



City of Brockton License Commission

APPLICATION FOR EXTENSION OF PREMISES FOR OUTDOOR TABLE SERVICE

1. BUSINESS ENTITY INFORMATION

Restaurant Name (D/B/A): _____

Legal Name (Individual/Corporation), *if different*: _____

ABCC License Number, *if applicable*: _____

Restaurant Address: _____

Mailing Address, *if different*: _____

2. REASON FOR APPLICATION

Outdoor food service

Outdoor alcohol service

Outdoor entertainment

3. WHAT IS ZONING OF THE PROPERTY (Circle one):

Commercial C1 C2 C3 C4 C5 C6 C7 C8 C9

Industrial I1 I2 I3 I4

Residential R1 R2 R3 R4 R5

Note: If not zoned commercial you may have to obtain zoning relief.

4. CONTACT INFORMATION

The application contact is the person who should be contacted with any questions regarding this application.

Applicant/ Contact Name: _____

Title (e.g. Owner, Manager, etc.): _____

Email Address: _____

Telephone Number: _____

5. CURRENT LICENSED ESTABLISHMENT

Does the establishment currently hold a common victualer license? Yes No

Is the establishment currently licensed to serve/pour alcohol on-premises? Yes No

Please indicate by what means the entity occupies the *current* licensed establishment:

Own Lease Tenant at Will

If the entity does not own the current licensed premises, please provide the following:

Landlord Name: _____

Landlord Address: _____

Landlord Email: _____

Landlord Telephone Number: _____

6. PROPOSED PREMISES FOR OUTDOOR TABLE SERVICE ON PRIVATE PROPERTY

Outdoor Dining Area Address: _____

If the area to be used for outdoor table service is owned by a private third party, please provide the following:

Property Owner Name: _____

Property Owner Address: _____

Property Owner Email: _____

Property Owner Telephone Number: _____

If the establishment does not own or control the proposed premises for outdoor table services, applicant will need to submit evidence showing permission of the owner or party in charge of that area to utilize the space for outdoor table service.

Please specify the location(s) of outdoor dining area(s) proposed (*check all that apply*):

Deck Patio Lawn Parking Lot Other (please specify): _____

**Note: Applicant must complete supplemental sidewalk dining application and receive City License.*

For the proposed area for outdoor table service, please provide the following:

Square Footage: _____ Number of Seats: _____ Number of Tables: _____

Number of Entrances: _____ Number of Exits: _____

Are building modifications or new construction needed for the new outdoor dining area? Yes No

If yes, please explain: _____

Please describe the barriers that will be used around the perimeter of the outdoor dining area. It is recommended that photos of the proposed barriers be provided.

Will applicant be utilizing umbrellas? Yes No

If yes, please provide specifications: _____

Will applicant be utilizing a tent or other covering? Yes No

If yes, please provide specifications: _____

Will applicant be utilizing outdoor heaters? Yes No

If yes, please provide specifications: _____

Please describe how patrons will access the outdoor dining area from the entrance of the establishment:

If outdoor dining area will be located in a parking lot, please provide the following:

7. PROPOSED PREMISES FOR OUTDOOR TABLE SERVICE IN A PARKLET

Please refer to <https://brockton.ma.us/wp-content/uploads/2022/02/Approved-Parklet-Policy.pdf>

The commission suggests Parklet approval prior to License application.

8. PARKING ANALYSIS

Number of Parking Spaces Currently: _____ Number of Parking Spaces Proposed: _____

Applicant must submit an analysis of the number of parking spaces required based on the zoning code for all occupancies of the building.

Note: The commission strongly suggests that this analysis be completed by a Registered Professional Engineer.

9. PLAN

All applicants must also submit a detailed floor plan / site plan.

The drawing must:

Be drawn to scale

Depict the plot of land showing building and parking as well as green space

Depict proposed area for outdoor table service, including the layout of tables

Depict number of seats per table, labeling the number of seats

Depict barriers and/or fencing separating patrons from non-patrons,

Depict locations of directional signage

Depict any other signs and or other facilities and all other physical features in the extended premises area.

Depict ADA and ABB compliance in the outdoor dining, such as access and egress.

Normal vehicular traffic circulation cannot be impeded.

Use of fire lanes is prohibited.

Egress points and fire hydrants shall not be blocked.

Note: The commission strongly suggests that this plan be completed by a Registered Professional Engineer.

10. SANITARY ANALYSIS

The applicant must provide a detail analysis of bathroom facilities based on the Massachusetts Plumbing code 248 CMR: BOARD OF STATE EXAMINERS OF PLUMBERS AND GAS FITTERS

This would include requirements for both indoor and outdoor seating.

Note: The commission strongly suggests that this plan be completed by a Registered Professional Engineer.

As Reference, 248 CMR ss 10.10 Table 1 states in part

Nightclubs and Pubs, Lounges, Restaurants, Food Courts and Service Plazas:

Toilets required:

Female

- 1 for every 25 persons up to 200
- 1 for every 50 between 201 and 500
- 1 for every 100 over 500

Male

- 1 for every 50 persons up to 200
- 1 for every 100 between 201 and 500
- 1 for every 100 over 500
- Urinals can replace 50% of toilets required

LAVATORIES (sinks)

- 1 for every 50 people

11. ALCOHOL SALES AND CONSUMPTION

Will alcohol be served in the outdoor dining area? Yes*** No

If yes, describe how the establishment will manage to confine alcohol consumption to the premises:

12. HOURS OF OPERATION

Please indicate your current licensed hours of operation:

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Hours of Operation							

Please indicate your proposed hours of operations for outdoor dining:
(Cannot be later than indoor times)

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Hours of Operation							

13. GOOD NEIGHBOR PRACTICES

Please identify the nearest residential property in relation to the proposed outdoor dining area:

Street Address _____ Distance property line to property line in feet _____

Please identify nearby residences or businesses that may be disturbed by noise or other aspects of the proposed outdoor dining and describe how you will monitor and minimize such disruptions:

Please note City of Brockton Noise Ordinance

Initial here that you have read the following ordinance

- **Sec. 14-50. - Noise control.**

(a) *Purpose.* The purpose of this section is to minimize exposure of residents to the harmful effects of excessive noise. It is the express intent of the city council to control the level of noise in a manner which promotes commerce, the use, value and enjoyment of property, sleep and repose, quiet enjoyment, and the quality of the environment.

(b) *Definition.* "Noise" for the purpose of this section shall mean the intensity, duration and character of sound from any and all sources.

"Public nuisance noise" means any sound which unreasonably annoys, injures, interferes with, or endangers the comfort, repose, quiet enjoyment, health or safety of persons residing within separate residences in the same community or neighborhood, although the extent of the damage may be unequal.

(c) *Excessive noise declared nuisance.* All loud or unusual noises or sounds and annoying vibrations which offend the peace and quiet enjoyment of persons of ordinary sensibilities are public nuisances and public disturbances.

(d) *General noise restrictions.* It is unlawful, and no person shall make, generate or be the cause of making and/or generating, and/or shall continue to cause to make, to cause, or to generate, any loud, unnecessary, or unusual noise or sound, and/or any noise or sound which either annoys disturbs, injures, and/or endangers the comfort, repose, health, peace, and/or safety of other residents, and/or the general public, within the limits of the city.

It is unlawful for any person to cause or allow to be emitted a noise which has been determined to be a public nuisance noise as defined in this chapter. It is unlawful for any person to cause or any person in possession or control of property to allow to originate from the property, sound that is a public disturbance noise.

(e) *Time restrictions.* The general prohibition on unreasonable or excessive noise restrictions is prohibited during the following time periods:

(1) Between 10:00 p.m. and 7:00 a.m. Sundays through Thursdays; and

(2) Between 11:00 p.m. and 7:00 a.m. Fridays and Saturdays

(f) *Measurement.*

(1) *Maximum noise levels.* Noise levels shall not exceed 50 decibels (DBA) during the restricted hours.

(2) *Measure devices.* The City of Brockton Police Department shall use standard electronic devices generally accepted as measuring tools of noise (tonal sounds, sound measurement level, etc.) for the purposes of determining the decibel levels of unreasonable or excessive noise.

(3) *Distance.* Noise measurements shall be made at a distance of fifty (50) feet from the source, or from the nearest lot line, whichever distance is less.

(g) *Noises exempt—Completely or partially.*

(1) The following noises are exempt from the provisions of this chapter at all times; provided that nothing in these exemptions is intended to preclude the possible reduction of noise consistent with economic feasibility:

- a. Noise originating from aircraft in flight, and sounds which originate at airports and are directly related to flight operations;
- b. Noise created by safety and protective devices, such as relief valves where noise suppression would defeat the safety relief intent of the device;
- c. Noise created by fire alarms, or noise created by emergency equipment, including but not limited to emergency standby or backup equipment, and emergency work necessary in the interests of law enforcement or of the health, safety or welfare of the community, and including, but not limited to, any emergency work necessary to replace or repair essential utility services;
- d. Noise created by auxiliary equipment on motor vehicles used for highway maintenance;
- e. Noise originating from officially sanctioned parades, sporting events, and other public events;
- f. Noise created by warning devices not operated continuously for more than thirty minutes per incident;
- g. Noise created by natural phenomenon and unamplified human voices;
- h. Noise created by motor vehicles, licensed or unlicensed when operated off public highways except when such sounds are received in residential zones of the city; and
- i. Noise created by existing stationary equipment used in the conveyance of water by utilities and noise created by existing electrical substations.
- j. Emergency vehicles. Any authorized police, fire, or emergency vehicle when responding to an emergency call, or when testing such police fire or emergency vehicles in the course of performing normal duties.
- k. Emergency warnings. The use and/or testing of emergency warning signals, beacons, and/or devices.
- l. Building and/or construction. Necessary permitted or emergency excavations and/or repairs of streets and/or highways by and/or on behalf of the city, county and state, at any time, especially when public safety, welfare, and convenience renders it necessary to have such work done at night and/or not during the daytime hours. Also, during daylight hours, necessary excavations for, and/or construction of approved building projects.

(2) The following sources of noise are exempt, upon permission by the city after a determination the conduct of the activities is necessary or in the best interest of the city for a limited period of time:

- a. Noise created by the operation of equipment of facilities of surface carriers engaged in commerce by railroad;
- b. Noise created by aircraft;
- c. Noise emanating from the temporary construction sites except between the hours of 10:00 p.m. and 6:00 a.m.;
- d. Noise resulting from work on or about rights-of-way of state highways arising from the construction, maintenance or repair of said highways or other public facilities on or about said highways; and
- e. Public events. The use of stationary amplifiers and/or loud speakers in the course of the public address for public events and/or public gatherings, with applicable permits. Also, noise emanating from such public events as football games and other public happenings.

(h) *Enforcement by civil infraction and violation.* After a complaint has been received from an identified person who resides on, owns, rents or leases property or is employed in the area that is affected by a noise source, the police department may issue a civil infraction warning issued in the usual course of the operation of the City of Brockton police department. A written record will be stored in the police department's computer system evidencing the date, time, place, decibel reading, and party receiving the warning, with the violating party receiving a written copy. Within seven (7) days, the police department shall send a copy of the written warning to the owner of record.

A subsequent violation of this section may be enforced in the manner provided in M.G.L., c. 40, s. 21D. Any person found to be in violation of this chapter shall be deemed to have committed a civil infraction and for each violation shall be subject to a civil penalty as follows:

First violation in any twelve-month period: Written Warning issued by the police department as stated above;

(2) Any subsequent violations in any twelve (12) month period: three hundred dollars (\$300.00) fine.

(i) *Provisions not exclusive.* The provisions of this section shall be cumulative and nonexclusive, and shall not affect any other claim, violation of any other noise standard in the City Ordinances, cause of action or remedy, not unless specifically provided, shall this chapter be deemed to repeal, amend or modify any law, ordinance or regulation relating to noise, but shall be deemed additional to existing legislation and common law on noise.

(Ord. No. M03, 2-9-21)

14. GENERAL NOTES

No open flame allowed without permit from the fire department

Fire extinguisher must be present outside in area

Vehicular protection for patrons must be substantial to stop a vehicle.

The license may be issued subject to the receipt of inspections and or permits from the Inspectional Services Department (Building and Health), Police Department and Fire Department.

15. APPLICATION CHECKLIST

Please attach the following documents for your application to be deemed complete:

- Proof of ownership, lease, license rights or permission to utilize the area proposed for Outdoor Table Service.
- A detailed floor / site plan
- Proof of Insurance: Workers Compensation OR an affidavit that the establishment has no employees.
- Proof of Insurance: Liquor Liability – including the extended premises areas (if serving alcohol).
- Sidewalk/Street dining only:* Complete Supplemental Application for Outdoor Table Service on a Public Way.
- Parking Analysis
- Sanitary Analysis
- Initial acknowledging the reading of the Noise ordinance.
- License application fee included \$150.00 for original approval
- License renewal application fee \$150.00 plus \$100 fee if filed past the deadline for renewals.

16. APPLICANT'S CERTIFICATION

I, authorized signatory, hereby submit this application to the City of Brockton for approval.

I do hereby declare under the pains and penalties of perjury that I have personal knowledge of the information submitted in the Application, and as such affirm that all statements and representations therein are true to the best of my knowledge and belief. I further submit the following to be true and accurate:

- 1) I understand that any false statement or misrepresentation will constitute cause for disapproval of the application or sanctions or revocation of the approval.
- 2) I understand that the licensee's failure to operate the licensed premises in accordance with the rules of the Brockton License Commission, requirements established by the Governor, applicable laws, regulations, and City ordinances, and any safety requirements imposed by the City may result in sanctions, modifications, or revocation of the approval.

Signature of Applicant

Date

Name of Authorized Signatory (please print/type)

Title

HOW TO SUBMIT APPLICATION DOCUMENTS:

Completed applications with attached documents may be submitted as follows:

Via email (preferred) to: license@cobma.us

Via U.S. Mail to: City of Brockton License Commission
45 School Street- City Hall
Brockton, MA 02301

Applications must be complete to assure timely review and approval. Applications will be reviewed in the order they are received. Incomplete applications will cause processing delays.