



BRIGHTON AND HOVE CITY COUNCIL
Application for permission to place objects upon the
Public Highway (Highways Act 1980)
and The Local Government (Miscellaneous Provisions) Act 1982)

Name of Applicant (in full):
Mr / Ms / Mrs / Miss (please delete as appropriate).....

Name and Address of premises for which the permission is required. (This is the address to which all correspondence will be sent unless otherwise indicated by the applicant.)
.....
.....

Tel. No..... Correspondence address if different from above.....
.....

Please describe and sketch the proposed placement.

Please note that due to changes in the licence conditions (see below for licence conditions) the following information is required to enable your application to be completed promptly.

Do all A-boards meet new size conditions? (See Item 4.3) **Yes No**
 N/A

Will any items be left out overnight? (See Item 5.2) **Yes No**
 N/A

Will any items be placed more than 5m from your premises? (See item 5.5) Yes No
 N/A

Are all display items sold as part of your normal business? (See item 3.13) Yes No
 N/A

Will any item reduce the footway width to less than 1.3m? (See item 5.5) Yes No
 N/A

Will any free standing heating units be used? (See item 3.5) Yes No
 N/A

Please note that payment must accompany this application.

Licence Conditions 2009-2010

The following conditions will be introduced to apply to all highway licences issued.

1. Terms:

- 1.1 The term "licence" used below refers to any Highway Permission issued by the Highway Enforcement Team.
- 1.2 A "licensee" is deemed to be the body or individual to whom the licence has been issued.
- 1.3 A "licensed area" is that area of public highway covered by the licence.

2. Legal Issues:

- 2.1 This licence is not transferable.
- 2.2 Sub-letting of the highway is forbidden. A frontager who is a licensee may, with the advance written permission of the council, permit a suitable third party (i.e. a party the council would consider to be an appropriate licensee themselves) to display items within a relevant licensed area, but there should be no financial transaction associated with such an arrangement. Any third party must meet and comply with all licence conditions, including the holding of Public Liability Insurance (see below). Responsibility for breaches of licence conditions will lie with the licensee.
- 2.3 The licensee agrees to indemnify the council against any claims in respect of injury, damage or loss arising out of the grant of the licence. Public Liability Insurance cover of at least one million pounds must be carried for the duration of the licence. Evidence for this cover must be produced on demand.
- 2.4 The licence may be suspended or revoked and/or the licensee required to temporarily remove the objects by the council for any legally defensible reason. The licensee shall not be entitled to any compensation for loss of trade or business as a result.
- 2.5 If deemed necessary the council may alter licence conditions at any time.
- 2.6 Where necessary, the council may place time limits to restrict the use of licensed areas to permitted hours. In general, these restrictions will apply to premises with alcohol licences and will not exceed the hours set by the terms of such licences.
- 2.7 Licences are valid for a maximum of 12 months and expire at 24:00 hrs. on the first 31st of March following the date of issue. Licences are subject to an annual review. Payment of licence fees is a condition of the licence.
- 2.8 Licences only relate to the placing of objects upon the highway. It is the responsibility of the licensee to obtain all other consents required in connection with the proposed extension of their business onto the highway including, where appropriate, any amendment to their existing liquor licence.
- 2.9 It is a condition of Highway Licences that all consents and permissions and all health & safety, environmental health or other legal provisions or measures required by Brighton & Hove City Council or other legal authorities are obtained and adhered to. Proven failure to comply with legislation and/or the reasonable and legitimate instructions of an authorised officer of the Council, Her Majesty's Health & Safety Executive or the Police may be considered a breach of the conditions governing the licence.

3. Licensed Areas:

- 3.1 The council reserves the right to limit the number of items placed within a licensed area. Factors influencing such limits may include the density of tables/chairs within a licensed area and the ratio between the number of covers within the licensed area and those inside the actual premises.
- 3.2 Patrons within a licensed area must be seated. Vertical drinking shall not be permitted at any time.
- 3.3 Benches or other objects which cannot easily be removed and stored within the licensed premises shall not be permitted unless noted within the original application and agreed in advance and in writing by the council. The council may specify how items left out overnight shall be stored or stacked.
- 3.4 Licensees who significantly alter the nature of their items (e.g. the design of seating/tables/barriers) without prior consultation and a written agreement from the council will be deemed to have breached licence conditions.
- 3.5 No free-standing items issuing heat or with heated elements (such as gas or electric heaters) may be permitted within a licensed area unless the intention to place such items was noted within the original licence application and agreed in advance and in writing by the council. A Risk Assessment for the use of such items must be submitted with the application
- 3.6 The council can insist that licensed areas are surrounded by barrier or fencing. The use and design of all such barriers must be approved in writing by the council.
- 3.7 The licensee shall ensure that all glasses, bottles and other debris from the licensed premises are collected and returned to the licensed premises regularly and at the end of each session.
- 3.8 The council may require the use of plastic containers only within certain licensed areas.
- 3.9 The licensed area must be kept clean, being washed down as necessary, and free of litter at all times. The licensee is responsible for regularly clearing all debris and litter associated with the licensed premises, whether inside the bounds of the licensed area or not.
- 3.10 No object may be placed upon the highway outside the licensed area or away from the licensed position at any time. All items must be checked at regular intervals. Areas associated with the consumption of food or drink must be constantly monitored. Items left unattended or found out of sight of the licensed premises may be removed and impounded without warning.
- 3.11 The cooking of food within a licensed area is prohibited.
- 3.12 Shop displays made up of rows of irregular items (e.g. pots) should ideally have vertical panels of not less than 0.3m height, at the edges & sides so as to provide a regular and continuous tapping board for the guidance of the blind and partially sighted. If necessary the council can make provision of these a special condition of a licence.
- 3.13 No goods or food shall be displayed for sale in the highway unless it is evident that such goods are sold as part of the normal business of the licensee. The nature of such displays and the goods for sale must be formally approved by officers and noted within the licence agreement. Where such displays are permitted all sales must take place upon private property. No financial exchanges may take place upon the Public Highway, other than in connection with sitting-out areas.
- 3.14 Licensees with display or sitting-out areas will be supplied with a Data Sheet showing the extent of the highway licensed to them. This document must be kept on site and be available for inspection on demand at any time by officers of the council or other agencies, elected members and the general public.

4. Advertising boards:

- 4.1 No more than two advertising boards may be permitted for every two elevations of a licensed premises and the total surface areas of all advertising boards per said elevations (whether on the highway or on private land or decking or on any combination of the same) may not at any time exceed the limits for such advertising under Planning Regulations (a total area of 4.6 square metres).
- 4.2 Premises with sitting-out areas may not place advertising boards outside licensed areas unless such placements are separately licensed and conform with all other relevant conditions.
- 4.3 Licensed advertising boards shall be between 0.75m and 1.2m high and between 0.5m and 1.1m wide only. Larger or smaller boards will not be permitted.

5. General:

- 5.1 The licensee must clearly display on site a Display Licence provided by the council. This should be placed in a window, glass door or menu stand of the licensed premises clearly be visible and legible from the highway.
- 5.2 Anything left upon the highway outside business hours or the hours stated in the licence conditions, or any item found chained or tied to any other object, street furniture or building without prior written permission, may be removed and impounded without further warning.
- 5.3 The improper parking of vehicles by staff or persons associated with the licensed site (including delivery vehicles) will be considered a breach of the licence. This is of particular importance within those areas where vehicle access is restricted and in streets that are periodically pedestrianised. In certain parts of the city licensees may be required to agree to restrictions on delivery times.
- 5.4 To promote the work of the Brighton & Hove Drug and Alcohol Action Team and support the operations of the Council's Trading Standards Team, licensed sites involved in the sale of cigarettes or of alcohol for off - premises consumption shall be required to display, at all times, such notices relating to illegal sales to or illegal purchase on behalf of minors as may be supplied by the Highway Enforcement Team.
- 5.5 Note that the following general rules will be applied to all officer-approved applications/sites within the city:
- A) That no licensed traders' items will be permitted to reduce the width of a footway to less than 1.3 metres except where:
1. a formal pedestrian zone has been established in a road by Traffic Order and the whole of the carriageway is kept clear for pedestrian use
 2. a road is closed to vehicular traffic by virtue of a temporary Traffic Order and the whole of the carriageway is kept clear for pedestrian use
 3. a road is considered to be "shared space" and the whole carriageway is generally available for pedestrian use
 4. discretion to allow this has been exercised by Elected Members in Committee or Cabinet, due to special circumstances.
- B) That where a footway is reduced to a width of 1.3 metres (or less) by objects (whether these objects be licensable traders' items or fixed street furniture such as lamp posts, bins etc.) "turning circles" for manual wheelchair users and guide dogs must be established at regular intervals. These "turning circles" shall not be less than 1.6m in length and must be maintained at least every 6 metres along the length of a restricted footway.
- C) That, except in the case of items within large, waiter-serviced sitting-out areas, no traders' item shall be permitted to be placed more than five metres from the licensed premises or out of sight from a window or door of said premises.

In certain circumstances, officer application of the above criteria may be challenged by means of Formal Appeal to Committee or Cabinet. Such appeals should take place at the licence application stage. Note however that no activities can take place at a site until such a decision is reached.

6. Enforcement Procedure (removals):

The following enforcement procedure shall be applied as standard for all items placed on the Public Highway in breach of the DfT guidelines and the rules and conditions of the Highway Licensing System as detailed above:

- That on the discovery of a breach of the guidelines, rules and conditions, a written warning shall be issued to the relevant business/person, warning and advising them of their need to abide by the prevailing regulations.
- That on the discovery of a second such breach within eight weeks of the first, a second warning notice be served.
- That on the discovery of a third such breach within eight weeks of the second warning a third warning shall be served.

If the recipient of a third warning is a holder of a Highway Licence, then this licence shall be temporarily suspended by virtue of said notice pending consideration of the case by the Senior Highway Enforcement Officer. The period of suspension will be dependent on the seriousness of the breach and the measures taken by the licensee to ensure future compliance with the regulations. Further breaches may result in the rescinding of the licence.

Any unauthorised items found on any site following a third warning or suspension/rescinding of a licence may be removed from the Public Highway and impounded without a further warning being served. Owners of objects so

impounded will be given the opportunity to recover their property. Where appropriate a charge may be made by the Council for the costs of removal and storage.

The Council reserves the right to proceed with prosecution under the Highways Act 1980 at any stage of the above procedure in any case involving gross or regular breaches of legislation.

I, being an authorised officer of the applicant, confirm that that I have read, understood and agree to abide by the conditions above and any additional reasonable conditions set by the Authority.

I enclose payment for the licensing approval and issuing processes, being aware that, unless advance payment has been made or the licence charge accompanies this application, no permission will be issued.

Note that the site name or address and the reference number given on the accompanying conditions sheet must be clearly written on the back of any cheque accompanying this application.

Name (block capitals).....

Signed:..... Position (block capitals):.....

Date.....

For Council Office use only – please do not write in the space below

BRIGHTON AND HOVE CITY COUNCIL acting by their Director of Environment, in pursuance of the above enactments hereby grant permission for the placing of objects, namely, tables, chairs, litter bins, displays and/or a prescribed number of A-Boards on part of the paved Public Highway outside the premises as described above or attached.

Signed:..... Name:

**For the Director of Environment,
Brighton & Hove City Council**

Date2009

Special Conditions:

Please return to:
The Senior Highways Enforcement Officer, Brighton and Hove City Council, Highway Enforcement,
Room 500, Hove Town Hall, Norton Road, Hove, BN3 3BQ



Brighton & Hove
BRIGHTON AND HOVE CITY COUNCIL.

Permissions to place objects on the Public Highway under the Highway Act
1980

Guidance Notes & Licence Charges:

Please read the accompanying conditions.

• **Tables, chairs or shop displays:**

Payment Reference EVH031/LG105

A) Initial applications (i.e. where no previous licence has been held) are subject to a one-off charge to cover the application/approval process.

There are two charge bands:

1. £87.00 for areas of less than 5 sq.m.
2. £287.00 for larger areas.

There is an additional annual charge of £17.00 per square metre for each square metre of Highway the licensee wishes to occupy.

B) Licence renewals are based solely upon the area to be taken up, based on £17.00 per square metre, with there being a minimum charge of £47.00 per year.

• **Advertising boards only (up to two boards per site):**

Payment Reference EVH031/LG132

1. New Applications: £67.00 for the first year.
2. Renewals £47 per year.

