



**CITY MANAGER
EXECUTIVE ORDER 2021-16
OFF PREMISE DINING & BAR OPERATIONS**



June 30, 2021

A handwritten signature in black ink, appearing to read "T. Gleason".

Tim Gleason, City Manager

§ 16.1 AUTHORITY

This executive order is issued pursuant to Chapter 38, Section 78(C) of the City Code.

§ 16.2 BACKGROUND

To help provide safer dining options as a result of the COVID-19 pandemic, the City streamlined its process for allowing off-premise dining using its emergency powers. Although the City Council recently repealed its emergency ordinance, the City Council adopted a companion ordinance that amended the City Code to allow the City Manager to establish, by written executive order, guidelines and provisions that allow outdoor dining inconsistent with the City's standard approval process.

§ 16.3 ADOPTION OF RULES FOR NEW OUTDOOR SERVICE OPERATIONS; RENEWALS

- A. Effective July 1, 2021, the rules attached as Exhibit A shall apply to establishments providing regulated outdoor dining and/or bar service. Any applicable fees shall be waived. In order to operate an outdoor service area, the application and agreement, attached as Exhibit A, and a floor plan of the proposed outdoor service area (hand drawn plans will be acceptable) must be submitted and approved by the City Manager, or designee, prior to the opening any off premise outdoor service area.
- B. All Establishments must comply with all ADA requirements and sign the City's Accessibility Acknowledgment Notice.
- C. Establishments that have an existing Outdoor Dining & Service Agreement with the City may renew their agreement by completing the renewal application located at the top of the City's website (www.cityblm.org) and signing the City's Accessibility Acknowledgment Notice.
- D. Any establishment utilizing outdoor heating must comply with the City's Temporary Outdoor Heating Guidelines attached as Exhibit B.

§ 16.4 EXISTING OUTDOOR SERVICE OPERATIONS

Permanent outdoor service areas established prior to local emergency orders and the State plan, may be used, but must also comply with existing local, state, and federal rules, as well as the rules attached as Exhibit A.

§ 16.5 NOISE RESTRICTIONS

Music may be played until 10:00 p.m., provided it does not disturb neighboring residences or businesses, and does not violate the noise ordinance of the City of Bloomington located in Chapter 28, Section 107 of the Bloomington City Code. Music shall cease after 10:00 p.m.

§ 16.6 CLOSING TIMES OF OUTDOOR SERVICE AREAS

All outdoor service areas must close at 10:30 p.m. Sunday through Thursday and midnight on Fridays and Saturdays. It is the sole responsibility of the business owner (permit holder) to enforce closure times including prohibiting loitering in outdoor areas. The City Manager, through written approval, reserves the right to amend times depending upon circumstances.

§ 16.7 EFFECTIVENESS

This City Manager Executive Order 2021-16 shall be effective July 1, 2021, through December 30, 2021, unless repealed or amended further by the City Manager.



OUTDOOR DINING & BAR SERVICE OPERATION RULES
(Effective July 1, 2021)

1. Outdoor seating areas shall be allowed within public rights-of-way (sidewalks, green spaces, alleys, parking spaces, parking lots, etc.) along the business' frontage. Establishments may expand outdoor dining in front of neighboring businesses or to other areas with written permission from immediately adjacent property/business owners or from the City of Bloomington.
2. Outdoor seating areas must comply with any and all applicable requirements of the Americans with Disabilities Act ("ADA") and execute an Accessibility Acknowledgement Notice that they are aware of the requirements and are in compliance. This ADA compliance includes, but is not limited to:
 - a. **Accessible tables:** At least 5% of the tables, or at least 1 if less than 20 are provided, must be accessible and accommodate people using wheelchairs if doing so is readily achievable. Movable chairs can be used for these tables with chairs removed when people using wheelchairs use the table(s).
 - b. **Location of accessible tables:** Accessible surfaces where required shall be dispersed throughout the dining spaces and not clustered in a single area. If not readily achievable, services must be provided in another accessible location available to all customers. This means that accessible tables must be provided in the outdoor dining area (i.e., on the street or sidewalk).
 - c. **Table height:** Accessible tables must have a surface height of no more than 34 inches and not less than 28 inches above the floor. At least 27 inches of knee clearance must be provided.
 - d. **Accessible route:** There must be access to each accessible table and a clear floor area of 30 inches by 48 inches. The clear floor area extends 19 inches under the table for leg and knee clearance.

More information on ADA compliance and requirements can be found on the City's website at www.cityblm.org/ada. It should be noted these are minimum requirements, and the City encourages all establishments to pursue even greater accessibility for patrons. Establishments that desire to do more and/or that have questions on compliance should contact the Chris McAllister, Building Official, at 309-434-2447.

3. Establishments must create physical boundaries for outdoor seating areas and avoid creating conflict points between pedestrians and vehicles. Examples include caution tape, planters, parking blocks, etc.
4. Areas may not block handicapped parking spaces, fire lanes, hydrants, or sprinkler system connections and must leave at least 6 feet of passable distance if established on sidewalks.
5. Outdoor seating areas shall be located at least one parking spot from a corner or protected by a concrete barrier, sidewalk bulb-out, or other similar feature if located at the corner. All City placed barriers must not be moved or adjusted by the Establishment. Moving said barriers may result in revocation of the Establishment's permit.
6. Establishments shall be responsible for providing adequate trash, litter, and refuse disposal in and around the expanded area. Tables shared amongst businesses must have a single point of cleaning responsibility.
7. Indoor restroom access must be provided to customers. Appropriate spacing for waiting and ordering and an accessible route from outdoor eating areas to restrooms shall be created.

8. If constructed, outdoor dining area decking must be flush with the curb and may not have more than ½” gap from the curb. If decking is installed, a minimum 36” ADA accessible entryway to the parklet must be maintained for all parklets. Decking must be constructed of durable material capable of withstanding weather elements. Deck installation shall not damage the sidewalk, street, curb, or any aspect of the public right-of-way. Drainage shall not be blocked, especially along the curb line.
9. Music may be played until 10:00 p.m., provided it does not disturb neighboring residences or businesses, and does not violate the noise ordinance of the City of Bloomington located in Chapter 28, Section 107 of the Bloomington City Code. Music shall cease after 10:00 p.m.
10. Outdoor seating areas must close to the public by 10:30 p.m. Sunday-Thursday and midnight on Fridays and Saturdays. The City reserves the right to amend times depending upon circumstances.
11. Establishments with existing liquor licenses, with no pending violations, may serve alcohol in the temporary expanded area after notifying the City Clerk via completion of the Outdoor Dining & Service Application. Open alcohol may not be removed from this area.
12. Tents with a minimum of 2 sides open shall be allowed upon approval by the City of Bloomington.
13. Establishments shall provide outdoor hand washing /sanitizing stations.
14. Establishments located on private property may utilize up to 50% of their parking lot for outdoor service.
15. Off premise cooking, bartending, or buffets outside shall not be allowed. Smoking is likewise prohibited.
16. The permittee must agree to indemnify and defend the City of Bloomington against any loss or claim from any third party resulting in any way from the permittee’s establishment or operation of a temporary outdoor seating area. Permittee must also have adequate liability insurance coverage for its establishment and operation of the temporary outdoor seating area naming the City of Bloomington as an additional insured. Proof of said insurance must be kept on file and up to date with the City Clerk.
17. The authorization for temporary outdoor seating continues through December 30, 2021 unless earlier terminated by the City. The City of Bloomington may terminate any temporary outdoor seating permit if it determines that a business is in violation, or if it is in the City’s best interest to do so.



ACCESSIBILITY ACKNOWLEDGMENT NOTICE

By execution of this Accessibility Acknowledgment Notice (“Notice”), I acknowledge and agree that I have read and been informed about the content, requirements and expectations of Americans with Disabilities Act (“ADA”) compliance related to my provision of outdoor dining and/or bar service. Specifically, I acknowledge and agree that outdoor seating areas must comply with any and all applicable requirements of the ADA. As a result, I acknowledge and agree that I must have accessible tables and routes for my establishment’s outdoor guests and patrons. This specifically includes:

- a. **Accessible tables:** At least 5% of the tables, or at least 1 if less than 20 are provided, must be accessible and accommodate people using wheelchairs if doing so is readily achievable. Movable chairs can be used for these tables with chairs removed when people using wheelchairs use the table(s).
- b. **Location of accessible tables:** Accessible surfaces where required shall be dispersed throughout the dining spaces and not clustered in a single area. If not readily achievable, services must be provided in another accessible location available to all customers. This means that accessible tables must be provided in the outdoor dining area (i.e., on the street or sidewalk).
- c. **Table height:** Accessible tables must have a surface height of no more than 34 inches and not less than 28 inches above the floor. At least 27 inches of knee clearance must be provided.
- d. **Accessible route:** There must be access to each accessible table and a clear floor area of 30 inches by 48 inches. The clear floor area extends 19 inches under the table for leg and knee clearance.

Due to the very minimum and basic requirements outlined above, I acknowledge these are readily achievable and will advise the City, in writing, with any requirement that is not readily achievable for my establishment including a detailed explanation of why such requirement cannot be achieved.

I acknowledge my Outdoor Dining permit may be revoked for failure to abide by the ADA requirements and standards.

More information on ADA compliance and requirements can be found on the City’s website at www.cityblm.org/ada.

I acknowledge these are minimum accessibility requirements, and that the City encourages all establishments to pursue even greater accessibility for patrons. I further I acknowledge I have been given the contact information for the Chris McAllister, Building Official, at 309-434-2447, for who to contact if I have questions or want to discuss increasing accessibility for patrons beyond the minimum requirements.

Signature of Permittee / Establishment

Title

Date



OUTDOOR DINING & BAR SERVICE OPERATION APPLICATION & AGREEMENT

Establishment Legal Name: _____

Establishment DBA Name: _____

Establishment Address: _____

Establishment Representative Name: _____

Establishment Representative's Phone Number: _____

Establishment Representative's Email Address: _____

Yes No Is the Establishment seeking renewal of an existing Outdoor Dining & Service Area permit?

Yes No If the Establishment maintains a City liquor license, does the Establishment intend to serve liquor in the proposed outdoor space?

Yes No Does the Establishment intend to erect a tent or other accessory structure in the proposed outdoor space? *Note: A tent less than 120 sq ft. does not require a tent permit. All tents shall comply with the requirements of the International Building Code Section 3103 and International Fire Code Chapter 31.*

If Yes, please complete the following:

Tent Contractor Name: _____

Contractor Phone Number: _____

Tent Size: _____ Install Date: _____ Removal Date: _____

In consideration of being issued authorization to conduct off-premises services, the undersigned Establishment (also referred to as "Permittee") agrees as follows:

1. The Establishment agrees to and shall follow the City of Bloomington ("City") Outdoor Dining & Bar Service Operation Rules ("Rules") and all other applicable laws. Failure to comply may result in suspension of off premise operation privileges and/or other applicable citations or violations.
2. A floor plan of the proposed outdoor service area (hand drawn plans acceptable) is attached to this application or will be promptly submitted, which Permittee agrees to maintain while providing off premise services. The floor plan must demonstrate physical boundaries, as required by the Rules, that will be used for the outdoor seating area.
3. In accordance with this application and agreement, the Permittee agrees to indemnify and defend the City of Bloomington against any loss or claim from any third party resulting in any way from the permittee's establishment or operation of a temporary outdoor seating area.
4. Permittee agrees to and will provide adequate liability insurance coverage for its establishment and operation of the temporary outdoor seating area naming the City of Bloomington as an additional insured. Proof of said insurance must be kept on file and up to date with the City Clerk.
5. The Establishment is in compliance with ADA Standards, including those specifically identified in the Rules, has executed the Accessibility Acknowledgement Notice and understands that any non-compliance of the aforementioned, will cause the permit to be revoked, and continued operation shall cause the business entity to be in violation of City Code for operating without a permit.
6. The authorization for temporary outdoor seating shall continue only through December 30, 2021, unless earlier terminated by the City.

Signature of Permittee / Establishment

Title

Date



TEMPORARY OUTDOOR HEATING GUIDELINES

PORTABLE OUTDOOR GAS-FIRED HEATERS (PATIO HEATERS)

Section 603.4.2 of the Fire Code specifically regulates portable outdoor gas-fired heating appliances, commonly known as patio heaters.

Appliance Location Restrictions

- **Clearance to Combustible Materials**

Portable outdoor gas-fired heating appliances shall not be located beneath, or closer than 5 feet to combustible decorations and combustible overhangs, awnings, sunshades, or similar combustible attachments to buildings.

- **Clearance to Buildings**

Portable outdoor gas-fired heating appliances shall be located at least 5 feet from buildings.

- **Prohibited Storage or Use**

The storage or use of portable outdoor gas-fired heating appliances is prohibited in any of the following locations:

- o Inside of any occupancy when connected to the fuel gas container
- o Inside of tents, canopies and membrane structures
- o On exterior balconies

- **Proximity to Exits**

Portable outdoor gas-fired heating appliances shall not be located within 5 feet of exits or exit discharges.

Installation and Operational Requirements

In accordance with Section 603.4.2.2 of the Fire Prevention Code, portable outdoor gas-fired heating appliances shall be installed and operated in accordance with the following regulations:

- **Listing & Approval**

Only listed and approved portable outdoor gas-fired heating appliances utilizing a fuel gas container that is integral to the appliance shall be used.

- **Installation & Maintenance**

Portable outdoor gas-fired heating appliances shall be installed and maintained in accordance with the manufacturer's instructions.

- **Tip-over Switch Required**

Portable outdoor gas-fired heating appliances shall be equipped with a tilt or tip-over switch that automatically shuts off the flow of gas if the appliance is tilted more than 15 degrees from the vertical.

- **Guard Against Contact Required**

The heating element or combustion chamber of portable outdoor gas-fired heating appliances shall be permanently guarded to prevent accidental contact by persons or material.

Fuel Gas Containers

In accordance with Section 603.4.2.3 of the Fire Prevention Code, fuel gas containers for portable outdoor gas-fired heating appliances shall comply with the following:

- **Approved Containers**

Only approved DOTn or ASME gas containers shall be used.

- **Container Replacement Restriction**

Replacement of fuel gas containers in portable outdoor gas-fired heating appliances shall not be conducted while the public is present.

- **Container Capacity Limitation**

The maximum individual capacity of gas containers used in connection with portable outdoor gas-fired heating appliances shall not exceed 20 pounds.

Fuel Gas Containers Cont.



- **Prohibited Storage of Containers**

Gas containers shall not be stored inside of buildings, or in any location near exit access doors, exits, stairways, or areas normally used, or intended to be used, as a means of egress. Containers not connected for use shall not be stored on roofs.

- **Outside Storage of Containers**

Gas containers approved for outside storage shall be located in a manner that minimizes exposure to excessive temperature rise, physical damage, and/or tampering, which includes a lockable, ventilated metal cabinet or other approved enclosure.

PORTABLE ELECTRIC SPACE HEATERS



General Regulations

In accordance with Section 604.10 of the Fire Code, portable electric space heaters shall be permitted to be used in accordance with the following regulations:

- Shall be listed and labeled in accordance with UL 1278. (604.10.1)
- Shall be installed and maintained in accordance with the listing and instructions. (604.7)
- Shall be operated only in locations for which they are listed. (604.10.4)
- Shall be plugged directly into an approved receptacle. (604.10.2)
- Shall not be plugged into extension cords. (604.10.3)
- Shall not be operated within 3 feet of any combustible materials. (305.1 & 604.10.4)
- Heating elements shall be permanently guarded so as to prevent accidental contact by persons or material. (603.5.1)

ADDITIONAL PROHIBITIONS & REQUIREMENTS



Approval, Listing, and Labeling

Portable heating equipment must be listed and/or labeled for its intended use. In some cases, portable heating equipment may be required to be approved.