

Outdoor dining areas

Obligation to obtain an operating permit

Whether a legal obligation to obtain a permit exists for the operation of an outdoor dining area depends on the following criteria:

An operating permit is NOT required if the outdoor dining area does not contain more than 75 spaces; the outdoor dining area serves exclusively the provision of food and the selling of beverages; loud speaking, singing and playing of music are prohibited by the proprietors and this prohibition is clearly indicated by prominent notices; the interests of neighbours are sufficiently protected and damage to the environment is avoided.

In these cases, an outdoor dining area may be operated once the authorities have received prior notification.

However, if these requirements are not met, an operating permit is required from the respective authorities.

In this context, we wish to draw particular attention to the fact that the proprietor not only has to arrange the prohibition of loud speaking, singing and playing music, but also has to enforce this with the means at their disposal (e.g. expulsion from the premises). If a proprietor fails to enforce the prohibition to be decreed in accordance with this passage in the law with reasonable diligence, measures will come into consideration such as a penalty in accordance with paragraph 368 of the German Industrial Code (up to € 1,090), or if need be even a withdrawal of trading licence.

We will gladly provide this notice board, with the special reference that loud speaking, singing and playing music is prohibited in outdoor dining areas, free of charge to our members. Naturally, this notice board in DIN A3 format is water-resistant and weather-proof.

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Opening times:

How long the outdoor dining area may be open is also principally regulated by law in the Austrian Industrial Code (GewO). In the process, the law specifies that outdoor dining areas on public property or such which are attached to public thoroughfares may be open until 11 pm. According to the law, closing time is as early as 10 pm for outdoor dining areas on private property which do not adjoin public thoroughfares (typical inner courtyard).

Outdoor dining areas that essentially meet all requirements and thus have only a disclosure obligation, yet that wish to operate outside of the times mentioned above, require a permit if this is necessary to protect the interests of neighbours.

Your municipality has the option of accordingly extending per ordinance the opening hours for outdoor dining areas specified by law in your municipal area. Many municipalities have made use of this authority and extended the opening hours for outdoor dining areas in the summer months to 12 midnight.

Enquire with your municipality whether a corresponding ordinance has been enacted. Should the municipality refrain from an ordinance concerning this matter, the closing hours listed in the law are automatically valid again.

In Graz, the extended closing time of 11:30 pm for outdoor dining areas, on public as well as on private property, is valid from 15 June to 15 September.

IMPORTANT: All clearing operations must be completed with the onset of the outdoor dining area closing time.