if a licence has been issued, it may be liable to revocation.
- 1.5 I understand that the Authority is under a duty to protect the public funds it administers and to this end may use the information provided in any licence application for the prevention and detection of fraud. I understand that it may also share this information with other bodies responsible for auditing or administering public funds for these purposes.

2. Legal Issues:

- 2.1 The licence application notice must be displayed in the premises window for a period of 5 working days at the time of application, failure to do will result in any licence granted being revoked.
- 2.2 This licence is not transferable
- 2.3 Sub-letting of the highway is forbidden. A frontager who is a licensee may, with the advance written permission of the council, permit a suitable third party (i.e., a party the council would consider to be an appropriate licensee themselves) to place items within a relevant licensed area, but there should be no financial transaction associated with such an arrangement. Any third party must meet and comply with all licence conditions, including the holding of Public Liability Insurance (see below). Responsibility for breaches of licence conditions will lie with the licensee.
- 2.4 The licensee agrees to indemnify the council against any claims in respect of injury, damage or loss arising out of the grant of the licence. Public Liability Insurance cover of at least £5 million pounds must be carried for the duration of the licence. Evidence for this cover must be produced on demand.
- 2.5 The licence may be revoked and/or the licensee required to temporarily remove the objects by the council for breach of any condition of their licence or any legally defensible reason. The licensee shall not be entitled to any compensation for loss of trade or business as a result.
- 2.6 If deemed necessary, the council may alter licence conditions at any time. The licensee shall not be entitled to any compensation for loss of trade or business as a result.
- 2.7 All outside areas may only be used between 8am and 9pm unless noted within the original application and agreed in advance and in writing by the council. Premises with alcohol licences will not exceed the hours set by the terms of the Premises Licence.
- 2.8 The Licence will expire at 24:00 hrs. on the 30th September 2023.
- 2.9 Licences only relate to the placing of objects upon the highway. It is the responsibility of the licensee to obtain all other consents required in connection with the proposed extension of their business onto the highway including, where appropriate, any amendment to their existing premises licence.

- 2.10 It is a condition of Highway Licences that all consents and permissions and all health & safety, environmental health or other legal provisions or measures required by Brighton & Hove City Council or other legal authorities are obtained and adhered to including the Licensing Act 2003. Proven failure to comply with legislation and/or the reasonable and legitimate instructions of an authorised officer of the Council, Her Majesty's Health & Safety Executive or the Police may be considered a breach of the conditions governing the licence.
- 2.11 The licensee is responsible for the management of the outside area and the patrons within. The area must be managed at all times ensuring the licensing objectives are adhered too.

The licensing objectives are:

- Prevention of Crime and Disorder
 - Prevention of Public Nuisance
 - Public Safety
 - Protection of Children from Harm
- Failure to uphold to these objectives would be considered a breach of licensing conditions.

3. Licensed Areas:

- 3.1 The council reserves the right to limit the number of items placed within a licensed area. Factors influencing such limits may include the density of tables/chairs within a licensed area allowing for social distancing, the ratio between the number of covers within the licensed area and those inside the actual premises.
- 3.2 Patrons within a licensed area must be seated. Vertical drinking shall not be permitted at any time.
- 3.3 Benches or other objects which cannot easily be removed and stored within the licensed premises shall not be permitted unless noted within the original application and agreed in advance and in writing by the council. The council may specify how items left out overnight shall be stored or stacked.
- 3.4 Items must not be left on the public highway outside of the times stated in the application or when the premises is closed. If the items cannot be inside the premises they must be securely stacked/closed off. No items must be fixed or secured to the public highway or street furniture.
- 3.5 Licensees who significantly alter the nature of their items (e.g., the design of seating/tables/barriers) without prior consultation and a written agreement from the council will be deemed to have breached licence conditions.
- 3.6 No free-standing items issuing heat or with heated elements (such as gas or electric heaters) may be permitted within a licensed area unless the intention to place such items was noted within the original licence application and agreed in advance and in writing by the council. A Risk Assessment for the use of such items must be submitted with the application.
- 3.7 The council can insist that licensed areas are surrounded by barrier or fencing. The use and design of all such barriers must be approved in writing by the council.
- 3.8 The licensee shall ensure that all glasses, bottles and other debris from the licensed premises are collected and returned to the licensed premises regularly and at the end of each session.
- 3.9 The council may require the use of plastic containers only within certain licensed areas.
- 3.10 The licensed area must be kept clean, being washed down as necessary, and free of litter at all times. The licensee is responsible for regularly clearing all debris and litter associated with the licensed premises, whether inside the bounds of the licensed area or not.
- 3.11 No object may be placed upon the highway outside the licensed area or away from the licensed position at any time. Advertising boards placed inside the licensed area must be no larger than 1.2m high x 1.1m wide. All items must be checked at regular intervals. Areas associated with the consumption of food or drink must be constantly monitored. Items left unattended or found out of sight of the licensed premises may be removed and impounded without warning.
- 3.12 The cooking of food within a licensed area is prohibited.
- 3.13 Premises with sitting-out areas may not place advertising boards outside licensed areas unless such placements are separately licensed and conform with all other relevant conditions.

- 3.14 it 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.
- 3.15 External speakers shall not be placed in or alongside the area covered by the licence. Amplified or acoustic live music shall not be permitted within the area covered by this licence.
- 3.16 Trade waste bins must not be stored within the licensed area.

4. General:

- 4.1 Anything left upon the highway outside business hours, or the hours stated in the licence conditions, or any item found chained or tied to any other object, street furniture or building without prior written permission, may be removed and impounded without further warning.
- 4.2 The improper parking of vehicles by staff or persons associated with the licensed site (including delivery vehicles) will be considered a breach of the licence. This is of particular importance within those areas where vehicle access is restricted and in streets that are periodically pedestrianised. In certain parts of the city licensees may be required to agree to restrictions on delivery times.
- 4.3 Note that the following general rules will be applied to all officer-approved applications/sites within the city:
- A) That no licensed traders' items will be permitted to reduce the width of a footway to less than 1.5 metres except where:
1. a formal pedestrian zone has been established in a road by Traffic Order and the whole of the carriageway is kept clear for pedestrian use.
 2. a road is closed to vehicular traffic by virtue of a temporary Traffic Order and the whole of the carriageway is kept clear for pedestrian use.
 3. a road is considered to be "shared space" and the whole carriageway is generally available for pedestrian use.
- B) That where a footway is reduced to a width of 1.5 metres (or less) by objects (whether these objects be licensable traders' items or fixed street furniture such as lamp posts, bins etc.) "turning circles" for manual wheelchair users and guide dogs must be established at regular intervals. These "turning circles" shall not be less than 1.6m in length and must be maintained at least every 6 metres along the length of a restricted footway.
- C) That, except in the case of items within large, waiter-serviced sitting-out areas, no traders' item shall be permitted to be placed more than five metres from the licensed premises or out of sight from a window or door of said premises.

5. Enforcement Procedure (removals):

The following enforcement procedure shall be applied as standard for all items placed on the Public Highway in breach of the DfT guidelines and the rules and conditions of the Highway Licensing System as detailed above:

- That on the discovery of a breach of the guidelines, rules and conditions, a written warning shall be issued to the relevant business/person, warning and advising them of their need to abide by the prevailing regulations.
- That on the discovery of a second such breach within eight weeks of the first, a second warning notice be served.
- That on the discovery of a third such breach within eight weeks of the second warning a third warning shall be served.

If the recipient of a third warning is a holder of a licence, then this licence shall be revoked by virtue of said notice pending consideration of the case by the Highway Regulation manager.

Any unauthorised items found on any site following a third warning or revocation of the licence may be removed from the Public Highway and impounded without a further warning being served. Owners of objects so impounded will be given the opportunity to recover their property. Where appropriate a charge may be made by the Council for the costs of removal and storage.

The Council reserves the right to proceed with removal of offending items or prosecution under the Highways Act 1980 at any stage of the above procedure in any case involving gross or regular breaches of legislation.