

**City of Bangor Outdoor Seating Permit - Alcohol Service**

**Permittee Information**

Permittee Name \_\_\_\_\_

Permittee Address \_\_\_\_\_

Email Address \_\_\_\_\_

Owner or Manager \_\_\_\_\_ Permittee Phone \_\_\_\_\_

Note: Permittee must submit with this application a sketch of the requested permit area, ***including dimensions***, along with pictures of any chairs, tables, fencing, umbrellas, or tents proposed to be used.

APPLICATION:

- 1. Are you authorized to enter into agreements for the business: Yes / No
- 2. Is the business a restaurant, retailer, or brewer? Yes / No
- 3. If the business is a retailer, what type of merchandise does it sell? \_\_\_\_\_

- 4. Attach a sketch, as "Exhibit A," of the proposed outdoor area including details as to its location, dimensions, seating, aisles and any proposed fencing or other barriers.
- 5. Have you reviewed the State of Maine's COVID-19 Prevention Checklist that is applicable to the business? Yes / No
- 6. Will the business comply with that checklist? Yes / No
- 7. Will all seating or other improvements or placements on the proposed outdoor area be on a hardened surface? Yes / No
- 8. Is any of the proposed outdoor area on *private* land not owned or leased by the business? Yes / No
- 9. If the answer to question 8 was yes, does the business have written permission to use the private land not owned or leased by it? Yes / No / N/A

Please attach a copy of any written permission.

- 10. Will the proposed outdoor area eliminate any off-street parking spots? Yes / No
- 11. Does the business intend to sell alcohol on the proposed outdoor area? Yes / No

12. If the answer to question 11 was Yes:
- (a) Has the business extended the proper liquor or victualer's license to cover the proposed outdoor area?      Yes / No / N/A / In progress
  - (b) Does the business agree to maintain control, containment, and supervision of the proposed outdoor area?      Yes / No / N/A
  - (c) Will the business maintain a constant employee presence in the proposed outdoor area?      Yes / No / N/A
  - (d) Is the business aware of its obligations under liquor licensing laws, including Sections 1051 through 1080 of Title 28-A of the Maine Revised Statutes and does the business agree to comply with such obligations?      Yes / No / N/A
13. Is any part of the proposed area public or City owned land?      Yes / No
14. If you answered Yes to question 13:
- (a) Know that if you are granted a permit, you will have to submit a certificate of insurance *specifically listing the City as an additional insured* for insurance that complies with paragraph 8 of the Agreement below. *This certificate must be provided to the City before occupying the proposed outdoor area.*
  - (b) Ensure that you read and agree to paragraph 8 of the general conditions below.

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### General Conditions

1. This Permit grants the Permittee named above permission to occupy the portion of the City right-of-way outlined in the accompanying Exhibit A for the sole purpose of providing outdoor seating for its customers.
2. The term of this permit shall be from **April 16, 2021 to April 16, 2022.**
3. The sale and consumption of alcoholic beverages shall be restricted to the area designated under the Permittee's state liquor license. Said sale and consumption shall be pursuant to the following terms:
  - No sale or consumption of alcohol after 12:00 a.m.;
  - The area must be enclosed by fencing between 36 and 42 inches in height;
  - A sign at outside access, facing the seating, stating "No alcohol beyond this point";
  - A current copy of the Restaurant's liquor license must be on file in Code Enforcement;
  - Any Additional Requirements listed below.
4. The fee for this Permit shall be \$250.00 for an establishment with 12 or fewer outdoor seats and \$500.00 for an establishment with 13 or more seats.

5. Outside seating may consist only of chairs, tables, fencing, umbrellas, and tents. All chairs, tables, fencing, umbrellas and tents must be approved by a City Design Committee. No logos or signs are allowed, except as otherwise allowed under the Sign Code. No outdoor cooking is allowed. Fencing may be left in place for the duration of the permit as long as the area is well-kept, but seating, tables, and umbrellas must be removed from the seating area after the first Winter Downtown Parking Ban except when in regular use or when being used for an event.
6. In the exercise of the rights granted herein, the Permittee will maintain an adequate unobstructed travel aisle for the use of the sidewalk for pedestrian traffic, including but not limited to removing snow. Permittees taking up part or all of the sidewalk in West Market Square must similarly maintain an adequate unobstructed travel aisle in West Market Square alongside the area of the outdoor seating, including but not limited to removing snow such that a travel aisle is maintained that connects on each end to other travel aisles. The adequacy of the travel aisle in each case shall be determined by the Code Enforcement Officer or his or her designee.
7. As a condition of being granted this Permit, during the term of this Permit, the Permittee shall defend, indemnify, save and hold the City, and its inhabitants, officers, employees and agents completely harmless from and against any and all liabilities, losses, suits, claims, costs, expenses, judgments, fines or demands arising by reason of injury to or death of, or asserted by, any person or persons, including the Permittee's agents, clients, invitees or employees, or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorneys' fees, court costs, and expert witness fees), of any nature whatsoever arising out of or incident to this Permit and/or the use, occupancy, conduct, or management of the demised premises or the acts or omissions of the Permittee's officers, clients, agents, employees, contractors, subcontractors, licensees, or invitees, except to the extent such injury, death, or damage is caused by the negligent acts or omissions of the City, its agents, employees, clients or invitees. The Permittee shall give to the City reasonable notice of any such claim or actions. The Permittee shall also use counsel reasonably acceptable to the City in carrying out its obligations under this Article.

The Permittee further expressly agrees that it will defend, indemnify, save and hold the City harmless from any and all claims made or asserted by the Permittee's agents, servants or employees arising out of the Permittee's activities under this Permit. For this purpose, the Permittee hereby expressly waives any and all immunity it may have under Maine's Workers Compensation Act in regard to such claims made or asserted against the City by the Permittee's agents or employees. For this purpose, the Permittee further expressly waives any charitable immunity it may have under applicable law as to any and all claims of any person made or asserted against the City arising out of the Permittee's use and occupancy of the demised premises or other activity of the Permittee under this Permit.

The indemnification provided under this section 7 shall extend to and include any and all costs incurred by the City to answer, investigate, defend and settle all such claims, including but not limited to the City's costs for attorneys' fees, expert and other witness fees, the cost of investigators, and payment in full of any and all judgments rendered in favor of the Permittee's agents, invitees, licensees, clients, servants or employees against the City in regard to claims made or asserted by such persons.

In exercising the rights granted under this Permit, the Permittee shall at all times be regarded as an independent entity conducting its own business and operations and shall not at any time act, hold itself out, or purport to act as an agent, contractor, co-partner, joint venture or employee of the City.

8. The Permittee, during the entire term of this Permit, shall maintain, at its sole expense, insurance in the type and amount shown below with companies authorized to do business in the State of Maine for the protection of the City against any and all liability, including wrongful death, against all claims, losses, costs or expenses arising out of injuries to persons whether or not employed by the Permittee or damage to property whether resulting from acts, omissions, negligence or otherwise of the Permittee, its directors, officers, clients, employees and agents and arising from the Permittee's use of the demised premises or any part or portion thereof:
  - **Commercial general liability insurance with a minimum limit of \$1,000,000.00 combined single limit per occurrence and \$2,000,000.00 in the aggregate; and**
  - **Workers' compensation and employer's liability insurance with a minimum limit of \$500,000.00 per occurrence.**

The Permittee shall cause to be furnished to the City, at the time of execution of this Permit, evidence in the form of certificates of insurance of the existence in force of the insurance required hereunder. Said certificates shall name the City as an additional insured and loss payee. The Permittee shall cause to be furnished to the City replacement certificates of insurance whenever the insurance policies are renewed. The City shall be notified prior to any changes or discontinuances of coverage.

The City agrees to promptly notify the Permittee in writing of the existence or filing of any claim, demand or action arising out of an occurrence covered hereunder of which the City has knowledge, and to cooperate with the Permittee in the investigation and defense thereof.

The minimum insurance coverage required under this Article shall be deemed to be automatically adjusted whenever the Maine State Legislature shall increase the City's maximum liability beyond such minimums for personal injury, wrongful death or property damage claims brought under the Maine Tort Claims Act. In the event of such an increase, the minimum insurance coverage required shall be no less than the amounts required herein or no less than the City's maximum liability for such claims under the Maine Tort Claims Act, whichever is greater.

9. The rights and duties granted herein shall be under the supervision and control of the Code Enforcement Officer and the Chief of Police. In the event of a breach of this Permit by Permittee, the City may, for the first breach, issue a verbal warning to Permittee; in the event of a second breach, assess a monetary penalty of \$100; and in the event of a third breach, terminate this Permit.

Notwithstanding these provisions regarding penalties for breaches or any other provision of this Permit, in the event that the City, in its sole discretion, determines that further use of the premises under this Permit is not in the best interests of the City of Bangor, the rights granted

herein may be suspended or terminated upon twenty-four (24) hours' written notice to the Permittee.

10. At the end of the term of this permit, or if this permit is suspended or terminated, all fencing, tables, seating, and umbrellas must be removed from the City right-of-way. The City may move or remove any of said items if they are not removed before the end of the term of this permit or before the 24-hour notice period expires.

11. All correspondence between the Permittee and the City of Bangor shall be sent to the Code Enforcement Office, City of Bangor, 73 Harlow Street, Bangor, Maine, 04401, and to the Permittee at the Permittee Address listed above.

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**City Use Only**

Permit Area: \_\_\_\_\_ See Exhibit A \_\_\_\_\_

Total fee: \_\_\_\_\_ Date fee paid \_\_\_\_\_

Additional Requirements (check all that are required):

- No direct access from outside is allowed
- A staff member must be present at all times
- There must be clear view/control of the area from the inside
- \_\_\_\_\_
- \_\_\_\_\_

Approvals (initials)	
Design	_____
Code	_____
Police	_____
Fire	_____

Date \_\_\_\_\_ Signature of City Manager \_\_\_\_\_

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**Permit must be signed by Permittee *after* the approvals have been given by designated City Officials**

I agree to abide by the terms and conditions of this Permit, including both the General Conditions and any terms laid out in the City Use Only section of the Permit.

Date \_\_\_\_\_ Signature of Owner/Manager \_\_\_\_\_

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This permit is granted pursuant to Council Order 19-128 of the Bangor City Council.