



**NEW YORK CITY FIRE DEPARTMENT
BUREAU OF FIRE PREVENTION
9 MetroTech Center, Brooklyn, NY 11201-3857**

INFORMATIONAL BULLETIN

TO: ALL COMPRESSED GAS DISTRIBUTORS

RE: DELIVERY OF LIQUIFIED PETROLIUM GAS (PROPANE) FOR USE AT OUTDOOR DINING AREAS

DATE: DECEMBER 7, 2020

Purpose

This bulletin describes how a vendor can determine whether it is lawful to deliver propane containers to restaurants, bars, and other establishments authorized to use propane heaters for comfort heating of customers in outdoor dining areas.

New York City Fire Code Section FC2707.3 makes it illegal to deliver propane to any location in quantities requiring a permit under the Fire Code or Fire Department rules, unless the owner or other person taking delivery is in possession of a Fire Department permit for the storage, handling and/or use of the propane at the location.

This bulleting clarifies what documentation is acceptable in cases where the operator of an outdoor dining area has not yet been issued a permit for the use of propane. This document also specifies additional requirements for the use and storage of propane in outdoor dining areas. Compressed gas distributors are cautioned to deliver propane containers only to locations who demonstrate compliance with the Fire Code, Fire Department rules, and the other requirements described below.

Background

The City of New York established the Open Restaurants program by Emergency Executive Order No. 126, issued June 18, 2020. It allows restaurants, bars and other establishments to use outdoor space on sidewalks and the roadway to set up outdoor dining areas. Heating options for outdoor dining areas are authorized by [Emergency Executive Order No. 153](#), issued October 14, 2020. EEO 153 allows the use of propane heaters on sidewalks by restaurants, bars, and other establishments participating in the Open Restaurants program in accordance with [Fire Department Guidance](#). Additionally, restaurants, bars and other establishments may use propane heaters on private property, such as courtyards and parking lots, in accordance with the Fire Department Guidance. Use of propane heaters on roadways is not allowed.

Authorization to Begin Temporary Use of Propane Without Fire Department Permit

A restaurant is authorized to use propane heaters in outdoor dining areas only after it has submitted an “attestation” and site plan to the Fire Department. The attestation specifies the quantity, manufacturer and model of each propane heater at the premises, and the site plan demonstrates the placement of each heater and how minimum clearances are maintained. Submission of the attestation and site plan is deemed by the Fire Department to be an application for appropriate permits related to propane.

After submitting an attestation and site plan, the restaurant will receive an email expressly authorizing it to begin using propane-fueled heaters, even before it has been issued a Fire Department permit.

Certificate of Fitness Requirement

After receiving the express authorization from the Fire Department to use propane for comfort heating in outdoor dining areas, the applicant or an employee at the restaurant has three weeks to obtain the T-93 Certificate of Fitness issued by the Department in order to continue use of the heaters. The T-93 is required for all storage and use of propane. During the first three weeks from the Department's express authorization, such supervision can be performed by a trained and knowledgeable person who is familiar with T-93 study guides.

Additional Requirements for Use of Propane in Outdoor Dining Areas

Vendors considering whether to deliver propane containers to operators of outdoor dining areas should confirm that the owner is eligible to use propane heaters.

1. A Fire Department permit is required:
 - for use of any propane-fueled heater, regardless of size; and/or
 - if the total storage or use of propane exceeds 400 SCF (standard cubic feet) of LPG (approximately 46 pounds of LPG) (more than two standard 20-pound containers).

The only exception to these requirements is if the restaurant has received an email from the Fire Department authorizing it to use propane pending receipt of a permit. "Empty" containers stored at the premises are counted as full for purposes of Fire Code compliance.

2. The use of portable heaters fueled by non-propane LPG, such as butane, is prohibited.
3. Storage of 20-pound propane containers (those not connected to a heater) is not allowed:
 - indoors;
 - on sidewalks, roadways, rooftops or below grade locations; and/or
 - anywhere else on the premises unless a permit has been issued by the Fire Department for an approved storage facility.

If the restaurant does not have an approved outdoor LPG storage facility, all propane containers in capacity greater than one pound must be removed at the close of business. An individual may transport up to 90 pounds of LPG in a personal vehicle other than the trunk, where they are visible to first responders.

4. Propane-fueled heaters are allowed only in outdoor dining areas, located on public sidewalks or privately-owned properties such as front yards, rear yards, court yards or parking lots. Propane-fueled heaters are not allowed:
 - on a street or roadway, even if the roadway has been closed to vehicle traffic by the NYC Open Streets or Open Restaurants program.

- on rooftops, balconies and terraces (except propane containers with a capacity not exceeding 16.4 oz).

Restrictions on Propane Delivery

As explained below, you may not deliver any propane containers to a premises that does not have a permit or a valid email authorization, and you are not allowed to deliver any more containers than the number of heaters set forth on the permit or in the attestation (unless there is a permit for an approved storage facility at the premises).

A compressed gas distributor must obtain from the owner or person accepting delivery a copy of the Fire Department permit authorizing use and/or storage of propane, or a copy of the Fire Department's email authorization to begin using propane at the premises. Below is a sample Fire Department email confirmation:

Congratulations! Based upon Emergency Executive Order 153, if your restaurant is a participant the Open Restaurants program or is an eligible food service establishment, you are now authorized to begin using propane-fueled heaters for the comfort heating of your customers in outdoor dining areas as described in the Fire Department's Guidance available here.

Reminder: Be sure to obtain T-93 Certificate of Fitness for Temporary Supervision of Storage, Handling, and Use of Propane (LPG) Containers and Propane-Fueled Portable Space Heaters in Outdoor Dining Areas. Click here to review the study materials and get more information about taking the T-93 exam.

If you have any questions, please email us at FDNY.BusinessSupport@fdny.nyc.gov and be sure to include your Service Request Number.

The compressed gas distributor must keep a copy of the permit or email authorization on file in its office and provide a copy to the Fire Department upon request.

The maximum number of propane containers is limited to the number of propane-fueled heaters indicated on the permit, or, if a permit has not yet been issued, in the attestation form filed by the owner. (Keep a copy of the attestation if necessary to document the authorized number of containers.)

Unless there is an approved storage facility, no spare containers are authorized to be delivered.

Any questions about compressed gas deliveries, the status of a permit for any location, and non-compliant conditions may be directed to the Fire Department's District Office Headquarters at (718) 999-2457/2458, or via the Bureau of Fire Prevention Customer Service Center at FDNYBusinessSupport@fdny.nyc.gov.

Penalties for Non-Compliance

Any compressed gas distributor found to have delivered to an unpermitted or unauthorized location propane or other compressed gas in an amount requiring a Fire Department permit will be subject to Fire Department enforcement action, including monetary penalties, suspension/revocation of any New York City transportation permit, and /or criminal prosecution.