**Business and Planning Act 2020**

**Pavement Licence Conditions**

The following conditions apply and have effect in relation to any Pavement Licence (the ‘licence’) granted by Chichester District Council (the ‘Council’) under the Business and Planning Act 2020.

**A licence holder is responsible for and must ensure full compliance with the conditions at all times.**

If a condition imposed on a licence is breached, then the Council may issue a notice requiring the breach to be remedied within a specified timescale. If the notice is not complied with, the Council may revoke the licence or take the required steps itself and recover the costs of doing so from the licence holder.

**Section A - National Conditions (adopted by Chichester District Council)**

1. No obstruction condition

 Nothing must be done by the licence-holder to:

 (a) prevent traffic, other than vehicular traffic, from:

 (i) entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),

 (ii) passing along the relevant highway, or

 (iii) having normal access to premises adjoining the relevant highway,

 (b) preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order

 (c) preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or

 (d) preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.

 In addition, licence holders must have regard to the needs of disabled people and specifically the recommended distances required for access by disabled people as set out in guidance issued by the Secretary of State. See Section 3.1 of Inclusive Mobility (<https://www.gov.uk/government/publications/inclusive-mobility/inclusive-mobility>) and the information below:

* Section 3.1 of Inclusive Mobility sets out a range of recommended widths which would be required, depending on the needs of particular pavement users, but is clear that in most circumstances 1500mm clear space should be regarded as the minimum acceptable distance between the obstacle and the edge of the footway,
* Any need for a barrier to separate furniture from the rest of the footway so that the visually impaired can navigate around the furniture, such as colour contrast and a tap rail for long cane users. In some cases, it may be appropriate to use one or more rigid, removable objects to demarcate the area to which the licence applies, for example wooden tubs of flowers. However, this will need to be balanced to ensure any barriers do not inhibit other street users, such as the mobility impaired, as such barriers may create a further obstacle in the highway;
* Any conflict of street furniture with the principal lines of pedestrian movement particularly for disabled people, older people and those with mobility needs. The positioning of furniture should not discourage pedestrians from using the footway. The available route must be entirely clear and not pass through an area with tables and chairs;
* So that where possible furniture is non-reflective and of reasonable substance such that it cannot easily be pushed or blown over by the wind, and thereby cause obstruction – for example, the local authority could refuse the use of plastic patio furniture, unless measures have been taken to ensure it is kept in place.

2. Smoke-free seating condition

Where the furniture to be put on the highway consists of seating for use by persons for the purposes of consuming food or drink, the licence holder must make reasonable provision for seating where smoking is not permitted. ‘Reasonable provision’ may include the following:

* Clear ‘smoking’ and ‘non-smoking’ areas, with ‘no smoking’ signage displayed in designated ‘smoke-free’ zones in accordance with Smoke-free (signs) regulations 2012.
* No ash trays or similar receptacles to be provided or permitted to be left on furniture where smoke-free seating is identified.
* Licence holders should provide a minimum 2M distance between non-smoking and smoking areas, wherever possible.

Further, business must continue to have regard to smoke-free legislation under The Health Act 2006, and the subsequent Smoke-free (Premises and Enforcement) Regulations 2006.

**Section B – Local Conditions**

1. Permission to hold a pavement licence does not imply an exclusive right to the area of public highway. The licence holder must be aware that Chichester District Council and others (e.g. police, highways authority, statutory undertakers) will need access at various times (including emergencies) for maintenance, installation, special events, improvements etc. or any other reasonable cause. This may mean that the licensed area must cease operating and/or be removed for a period of time. On these occasions there would be no compensation for loss of business.

2. The licence holder is not permitted to make any fixtures, or excavations of any kind, to the surface of the public highway without prior written approval from West Sussex County Council. Any costs incurred as a result of damage to the highway, due to the positioning of tables and chairs and any other authorised furniture, will be recovered in full from the licence holder by Chichester District Council and/or West Sussex County Council.

3. Chichester District Council must be provided with satisfactory evidence that suitable current Public Liability Insurance for the operation of the licensed area is in place. This must indemnify Chichester District Council and West Sussex County Council against all claims for injury, damage or loss to users of the public highway, arising from the use of the public highway for the permitted purpose. The minimum level of indemnity must be £5 million in respect of any one incident.

4. The licence and approved plan must be displayed on the premises such that it is readily visible to, and can be read by, members of the public who are not on the premises.

5. All furniture along with any other associated items used in the licensed area must be stored securely and safely away from the public highway when the licence is not in use.

6. Chichester District Council and/or West Sussex County Council are empowered to remove and store or dispose of furniture along with any other associated items from the public highway, at the cost of the licensee, if it is left there outside the permitted hours, or should any conditions of the licence be ignored. In such circumstances Chichester District Council will not be responsible for its safekeeping.

7. The licence holder is not to make or cause to be made any claim against Chichester District Council in the event of any property of the licence holder becoming lost or damaged in any way from whatever cause.

8. An unimpeded pedestrian route of at least 1500mm must be maintained at all times for people wishing to use the public highway.

9. Emergency routes to the premises and adjacent buildings must not be obstructed as a result of the use of the licensed area.

 10. Tables and chairs and other authorised furniture must be of an approved type, in keeping with the location and kept in a good state of repair. Furniture should be placed so as not to obstruct driver sightlines, or road traffic signs. Placement of tables, chairs and any other permitted items of furniture must allow pedestrians to use the footway parallel to the frontage of the premises. Care should be taken in the siting and use of any other objects within the licensed area.

11. Patio heaters and advertising boards (‘A-Boards’) are not permitted to be located at or within the licensed area.

12. The licensed area must be adequately supervised and operated in a safe and orderly manner thereby ensuring that any safety risk or nuisance to customers, other users of the public highway or any adjacent land, premises or other persons is minimised.

13. The operation of the licensed area must not interfere with highway drainage arrangements.

14. All food and drink remnants, spillages, bottles, cans, wrappers and similar items associated with the used of the licensed area must be regularly removed.

15. Tables must be cleared and cleaned in an efficient manner during the hours of operation.

16. No glass drinking vessels or bottles are permitted to be taken off of the licensed area.

17. Where a licensed area is permitted to be used after 19:00 hours, all beverages must be sold, supplied or decanted into shatterproof, plastic or cardboard receptacles.

18. No music shall be permitted to be played from within the licensed area.

19. No cooking or reheating of food is permitted to take place within the licensed area.

20. The licensed area must be washed down at least at the completion of each day's usage using a method sufficient to remove food debris, grease and other spillages that may occur.

21. Furniture must be installed and removed from the licensed area in such a manner that other persons are not unreasonably disturbed

22. The licensed area must be clear of all permitted items when the premises are closed to prevent a safety hazard to pedestrians, particularly during the hours of darkness.