



City of London Corporation

## POLICY and PROCEDURE

### Licensing Tables and Chairs On the Highway



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## **1. Introduction**

- 1.1. The placing of Tables and Chairs on the Highway is becoming a more frequent sight as more and more people discover the pleasure of alfresco dining and the City's tourism and retail business increases. Tables and Chairs on the Highway can contribute to the life and character of an area. However, if not carefully controlled pedestrians and wheelchair users can be put in danger, and excessive numbers of people eating and drinking outdoors can cause littering and a noise nuisance for residents.
- 1.2. In addition to the above the City of London Corporation is concerned with traffic movement, maintaining adequate space for pedestrian movement, street cleaning, improving the appearance of the City and protecting the character of historic areas and buildings. The siting of tables and chairs has to be considered carefully subject to appropriate conditions to regulate their use.
- 1.3. This policy will explain the criteria to be applied when deciding whether to grant permission to place tables and chairs on the highway and the procedure to be followed, how an application will be dealt with and the conditions that are likely to be imposed.

## **2. Definitions**

Act: The Highways Act 1980

Frontagers: Owners and occupiers of any premises adjoining the part of the highway on, in or over which an object or structure would be placed thus having an interest in proposals to place objects or structures wholly or partly between their premises and the centre of the highway.

Furniture: Includes tables, chairs, parasols, planters etc. Please note that this does not include heaters which are not permitted.

Highway:	Includes the carriageway, Footpath and City walkways.
Permission:	A permission to place furniture on the highway or city walkway granted by the Corporation pursuant to Section 115(E)(1)(b)(i) of the Highways Act 1980.
Permission Holder:	The person named on the application form.
Permitted Area:	The area for which permission has been granted to place furniture on the highway.
Persons materially affected:	Those persons living or working in premises near to the permitted area that, although not frontagers, are likely to be affected by permission being granted.
Tables and Chairs:	Includes all 'Furniture'.
Walkway:	Any place within the City of London declared to be a City Walkway in pursuance of Section 6 of the City of London (Various Powers) Act 1967.
Walkway Consent:	The consent of any person who is the owner or occupier of premises adjoining the Walkway and is a person who, in the opinion of the City of London Corporation, is likely to be materially affected or is the owner of land on, under or above which the walkway subsists.

### **3. Legislation**

- 3.1. The legislation applying to the granting of Permission to place Tables & Chairs on the highway in the City of London is contained primarily in Section 115 of the Highways Act 1980.

- 3.2. Permission may be granted under section 115E(1)(b)(i) of the Act for a person to temporarily place tables and chairs, and other items, on the highway for any purpose which will result in the production of income.
- 3.3. Permission may also be granted under section 115E(1)(b)(ii) of the Act for a person to use objects or structures on the highway, for the purpose of providing a centre for advice or information.
- 3.4. The City Corporation may attach such conditions to any permission granted as it thinks fit. All permissions will run for 12 months.
- 3.5. It is an offence under section 148 of the Act to place anything on a highway, without lawful permission, that interrupts any user of the highway. The maximum level of fine which may be imposed is level 3 (currently £1,000). Any items so placed on the highway may be removed in accordance with section 149 of the Act.
- 3.6. Section 115K of the Act outlines the procedure to be taken where a person breaches the terms of their permission. This may result in items being removed from the highway.

#### **4. City Corporation's policy in respect of granting permission to place tables and chairs on the highway**

- 4.1. The 1980 Highways Act requires permission to be sought and granted prior to the placing of tables and chairs on the highway. Highways Act permission is not required to place tables and chairs on private land (although planning permission may be required) and there are slightly different rules for City Walkways. *[insert web link]*
- 4.2. If permission is granted it gives the applicant the authority to place tables and chairs on the highway in accordance with any conditions laid down. The Act does not specifically mention Tables and Chairs and permission may be granted for other items such as planters, heaters, parasols etc. The policy criteria will be applied to each of these items particularly with consideration to excessive street clutter, health and safety and other City Corporation policies.

- 4.3. In considering whether or not to grant permission to place items on the highway, the City Corporation will have in mind environmental and public safety considerations, together with other relevant Council policies. Specific factors to be taken into account will include:
- The proximity and nature of any road junctions and pedestrian crossing points;
  - The volume of pedestrian footfall especially at peak times;
  - Whether the proposed permitted area would enable suitable access to all members of the public using the road or pavement;
  - The presence of existing street furniture;
  - Any other factors which might put safety at risk;
  - Whether the proposed permission might have a negative effect on pedestrian amenity and the character and appearance of the area in particular around heritage sites, conservation areas and listed buildings;
  - Impact of the proposed permission on noise and the amenity of neighbours;
  - The number of other permissions issued for areas in or near the proposed permitted area.
- 4.4. It is important that the public are able to pass along footpaths without the risk of coming into contact with vehicular traffic, in particular those using wheelchairs, mobility vehicles and pushchairs. As a guide, there should be a minimum width of unobstructed footway of 2.2 metres between the edge of a permitted area and the edge of the footway. Where pedestrian flow rates are greater than 1200 persons per hour this distance may be increased. Such distances will need to take account of street furniture such as bollards, benches, cycle racks, bus stops etc. Permission will not be granted where the permitted area might interfere with a fire escape. Further details of safe distances and how they should be measured can be seen at Appendix 1.
- 4.5. An exception to the 2.2 metres stated in paragraph 4.4 will be made where an application for permission to place tables and chairs on the highway is in effect a 'renewal' of a previous permission. In these circumstances, where there is insufficient space for 2.2 metres of unobstructed footpath the previously allowed distance of 1.8 metres will be permitted providing it is safe to do so.

- 4.6. Other potential hazards to be considered include the impact on emergency services accessibility and whether the tables and chairs would result in poor sight lines affecting vehicular or pedestrian traffic. In particular, a permitted area will not normally be permitted within five metres of a pedestrian crossing.
- 4.7. To protect the attractiveness of the City's streets, it is important that the granting of permission does not result in detriment to the street scene. Tables and chairs should not cause environmental problems or detract from the amenities of adjacent retailers, occupiers and pedestrians. Regard will be had to any potential problems associated with crime and disorder or anti-social behaviour. Permission to place tables & chairs on the highway should not represent, or be likely to represent, a substantial risk of nuisance to the public from noise, particularly in residential areas.
- 4.8. Tables and chairs should normally be placed adjacent to a premises at the rear of the footway. In exceptional circumstances this requirement may be waived. However;
- The positioning of tables and chairs should never discourage pedestrians from using the footway.
  - The available pedestrian route must be straight, obvious and unobstructed and not pass through the permitted area.
  - A risk assessment must be submitted by the applicant concerning the transport of food and drink between a premises and the permitted area.
  - The positioning of tables and chairs away from the premises would not be suitable where there is a possibility of persons drinking whilst standing up congregating between the permitted area and the premises.
- 4.9. A standard design of seating and tables is not required. Items should be sufficiently robust to withstand daily use and not present a hazard to the user. Materials and colours shall not be so bright or overly reflective as to cause a hazard to other users of the highway. Plastic 'garden' type furniture will not be permitted. 'Benches' will only be permitted in exceptional circumstances.

- 4.10. It is expected that some of the tables and chairs will meet access requirements for those persons with a disability. Some of the tables should permit access to wheelchair users and some seating should have backs and arm rests. Further details on accessibility can be found on the City Corporation's web site. *[insert web link]*
- 4.11. Where the permitted area is a 'licensed' area under the Licensing Act 2003, or where the permitted area is connected with a 'licensed' premises and can be used for 'off' sales, permission will not be given to use tables and chairs later than the terminal hour for the sale of alcohol.
- 4.12. This Policy is a guide and each application will be treated on its merits and individual circumstances. Any written objections (not including frontagers) will be considered in terms of relevancy. Frivolous, vexatious or repetitious observations will be disregarded.

## **5. Terms and conditions of permissions**

- 5.1. Permission will not normally be granted to place tables and chairs on the highway earlier than 07:00 or later than 23:00. In considering the trading times, the Corporation will take into account the needs of other residents, pedestrians and businesses. Permission to place tables and chairs on the highway outside of these times will only be given in exceptional circumstances.
- 5.2. All furniture is to be removed from the highway at the close of permitted hours. If this is not possible until the associated premises closes, permission may be granted for them to remain on the highway until they can be removed at the closure of the premises. Whilst the furniture remain on the highway after permitted hours they must be made unusable i.e. not available for anybody to use. Once the premises ceases trading for that day, all furniture must be removed and stored away from the highway.
- 5.3. Permissions made under section 115E of the Act will specify, in addition to the permitted area, time of permission and the number of tables and chairs permitted to be placed on the highway and terms and conditions under which any permission must take place (section 115F of the Act). Conditions will



include the permission holder's responsibilities to maintain public safety, avoid nuisance and generally preserve the amenity of the locality. The standard conditions for permissions are set out in Appendix 2.

- 5.4. The City Corporation reserve the right to withdraw permission at short, or no, notice where it is necessary for the City Corporation and/or utilities to maintain the highway, plant and/or apparatus, or for any justifiable reason at the City Corporation's discretion.
- 5.5. Umbrellas must be specified as additional items of furniture if intended to be used. All parts of the umbrella must be contained within the permitted area and must be an integral part of the table i.e. they cannot be free standing. The umbrellas must not present an impact hazard to users of the permitted area or to those persons passing by or through the area.
- 5.6. Heaters of any kind will not be permitted.
- 5.7. No preparation of food or drink shall be allowed in the permitted area.
- 5.8. The playing of music in the permitted area will not be allowed.
- 5.9. No permanent fixture will be permitted whether it is at ground, or below ground level.
- 5.10. Permission details are to be displayed by the permission holder in a conspicuous position (usually in the window of the premises) and states the number of items for which permission has been granted.

## **6. Enforcement relating to the placing of tables & chairs on the highway**

- 6.1. It is an offence under section 148 of the Act to deposit anything on the highway, without lawful authority, that interrupts any user of the highway. Permission under section 115E of the Act is deemed to be lawful authority.

- 6.2. Any person convicted of an offence under section 148 is liable to a fine up to Level 3 on the Standard Scale (£1000).
- 6.3. Alternatively, if anything is deposited on a highway so as to constitute a nuisance, the City Corporation may by notice require the person to remove it. If the person fails to remove the item(s) the City Corporation may apply to a Magistrates' Court for a removal and disposal order.
- 6.4. Where tables and chairs have been placed on a highway otherwise than in accordance with the terms and conditions of a permission, the Highway Authority may by notice require the permission holder to remove the items within the time stated in the notice. If the permission holder fails to remove the items the City Corporation may remove them and recover expenses reasonably incurred from the permission holder.
- 6.5. The Port Health and Public Protection Department's Enforcement Policy will always be taken into consideration before any enforcement action is taken. The aim of the City of London Corporation is to assist traders in meeting their legal obligations and to work with them in putting things right. Further information on the Enforcement Policy can be found at *[insert web link]*.

## **7. Making an application for permission to place tables & chairs on the highway**

### **General**

- 7.1. In order to obtain permission to place tables and chairs on the highway an application must be made in writing to the City of London Licensing Service. An application must be in the form set out in Appendix 3.
- 7.2. The application form must be accompanied with the following items:
- A location plan of the proposed area where tables and chairs are to be placed. The plan must be at least 1:250 scale and clearly define the premises to which the permission will relate.

- A plan to a scale of 1:50 detailing the precise position of all items of furniture with items to be drawn to scale. The proposed area seeking the permission must be outlined in red.
- The above plans must show the position of features such as trees, dropped kerbs, pedestrian crossings, cycle lanes, parking bays, fire exits (next to or within the proposed permitted area) and any other existing street furniture e.g. cycle racks, telephone boxes, street lamps, bollards etc.
- Photographs, brochures and/or pictures and specifications of the proposed furniture e.g. make, finishes and dimension.
- A completed Indemnity Certificate giving evidence of public liability insurance to the minimum value of £2,000,000 per incident. (Incorporated within the application form).
- Where an LPG fuelled appliance is to be used, a copy of an up-to-date competent person's form certifying that the appliance has been properly checked and is sound.
- The appropriate fee.

7.3 On receipt of an application form, licensing officers will check to ensure it is completed correctly and complies with all statutory requirements. An applicant is recommended to speak to a licensing officer if they need advice as to how to complete the form.

7.4 If any Licensable activity (as defined in the Licensing Act 2003) is to take place either in the permitted area or in premises linked to the permitted area then the application will not be determined until after the relevant Premises Licence has been obtained.

7.5 The placing of tables and chairs on the highway will not normally require planning permission as long as none of the furniture is affixed or left in place outside hours of use, and the primary use of the area remains as highway. If planning permission is required, or clarity is required as to a particular situation, applicants must contact the City Corporation Planning Authority *[insert web link]*.

7.6 Applications for permission to place tables and chairs on the highway are to be made at least three months prior to the date on which they are required to

be first used. If the application is submitted later than this it may not be processed in time for the proposed first day of use.

- 7.7 Applicants with an existing permission, and wishing to seek a further permission, are still advised to submit their application three months prior to the date on which their current permission ceases to be valid. If the application is late it may not be processed before the current permission ceases to be valid. This may result in a period of time where the applicant will have to remove all tables and chairs from the highway until a decision is made regarding the new application.

### **Consultation**

- 7.8 The City Corporation will affix a notice at or near the permitted area setting out the details of the application. The notice will state a period during which representations can be made. This will normally be between 28 and 35 days and will normally commence within 14 days of the application being received.
- 7.9 All frontagers will be contacted and their consent sought for the applicant to place tables and chairs on the highway. Permission cannot be granted if any frontagers withhold their consent. If a frontager fails to reply to the requests for consent within the consultation period, consent will be deemed to have been given.
- 7.10 Copies of the notice will be served on the owner/occupier of any premises that the City Corporation considers to be materially affected. This would normally be the premises either side of and above the applicant's premises.
- 7.11 Where the highway is a City Walkway all owners/occupiers of premises that open onto the walkway will be treated as materially affected and served a copy of the notice.
- 7.12 All representations or comments received from persons, and in particular those persons who are materially affected, will be taken into consideration before permission is granted.
- 7.13 Once the consultation period has finished and frontager consent has been obtained, permission to place tables and chairs on the highway will normally

be granted subject to considerations from those persons materially affected (paragraph 7.12) and the application satisfying other policy criteria.

## **8. Appeal and Arbitration Procedure**

- 8.1. If frontager consent has been withheld, and the City Corporation are of the view that the withholding of the consent is reasonable, permission will not be granted.
- 8.2. Any person aggrieved by the refusal of the City Corporation to grant permission to place tables and chairs on the highway, or by the withdrawal or variation of a permission, although they do not have a statutory right of appeal, will be permitted to have the matter heard by the City Corporation's Planning and Transportation Committee.
- 8.3. Any 'appeal' must be made within fourteen days from the date on which the refusal, withdrawal or variation is notified to the permission holder or applicant.
- 8.4. Where consent has been refused by one or more frontagers, the licensing team will attempt to mediate between all parties with the aim of making a proposal which is satisfactory to all frontagers and meets City Corporation policy.
- 8.5. If the mediation is not successful, and the City Corporation are of the opinion that frontager consent is being unreasonably withheld, then the matter will be referred to and determined by an arbitrator either appointed on agreement by all parties or by the President of the Chartered Institute of Arbitrators. In order to assist the City Corporation in deciding what is unreasonable, they will have regard to this Policy.
- 8.6. Further details of the appeal and arbitration procedure can be found in the Licensing section of the City of London website (*web link to be inserted*) or by contacting the licensing team.

## **9. Sale of Ice Cream on the highway**

- 9.1. This section only applies if the criteria in paragraph 9.2 are met. If these criteria are not met the sale of ice cream on the highway is considered to be street trading and needs to meet the requirements of the Street Trading Policy [[link to policy](#)].
- 9.2. In order to sell ice cream, and it not to be considered as street trading, the following criteria must be met:
- the sale must be made by the occupier of a business premises which is used for conducting a food business;
  - ice cream can only be sold from a receptacle the design of which has been approved by the City Corporation;
  - the receptacle must be situated within 15 metres of the business premises;
  - The location and purpose of the receptacle has been approved by the City Corporation.

Premises must comply with all Food Hygiene Regulations and be registered as Food Businesses.

- 9.3. In determining whether the above criteria have been met, a food business shall mean any undertaking, whether for profit or not and whether public or private, carrying out any of the activities related to any stage of production, processing and distribution of food.
- 9.4. Where the above criteria are met, permission under section 115 of the Act must be obtained. Under these circumstances the requirements of this policy must be met and the procedure laid down for tables and chairs is to be followed.

## **10. Fees and charges**

- 10.1. The fee for an application for Permission to place tables and chairs on the highway is determined by the City Corporation and is currently set at £400 plus an additional amount dependant on the number of items for which

permission is being sought. A list of current fees and charges is set out in Appendix 4.

- 10.2. The fee must be submitted with the application. Where permission is not successful the base fee of £400, which covers the cost of the administration process, will not be refundable.

## **11. Contacts**

Write to:     Licensing Service  
                  Walbrook Wharf  
                  Upper Thames Street  
                  EC4R 3TD

Email:         [licensing@cityoflondon.gov.uk](mailto:licensing@cityoflondon.gov.uk)

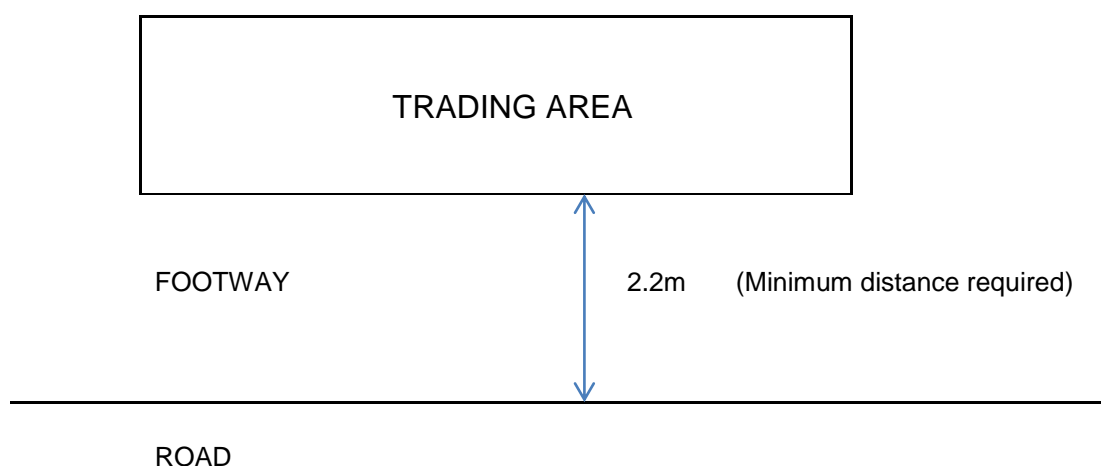
Telephone:    020 7332 3406

You can also find more information and links to other sources of information on the City of London's website. Please click on the link below:

[Tables and Chairs further information](#) (*link to be inserted*)

## Measurement of Available Footpath

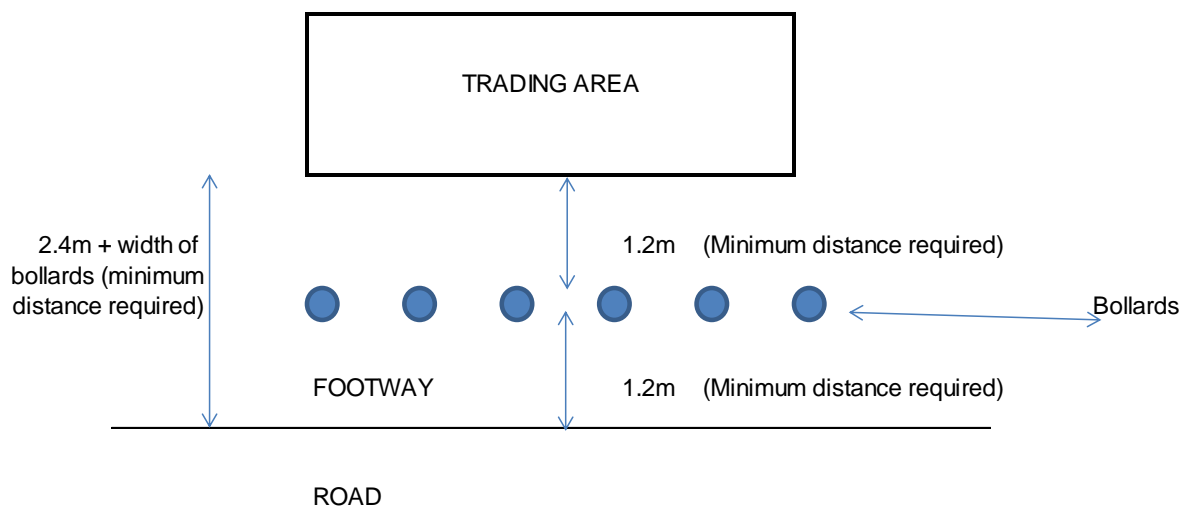
- a) There must be a minimum width of unobstructed footway of 2.0 metres between the edge of the permitted area and 200mm from the edge of the footway. The 200mm distance is to allow for the fact that pedestrians cannot be expected to walk on the edge of the footpath.



- b) Please note that the measurement is taken from the edge of the permitted area and not a particular item within that area. This is to allow for customers for example, to pull back a chair when leaving a table without interfering with passing pedestrians.
- c) Where pedestrian flow rates are greater than 1200 persons per hour, particularly near a tourist attraction, this distance may be increased taking into consideration the likelihood of pedestrians stopping to observe shop fronts/the attraction etc. There is no exact formula for determining the minimum width of footpath and each case will be determined on its merits. The overriding factor will be the safety and comfort of pedestrians and their ability to pass along the footpath safely.



- d) Where the footpath contains other street furniture such as lamp posts, bollards, parking meters, telephone booths, benches etc., the minimum unobstructed width will be measured between the edge of the permitted area and 200mm from the item(s) in question plus the additional distance between the item(s) and 200mm from the edge of the footpath if that additional distance is not less than one metre.



- e) The positioning of the permitted area should never discourage pedestrians from using the footway. The available pedestrian route must be straight, obvious and unobstructed and not pass through the permitted area.

### **TABLES AND CHAIRS PERMISSION TERMS AND CONDITIONS**

The term “furniture” used hereinafter is to be taken to mean tables and chairs, parasols, planters etc. It does not include ‘A’ Boards.

1. This licence must be displayed in a prominent position during any period that furniture is located on the Public Footway.
3. All furniture is to remain within the delineated area whilst it is in use on the Public Footway.
4. No furniture may be placed in any position where it will obstruct a designated fire escape route.
5. The furniture must be removed by the licensee from the Public Footway outside the hours specified herein, or at any time when the licensee is requested by the Police, the Director of the Built Environment, the Director of Markets & Consumer Protection or Transportation and Public Realm Director (to facilitate cleaning and street washing) to remove the same.
6. The number of items of furniture specified overleaf shall not be exceeded at any time.
7. The furniture shall be maintained in a safe, clean and well decorated condition, and be of a design acceptable to the Director of Markets & Consumer Protection.
8. The licensee is responsible for the removal of all litter from the delineated area and from the adjacent carriageway and Public Footway as often as may be necessary to the satisfaction of the Transportation and Public Realm Director.
9. The permission holder must pressure wash the permitted area at a minimum of six-monthly intervals to ensure adequate levels of cleanliness are maintained.
10. No food or drink shall remain at unoccupied tables.
11. The licensee shall be liable for any damage to the Public Footway which the Director of Markets & Consumer Protection considers reasonably attributable to the licensee’s use of the Public Footway and shall reimburse the costs of the City of London Corporation or its Agents in repairing the same.

12. i) The permission holder shall be liable for and shall indemnify the City of London Corporation, their Servants and Agents against:-
  - a) any expense, liability, loss, claim or proceedings whatsoever arising under statute or at common law in respect of personal injury to or the death of any person whomsoever, and
  - b) any expense, liability, loss, claim or proceedings in respect of any injury, loss or damage whatsoever to any person whomsoever or to any property real or personal, arising from the use of the Public Footway for the permitted purpose.

ii) Without limiting the obligation hereunder, the licensee will effect insurance against the matters referred to in 11(i) to the satisfaction of the Chamberlain of London and will produce to the Chamberlain the policies of insurance so effected and the current premium renewal receipts relative thereto at such times as the Chamberlain shall reasonably require.
13. No tables or chairs may be reserved for the exclusive use of the premises associated with this permission. In other words, all tables and chairs may be used by the general public at no charge.
14. No advertising material may be attached to, or form part of, any of the furniture.
15. No supplemental lighting may be used in connection with the furniture.
16. The permission holder shall obtain all necessary consents that may be required relative to the use of the Public Footway for the permitted purpose and comply with all bye-laws and statutory requirements relating thereto.
17. This permission may be withdrawn or suspended at any time by the City of London Corporation if any of the terms and/or conditions are not complied with by the permission holder. No reimbursement of licence fees, nor compensation for any loss occasioned thereby will be made by the City of London Corporation.
18. In the event of withdrawal or suspension of this permission by the City of London Corporation for its highway or similar works, the Director of Markets & Consumer Protection may agree a proportional reimbursement of the permission fee.
19. Furniture must be capable of being stored off the highway on cessation of the permitted hours. No tables and chairs will be permitted on the highway after 23:00.



## APPLICATION FOR PERMISSION TO PLACE TABLES AND CHAIRS ON THE PAVEMENT IN ACCORDANCE WITH THE HIGHWAYS ACT 1980 PART VIIA

PLEASE REFER TO GUIDANCE NOTES

DETAILS OF PREMISES AND INTERESTED PARTIES		OFFICIAL USE : APPLICATION NUMBER
1	NAME OF PREMISES:  ADDRESS:  TELEPHONE:	
2	PROPOSED LICENCE HOLDER(Company or Individual)  NAME  ADDRESS:  TELEPHONE  FAX  E-MAIL	CONTACT OR AGENT  NAME  ADDRESS:  TELEPHONE  FAX  E-MAIL
3	FREEHOLDER(S)  NAME  ADDRESS:  TELEPHONE  FAX  E-MAIL	ADDITIONAL FREEHOLDER(S*)  NAME  ADDRESS:  TELEPHONE  FAX  E-MAIL
4.	LEASEHOLDER OF THE UNIT  NAME  ADDRESS:  TELEPHONE  FAX  E-MAIL	OTHER LEASEHOLDER(S*) IN THE BUILDING  NAME  ADDRESS:  TELEPHONE  FAX  E-MAIL
	DETAILS OF PREVIOUS PERMISSION(s)	*PLEASE CONTINUE ON AN ADDITIONAL SHEET
5	DATE OF EXPIRY  PERMISSION NUMBER	Do you hold a premises licence issued under the Licensing Act 2003?    Y/N Premises Licence No if applicable:





**TABLES AND CHAIRS INDEMNITY CERTIFICATE**

<p><b>PROPOSED LICENCEE</b></p> <p>NAME:</p> <p>ADDRESS:</p>		<p><b>PREMISES</b></p> <p>NAME:</p> <p>ADDRESS:</p>
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I the undersigned, confirm that the above named proposed licensee to the City of London Corporation has in force, on an annual basis, the policy of insurance as described below, and the details given are a true record of the insured's insurance arrangements currently in force in respect of the above premises.

**Public Liability Insurance** against the insured's legal liability for death of or bodily injury to or disease contracted by a third party and/or loss of or damage to a third party properly arising out of or in the course of or in connection with the carrying out of the insured's business at the above premises.

- 1) Provision of an automatic indemnity to the City of London Corporation.
- 2) Inclusion of liability assumed under contract or agreement.
- 3) No exclusion for fire or explosion.
- 4) A minimum limited of indemnity for any one occurrence of £2,000.000.

<p>NAME OF INSURER:</p> <p>.....</p> <p>....</p> <p>ADDRESS OF INSURER/BROKER PROVIDING THIS CERTIFICATE:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>	<p>POLICY NUMBER:</p> <p>.....</p> <p>.....</p> <p>INDEMNITY LIMITED:</p> <p>.....</p> <p>.....</p> <p>PERIOD COVERED BY INSURANCE:</p> <p>.....TO.....</p> <p>...</p>
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TO BE SIGNED BY THE APPLICANT

SIGNED	PRINT NAME	DATE
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