

City of London

Reopening the hospitality sector:

Alfresco eating and drinking under the
Business and Planning Act 2020

July 2021



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Introduction

The Covid-19 pandemic has affected businesses across the economy, particularly the hospitality sector, causing many of them to cease trading for several months while others have had to significantly modify their operations.

On 25 June 2020, the Government announced urgent relaxations to licensing and planning laws to support the hospitality sector. The new Business and Planning Act 2020 (the Act) introduces significant changes designed to help food and alcohol licensed premises survive and then bounce-back from the pandemic lockdown by removing short term obstacles that could get in their way.

As lockdown restrictions are lifted but social distancing guidelines remain in place, the Act makes it easier for premises serving food and drink such as bars, restaurants, cafes and pubs, to seat and serve customers outdoors through temporary changes to licensing and planning procedures. Initially, the temporary measures to boost the economy were set to expire at the end of September 2021. **The government has now extended these provisions until 30 September 2022.**

The measures in the Act include a temporary fast-track process for these businesses to obtain permission, in the form of a 'pavement licence', from the City of London Corporation (the City Corporation) for the placement of furniture such as tables and chairs on the pavement adjacent to their premises. This will enable them to maximise their capacity whilst adhering to social distancing guidelines.

The Act also modifies the provisions of the Licensing Act 2003 to automatically vary most premises licences with alcohol on-sales to allow for off-sales.

As the economy starts to re-open, the City Corporation welcomes the Act and acknowledges the importance of helping businesses adjust to new ways of working and to succeed in new and challenging conditions over the coming months. Public safety remains at the heart of the City Corporation's consideration and it has adopted measures to provide safer spaces for people walking and cycling, and queuing outside shops and offices to socially distance whilst balancing that with the need to support businesses in their return to work.

The City Corporation has adopted five principles which it will apply in considering applications under the new Act:

- To put safety first
- To recognise the need to nurture a thriving economy in the City
- No privatisation of public space
- Having regard to space required to queue outside premises
- Having regard to new or existing public seating nearby

"The resumption of outdoor dining is a welcome shift, but it is vital that the return of social spaces continues to be safe for all workers, residents and visitors to the City. We are ready to support the safe, sustainable and gradual return of people to the City, as it again becomes the thriving world-class centre for business" Alistair Moss, Chairman of Planning and Transportation Committee

"A world-class hospitality offering is a fundamental and increasingly important element of the Square Mile. We know that the outdoors is playing a leading role in the 'new normal' so it is vital that The City Corporation has shown tremendous initiative by adopting these changes early so we are prepared to welcome people and businesses as soon as it is safe for them to return"

Sophie Fernandes, Chairman of Licensing Committee

Part A: Pavement Licensing

Section 1

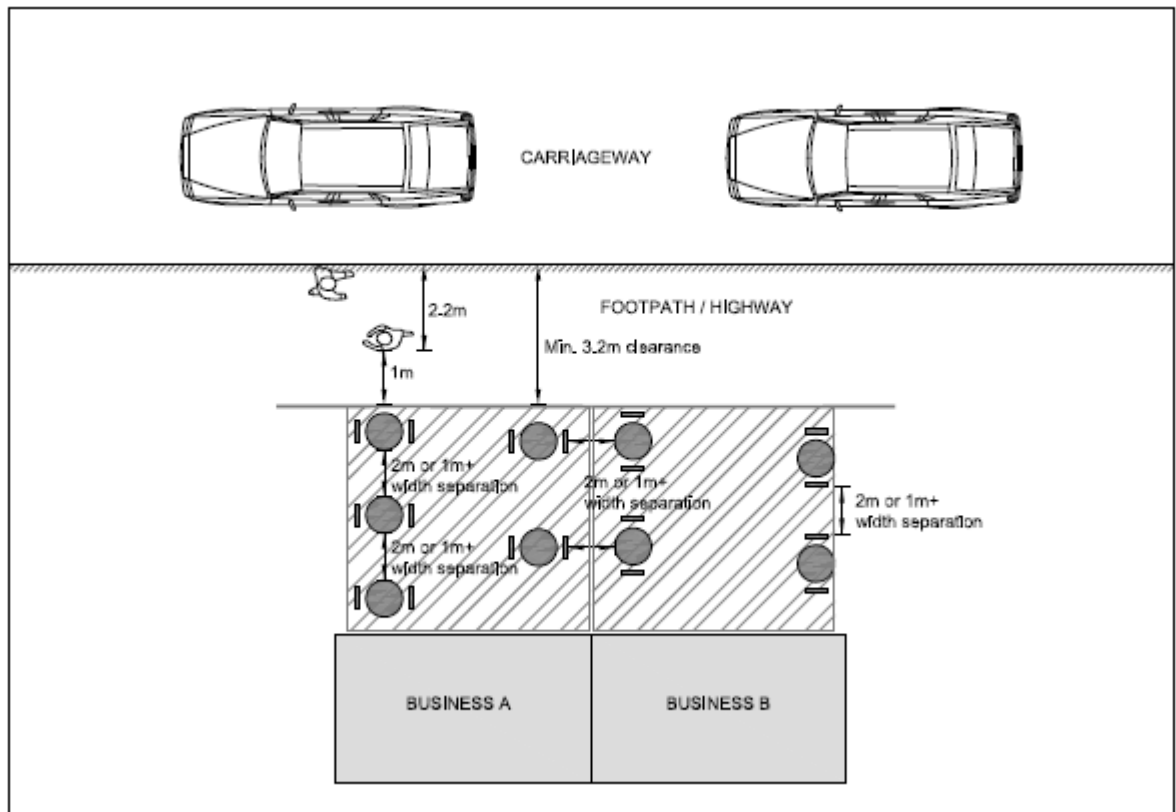
1. Scope for pavement licensing in the City of London

- 1.1. There will be an increased demand for outside space by businesses wanting to place tables and chairs on the highway and this must be balanced with the need to enable social distancing for pedestrians.
- 1.2. The City Corporation will support businesses in their Covid-19 recovery as much as it can to ensure that they reopen in a safe manner as soon as possible.
- 1.3. Balanced with that, the City Corporation must provide residents, workers and visitors to the City with a safe and comfortable environment when travelling into and within the Square Mile, particularly when travelling on foot, by bike and on public transport whilst social distancing measures are still in place.
- 1.4. With a unique street layout, often comprising of narrow lanes following their original medieval design, surrounded by large high-rise buildings and with high volumes of pedestrians, the Square Mile faces a number of challenges which are not present in other areas of London.
- 1.5. In considering whether to issue a pavement licence, the City Corporation will have in mind environmental and public safety considerations, together with other relevant policies including the five key principles agreed at Planning and Transportation Committee on 23 June 2020:
 - i) To put safety first
 - ii) To recognise the need to nurture a thriving economy in our City
 - iii) No privatisation of public space
 - iv) Having regard for space required to queue outside premises
 - v) Having regard to new or existing public seating nearby
- 1.6. When considering whether to grant a pavement licence, the City Corporation will, having regard to those five principles, assess a variety of factors including
 - a) Public health and safety including compliance with current social distancing guidelines, crowd management, queue management, proximity to existing public seating or new public seating areas provided as part of the COVID-19 recovery programme, queues likely to be forming from nearby businesses
 - b) Public amenity including the potential to create nuisance to neighbouring occupiers by generating anti-social behaviour and litter
 - c) Accessibility including the width of the highway, the needs of disabled people, pedestrian footfall, especially at peak times, suitable access to all members of the public using the highway, the presence of existing street furniture, the number of other permissions issued for areas in or near the proposed permitted area
 - d) Policy changes brought in during the pandemic that particularly affect pedestrian and traffic movement

- e) The potential to safely reallocate carriageway to provide space for tables and chairs that are privately managed but clearly signed as available for public use
- 1.7. Hours of Operation: Under this fast track process, the City Corporation will only consider applications for pavement licences between the hours of 07:00 and 23:00 except in exceptional circumstances. This is to minimise the potential for crime and disorder and public nuisance.
- 1.8. Unobstructed footway width:
- 1.8.1. The City Corporation has determined through its Tables and Chairs Policy that a minimum width of 2.2 metres must be maintained on all footways for pedestrian use. This means that where a business occupies pavement space with furniture, there must be a minimum of 2.2 metres of unobstructed space between the edge of the furniture and the edge of the pavement or to the edge of another obstruction (e.g. bike rack). This is without taking social distancing requirements into account.
 - 1.8.2. Since March 2020, footfall in the City of London has been well below its usual level of circa 0.5 million workers daily, with many city-based office staff still working from home.
 - 1.8.3. Whilst footfall in the City of London remains low and subject to social distancing easements, it is possible to consider pavement licence applications in lower footfall areas where a minimum width of only 2.2 metres is maintained. Each application will be considered on its own merits.
 - 1.8.4. In some areas where footfall is generally higher, for example around London Underground and National Railway station entry/exit points, an unobstructed footway of more than 2.2 metres may be required. This is in order to allow pedestrians to social distance if required and to prevent footways from becoming congested. In these instances, a clear footway width of 3.2 metres may be required. Each application will be considered on its own merits.
 - 1.8.5. As footfall in the City of London returns to normal, footways may become congested and it may become difficult to achieve social distancing if required between pedestrians and those seated without people having to walk on the kerb line. In these instances, a clear footway width of 3.2 metres may be required for pedestrian use. This will enable the 2.2 metre width for pedestrians plus a 1 metre distance between pedestrians and people seated at tables and chairs outside the premises. Each application will be considered on its own merits.
 - 1.8.6. Where a pavement licence has been granted with a minimum 2.2 metre of unobstructed footway and there is evidence of congestion on that footway to the detriment of pedestrian health and safety, the City Corporation may require that some or all of the furniture is removed from the pavement to facilitate the safe flow of pedestrians.

1.9. **City Streets:** Many City streets are too narrow to accommodate pavement licences whilst meeting the minimum restrictions set out in paragraph 1.8 above.

1.10. Applications should only be made in respect of City streets which are wide enough to accommodate furniture and maintain a minimum of 2.2 metre width (or 3.2 metre width where necessary) for pedestrians passing in either direction. This illustration sets out the City Corporation's requirements:



1.11. Duration of licence

- a) The statutory provisions for pavement licensing were set to expire on 30 September 2021 but the government has since extended this provision until 30 September 2022. Premises that currently benefit with a pavement licence expiring on 30 September 2021 must reapply for a new licence. Licences are not automatically extended.
- b) New pavement licences will be issued for the full term until 30 September 2022 unless (i) a shorter period is specified on the application or (ii) there are unique grounds on the merits of an individual application to issue it for a shorter period.
- c) Notwithstanding the statutory requirement to issue a licence for a minimum of 3 months, any application received after 16 June 2022 will only have a licence granted until 30 September 2022.
- d) The City's streets are undertaking a period of change in terms of both pedestrian numbers and temporary changes to the highway to deliver the City Corporation's Covid-19 transport recovery plan. In order to ensure the

safety of residents, workers and visitors as people return to the Square Mile, all licences will be subject to regular monitoring by the City Corporation's enforcement officers. A licence may be revised or revoked dependant on pedestrian footfall changes in the City and the aggregate number of pavement licences in any given area. Powers to amend/revoke a licence are set out in Section 6 below.

- e) There will be no charge for a reapplication.

Section 2

2. Pavement Licence: Definitions

- 2.1. **Pavement licence:** A pavement licence is a licence granted by the City Corporation, or deemed to have been granted, which allows the licence-holder to place removable furniture on part of a relevant highway adjacent to the premises in relation to which the application was made. A licence permits the holder to use furniture placed on the highway to sell or serve food or drink and/or allow it to be used by persons for consumption of food or drink supplied from, or in connection with the use of the premises.
 - 2.2. **Eligible persons / businesses:** A person (includes a body corporate) who uses or proposes to use any premises (a) as a public house, wine bar or other drinking establishment, or (b) for the sale of food or drink for consumption on or off the premises can apply for a licence. Eligible businesses include public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours.
 - 2.3. **Eligible locations:** Licences can only be granted in respect of highways listed in Part 7A of the Highways Act 1980. Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited. In the City of London this includes the footpaths, certain carriageways and city walkways. Highways maintained by Network Rail or over Crown land are exempt so a licence cannot be granted.
 - 2.4. **Furniture:** Furniture which may be used is:
 - a) counters or stalls for selling or serving food or drink;
 - b) tables, counters or shelves on which food or drink can be placed;
 - c) chairs, benches* or other forms of seating that meet accessibility standards; * **benches generally do not meet accessibility standards and permission for these will likely not be granted by the City Corporation.**
 - d) umbrellas, barriers*, heaters** and other articles used in connection with the outdoor consumption of food or drink;
- * **Barriers** - it is the City Corporation's policy not to permit barriers as they provide additional obstructions in our narrow streets. However, barriers may be considered where they provide mitigation from vehicle attack.

**** Heaters** - in order to support the hospitality sector during the winter months, the City Corporation will allow patio heaters from October 2020 through to March 2021. For environmental reasons, it is preferable to use zero / low carbon emitting electric heaters although gas heaters will be permitted if there is no easy electric supply to the pavement licensed area. Where it is proposed to use patio heaters, a risk assessment must be submitted with the application.

The furniture must be removable, which in principle means it is not a permanent fixed structure, is able to be moved easily and stored away every evening.

2.5. Other consents (food and alcohol) / Planning Permission / Street Trading

2.5.1. Other consents: The grant of a pavement licence only permits the placing of furniture on the highway. Other regulatory frameworks still apply; food businesses must be registered with the City Corporation and alcohol sales must only be made in accordance with a premises licence granted under the Licensing Act 2003. A sale of alcohol may only be made within the area defined in the plan attached to an alcohol premises licence and does not extend to the area covered by a pavement licence.

2.5.2. Planning Permission: A pavement licence when granted, or deemed to be granted, benefits the licence holder with deemed planning permission to use the land for anything done pursuant to the licence whilst the licence is valid.

2.5.3. Street Trading: Anything done by the licence holder under the terms of a pavement licence will not be street trading for the purpose of the City of London (Various Powers) Act 1987 as amended by the City of London (Various Powers) Act 2013.

Section 3

3. Pavement Licence: Application Process

3.1. Existing Tables and Chairs licence or pending application

3.1.1. Existing licence: During the lockdown period, the City Corporation suspended all existing tables and chairs licences granted under Part 7A of the Highways Act 1980. These licences will only be reinstated where it is safe to do so taking into account environmental and public safety considerations together with other relevant policies including the City Corporation's 5 key principles. If an application for a pavement licence is made and subsequently granted, the tables and chairs licence will have no effect whilst the pavement licence is in force.

3.1.2. Pending application: If an application for a tables and chairs licence under the Highways Act 1980 has already been made but not determined, the applicant may proceed with that application which will be determined taking into account environmental and public safety considerations together with other relevant policies including the City Corporation's 5 key principles. However, an applicant may opt to make a fresh application for a

pavement licence under the new process. If an application for a pavement licence is submitted, the application for a tables and chairs licence is treated as withdrawn. If a fee has been paid in connection with that application, no further fee is payable in connection with the application for a pavement licence.

3.2. Submission of an application for pavement licence

3.2.1. Premises that currently benefit with a pavement licence:

(a) In order to streamline the process for premises that currently benefit with a pavement licence, the City Corporation will invite those business to confirm by way of email that they propose to reapply on the same terms as before, capturing the mandatory requirements of the Business and Planning Act 2020

(b) Statutory consultation with stakeholders will remain the same and all comments will be considered in the decision-making process.

3.2.2. Premises that do not have a current pavement licence:

An application for a pavement licence must be made to the City Corporation using our online platform at www.cityoflondon.gov.uk . The following information will be collected as part of the application:

- a) Applicant details including name and address
- b) Business premises details including trading name, address and type of business use
- c) Details of the area of highway to be used by the business
- d) A location plan of the premises with the proposed area of highway to be used shown by a red line, so the application site can be clearly identified, together with:
 - The positions and number of proposed tables and chairs, together with any other furniture to be placed on the highway
 - The plan does not have to be to scale but it must include clear measurements of, for example, furniture, pathway width/length, building width and any other fixed item in the proposed area **and should indicate distance between furniture in accordance with the relevant COVID-19 risk assessment for the business. Please see illustration in paragraph 1.10 above.**
 - Fire exits of premises as well as those of neighbouring properties if affected by the area of highway to be used.
- e) Description of and photos or brochure images showing the proposed type of furniture and information on potential siting of it within the area applied;
- f) Proposed hours of highway use for the placing of furniture

- g) Evidence that the applicant has met the requirement to give notice of the application (for example photographs of the notice outside the premises and of the notice itself);
- h) A declaration that the applicant has a current certificate of 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 application premises and pavement licence site:
 - Inclusion of an indemnity to Principals Clause operative at the request of the insured.
 - A minimum limited of indemnity for any one occurrence of £5,000,000.00
- i) **There will be no fee charged for pavement licence applications in the City of London.**

An application will only be deemed valid when submitted in the correct manner as set out above, with all sections of the form completed and it is submitted with all required documents and a fee if applicable.

3.3. Consultation

- 3.3.1. The applicant is encouraged to talk to neighbouring businesses and occupiers prior to applying to the local authority, and so take any issues around noise, and nuisance into consideration as part of the proposal
- 3.3.2. A public consultation period of 7 days will commence the day after a **valid application** is made to the City Corporation. Bank holidays, Christmas day and Good Friday will not be counted as part of the 7 days. The consultation will consist of the following:
 - The City Corporation will publish the application on its website for the duration of the 7-day consultation period. The last date for representations will be made clear and representations will not be accepted after this date.
 - The applicant must fix a notice of the application to the premises so that it is readily visible and can be read easily by members of the public for the duration of the 7-day consultation period. A template is attached as Appendix C. **The applicant must email the City Corporation evidence that the notice has been fixed.**
 - In addition to the statutory consultation with the Highways Authority (where the authority is not the City Corporation), the following will also be consulted: City of London Police, City of London Pollution Control Team, City of London Commercial Environmental Health Team, Access

Team, City Surveyors, Street Environment Team, Planning & Transportation Team

- Applications will also be added to the licensing application bulletin email for wider distribution.

During the consultation period, representations relating to the application may be made by any person. The City Corporation must take into account any representations received during the public consultation period when determining the application.

Section 4

4. Pavement Licence: Determination

4.1. In determining an application for a pavement licence, the City Corporation will take into consideration a range of factors including the criteria set out in Section 1 and the conditions set out in Section 5. A site assessment may be carried out by an authorised officer to ensure that no obstruction to the highway would be caused by licensing the proposed site.

4.2. Any representations made during the consultation period will be taken into consideration. Representations that do not relate directly to the granting of a pavement licence may be given less weight when determining an application. Representations received outside the consultation period will be disregarded.

4.3. The City Corporation may

- a) grant the licence in respect of any or all of the purposes specified in the application,
- b) grant the licence for some or all of the part of the highway specified in the application, or
- c) reject the application.

Any licence granted will be subject to the City Corporation's published standard conditions.

4.4. The City Corporation must determine an application within a 7-day determination period. Decisions will be communicated to the applicant by way of email before the determination period ends.

4.5. If the City Corporation does not determine an application by the end of the 7-day determination period, the licence is deemed to be granted by the City Corporation.

4.6. Any pavement licences granted by the City Corporation will be valid for a period of 6 months subject to no licence extending beyond 30 September 2021. Any pavement licence deemed to be granted will be valid for one year commencing the day after the determination period ends and subject to no licence extending beyond 30 September 2021.

- 4.7. A person may apply for further pavement licences in respect of the same premises, provided that the determination period for any previous application made has ended.
- 4.8. A licence holder may surrender a pavement licence at any time by email notification to the City Corporation at licensing@cityoflondon.gov.uk . If a fee has been paid for the licence, there will be no refund of the fee where a licence is surrendered.
- 4.9. The City Corporation will reject a pavement licence where the site is deemed unsuitable or unsafe having applied the criteria set out in Section 1, the conditions in Section 5 cannot be met, or if representations are made which raise issues that cannot be mitigated by way of conditions. If a fee has been paid, it will not be refunded where an application is rejected. There is no statutory right of appeal against a decision to reject an application. If an applicant is aggrieved by a decision to reject an application for a pavement licence, they can make a complaint to the Director of Port Health and Public Protection at licensing@cityoflondon.gov.uk setting out clear reasons for the complaint. The Director will consider the complaint within 14 days. Alternatively, an applicant may wish to make an application for a tables and chairs licence under Part 7A of the Highways Act 1980 which includes an arbitration process for contested applications.

Section 5

5. Pavement Licence: Conditions

- 5.1. All conditions set out in this section will apply to any pavement licence granted or deemed to have been granted by the City Corporation.
- 5.2. The City Corporation may impose additional conditions to a pavement licence as it considers reasonable and appropriate to a particular case, with the exception of licences deemed to be granted which are subject only to conditions published before the application was made.
- 5.3. **City of London Standard Conditions:** The City Corporation's standard conditions applicable to all pavement licences granted or deemed granted are attached as Appendix A.
- 5.4. **Default Conditions as set out Section 3(6) and 5(4) of the Act:** The default 'no obstruction' and 'smoke-free seating' condition is set out in Appendix B.
- 5.5. **National Conditions as provided by the Secretary of State:** The Secretary of State, in exercise of his powers under [clause 5(6)] of the Business and Planning Act 2020, may make provisions for national conditions by way of regulation.

Section 6

6. Pavement Licence: Enforcement/Revocation

- 6.1. If the licence-holder breaches any condition of a pavement licence the City Corporation may:

- a) Serve a notice on the licence holder requiring measures to be taken to remedy the breach as specified within the notice and within a specified time scale. If the licence holder fails to comply with the notice, the City Corporation may take the steps itself and recover the costs of doing so from the licence holder

- b) Revoke the licence (whether or not a remediation notice has been issued)

6.2. The City Corporation may also revoke the licence where:

- a) There are risks to public health or safety – for example by encouraging users to breach government guidance on social distancing by placing tables and chairs too close together;
- b) there is anti-social behaviour or public nuisance – for example, the use is increasing the amount of noise generated and litter is not being cleaned up;
- c) the highway is being obstructed (other than by anything permitted by the licence);
- d) it comes to light that the applicant provided false or misleading statements in their application; or
- e) the licence holder did not comply with the requirement to affix the notice to notify the public for the relevant period.

Section 7

7. Other considerations: Counter Terrorism Advice

7.1. Greater use of open spaces through alfresco eating and drinking increases the public's vulnerability to terrorist attacks. There is no specific information or intelligence to suggest that any particular premises in the City of London are under any immediate threat from a terrorist attack, however the threat to the UK from terrorism is currently assessed as SUBSTANTIAL, and this means an attack is likely.

7.2. Each application for a pavement licence will be referred to a City of London Police Counter Terrorism Security Advisor (CTSA). Each application will be considered on its own merits and the advice of the CTSA will be passed on to the licence holder for action. If a licence holder fails to comply with CTSA advice, a remediation notice may be served on the licence holder or the licence may be revoked if it is in the public interest to do so. Where an objection is raised by the CTSA the application will be refused.

7.3. Where a licence is granted, licence holders will need to carefully consider the increased vulnerabilities to their customers. The security of those customers must not be overlooked and **must** be covered in the licence holder's risk assessment. Details of what to include in a terrorist threat risk assessment are included in but not limited to those set out in Appendix D. **In particular, licensees will be expected to comply with requirements 5 and 6 of the risk assessment (CCTV systems and ACT (Action Counters Terrorism) training) as set out in the new national guidance 'Counter Terrorism Protective Security Pavement Licence Conditions'. Failure to comply may result in a remedial notice being served on a licence holder or ultimately, revocation of the pavement licence.**

Part B: Alcohol Licensing

Section 8

8. Automatic Off-Sales Extension

- 8.1. The Business and Planning Act 2020 (the Act) modifies the provisions in the Licensing Act 2003 to provide automatic extensions to the terms of premises licences with alcohol on-sales to allow for off-sales (subject to exemptions in paragraph 7.9 below). It is a temporary measure to boost the economy, with provisions lasting until the 30 September 2022.
- 8.2. The measures make it possible for licensed premises that have only an on-sales licence to sell alcohol for consumption off the premises. This allows businesses to trade whilst keeping social distancing measures in place inside.
- 8.3. The measures also make it possible for licensed premises that have off-sales with certain restrictions to sell alcohol without those restrictions applied.
- 8.4. There is no need for an application to be made and no fee to be paid.
- 8.5. **Premises with alcohol licences that currently only permit on-sales:**
- (a) Licensees who have a premises licence that only permits on-sales automatically benefit with off-sales permission during the same hours permitted for on-sales or until 11pm, whichever is earlier. Off-sales are permitted in open containers and allow deliveries of alcohol to residential or work buildings. If longer hours are required for off-sales (than the on-sales or 11pm), an application to vary the licence must be made in accordance with Section 34 of the Licensing Act 2003.
 - (b) Licensees who have a premises licence that permits on-sales with an outdoor area such as beer garden or terrace within their 'red line drawing' with time restrictions on use of the outdoor areas will only be permitted new off-sales at times when they would be permitted on-sales within their outdoor area.
- 8.6. **Premises with alcohol licences that currently permit on-sales and off-sales with restrictions:**

Licensees who have a premises licence that permits on-sales and off sales with certain restrictions will have those restrictions automatically suspended. There are three types of restrictions (conditions) that are suspended:

- a) Restrictions on times for off-sales. Off-sales can now mirror the times for on-sales or 11pm or the closure time of an outdoor area, whichever is earlier. This would apply, for example, if the times of off-sales in an outdoor area which is outside the 'red line drawing', hence "off" the premises, is limited by condition, and more restrictive than the hours for sales inside the premises.
- b) Restrictions on selling alcohol for off-sales in an open container. Open containers are now automatically permitted, and any condition requiring off sales to be in sealed containers only is disapplied.

- c) Restrictions on deliveries to the door (of office or residential properties). Home (office) deliveries are now automatically permitted, without any additional conditions.

All other restrictions on a premises licence still apply, including restrictions on using outdoor areas that form part of the premises or restrictions on off-sales that do not relate to hours, sealed containers or deliveries.

8.7. Premises with alcohol licences that currently permit on-sales and off-sales without restrictions

These licences are unaffected

- 8.8. Exemptions to the automatic extension of off-sales:** Licensees who have had an application for an off-sales permission refused or had their off-sales permission excluded by variation or at review within the last three years, will be excluded from this automatic licence extension. This is a safeguard to ensure that where it has recently been decided that the licensee should not have the permission, they do not receive it through the Business and Planning Act 2020. If those premises want to benefit from off-sales, or have off-sales without restriction, they must apply to vary their premises licence in accordance with Section 34 of the Licensing Act 2003.

Section 9

9. Review Procedures

- 9.1. If any premises cause particular problems in operating under the automatic extension of off-sales, then any responsible authority (the Police, Environmental Health, Licensing Authority, Trading Standards and others) can apply to the City Corporation for a review of the new automatic off-sales permission. The review application must be based on one or more of the four licensing objectives. The review application works in a similar way to the existing summary review application, so it is a fast-track review application. The Licensing Authority has the power to consider it quickly, and apply interim steps, within 48 hours, just like a regular summary review.
- 9.2. In considering such a review, the Licensing Authority can only take into account the automatic extension for off-sales itself, and whether that should be removed. The licence cannot be revoked under this procedure
- 9.3. The Licensing Authority can remove the automatic right to have off-sales, or can reimpose conditions, such as time limits in beer gardens, or restrictions on home deliveries, in the off-sales review. The licensing authority can apply interim steps without the licence holder being present, but the licensee has the right to be heard to review interim steps, and there is a mandatory fully review hearing 28 days after the off-sales review application by the responsible authority. At this full review, only the off-sales provision may be considered and not the rest of the licence.
- 9.4. A licence holder has a right of appeal against a decision to remove the automatic extension of off-sales to a Magistrates Court.

Section 10

10. City of London: Managing Outside drinking

10.1. With the temporary relaxation of licensing and planning laws until 30 September 2022, more pubs, bars, restaurants and cafes in the City of London will take advantage of being able to serve customers outdoors. As a result, there is the potential for an increase in noise and anti-social behaviour. It is essential that licence holders have provisions in place to manage their outside drinking and eating areas in order to lessen the impact on neighbouring residents and other businesses.

10.2. Licence holders are responsible for managing their customers consuming alcohol outside their premises. It is good practice to have a documented policy on managing outside drinking to include but not limited to:

- a) **Social distancing:** The government has produced guidelines to assist businesses in returning to work during the COVID-19 pandemic. The guidelines are constantly evolving and changing and licence holders are responsible for keeping risk assessments up to date to ensure the safety of their customers.
- b) **Noise from patrons:** Customers smoking, eating and drinking in outdoor areas including the public highway should be monitored by staff to prevent public nuisance. Licence holders should display prominent signs asking customer to be respectful of neighbouring property owners and to keep noise to a minimum.
- c) **Obstruction:** Customers must not be allowed to obstruct the highway or the doorways of neighbouring residential, commercial or office premises. Customers queueing to enter premises must be managed to prevent any such obstruction. Customers must not be permitted to congregate on the carriageway causing obstruction to vehicular traffic. Pedestrians must have unobstructed access to the highway and should not be forced to step into the road to pass by.
- d) **Customer safety:** Licence holders may wish to use toughened or polycarbonate glass in outside areas. Staff should monitor outside areas and collect empty glassware regularly. Spillages and or broken glass must be swept away immediately.
- e) **Litter:** Outside areas should be monitored regularly by staff and any litter generated by customers including food wrappers and cigarette butts should be cleaned up regularly and at the end of each evening.
- f) **Theft of personal belongings:** With more customers using external areas, there is more potential for opportunist theft of personal belongings. Licence holders may wish to use chelsea hooks on external furniture, display external signage warning customers of the risk of bag thefts and pick-pocketing. Staff monitoring outside areas should be vigilant at all times and remind customers to look after their personal belongings.

Appendix A

City of London Pavement Licence Standard Conditions

These standard conditions are made pursuant to Section 5(2) of the Business and Planning Act 2020. To the extent that these conditions do not prevent the obstructions specified in section 3(6) of the Act, a pavement licence is granted or deemed to be granted subject to the statutory no-obstruction and smoke-free seating condition.

The term 'furniture' used hereinafter means counters or stalls for selling or serving food or drink; tables, counters or shelves on which food or drink can be placed; chairs or other forms of seating; umbrellas, heaters and other articles such as parasols or planters used in connection with the outdoor consumption of food or drink.

1. This licence must be displayed in a prominent position during any period that furniture is placed on the highway.
2. The placing of furniture and seating of customers should comply with government Covid-19 Secure Guidelines and the licence holder must have an appropriate risk assessment in place for their business operation
3. This licence only permits the area of the highway (the authorised area) and the items of furniture specified on the licence to be used. All furniture is to remain within the authorised area whilst it is in use on the highway.
4. All customers in the authorised area must be seated at all times save for access to and egress from the seating area.
5. The furniture must be removed from the authorised area by the licence holder by 23:00 unless otherwise specified on the licence, or at any time when requested to do so by an officer of the City Corporation or City of London Police. The furniture must be stored off the highway every evening.
6. Furniture must not be placed in any position where it will obstruct a designated fire escape route.
7. The authorised area must be supervised at all times whilst the licence is in use. The licence holder must ensure there are sufficient staff to supervise and control the authorised area to:
 - a. deter and prevent noise nuisance and/or antisocial behaviour
 - b. ensure the safety of customers and staff in line with the Covid-19 risk assessment
 - c. ensure that the area is kept clean, tidy and free of litter
 - d. ensure that the area is swept and/or gritted in order to prevent slipping in adverse weather conditions
 - e. ensure that food and drink is be cleared from unoccupied tables as soon as possible
8. The licence holder must clean the authorised area regularly to prevent staining by anything done pursuant to the licence.

9. The licence holder shall be liable for any damage to the authorised area which the City Corporation considers reasonably attributable to anything done pursuant to the licence and shall reimburse the costs of the City Corporation or its Agents in repairing the same.
10. The licence holder shall be liable for and shall indemnify the City 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.

Without limiting the obligation hereunder, the licensee will effect insurance against the matters referred to in this condition 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.

11. No advertising material may be attached to, or form part of, any of the furniture.
12. No supplemental lighting may be used in connection with the furniture.

Appendix B

Pavement Licence: Default No Obstruction Condition

Anything done by the licence-holder pursuant to the holder, or any activity of other persons which is enabled by the licence, must not have one of the specified statutory effects debarring grant of the licence, namely the effect of:

- (a) preventing 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.

Pavement Licence: Default Smoke-free Seating condition

Where the furniture 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.

Appendix C

PUBLIC NOTICE

**Business and Planning Act 2020
Application for a Pavement Licence**

I/We (*name of applicant*), _____

do hereby give notice that on (*date of application*) _____

have applied to the City Corporation for a 'Pavement Licence' at:

(*postal address of premises*)

known as (*trading name of premises*)

The application is for: (*brief description of application eg. outdoor seating to the front of the premises for serving food and drink*)

A copy of my application and associated documents including plan and details of furniture can be viewed on the City Corporation's website at www.cityoflondon.gov.uk. Any person wishing to make representations to this application may do so by email at: licensing@cityoflondon.gov.uk

by: (*date*) _____

(*this must be 7 days from the date of the application not including bank holidays*)

Signed

Dated

Appendix D

Counter Terrorism Advice for Risk Assessment

As part of a terrorist threat risk assessment in relation to use of outdoor public space for eating and drinking a licensee should consider the following:

1. The safe access/egress of your customers and of those within nearby premises. Allowances should be made for the rapid dispersal of people in the event of an emergency/incident. Tables and chairs or other furniture should NOT impede this.
2. If the premises become busy creating a queue outside, this must not conflict with customers using the tables and chairs or the adjoining pedestrian footpath. There should be clear guidance provided by the staff to direct patrons accordingly, away from the road scene. The staff should be prepared for such an event.
3. Adequate street lighting should illuminate the deployment of tables and chairs.
4. The licensee should liaise with neighbouring properties so they can consider their evacuation procedures accordingly and avoid any conflict and capitalise on shared benefits.
5. You should incorporate using your own CCTV system to cover the pavement licensed area. CCTV is an important integrated tool in the deliverance of a safe environment, free from crime and violence. The use of CCTV will enable staff/security to react and deal with potential incidents as well as providing tangible evidence that can be used in a court of law to bring offenders to justice.

The Pavement License holder will need to ensure that existing CCTV systems are correctly working, are compliant with the Data Protection Act 1998, Information Commissioners requirements and any other local CCTV Code of Conduct produced by the Police or Local Authority. Imagery must be retained for at least 28 days and images produced to a Police Officer or Local Authority Enforcement Officer upon reasonable request. Faults which render the CCTV system or parts of it inoperable should normally be rectified within 24 hours.

6. The pavement licence holder will need to ensure that the management team of the business to which the pavement licence is attached; register and successfully complete the nationally recognised counter terrorism training product referred to as ACT E Learning within 10 days of the notification of the grant of the Pavement License OR can demonstrate that the ACT E Learning product has successfully been completed within the preceding 12 months and that all staff employed by OR at the premises complete the ACT E Learning within a reasonable period not exceeding 3 months from the notification of the grant of the Pavement License. (ACT E Learning certificates are provided on successful on-line completion.)ACT E-learning can be accessed at:

<https://www.gov.uk/government/news/act-awareness-elearning>.

And also at <https://ct.highfieldelearning.com/>

Further information on free training and awareness can be obtained via contact with the local Counter Terrorism Security Advisors who can be contacted on the following email: CTSA@city-of-london.pnn.police.uk