Outdoor patios are “permitted” uses as a matter of right and do not require zoning approval, provided they meet all other performance standards of the Zoning Ordinance.

Outdoor patios must be located outside of site setbacks and not reduce required parking for the site. For alcohol licensing purposes, the patios must be contiguous to the building and located in a contained area. Additional standards may apply for outdoor food consumption and service.

The City of Bloomington has developed guidelines for usage of outdoor patios areas to regulate the use, scale and extent of outdoor activities. The primary considerations with outdoor patios are location and usage in relation to the primary use on the site, fire safety and smoking, and food and alcohol service.

City review of patios

A plan and/or permit review is required for any project which includes an outdoor patio for an existing business or hotel. A patio is a permitted use, and generally does not require a zoning approval, provided it meets all other performance standards of the Ordinance. The exception to this would be a patio which will provide food service; a restaurant requires a conditional use permit if it does not currently have one.

Patios with smoking areas

Background

On July 19, 2004, the City of Bloomington enacted a Workplace Smoking Ordinance, prohibiting smoking in public places and workplaces. The State’s “Freedom to Breathe” (FTB) became effective on October 1, 2007.

Definitions

Smoking is defined in Bloomington as the inhaling, exhaling or combustion of any cigarette, cigar, pipe or other lighted smoking equipment. Smoking includes carrying a lighted cigarette or any other lighted smoking equipment.

Smoking-prohibited areas: Per the State of Minnesota, smoking is prohibited in virtually all indoor public places and indoor places or employment, including:

- Bars, restaurants, and private clubs.
- Office and industrial workplaces.
- Retail stores.
- Auditoriums, arenas and meeting rooms.

Indoor area: The State ordinance defines “Indoor Area” as all space between a floor and a ceiling that is bounded by walls, doorways or windows, whether open or closed, covering more than 50 percent of the combined surface area of the wall space of the perimeter of the area, whether temporary or permanent. A standard window screen is not considered a wall. To have a smoking area, outdoor patios must not meet the standards of an indoor area. Enclosing patios in temporary or permanent enclosures is not permitted.

Bloomington Smoking Ordinance

The Bloomington Smoking Ordinance prohibits outdoor smoking in places where smoke might enter into public places and places of work. Specifically, smoking is prohibited within:

- Twenty-five feet of entrances, exits, open windows and ventilation intakes. Bloomington City Code, Chapter 12, Section 79.

Food service on patios

Patios can function as an accessory area to a primary use provided they adhere to the following standards:

- A patio which is non-smoking and does not provide food or bar service must meet zoning and/or permit standards.
If food and/or beverages are served on the patio, smoking locations are limited to 50 percent of the area of the patio.

Liquor licensing requirements state that if an outdoor patio serves liquor, the patio must be a contained area to prevent liquor from being removed from the patio and consumed off-site. Two exits are required on outdoor patios which have a fence along the perimeter of the patio.

Additional review standards depend on the level of food service on the patio where smoking might occur:
- **Patio without food** – Smoking is allowed if all other ordinance standards are met.
- **Patio with food or beverage service** – Fifty percent of patio must be non-smoking and the patio must meet other ordinance provisions.
- **Patio with outside food preparation/station** – A full kitchen review of service area is required as per Code.

Approval process for outdoor patios

The City plan review is an administrative review by City staff. It can be obtained by completing the application process and receiving approval from City staff, coordinating any approvals or licenses from Environmental Health and Licensing, and obtaining a building permit, if required.

Submission requirements

- Two folded sets of readable plans, sized at 11 x 17 inches.
- Completed original application form; signed by property owner.
- Application narrative.
- Application fee ($75).
- Erosion control plan.
- Revised landscaping and lighting plan, if required.

Application narrative

Narrative should include a complete description of the proposed patio area, including seating, boundaries, hours of operation, description of improvements, and food and beverage services. The narrative must discuss any areas reserved for smoking and provide distances for the smoking boundaries to all entrances, exits, ventilation intakes and operable windows.

Site plans

Site plans must include:
1. Patio dimensions and distances to property lines.
2. If the patio is adjacent to a public street, proposed rights of way and easements.
3. Existing and proposed sidewalks, walkways and bikeways.
4. Any signs associated with the patio, including signs designating smoking area.
5. Access to internal trash and recycling areas.
6. Access to food service areas, internal or external;
7. Fences and enclosures, with details and material descriptions.
8. Site statistics:
   A. Patio square footage.
   B. Site and building square footage.
   C. Parking spaces, existing and proposed, including handicapped parking.
   D. Handicapped access of patio.
9. A landscaping and lighting plan for the patio area may be required.
10. Proposed seating and serving areas, including access routes on and off the patio.
11. Hours of operation for the patio must be designated, including service hours for food and alcohol.

Review criteria

Site plan review

An outdoor patio may or may not be suitable on a particular site due to a variety of factors including location, traffic generated, parking impacts, impact on adjacent properties and zoning restrictions. The patio must meet the minimum standards and requirements of the Zoning Ordinance.

Findings for liquor service

Liquor license amendments use the following criteria:
1. The area to be used must be immediately adjacent to the licensed premises;
2. Adequate measures will be taken to control access to the additional area, to ensure that alcoholic beverages will not be furnished in violation of state law or City Code to persons under the age of 21 years, obviously intoxicated persons or carried outside of the licensed premises or the temporarily expanded area;
3. Adequate measures will be taken to ensure that there will not be a violation of the City's noise ordinance;
4. The use of the additional area will not decrease available parking below that required by the zoning ordinance for the licensed premises;
5. The use of the additional area will not unreasonably impede traffic circulation;
6. The licensee has obtained adequate liability insurance for the additional area; and

Responsibility of proprietors

Proprietors are required to control smoking in their place of business, in both indoor and outdoor areas. In general, they are required to:
- Post “Nonsmoking” signs where prohibited.
- Ask persons who smoke in prohibited areas to refrain from smoking and to leave if they refused to refrain from smoking.
- Ensure that ashtrays, lighters and matchbooks are not provided in areas where smoking is prohibited. Receptacles for the deposit of cigarettes, cigars and smoking equipment that have been extinguished may be located outdoors if twenty-five feet from entrances to public places, open windows, ventilation intakes and places or work.