



(Draft: 6/3/20)

## **Burlington, Wisconsin Open-Air Dining / Retail Guidelines**

- A. In response to COVID-19 and under the authority of the Common Council’s Emergency Powers, the City is implementing a Temporary Open-Air Dining/Retail Experience for Downtown Businesses. There is a need to bolster the City of Burlington’s downtown restaurants, taverns, and small businesses. This will now be done through a plan (the “Plan”) which implements the steps and actions described in this present set of guidelines (collectively, the “Guideline”).
- B. The focus of the Plan is to allow downtown businesses to expand onto the sidewalks, on a temporary basis, to create an open-air dining/retail sales experience. The Plan, as further described herein, implements certain key provisions (the “Health Safeguards”) of the CDC, WEDC, Re-Open Racine County, and other health agencies. These Health Safeguards, that are being required of the businesses that voluntarily choose to participate in the Plan, are a mandatory part of the Plan.
- C. The Plan will be implemented as outlined in this Guideline, and as the Plan and/or Guideline may be amended from time to time. The Plan will be in effect from June 3, 2020 through August 31, 2020. The City reserves the right, however, to terminate and/or suspend the Plan at any time, and/or suspend or terminate the continued participation in the Plan by a business, as may be decided by the Common Council, or by the Mayor or City Administrator prior to an available meeting of the Common Council.
- D. The sidewalk areas available for the businesses to use, and the manner of that use, shall be determined by the City Administrator (and/or her designee(s)), in her sole discretion, but subject to the overall supervision of the Common Council.
- E. Each business that wishes to participate in the Plan shall submit an application to the City, as described below, for the review and approval by the City Administrator. Additionally, businesses that are located outside of the deemed downtown area may also submit an application to the City for participation in the Plan in their specific area. Each business receiving approval of its application to the City may use the sidewalk area so indicated in the approved application (and/or as may be subsequently modified by the City Administrator) on a daily basis, throughout the term of this Plan, during the hours that the business is open to the public.
- F. It is intended that persons aged 21 or older shall be allowed to possess and/or consume alcoholic beverages on the sidewalk area described in the approved application of a business to participate in the Plan. More specifically, the ordinances of the City shall be temporarily suspended, which would otherwise prohibit the possession of open intoxicants by a person aged 21 or older, and/or the consumption of intoxicating beverages by persons aged 21 or older, during the applicability and term of the Plan, on the sidewalk areas of the businesses participating in the Plan, while the businesses are open to the public. The said ordinances are otherwise, at all times, and in all respects, still in full force and effect in the City.

- G. With respect to businesses that have an intoxicating beverage license issued to them, allowing the consumption of alcoholic beverages on their licensed premises, and which have an approved application to participate in the Plan (no matter where the business is located within the City), the definition and description of their licensed premises, for the purposes of compliance with the laws relating to intoxicating beverage licenses, shall automatically be deemed to be amended to also reflect the sidewalk area described in the said approved application, during the term of the Plan.
- H. With respect to the businesses that wish to participate in the Plan, but which are not in the business of serving food or beverages to their customers (such as a restaurant business or a tavern business), that business (the "Retail Business") shall fill out the application to so participate in the Plan, as described below. The said application is designed for the completion and submittal to the City by restaurants and/or taverns. The Retail Business shall still complete and submit the application to the City, however, but only completing the portions of the application that apply to the conducting of the Retail Business.
- I. The Plan may also, from time to time, be suspended by the Common Council, when and if its operation and/or continuance interferes, in the discretion of the Common Council, with the best interests of the City, and/or other special events or activities that may occur in the City. In the event of such a suspension by the Common Council for such purposes, the City shall promptly advise all of the businesses participating in the Plan of such suspension, prior to the effective date(s) of the suspension, by sending an e-mail to those participating businesses that have provided their e-mail address to the City Clerk's Office. The possible suspension of the Plan is in addition to the authority of the Common Council to terminate the Plan, when and if the Common Council may elect to do so, in its sole discretion, without any cause being required for such termination.
- J. The foregoing provisions, as well as the provisions that follow below in this Guideline, are all a part of the Plan. By working together, the City and the participating businesses can, and will, make the Plan work well, for the benefit of not only our businesses, but also our entire community.

### **How to Apply**

Applications shall be submitted to the City Clerk, 300 N. Pine Street, Burlington WI 53105,  
or by e-mail to [cityhall@burlington-wi.gov](mailto:cityhall@burlington-wi.gov).

***Each business wishing to participate in the Plan shall complete and submit to the City an application to do so that contains all of the following information.***

**Purpose:** The Guideline is being implemented, as a part of the Plan, to provide for quality events involving (i) the serving of food and beverages on the sidewalks and closed streets in the City, and (ii) the retail sales of goods and services using, in part, the sidewalks of the City.

**Application Materials:** The applicant must submit the following:

- 1) **Written letter.** A brief description that includes the name of the restaurant, a description of proposed outdoor dining space and number of seats pursuant to the WEDC/CDC/Re-Open Racine guidelines ensuring social distancing and appropriate cleansing protocol.
- 2) **The Application.** An outdoor seating permit application is to be completed in its entirety to include the following:

*Certificate of Comprehensive General Liability Insurance* naming the City as a party insured against liability resulting from the uses permitted herein. The coverage shall be in an amount not less than \$1,000,000. Certificate holder shall be additionally insured regarding general liability. Liability extends off private property into the sidewalk area described in the approved application of the insured business.

*Amendment to Alcohol Beverage License Description:* If the applicant wishes to serve alcohol in the outdoor seating area, the applicant must currently hold a valid business license to serve alcohol and submit the attached Alcohol License Premises Extension Application requesting the premises description of the license be amended to include the outdoor seating area. No alcoholic beverages served to customers in the outdoor seating area may be carried outside of the said outside seating area (except directly into the restaurant/tavern premises), and signage shall be prominently displayed in the outdoor seating area indicating this prohibition.

- 3) Site Plan.** A plan showing the proposed outdoor dining space, to scale, including building lines, parcel size, sidewalk width (from face of building to back of curb), proposed furniture, signage, all street amenities adjacent to the lot (i.e., street lights, bollards, benches, mailboxes, fire hydrants, flower pots, trash cans, etc.). All dimensions and locations must be noted. *The site plan must depict a minimum of 42 inches of unobstructed sidewalk for public use per ADA (Americans with Disabilities Act) regulations.*

Photos or Drawings. Submit color photos, renderings or graphics showing the set-up, type of furniture and materials of barriers. If you encroach on the adjacent neighbor's sidewalk, a letter of approval allowing the "use" is required.

- 4) Barriers.** Barriers are meant to demarcate the section provided for tables, chairs and umbrellas, for both temporary and permanent use. Barriers may include, but not limited to, removable fences, freestanding fences, hedges, planters, trees, removable columns, and others.

*Prohibited Barriers Include:* No fabric inserts, chain link fencing, plastic, vinyl, chicken wire or cyclone fencing.

**HEIGHT OF BARRIERS:** The height of any barrier may not exceed 36 inches. The bottom of a rope/chain barrier must not exceed 27 inches above the sidewalk surface.

**PLANTERS:** In the case of planters, the planter itself shall not exceed 36 inches; the plant (live or artificial) height shall not exceed 6 feet measured from the ground.

**ESTABLISHMENTS THAT SERVE ALCOHOLIC BEVERAGES.** During the term of the Plan, the City requires that the outdoor dining space be "well defined, properly secured, and delineated by some type of physical structure". In order to comply with the Plan, outdoor dining area barriers for these establishments shall: a). Clearly define the designated area with sturdy barrier such as freestanding sectional fencing, rope or chain; and b). Have one clear entrance to the outdoor dining area and it must be located directly in front of the egress doors.

**MINIMUM WIDTH OF SIDEWALK CLEARANCE.** Depending on the area of the City where the outdoor dining space is proposed, there shall be a minimum of 42 inches of unobstructed sidewalk for public use per ADA (Americans with Disabilities Act) regulations.

**SIGHT DISTANCE TRIANGLE.** Outdoor dining space located on corner lots shall not obstruct the sight distance triangle.

**UMBRELLAS.** Umbrellas must be contained within the outdoor dining area. Advertisements are allowed on the umbrellas. Market style umbrellas designed specifically for patio or outdoor restaurant use are preferred. Umbrellas are to maintain a minimum height clearance of 8 feet.

**NO SMOKING REQUESTED.** As a courtesy to everyone frequenting this outdoor event, it is requested, but not mandated, that the businesses prohibit smoking in the sidewalk areas assigned to them. Thank you!

**MATERIAL.** All furniture material should be made of durable materials, such as wood or metal.

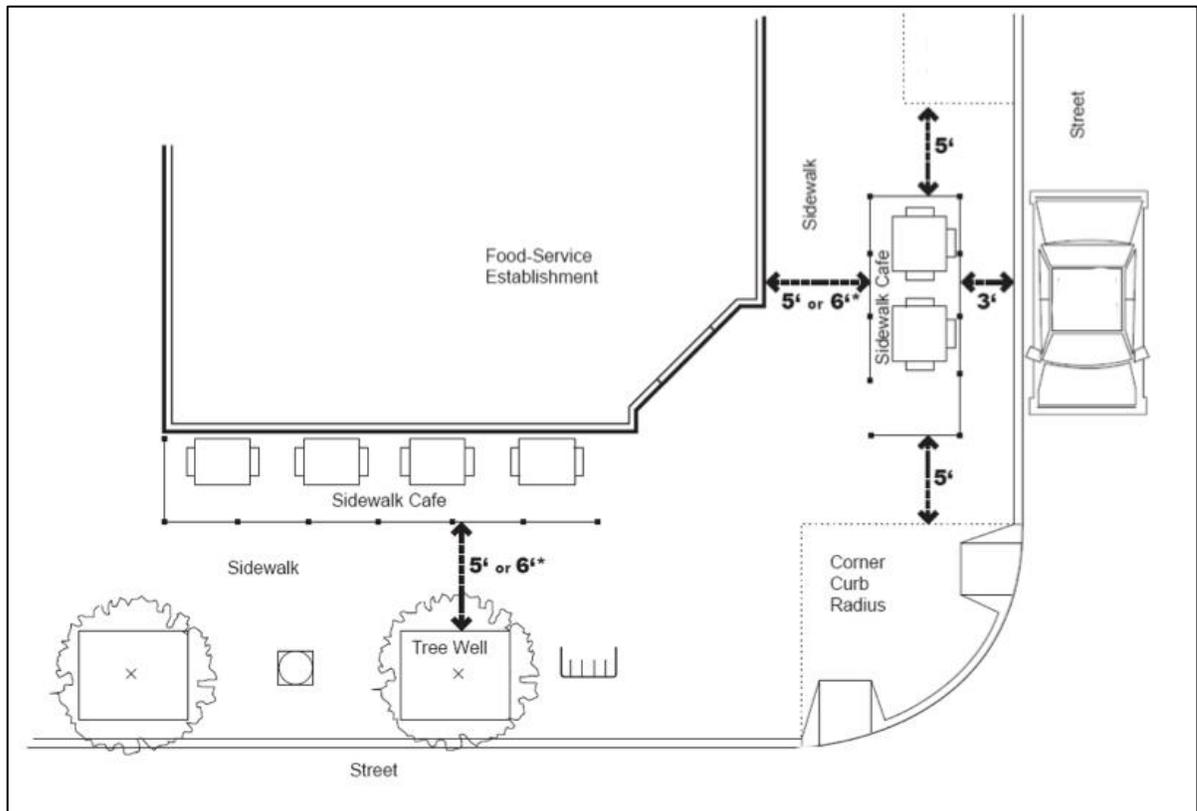
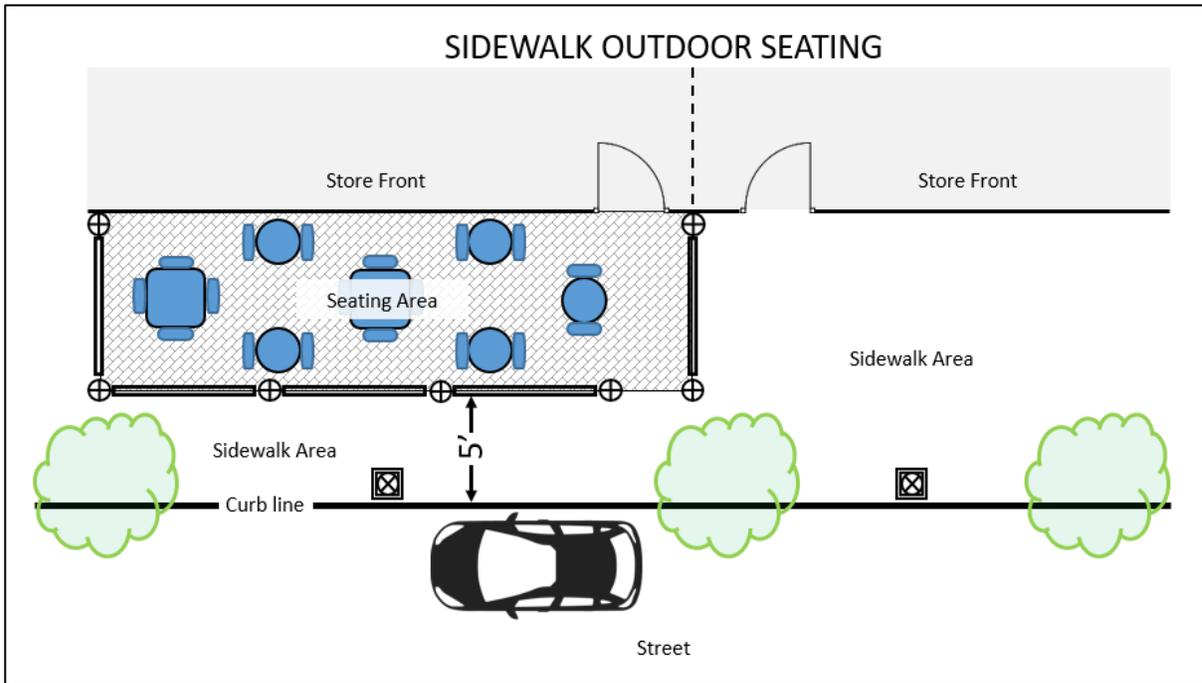
**MAINTENANCE AND STORAGE.** Each participating business shall, on an hourly basis, clean with antiseptic liquids/sprays the seats and tables located on the sidewalk area used by the business. Each business shall also, on an hourly basis, pick up any debris or litter located in the said areas.

**RESTROOMS.** All Patrons will be utilizing the restrooms of the business establishments. No porta potty restrooms will be provided.

**INDEMNIFICATION STATEMENT.** The Applicant shall, and hereby does, agree to indemnify and hold harmless the City and its officials, officers, employees, and agents, from and against any claims, actions, damages, judgments, costs, and expenses (including, but not limited to, reasonable actual attorney fees), and any other liability of any nature whatsoever, that may arise, directly and/or indirectly, as a result of the Applicant's participation in the Plan.

# SITE PLAN EXAMPLES

Proper social distancing of chairs and tables shall be indicated on plan



## BARRIER EXAMPLES





**CITY OF BURLINGTON**  
**APPLICATION FOR PARTICIPATION**  
**IN THE DOWNTOWN PLAN**

<b>FOR OFFICE USE ONLY:</b>	<b>Permit No.</b> _____	<b>Date Issued:</b> _____
Date Received: _____	Date forwarded to P.D. and DPW: _____	
Police Department: <input type="checkbox"/> Approved <input type="checkbox"/> Denied	Chief of Police Signature: _____	
DPW Director: <input type="checkbox"/> Approved <input type="checkbox"/> Denied	DPW Director Signature: _____	
City Administrator: <input type="checkbox"/> Approved <input type="checkbox"/> Denied	CA Director Signature: _____	
<i>Copies provided to: Mayor &amp; Council, City Administrator, Police Chief, Fire Chief, DPW Director, Zoning Administrator</i>		

*Please Check One:*

Outdoor Seating Permit without alcohol

Outdoor Seating Permit with alcohol

Outdoor Retail on sidewalk (only)

**APPLICATION CHECKLIST:**

- A Written Plan** A brief description that includes the name of the business, a description of proposed outdoor dining space and number of seats pursuant to the WEDC/CDC/Re-Open Racine guidelines ensuring social distancing and appropriate cleansing protocol.
- Certificate of Comprehensive General Liability Insurance** naming the City as a party insured against liability resulting from the uses permitted herein. The coverage shall be in an amount not less than \$1,000,000. Certificate holder shall be additionally insured regarding general liability. Liability extends off private property into the sidewalk area described in the approved application of the insured business.
- Sketch of Site Plan/ Parcel** showing the proposed outdoor dining space, to scale, including building lines, parcel size, sidewalk width (from face of building to back of curb), proposed furniture, signage, all street/demarcation amenities adjacent to the lot (i.e., street lights, bollards, benches, mailboxes, fire hydrants, flower pots, trash cans, etc.). All dimensions and locations must be noted. *The site plan must depict a minimum of 42 inches of unobstructed sidewalk for public use per ADA (Americans with Disabilities Act) regulations.*
- Amendment to Alcohol Beverage License Description:** If the applicant wishes to serve alcohol in the outdoor seating area, the applicant must currently hold a valid business license to serve alcohol and submit an Alcohol License Premises Amendment, contained below, describing the outdoor seating area to be added to the premises description of the license. The Alcohol License Premises shall then be automatically amended, as described in the Plan, to include the outdoor seating area.

**APPLICANT INFORMATION**

Applicant Name: \_\_\_\_\_

Establishment Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

Outdoor Seating request: \_\_\_\_\_

Describe furniture to be used: \_\_\_\_\_

**OUTDOOR SEATING WITH ALCOHOL**

*(This section must be completed if you intend to serve/sell alcohol in the outdoor seating area)*

Liquor License #: \_\_\_\_\_ Agent Name: \_\_\_\_\_

Telephone: \_\_\_\_\_

E-mail: \_\_\_\_\_

**AMENDMENT TO ALCOHOL BEVERAGE LICENSE DESCRIPTION**

1. Describe current area of premises where alcohol is sold or stored:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Describe extension and/or amendment to the area of premises where alcohol is to be sold or stored:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**INDEMNIFICATION STATEMENT**

The above-named Applicant shall, and hereby does, agree to indemnify and hold harmless the City and its officials, officers, employees, and agents, from and against any claims, actions, damages, judgments, costs, and expenses (including, but not limited to, reasonable actual attorney fees), and any other liability of any nature whatsoever, that may arise, directly and/or indirectly, as a result of the Applicant's use of the public sidewalk, parking lot(s) or other approved designated areas pursuant to this present Permit. This indemnification is being given in partial consideration for the issuance of this present Permit to Applicant.

## SURVEY QUESTIONS

A. Would you be interested in using a parking spot(s) in front of your place of business, as an extension of your dining area?

Yes

No

B. Would you be interested in a future closing, over the weekends, of Chestnut Street (the Loop and East Chestnut Street), for an expanded dining experience in Downtown Burlington?

Yes

No

## AGREEMENT

The undersigned business, upon the approval by the City of Burlington for participation, as a business, in the Downtown Plan and Guideline (collectively, the "Plan", attached hereto as Exhibit X), adopted by the City of Burlington Common Council on June 2, 2020, a copy of which is attached hereto, HEREBY AGREES to fully and timely comply with all of the provisions of the attached Plan, in consideration, in part, for the City approving the undersigned business for participation in the Plan.

NAME OF BUSINESS: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2020