

**RESOLUTION 23-04**

**A RESOLUTION AUTHORIZING THE 2023 EXPANDED OUTDOOR DINING PROGRAM IN THE DOWNTOWN CORRIDOR**

WHEREAS, on June 17, 2020, the Common Council passed Ordinance 20-11, which suspended portions of the Bloomington Municipal Code during the public health emergency caused by the COVID-19 virus; and

WHEREAS, Ordinance 20-11 relaxed certain City regulations, including sign and seating encroachment regulations, which made it possible to assist local restaurants by extending the outdoor seating area into parklets; and

WHEREAS, the City also temporarily closed portions of Kirkwood Avenue to make it available for enhanced social distancing and outdoor seating; and

WHEREAS, the Common Council approved the Expanded Outdoor Dining Program in Ordinance 22-01, which extended the ability for local restaurants to utilize parklets and enhanced pedestrian and seating space on Kirkwood avenue (“Program”); and

WHEREAS, SECTION 2 of Ordinance 22-01 reserved the right of the Common Council to extend the term of the ordinance for additional one-year terms through an authorizing resolution; and

WHEREAS, the City desires to continue the Program in the downtown corridor through 2023 as detailed by the Program Guidelines that are attached to this resolution as Exhibit A; and

WHEREAS, the Common Council therefore wishes to extend the Program through proactive measures to assist the Bloomington business community and enhance the city’s vibrancy and economic growth;

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY INDIANA, THAT:

SECTION 1. As authorized by SECTION 2 of Ordinance 22-01, the Common Council hereby extends the suspension of certain portions of the Bloomington Municipal Code described in SECTION 6 of Ordinance 22-01 through October 1, 2023, and approves the Expanded Outdoor Dining Program as set forth by the Program Guidelines attached to this resolution as Exhibit A.

SECTION 2. The Program shall operate from April 3, 2023, until October 1, 2023, unless earlier terminated under SECTION 7 of Ordinance 22-01.

SECTION 3. As required by SECTION 5 of Ordinance 22-01, the Common Council approves the following fees for the Program:

Program	Fee	Condition
All Programs	\$50	Permitting fee required of all applicants to either program.
Parklet	\$1,250 per space	Cost may be split between businesses sharing parklet space(s)
Kirkwood Seating	\$500	Business with seating capacity under 20 seats
	\$1,250	Business with seating capacity between 20 and 100 seats
	\$3,500	Business with seating capacity over 100 seats

SECTION 4. If any section, sentence, or provision of this resolution, Ordinance 22-01, or the application thereof to any person or circumstance, shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid section, sentence, provision or application, and to this end the provisions of this ordinance are declared to be severable.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 1 day of March, 2023.

  
SUE SGAMBELLURI, President  
Bloomington Common Council


ATTEST:

  
NICOLE BOLDEN, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 10 day of March, 2023.

  
NICOLE BOLDEN, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this 20th day of March, 2023.

  
JOHN HAMILTON, Mayor  
City of Bloomington

#### SYNOPSIS

Resolution 23-04 authorizes renewal of the Expanded Outdoor Dining Program in the Downtown Corridor. The Program as renewed in this resolution provides for the continued use of parklets and Kirkwood Avenue for additional seating space from April 3, 2023, through October 1, 2023. As required by Ordinance 22-01, passage of this resolution also explicitly adopts fees for the 2023 Program.

Distributed to : Clerk, Council, Legal, Mayor, Public Works, Planning & Transportation, Engineering, Economic & Sustainable Development, Fire Department, Police Department

## Exhibit A: Program Guidelines

### Costs to Participating Businesses:

- All:
  - All extended outdoor dining covered under this program will be subject to the \$50 permitting fee to the Engineering Department.
  - All fees are due in full by March 13, 2023.
  - Businesses are responsible for any direct costs associated with utilizing a parklet or outdoor dining on Kirkwood, such as furniture or heaters.
  - Each participating business must submit a certificate of insurance to the Planning and Transportation and Economic and Sustainable Development Departments establishing proof of a comprehensive general liability policy naming the City of Bloomington as additional insured to the extent of at least \$500,000 bodily injury and \$100,000 property damage, which shall be in effect during the term of this authorization.
- Parklets:
  - Cost to businesses will be \$1,250 per parking space for the 2023 season, payable to Parking Services. A two-space parklet will cost \$2,500, plus the permitting fee(s).
  - Businesses which share a parklet may split the cost between them.
- Kirkwood conversion outdoor dining permit:
  - For businesses with a capacity of under 20, the cost will be \$500 for utilization of the extended outdoor space on Kirkwood during the 2023 season.
  - For businesses with a capacity between 20 and 100, the cost will be \$1,250 for utilization of the extended outdoor space on Kirkwood during the 2023 season.
  - For businesses with a capacity 100 and above, the cost will be \$3,500 for utilization of the extended outdoor space on Kirkwood during the 2023 season.

### Parklet Logistics:

- Eligibility:
  - Eligibility is limited to any food service establishment adjacent to metered parking in downtown Bloomington.
  - All participating businesses must agree to cease alcohol sales in parklets by midnight.
  - Eligible businesses must complete the application and payment process as outlined in this memo.
- Application process:
  - Application form will go live on the City's webpage on February 16, 2023.
  - Applications are due by March 6, 2023. Businesses may submit applications in advance of the deadline.
  - Fees are payable by check or card to Parking Services by March 13, 2023.
- Implementation:
  - The Parking Services division in the Department of Public Works will install and remove the orange jersey barriers at the beginning and end of the 2023 season.
  - City staff will fill the jersey barriers with water on the day they are installed. Participating businesses will be required to top off the barriers with water as needed, and the barriers must remain sufficiently full for safety reasons.
  - If the weather in April of 2023 is not conducive to outdoor dining, City staff may exercise discretion on the exact dates that the parklets are installed
  - If a parklet is removed, either by request of the business or by determination of City staff, it may not be reimplemented in the same calendar year. Any fees paid by the business will not be refunded
- Requirements for participating businesses:
  - Participating businesses are required to provide their own furniture, decorations, etc.

- Participating businesses must meet all local, state, and national legal requirements for their extended outdoor seating, including those from the Indiana Alcohol Tobacco Commission (ATC), state and county health department, and all Americans with Disabilities Act (ADA), safety and insurance requirements.
- Participating businesses must comply with Indiana Fire Code regulations relating to the use of heaters and tents, specifically Chapter 31, Section 3107.4.
  - Tents are allowed to be used on a temporary basis, with a maximum cumulative number of 30 days of operation in a calendar year
  - Heaters are allowed to operate but must be 10 feet from any combustible material, including tents, buildings, seating, awnings, etc.

Kirkwood Conversion Logistics:

- Eligibility
  - Eligibility is limited to any business or organization located in the participating blocks of Kirkwood Ave. This program is focused on, but not limited to, food service establishments.
  - All participating businesses must agree to cease alcohol sales in parklets and on Kirkwood by midnight.
- Application process:
  - Application form will go live on the City's webpage on February 16, 2023.
  - Applications are due by March 6, 2023. Businesses may submit applications in advance of the deadline.
  - Fees are payable by check or card to Parking Services by March 13, 2023.
- Implementation logistics:
  - City staff will temporarily reconvert the participating 2.5 blocks of Kirkwood Ave. during the 2023 season. No permanent physical changes will be made to the streetscape.
  - All cross streets will remain open.
  - A fire lane will be left in the middle of the street as necessary, as determined by the Bloomington Fire Department.
  - Where the street is closed with a contiguous barrier (i.e. orange jersey barriers as opposed to bollards), there will be a bike lane so that bikes and scooters may retain a path despite Kirkwood being a dismount zone.
  - City staff have analyzed the quantity and location of ADA parking spaces in the downtown area and are in the process of determining where additional ADA spaces can be added, taking into consideration which blocks of Kirkwood will be closed to vehicular traffic in 2023. These additional ADA spaces will be implemented in the spring of 2023, with exact dates determined by weather.
  - Areas not occupied by businesses or the fire lane will have greater arts programming, such as live music, mural and plein air painting, performances, or festivals. The nature and timing of this programming will be determined by City staff, in conjunction with community stakeholders.
- Requirements for participating businesses:
  - Participating businesses are required to provide their own furniture, decorations, etc.
  - Participating businesses must meet all local, state, and national legal requirements for their extended outdoor seating, including those from the ATC, state and county health department, and all ADA, safety, and insurance requirements.
  - All businesses utilizing the extended outdoor space on Kirkwood will be required to have a temporary ADA-compliant ramp from the sidewalk into the section of the street they are utilizing.
  - Participating businesses must comply with Indiana Fire Code regulations relating to the use of heaters and tents, specifically Chapter 31, Section 3107.4.
    - Tents are allowed to be used on a temporary basis, with a maximum cumulative number of 30 days of operation in a calendar year
    - Heaters are allowed to operate but must be 10 feet from any combustible material, including tents, buildings, seating, awnings, etc.