# 

# GENERAL LICENCE CONDITIONS FOR THE PLACING OF STREET FURNITURE

Introduction

The placement of furniture on a street, particularly on pedestrianised streets, laneways, fronting restaurants and public houses can significantly enhance the ambience and atmosphere of the streetscape. It can enable businesses to improve services to their customers and generate additional footfall and revenue. However, responsibilities to road users must not be forgotten and controls are required to ensure that unnecessary restrictions are not caused while ensuring that access for emergency services is not impeded and that hazards are not posed to road users from any type of obstruction, spillage or overturning. To enable the necessary controls to be implemented, Kerry County Council must have a licensing system for the placement of all street furniture on our streets. The Legislation governing the Licensing of street furniture is prescribed under Section 254 of the Planning & Development Act 2000 (as amended) and Part 17 of the Planning and Development Regulations 2001 (S.I. 600 of 2001) (as amended).

Licensing Conditions

1. Every licence is issued subject to general conditions for street furniture licences. In addition, specific conditions may be applied in respect of a particular licence.
2. A licence may only be granted for an area immediately adjacent/in front of the applicant’s premises, save where the Planning Authority may permit the erection of street furniture in a pedestrianized or public realm area.
3. Licences are only granted for tables and chairs outside a hotel, restaurant, public house or other establishment where food is sold for consumption on the premises. The premises outside which an applicant is applying for a licence shall be fully compliant with the requirements of the Planning and Development Act 2001 (as amended). The applicant may be required to provide evidence to that effect.
4. The Council may as a condition of the grant of any licence require the applicant to enclose the area by way of removeable spandrels, the design of which, including material proposed, must be agreed by Kerry County Council. There may be a requirement to ensure the spandrels provide contrast to the paving in place. The following conditions will apply:
5. Spandrels to be plain, coloured or neutral canvas type, not more than 1.1 metre high, spanning between or framed by simple metal type posts, darkly coloured;
6. Spandrels to be flame/fire retarding;
7. Base plates or weighted bases to screening posts must not extend outside the licensed area;
8. All spandrels, posts and bases to be demountable;
9. Spandrels to be sufficiently robust to prevent overturning in moderate winds.
10. No advertising material to be displayed on the spandrels or furniture.
11. The Council may in the licence, condition the removal of the spandrels by a specified time each day.
12. The tables and chairs or other furniture shall be of robust and stable construction to prevent movement in adverse wind conditions. Photographic evidence should support the application for a licence. The Council reserves the right to specify the type of furniture which should be used.
13. The Licensee shall maintain the area used for tables and chairs or other furniture in an acceptable condition so as not to constitute a nuisance. He/she shall indemnify Kerry County Council against all actions, suits, claims, demands by any person arising from injury or damage to a person or property in consequence of the placement of the said furniture on the public footpath. No Infrastructure should remain which is a potential trip hazard for all road users.
14. The licence holder must provide for waste management and ensure that the curtilage of the premises is maintained litter free, at all times.
15. It will be the responsibility of the licence holder, if required under the licence, the storage of furniture off-street after licensing hours the details of which should be included in the application.
16. The Licensee shall be required to have a Public Liability Insurance cover to a minimum value of €6.5 million indemnifying Kerry County Council against third party claims. The Council reserves the right to review this limit of indemnity for adequacy. On the Licence, the name of the Insurance Company providing this cover, together with Policy Number and Date of Expiry shall be stated. Before the licence is issued, the insurance policy shall be submitted for inspection. The licensee is required to maintain a valid policy for the duration of the licence period.
17. a) Furniture and other items shall be removed immediately if requested by Kerry County Council. Equally, Kerry County Council reserves the right to cancel, suspend or vary the terms of the licence at any time. No claim for damages or loss of income under any heading shall be taken against Kerry County Council for suspending, cancelling or varying the terms of the licence.
    * 1. No claim for compensation shall be entertained in respect of damages or losses suffered as a direct or indirect consequence of the maintenance requirements of any statutory undertaker.
      2. All costs incurred by Kerry County Council, including any repairs to the public road and services necessary arising as a result of the operation of the licence, shall be at the expense of the licensee. Only Kerry County Council shall carry out work on the public road/footpath. The Council may condition that furniture cannot be permanently affixed to the footpath or road. The licensee shall enter into an agreement with Kerry County Council to pay for any repairs to the footpath or public roadway arising from the licence.
18. The Council reserves the right to refuse an application for street furniture and spandrels having regard to the recommendations of an Accessibility Audit.
19. If intoxicating liquor is being served in the area covered by this licence, the licensee must also comply with the requirements of the Intoxicating Liquor Acts. Failure to comply with the provisions of the Act may result in the withdrawal of the Street Furniture Licence.
20. Kerry County Council may reduce or remove the licensed area in any particular case, where the occupied space is required in the interests of public safety to facilitate an event during the course of the licence period.
21. A copy of the licence shall be prominently displayed on the premises where it can be inspected by Kerry County Council officials.
22. The application form must be accompanied by an accurate dimensional drawing of the area to be licensed showing the proposed number of tables and chairs, the types of tables, chairs and removeable spandrels to be used together with all statutory services in the area and obstructions. The licensee must ensure that the street furniture do not pose a trip or fire hazard.
23. Direct entry between the public footpath and the entrance to the premises shall be maintained at all times.
24. Visibility at junctions, accesses, etc., shall not be obstructed by the tables and chairs.
25. Regard must be given to the level of pedestrian movement in determining the adequacy of the street to accommodate the proposal. The Council following discussions with relevant bodies will determine the minimum clearance width required before licensing and will also take into consideration any other public health advice requirements that may apply from time to time. Additional public health requirements introduced following granting of a licence could require the licence to be rescinded by the Council.
26. Storage of tables, chairs and ancillary equipment is expressly prohibited in a public area or in the vicinity of an emergency exit
27. Any structure permanently affixed to the footway or road shall require the consent of the Road Authorities approval in accordance with the S 34 of the Planning and Development Act 2000, as amended.
28. All patrons within the licenced area must be seated
29. The time street furniture shall be placed on the street may be determined by the Local Authority as part of the application process. In general, the placing of street furniture after 22:00 hours in any given day may only be permitted following consultation with An Garda Síochána and the Planning Authority may impose a specific condition having regard to the advice of An Garda Síochána.
30. No music apparatus shall be used within the licensed area.
31. Access for maintenance purposes and the associated under-ground or over-head services shall be available at all times.
32. All water main covers, sewer manholes and service access points for ESB and Telecom services shall be accessible at all times and no table, chair or other goods shall be positioned over a fire hydrant.
33. The use of public lighting equipment for unauthorised supports or attachments is not permitted.
34. Any heaters provided within the licenced area must comply with fire standards and agreed with the Fire Authority, the details of which must be included as part of the application for a licence.
35. The placing of advertising boards, the storage of goods, the display of goods on public footpath, carriageway or laneway outside the licence area is not permitted.
36. The granting of licences does not automatically guarantee renewal the following year. The Licensee shall not sub-let the licensed area.
37. A change in use of the licensed area shall require a new application for a licence.
38. The Council reserves the right to apply a specific condition in the grant of a licence application, where appropriate.

***Reviewed:- 18th June 2020***