

BUSINESS AND PLANNING ACT 2020 and (PAVEMENT LICENCE) (CORONAVIRUS) (AMENDMENT) REGULATIONS 2022

PAVEMENT LICENCE FOR REMOVABLE FURNITURE ON THE HIGHWAY

Southampton City Council (the “City Council”), pursuant to its powers under the Business and Planning Act 2020 and the (Pavement Licence) (Coronavirus) (Amendment) Regulations 2022 may grant a pavement licence to an applicant, subject to the following conditions:

STANDARD CONDITIONS

1. The Licence shall expire on 30 September 2023.
2. The Licence shall only apply to the relevant highway identified on the plan accompanying the application (the “Licence Area”).
3. The Licence Area shall only be used for a ‘relevant purpose’ as defined in the Business and Planning Act 2020.
4. The Licence is personal to the Licence Holder, is not transferable and shall cease to have effect immediately on the Licence Holder ceasing to occupy the premises to which the consent attaches.
5. The Licence Holder will comply with all Covid 19 guidance given by the Government. The Licence may be revoked if guidance is not adhered to by the Licence Holder, their workers or customers. Please see condition 17 below.
6. The Licence will be issued with a plan of the Licence Area. It may be necessary to impose additional special conditions based on site-specific locations with a minimum of 1.8m clear width for passing pedestrians outside of the Licence Area.
7. The Licence Area must have a visible barrier to separate the Licence Area from the highway.
8. Any form of paint markings or permanent fittings shall not be permitted and that boundary markers, such as barriers, must be removed when the use of the Licence Area is not permitted. No excavations or indentations shall be made to the Licence Area.
9. All furniture permitted by the Licence must not be placed out before 08:00 on Monday to Saturday and must be removed by 23:00 and not before 08:00 on Sunday and removed by 22:00 (except Bank Holidays when they may remain until 23:00) on the same day, or by the closing time of the premises, whichever is earlier. All furniture, equipment and other things used in connection with this consent shall be permanently removed on expiry of the Licence.
10. No music or public address system, sound amplification apparatus or any musical instruments, radio or television, shall be permitted in the Licence Area.
11. The City Council are looking for a minimum of 50% of outdoor seating areas to be smoke free. In accordance with Government guidance, there should also be a minimum of 2m segregation between ‘smoking’ and ‘non-smoking’ areas, together with clear signage and no ash trays or similar left in the smoke free part of the Licence Area.
12. The furniture permitted by the Licence shall only be used in accordance with the Council’s pavement café guidance unless otherwise agreed with the Head of Highways and Parking Services.
13. There must be no obstruction of any entrances or exits to any premises.

14. It is the responsibility of the Licence Holder to keep the Licence Area and the immediate adjacent area clean and free from litter at all times. The Licence Holder shall provide recycling and litter bins for the deposit of all refuse and other discarded items and ensure that the same are emptied daily.
15. Access to any statutory undertakers' plant must be made available when required and the Licence shall be suspended if road or street works are to be carried out which affect the Licence Area.
16. Access to any electronic communication apparatus kept installed for the purposes of that network must be made available when required and consent shall be suspended if road or street works are to be carried out which affect the licence area.
17. The Licence Holder shall indemnify the City Council, as Highway Authority, from and against all actions, claims, demands, costs, charges, losses and expenses which may be brought or made against them or incurred by them in the occupation of the highway granted under the consent and shall provide proof of public liability insurance in the sum of five million pounds.
18. If for any legal reasons the premises cease operating or the operations are suspended the Licence will also cease or be suspended and no part of the fee will be refundable.
19. The City Council may revoke the licence if:
 - a) The Licence Holder did not follow the correct procedure when applying for the Licence;
 - b) The Licence Holder has breached the conditions of the Licence;
 - c) The Licence Holder has failed to comply with a notice from the City Council to remedy any breach;
 - d) Some or all of the Licence Area has become unsuitable for any purpose in relation to which the Licence Holder was granted or deemed to be granted;
 - e) Because of the Licence:
 - (i) There is a risk to public health or safety,
 - (ii) Anti-social behaviour or public nuisance is being caused or risks being caused, or
 - (iii) The highway is being obstructed (other than by anything done by the Licence Holder pursuant to their Licence);
 - f) Material contained in the application was false or misleading;
 - g) The Licence Area prevents two persons passing along the relevant highway whilst maintaining a minimum of 1.8 metre distance or having normal access to premises adjoining the relevant highway or the Licence Area fails to comply with the recommended distances for access by disabled people as set out in guidance by the Secretary of State;
 - h) The Licence Holder has not made reasonable provision for a smoke free area;
 - i) The needs of disabled persons has not been met;
 - j) The Licence would
 - (i) 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;

- (ii) Prevent any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a planning order;
- (iii) Preventing statutory undertakers having access to any apparatus of theirs, under in, or on the highway, or
- (iv) Preventing the operator of any electronic communications code network having access to any electronic communication apparatus kept installed for the purposes of that network under, in on or over the highway.

20. The Licence notice must be displayed for the duration of the Licence in an external window adjacent to the Licence Area where it can easily be seen by passers-by. The Licence Holder shall return the notice immediately upon cessation of the Licence.
21. If the applicant intends to provide alcohol for consumption in the Licence Area, the applicant shall provide evidence of a premises licence under the Licensing Act 2003 for this prior to the grant of the consent.
22. The Licence Holder shall not cause any obstruction of the highway or danger to any person lawfully using the highway and, save as expressly permitted by this consent, shall not do or suffer anything to be done in or on the highway which, in the opinion of the City Council, may be or become a danger, nuisance or annoyance to or causing damage or inconvenience to the City Council or to the owners or occupiers of any adjacent or neighbouring premises or to any member of the public.
23. The Licence Holder shall not assign, underlet or part with any interest or possession given by this Licence or any part thereof, but the holder may surrender it at any time. On surrender of the Licence, no fee or part of any fee paid shall be refundable to the Licence Holder.
24. Nothing herein shall be construed as the granting or purported granting by the City Council of any tenancy under the Landlord and Tenant Act 1954 or any statutory modification or re-enactment thereof for the time being in force.

ADDITIONAL SPECIAL CONDITIONS (if any)

Special conditions may be imposed in relation to specific applications; these shall be in addition to the standard conditions and, in a case of conflict, shall prevail over any other applicable conditions

Notes

The Licence Holder's attention is also drawn to the following:

1. The provisions of chapter 2 of part 1 of the Criminal Justice and Police Act 2001 and the City of Southampton (Alcohol Consumption in Designated Public

Places) Order 2007 (or any amendment thereto or successor order), made pursuant to that legislation.

2. The provisions of the Licensing Act 2003 in relation to the sale or supply of alcohol, provision of regulated entertainment and provision of late-night refreshment.
3. The provisions on the Business and Planning Act 2020.
4. Applicants are strongly advised to seek their own independent legal advice about these matters.