



CITY MANAGER  
EXECUTIVE ORDER 2023-01  
OUTDOOR DINING & BAR OPERATIONS



March 21, 2023

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

\_\_\_\_\_  
Tim Gleason, City Manager

**§ 23.1.1 AUTHORITY**

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

**§ 23.1.2 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 Although the City Council recently repealed its emergency ordinance, the City Council adopted a companion ordinance that amended the City Code to allow the City Manager to establish, by written executive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. The rules and permitting processes set forth here apply to outdoor seating areas within the public rights-of-way (sidewalks, green spaces, alleys, parking spaces, parking lots, etc.) along the business' frontage.

**§ 23.1.3 ADOPTION OF RULES FOR NEW OUTDOOR SERVICE OPERATIONS; RENEWALS**

- A. Effective March 21, 2023, the Outdoor Dining & Bar Operations 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 B, 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, included in Exhibit B.
- C. Establishments wishing to receive an Outdoor Dining & Service Agreement with the City may apply by completing the Outdoor Dining & Service application located at the top of the City's website ([www.bloomingtonil.gov](http://www.bloomingtonil.gov)) 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 C.
- E. Penalties for violating the Outdoor Dining & Bar Operations Rules shall be as set forth in the section on Violation Enforcement in Exhibit A, which is incorporated herein as if fully stated.

**§ 23.1.4 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.

**§ 23.1.5 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.

**§ 23.1.6 EFFECTIVENESS**

This City Manager Executive Order 2023-01 shall be effective March 21, 2023, through October 31, 2023, unless repealed or amended further by the City Manager.

## OUTDOOR DINING & BAR OPERATIONS RULES

### Section 1. General Rules

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 & Bar Operations 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. The permit period for Sidewalk Café shall be April 17, 2023, to October 31, 2023, and the permit period for all other City right-of-way areas shall be April 26, 2023, through October 31, 2023. Operation of any City sidewalk or other right-of-way for Outdoor Service shall be prohibited outside of the permit period. Please note, 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. Outdoor Dining & Bar Operations applications may be taken in advance of April 17, 2023, but no permits shall be effective earlier than the dates specified herein.
3. 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. More information on ADA compliance and requirements can be found on the City's website at [www.cityblm.org/ada](http://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.
4. 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. If the use of City owned barriers are required, establishments are not permitted to hang or affix items to said barriers.
5. 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.
6. 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.
7. Outdoor Dining & Bar Operations area is restricted to table seating. Standing room only is not permitted.
8. Establishments shall be responsible for providing adequate trash, litter, and refuse disposal in and around the expanded area.
9. 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.

10. If constructed, Outdoor Dining & Bar Operations 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.
11. Establishments may only use **unbranded tents** which shall be allowed upon approval by the City of Bloomington.
12. Initial Voluntary Compliance Check. Upon Initial set up, all permitted establishments will receive one compliance check at beginning of permit. The establishment shall have 15 days to make adjustments to bring Outdoor Dining & Bar Operations area into compliance. If found not in compliance after 15 days, the establishment will be considered in violation.
13. 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.
14. **Outdoor seating areas must close to the public by 10:30 p.m. everyday.** When closed (no later than 10:30 p.m.), dining areas must be cordoned off and disabled for use by the public. Disabled is defined as: stowing away, covering, chaining, and/or storing tables, chairs, picnic tables and other seating to prohibit congregating by the public. Proper cleaning of the dining area and adjacent areas is also required. The City reserves the right to amend times depending upon circumstances.
15. Establishments with liquor licenses may serve alcohol in the temporary seating area after approval of an Outdoor Dining & Bar Operations Permit by the City Clerk and subject to rules approved by the Local Liquor Commission. Any liquor licensee violating a provision of these rules or the City Liquor Code may have its ability to serve liquor suspended or revoked for the temporary seating area.
16. Open alcohol may not be removed from the temporary seating area. **Open alcohol on public property is prohibited by law.** It is the establishment's responsibility to ensure that no alcohol is removed from the Outdoor Dining & Bar Operations area. Any establishment found in violation hereof may be cited and sanctioned under Chapter 6 Section 37E of the City Code and subject to having its Outdoor Dining & Bar Operations Permit suspended or revoked.
17. Off premise cooking, bartending, or buffets outside shall not be allowed. Smoking is likewise prohibited.
18. 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.

**Section 2. Violations of General Rules**

1. In addition to any specific penalty or sanction provided above in Section 1, if any establishment is found in violation of the General Rules or terms of its application, a citation may be issued as set forth in this section or the City Manager may suspend or revoke the permit.
2. If a citation is issued, it shall specify the violation and shall subject the permittee to a hearing in Administrative Court. The establishment shall be fined not less than \$50 nor more than \$500 for each offense; and a separate offense shall be deemed to have occurred on each day during or on which a violation occurs or continues.
3. In the alternative to a citation, the City Manager may suspend or revoke the Outdoor Dining & Bar Operations Permit based on one or more violations of these rules. If the City Manager suspends or revokes an Outdoor Dining & Bar Operations Permit, such must be done in writing and served upon the permittee via email and/or mail. The permittee may appeal the suspension or revocation by written appeal submitted to the Corporation Counsel within seven (7) days of the service of the suspension or revocation. Upon a timely filed appeal, a hearing officer will be designated by the City to hear the appeal to decide whether the violation occurred. Service under this section shall be established through email to the email address provided by the permittee on its application.



## Outdoor Dining & Bar Operations Application

**Applicant Business Contact Information:** *Please fill in your business information completely and legibly.*

<b>Legal Entity Name (Corporate/LLC Name)</b>	
<b>Doing Business As (DBA) OR Establishment Name</b> <i>(Assumed names must be registered with the State of Illinois)</i>	
<b>Establishment Address including Zip</b>	
<b>Establishment Phone Number</b>	
<b>*Email Address for <u>ALL</u> City Communications:</b>	

*\*Note, that all City communications related to this Application and/or the resulting license, if approved, will be sent by email to the email designated for all City Communications. It is the responsibility of the business to notify the City of any changes.*

### BELOW PLEASE LIST THOSE RESPONSIBLE FOR LICENSING THE ESTABLISHMENT

**Primary Contact:**

<b>Name (First &amp; Last)</b>	<b>City</b>	<b>State</b>	<b>Zip</b>
<b>Phone Number</b>	<b>Email Address</b>		

**Contact Information for the Legal Entity's Agent:**

<b>Name (First &amp; Last)</b>	<b>City</b>	<b>State</b>	<b>Zip</b>
<b>Phone Number</b>	<b>Email Address</b>		

**Contact Information for the 24/7 Emergency Contact in McLean County:**

<b>Name (First &amp; Last)</b>	<b>City</b>	<b>State</b>	<b>Zip</b>
<b>Phone Number</b>	<b>Email Address</b>		

**Permit Options for Dining Area: (Please choose one.)**

1. Select the Location of Outdoor Dining & Bar Operations Area:
- |  |  |
|--|--|
| <input type="checkbox"/> Sidewalk Only                     | <input type="checkbox"/> Sidewalk and City Street/Parking Space(s) |
| <input type="checkbox"/> City Street/Parking Space(s) Only | <input type="checkbox"/> Private Property                          |

**Specifics:**

1.  Yes  No Is the Establishment seeking renewal of an existing Outdoor Dining & Bar Operations Area permit?
2.  Yes  No If the Establishment maintains a City liquor license, does the Establishment intend to serve liquor in the proposed outdoor space?
3.  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.*
  - 3A. If Yes, please complete the following:
 

Tent Contractor Name: _____	Contractor Phone Number: _____
Tent Size: _____	Install Date: _____ Removal Date: _____
4.  Yes  No Has the Applicant Establishment been denied this permit within the past 12 months?
5.  Yes  No Has the Applicant Establishment received any violations within the past 12 months?
6.  Yes  No Has the Applicant Establishment had this permit revoked within the past 12 months?
7. **Please attach any additional information significant to this application.**



## OUTDOOR DINING & BAR OPERATIONS GENERAL RULES

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17. Off premise cooking, bartending, or buffets outside shall not be allowed. Smoking is likewise prohibited.
18. 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.

I, \_\_\_\_\_, swear or affirm that:

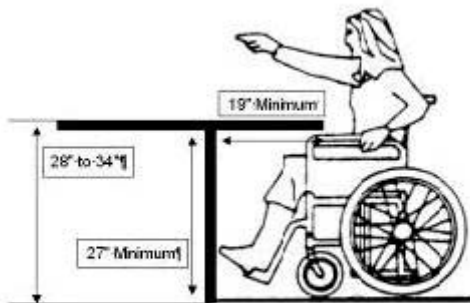
1. I am authorized to sign as an owner, officer, or authorized agent, of the above listed establishment; and
2. I declare that I have read and understand the Outdoor Dining & Bar Operations General Rules.

\_\_\_\_\_  
Initials

### 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:

1. **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).
2. **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 & Bar Operations area (i.e., on the street or sidewalk).
3. **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.
4. **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.



**THIS DIAGRAM SHOWS A COMPLIANT TABLE**

More information on ADA compliance and requirements can be found on the City's website at [www.cityblm.org/ada](http://www.cityblm.org/ada).

Source: <https://www.adacertified.com/casp-blog/accessible-restaurant-tables>

I, \_\_\_\_\_, swear or affirm that:

1. I am authorized to sign as an owner, officer, or authorized agent, of the above listed establishment;
2. 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;



- 3. I acknowledge my Outdoor Dining & Bar Operations Permit may be revoked for failure to abide by the ADA requirements and standards; and
- 4. 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.

\_\_\_\_\_  
Initials

**FINAL ACKNOWLEDGMENT**

In consideration of being issued an Outdoor Dining & Bar Operations Permit to conduct off-premises services, the undersigned Establishment (also referred to as "Permittee") agrees:

- 1. To abide by Executive Order #2023-01 Outdoor Dining & Bar Operations and its applicable Exhibits, the City of Bloomington ("City") Outdoor Dining & Bar Operations General Rules ("Rules"), and all other applicable laws. Failure to comply may result in suspension or revocation of its Outdoor Dining & Bar Operations Permit and/or other applicable citations or violations;
- 2. To attach a floor plan of the proposed Outdoor Dining & Bar Operations area (hand drawn plans acceptable) to this application, 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 Dining & Bar Operations area;
- 3. In accordance with this application and agreement, the Permittee will 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 an Outdoor Dining & Bar Operations area;
- 4. To provide adequate liability insurance coverage for its establishment and operation of Outdoor Dining & Bar Operations 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. To maintain compliance with ADA Standards, including those specifically identified in the Rules, has executed the Accessibility Acknowledgement Notice, and understands any non-compliance of the aforementioned, will cause the Outdoor Dining & Bar Operations Permit to be revoked, and continued operation shall cause the business entity to be in violation of the City Code for operating without an Outdoor Dining & Bar Operations Permit; and
- 6. The Outdoor Dining & Bar Operations area shall continue only through October 31, 2023, unless earlier terminated by the City.

I, the undersigned, swear or affirm that:

- 1. I am authorized to sign as an owner, officer, or authorized agent, of the above listed establishment;
- 2. I declare that all the information included in this application, and any attachment hereto, is true and accurate to the best of my information, knowledge, and belief;
- 3. All applicants of the establishment are qualified and eligible to obtain the license applied for; and
- 4. I have read and understand the requirements of this permit.

\_\_\_\_\_  
Name (Please Print)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date