**GUIDANCE ON TEMPORARY OUTDOOR SPACES FOR PUBS, RESTAURANTS & CAFÉS**

**Scope of the Guidance**

The First Minister has set out a timetable for the re-opening of parts of society over the next two months as per her [announcement](https://www.gov.scot/news/timetable-for-further-lockdown-easing/) on 16th March 2021.

The Scottish Government’s COVID 19 Route Map for coming out of the Lockdown permits pubs, restaurants and cafés to open outdoor spaces with physical distancing and increased hygiene measures in place.

**This temporary guidance is in response to the current COVID-19 crisis and will be reviewed on the basis of advice from the Scottish Government. It is focussed on the main shopping areas in the city, although the general principles apply city-wide.**

The Council has established a Hospitality Task Force to respond to requests for the use of outdoor spaces by pubs, restaurants and cafés. The Task Force includes officers from Council services including licensing, planning, roads & transport, environmental health and building standards. This guidance sets out the matters that will be considered in determining whether proposals are acceptable. To support businesses to reopen, a reasonable and proportionate approach will be taken towards proposal for temporary outdoor seating areas. However, the Council reserves the right to consider formal enforcement action if the Design Principles set out at the end of this Guidance Note are not met.

**Outwith the Scope of the Guidance**

Marquees, tents, canopies or ‘enclosed type structures’ will not be acceptable unless you have written agreement from Buildings Standards and Planning (Planning Permission and/or Building Warrant may be required in some cases). Parasols should not be attached to any buildings.

For further guidance on this aspect, a design consultation should take place direct with the Planning Department and Building Standards (Please note these services are separate with separate legislation and require to be contacted individually)

Contact Details Planning - [planning@dundeecity.gov.uk](mailto:planning@dundeecity.gov.uk)

Contact Details Building Standards – [bs@dundeecity.gov.uk](mailto:bs@dundeecity.gov.uk)

In addition to the mandatory processes such as licensing and licensing conditions we need to also take account of the Scottish Governments’ [**COVID Hospitality Sector** Protocols](https://www.gov.scot/publications/coronavirus-covid-19-tourism-and-hospitality-sector-guidance/) and [Checklist](https://www.gov.scot/publications/coronavirus-covid-19-tourism-and-hospitality-sector-guidance/pages/operational-guide-and-checklist/) updated January 2021.

**Process for Pavement Café & Occasional Licence**

Prior to the commencement of any new use of an outdoor space on a temporary basis, details of the proposal must be submitted to the Hospitality Task Force for review. In developing proposals, businesses should adhere to the Design Principles at the end of this form.

Following assessment of the information submitted, advice will be given on the acceptability of the proposed use and whether any licences or statutory consents are required. Please send the following to: [tourism@dundee.com](mailto:tourism@dundee.com)

* A location plan (ideally scaled at 1:1250 or 1:500) clearly illustrating the extent of the external area to be used
* A plan which clearly shows the proposed layout and ‘workflow’ of the area (e.g. access & egress points, building links, dimension of seating area, table, chair and other furniture arrangements and their spacing, plus any barriers or enclosures) and the physical distancing measures
* Details of any advertisements including those on banners
* A statement of how you will operate/trade and proposed hours of trading\* within the relevant application form
* Relevant Pavement Café Application\*\*
* [COVID Risk assessments (reviewed December 2020)](https://www.hse.gov.uk/coronavirus/working-safely/risk-assessment.htm)

\*\*[Pavement Café with alcohol](https://www.dundeecity.gov.uk/sites/default/files/v17_covid-19_pavement_cafe_-_outside_area_application_-_mar_2021.doc)

\*\*[Pavement Café without alcohol](https://www.dundeecity.gov.uk/sites/default/files/publications/v6_covid_19_pavement_cafe_-_no_alcohol_1.doc)

**Planning**

Where businesses follow the design principles, the temporary use of land and the erection or placing of moveable structures (e.g. seating, barriers & heaters) will be supported without planning permission whilst physical distancing currently until the end of September 2021. This is a proactive and discretionary approach to enforcement of planning controls and not a planning permission. Planning enforcement action may be taken if the design principles are not followed. Planning permission is required if the use is to be continued outwith the COVID restrictions or if it involves non-moveable structures, for example fencing, canopies attached to buildings or raised decking.

**Roads & Transport**

The temporary change of use to use the existing public road including parking bays to create additional and new outside space must follow the design principles for consideration.

Where there is a level difference between the carriageway and footway for the outside seating areas, temporary ramps must be provided.

The temporary outside seating areas must be clearly separated and protected from both pedestrian and vehicular traffic maintaining a clear passage for all footway users including wheelchair users passing along the footway.

Any outside seating placed on the carriageway will require protective features at either end and a further barrier in between to ensure customers do not stray into live traffic. All temporary barriers positioned on the carriageway (e.g. barriers or planters) will require to meet standards appropriate to the prevailing road conditions including some form of reflections – e.g. carriageway width, speed and volume of traffic and level of protection will depend on nature of the road.   Please include details & images in your plan for consideration by Roads & Transport.

For any planters or street furniture behind a kerbline no additional measures required. Equally a full road closure with no exemptions no additional measures.

The temporary outside seating areas must be available for removal at short notice for access for Statutory Undertakers and Dundee City Council to carry out emergency works.

Where business are seeking to occupy parking bays where are a charge is made (i.e. pay & display bays or within a car park), then a charge of £20 per week, per parking bay will be levied. This charge will offset a proportion of lost parking income. Payment will be agreed in advance with businesses following assessment of their requirements.

**Licensing**

If alcohol is to be served in the outside area, then it must be licensed for on-sale consumption. If the outdoor area already forms part of a Premises Licence, than the area can be utilised under the current terms of that Premises Licence. If the premises is seeking to extend the hours of the outside area they can apply for an occasional licence to cover the extra hours.

If the outdoor area is not currently part of a Premises Licence, then the Licensing Board will consider use of Occasional Licences as a temporary measure. An [Occasional Licence](https://www.dundeecity.gov.uk/sites/default/files/v10_covid_19_pavement_cafe_-_outside_area_application_29_june_2020_including_drawinh_requirements_and_risk_assessment.doc) has a maximum duration of 14 days in terms of the legislation and that is not something that the Board can extend or alter. For pubs, restaurants and cafés, a series of Occasional Licenses can be submitted at the same time and the full block paid in advance (£10 per 2 week block).

We will relax the requirement to submit applications four weeks in advance and all attempts will be made to process applications as quickly as possible, however turnaround times cannot be guaranteed.

**Building Standards**

Building Standards consider when assessing your application for licensing what you are proposing in relation to the outdoor space and the related business it is associated with. Therefore to determine if there are any consents required provide us with as much information as possible in relation to your proposal e.g drawings of any proposed structures/photographs/sketches. We research the following:

* Existing premises and any outstanding issues regarding Building Warrants that do not have completion certificates or are under consideration at the time and if this impacts your proposal;
* Are you proposing any raised structures – If Yes Section 89 application will be required;
* Are you proposing any marquees/tents or other, structure to cover the area proposed for your outside area – Warrant required ;
* Are there any outstanding Enforcement issues on the associated property;
* Have any works been carried out without Building Warrant which adversely affect your proposal or are part of your proposal. This could result in Building Standards serving a Section 27 Enforcement Notice should these works not be regularised.
* Any unauthorised structures should not be used without the relevant consents in place from Building Standards. This is an offence and could result in Enforcement action being taken.
* Temporary structure - Building standards technical handbook 2019: domestic - 0.3 Exempted buildings and services, fittings and equipment - 0.3.2 Schedule 1 - Type 16

A building which, during any period of 12 months, is either erected or used on a site – for a period not exceeding 28 consecutive days, or for a number of days not exceeding 60, and any alterations to such buildings.

We would encourage early discussion with Building Standards to allow us to make an informed assessment of your proposal.

**Environmental Health**

Food & Health Safety

If your food business has been closed over this period due to Coronavirus Restrictions, there are various measures for Food Business Operators (FBOs) to consider when they are planning to re-start their food business. For further advice and guidance on the issues and control measures you need to consider implementing them, further information [**here**](https://www.dundeecity.gov.uk/sites/default/files/publications/160620_final_food_business_advice_-_reopening_during_covid-19_restrictions.docx)

***Further guidance***

<https://www.gov.scot/publications/coronavirus-covid-19-tourism-and-hospitality-sector-guidance/pages/operational-guide-and-checklist/#food>

<https://www.foodstandards.gov.scot/publications-and-research/publications/covid-19-guidance-for-food-business-operators-and-their-employees>.

**Design Principles**

* Be a good neighbour. Outside seating areas should be visible from your existing premises and kept under supervision. Residential amenity should be respected
* If seating area extends beyond the frontage of your property, then you should have the consent of any neighbouring property(s) to extend in front of their frontage
* The needs of other footway users to maintain physical distancing must be respected. This includes sufficient space for possible queuing
* Where extended and widened footpaths have been created by the Council to allow for physical distancing, seating areas should be located in these areas rather than immediately adjacent to the front of a premises, particularly if queuing is expected. This is to ensure safe pedestrian flow
* A clear route (eg minimum 2 metres) must be maintained to allow other footway users to pass the outdoor seating area without obstruction. Staff should be suitably trained in crossing the footway to serve customers, particularly those carrying hot food or beverages.
* Emergency exit routes from your own or neighbouring property must not be obstructed
* The location of permanent street furniture should be considered in any design (eg bins, benches, bus stops) as well as street drains
* Any perimeter enclosures over 1 metre should be partially see-through in order to maintain visibility of activity
* Seating and tables should be of reasonable quality, and continuity of design with any surrounding premises is encouraged. The surfaces of seating and tables must be capable of being easily cleaned and disinfected. Appropriate ‘greening’ and landscaping is encouraged
* The ‘table plan’ must ensure there is physical (social) distancing as per government guidance between each table with adequate space to enable service/front of house staff to maintain the required distance from customers
* All furniture and fixtures must be removed and stored inside each evening at the end of trading, and not be fixed into the street or pavement surface
* Furniture (including umbrellas & protective barriers) must be weather proof where possible and be able to withstand high winds and uneven surfaces
* Suitable storage and collection of refuse must be made and must be kept clean
* Heaters and additional street lighting should be discouraged unless a formal risk assessment has been undertaken
* External public address systems or amplified music will not be acceptable
* Marquees, tents, canopies or ‘enclosed type structures’ will not be acceptable unless you have written agreement from Buildings Standards and Planning (Planning Permission and/or Building Warrant may be required in some cases). Parasols should not be attached to any buildings
* Amplified/Non-amplified music will **NOT** be permitted in the pavement café / outside drinking area
* All notices required for Consumer Protection/Environmental Health legislation must be displayed including those detailing the increased public health hygiene measures and messages on physical distancing etc. concerning COVID-19

**Note:** Toilet provision-should be in accordance with any guidance issued by [Scottish Government](https://www.gov.scot/publications/coronavirus-covid-19-public-and-customer-toilets-guidance/pages/hygiene-measures/).

Please be aware that utilising an outdoor space on the pavement or street does not imply an exclusive right to the area, and the Council reserves the right to gain access to the area, e.g. for cleaning, maintenance, repairs or for city events. This also applies to organisations such as Statutory Undertakers.

**Completed applications and plans to Hospitality Task Force:** [**tourism@dundee.com**](mailto:tourism@dundee.com)

**For further information:**

Licensing [licensing.board@dundeecity.gov.uk](mailto:licensing.board@dundeecity.gov.uk)

Planning Department [planning@dundeecity.gov.uk](mailto:planning@dundeecity.gov.uk)

Roads & Transport [roadworks@dundeecity.gov.uk](mailto:roadworks@dundeecity.gov.uk)

Building Standards bs@dundeecity.gov.uk

Environmental Health: Food and Health and Safety [food.safety@dundeecity.gov.uk](mailto:food.safety@dundeecity.gov.uk) [health.safety@dundeecity.co.uk](mailto:health.safety@dundeecity.co.uk)