



**Business and Planning Act 2020
(Levelling Up and Regeneration Act 2023
Schedule 22)**

Consultation

Applicants are advised to discuss their application with the Council's licensing officers before submitting an application.

Before issuing a licence, the Council has a statutory duty to consult with the Highway Authority (Essex County Council)

The Council will also take into account any representations received from any other person during the consultation period. It is therefore advisable to speak to your neighbours regarding your proposal before submitting the application to the Council.

Chelmsford City Council may also consult with other persons as it considers appropriate.

Type of Permission

Under the legislation, the Council can only grant licence to an individual, usually the manager of the premises. This means that the licence cannot be transferred to anyone else.

An application may be granted or rejected. If granted, a licence may be issued for any or all of the purposes applied for and for some or all of the part of the highway applied for.

Cost

The cost for the pavement licence is £500. The new fee for renewals is £350. The licences last for two years.

Times of Operation

You will need to inform the Council of your actual or proposed opening days and times. Tables, chairs and other items referred to in the legislation can be placed within the agreed area on the highway only and only when the premises are open for business and in any event not before 6.00 a.m. until the close of business.

Area Permitted

The area proposed for use must be adjacent to the business premises concerned and be a 'relevant highway'.

(Relevant Highways are described in part VIIA of the Highways Act 1980 and generally means that the area cannot be used by vehicular traffic – for example the area must be a footpath or walkway, a pedestrianised area, or a road that is restricted because of a traffic order.)

A licence can also not be granted if the area concerned is Crown land or maintained by Network Rail.

Most pedestrianised areas at the front of relevant premises may be considered, with permission only refused where the use may cause obstruction to pedestrians, particularly wheelchair and pushchair users. Account will also be taken of whether the highway is shared space used by cyclists.

Please note that there are additional specific restrictions relating to the Chelmsford City centre, in particular Chelmsford High Street which are detailed in the Council's Policy.

A plan (which must include dimensions) of the area outside your premises where you intend to place the tables and chairs will need to be submitted with the application.

The Licence holder must remove any furniture if required to do so to permit works in or the use of the highway by the Council, the County Council, the emergency services any statutory undertaker or telecommunications code operator or where the Licence holder has been notified of a special event taking place.

Application and Duration of Licence

An application will not be considered as properly made until all the required elements of the application have been received, including payment.

An application will be deemed as granted (Tacit Consent) if the application has not been determined during a period of 14 days following the 14 days required for the purpose of consultation.

A licence will be granted for a specified period up to a maximum of two years.

Permitted Furniture

All furniture must be removable.

The furniture can only be used for the service, sale or consumption of food or drink and can only be used in connection with food or drink supplied from the particular premises which has been granted the pavement licence.

The application must describe the furniture to which the application is made. Furniture can include seating, tables, counters or shelves for placing or selling food or drink. It can also

include umbrellas and heaters (together with a secure bases) as well as any proposed barriers to enclose the seating area.

NOTE: heaters must be to BS Standards (BS EN 60529:1992 (Electric heaters) and BS EN14543:2005 (Gas heaters). Access to the controls/ pipe/ cylinder on the heaters must be restricted to authorised employees of the premises only.

The Council must approve the design and size of the proposed tables, chairs, umbrellas, heaters and barriers. The furniture must be maintained to a satisfactory condition.

No fixtures to, or excavations of any kind, shall be made to the surface of the highway.

It is a requirement that all furniture must be removed at the close of trading each day and only be outside whilst the premises are open and trading.

Barriers must be of a certain height and colour for health and safety reasons and will need to be approved by the Council.

If there is any increase in the amount of furniture or additional heaters and umbrellas are to be added after permission has been given, further written approval from the Council will be required.

No charge can be made by the Licence holder for the use of the furniture.

Insurance

The licence holder and the business concerned are responsible for the ongoing maintenance, management, and safety of any furniture for which a licence has been granted and ensure that it is maintained fit for purpose.

All operators must have public liability insurance in the sum of £10,000,000 in respect of any one event. A copy of this insurance must be provided to the Council before a licence will be issued.

The Insurance must be maintained for the duration of the permit. Expiry dates of insurance details will be monitored to ensure insurance cover is current.

The Licence holder shall make no claim or charge against the Council in the event of the furniture or other objects being lost, stolen or damaged in any way.

Music

No regulated entertainment within the licensed area unless authorised.

Litter

Refuse and litter deposited on the highway in the vicinity of the chairs and tables must be collected at not less than hourly intervals (or more frequent intervals if required under the Environmental Protection Act 1990).

Litter is not to be placed in the litter bins situated on the highway for use by the general public, but in the licence holder's own trade refuse bins.

All tables must be cleared as soon as practicable after being vacated by customers to avoid litter being deposited unnecessarily on the highway.

Glass

Any use of glass for the consumption of food or drink in the area covered by the permission must be made of toughened glass or of plastic.

Sanitary Appliances

The number and type of public sanitary accommodation provided by a business is based on the number of potential customers. The applicant should ensure that the sanitary provision remains appropriate for the increase in customer numbers resulting from additional seating.

Planning

Planning permission is deemed as granted for the purposes only consistent with the permissions applied for and granted by the licence.

Enforcement

If a condition imposed on a licence (either by the local authority or nationally) is breached, the Council may revoke the licence or issue a Notice requiring the breach to be remedied. If the licence-holder fails to comply with the Notice, the Council may revoke the licence or itself take steps to remedy the breach and can take action to recover any costs of so doing.

A licence may also be revoked if the Council considers that:

1. the highway is no longer suitable for the use as granted by or deemed to be granted by the licence. For example, the licenced area (or road adjacent) is no longer to be pedestrianised.
2. as a result of the licence, there is a risk to public health or safety – for example where it comes to light that there are significant security risks which have not been sufficiently considered, or addressed in a proportionate fashion (this should be reassessed as necessary, particularly in the event of changes to the terrorism threat level).
3. as a result of the licence, there is an unacceptable obstruction of the highway, – (for example, the arrangement of street furniture prevents disabled people, older people or wheelchair users to pass along the highway or have normal access to the premises alongside the highway);

4. as a result of the licence, the use of the furniture is causing, or risks causing, anti-social behaviour or public nuisance – for example, the use is increasing the amount of noise generated late at night and litter is not being cleaned up.

5. the applicant provided false or misleading information with their application or

6. the applicant did not comply with a duty required by the legislation relating to the application (eg failed to display the necessary notice containing the required information or the notice was removed before the end of the consultation period)

If appropriate a licence may be amended with the permission of the licence holder to resolve issues of concern relating to health and safety, nuisance or anti-social behaviour or obstruction of the highway.

In cases where furniture which would normally be permitted by a pavement or other licence has been placed on a relevant highway without the required licence, we will give notice requiring the business to remove the furniture before a date specified and to refrain from putting furniture on the highway unless they gain a licence.

If furniture continues to be placed on the highway, in violation of the notice, we may remove and store the furniture, recover the costs from the business for the removal and storage of the furniture and refuse to return the furniture until those costs have been paid. If within 3 months of the notice, the costs are not paid, the furniture may be disposed of by sale or other means and any proceeds will be retained by the Council.