



CITY OF EVANSVILLE
CIVIC CENTER COMPLEX, ROOM 300
1 NW MLK JR. BLVD.
EVANSVILLE, IN 47708

SIDEWALK CAFÉ LICENSE

(Evansville Municipal Code Chapter 5.55 Sidewalk Cafes)

APPLICATION SUBMISSION

All individuals must obtain a license from the City Controller's Office under the provisions of the Sidewalk Cafes Ordinance of the Evansville Municipal Code 5.55, stating that it shall be a violation of EMC 5.55 for any person to engage in cafe activity on a sidewalk in the public right-of-way without obtaining a license. A separate license shall be required for each location and separate business.

City Controller's Office
Attn: License Clerk
Civic Center Complex
1 NW MLK Jr Blvd, Room 300
Evansville, IN 47708.

Please note that incomplete applications will be rejected. Should you have any questions regarding the licensing process, please contact the City Controller's office at 812-436-4919.

LICENSE FEE SCHEDULE

License Application Fee: **\$75.00**

LICENSE FEE PAYMENT

The License Application Fee is an annual fee that is payable to the City of Evansville. The License Application Fee is due at the time of application. Whenever a license is not approved or is refused, any license fee paid in advance shall be refunded to the applicant (EMC 5.05.020).

Payment of the fees can be made by check, cashier's check, or money order. Please ensure that your check or money order is made payable to the City of Evansville. Please note that failure to pay the fees in full or accurately may result in revocation of your license.

APPLICATION APPROVAL

Applicants shall receive notification regarding the approval of their license application within thirty (30) business days of the receipt of a complete license application. It is important to note that license applications shall only be deemed complete when all the requested information has been supplied by the applicant and all fees have been paid.

Applicants will receive a copy of the approved application and license certificate from the City Controller's Office within thirty (30) business days of the Transportation Services Department's approval.

EXPIRATION AND RENEWAL OF LICENSE

It is imperative to remember that sidewalk cafe licenses expire annually. Therefore, the renewal process must be initiated 75 days before the expiration date. The new application must be submitted to the City Controller before the license expires.



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FEE \$75.00 PERMIT: BEGINNING DATE _____ ENDING DATE 12/31/_____

BUSINESS NAME _____

BUSINESS ADDRESS _____

CITY _____ STATE _____ ZIP _____

OWNER'S NAME _____

OWNER'S ADDRESS _____

CITY _____ STATE _____ ZIP _____

ATTACH THE FOLLOWING:

1. Vanderburgh County Health Department **FOOD PERMIT**
2. Indiana Department of Revenue **RETAIL MERCHANT LICENSE**
3. Detailed **SITE PLAN** showing dimensions of the café, location of furniture, equipment, and signage.
4. **INSURANCE CERTIFICATE OF PUBLIC LIABILITY**
 - a. The Permittee shall maintain liability insurance providing combined single limit coverage of \$500,000 per person and occurrence for personal injuries and \$50,000 for property damage. (EMC 5.55.030)
 - b. **THE CITY OF EVANSVILLE MUST BE LISTED AS ADDITIONAL INSURED**

VERIFICATION OF OWNER'S IDENTITY

I, _____, state that the facts contained in and attached to this application are true, as I am informed and verily believe.

OWNER'S SIGNATURE _____ DATE _____

STATE OF INDIANA)

) SS:

COUNTY OF VANDERBURGH)

SUBSCRIBED AND SWORN to before me, a Notary Public, in and for said County and State, on this the _____ day of _____.

Notary Public Signature _____

Notary Public Name _____

County of Residence: _____

My Commission Expires: _____

My Commission No.: _____



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TRANSPORTATION SERVICES APPROVAL

APPROVER'S NAME _____

APPROVER'S SIGNATURE _____

DATE APPROVED _____

FOR THE CONTROLLER'S OFFICE, USE ONLY

CHECK NUMBER _____

BUSINESS ACCT # _____

LICENSE CLERK _____

LICENSE NUMBER _____

Chapter 5.55 SIDEWALK CAFES

Sections:

[5.55.010 Definitions.](#)

[5.55.020 License required.](#)

[5.55.030 Requirements for licensure.](#)

[5.55.040 General regulations.](#)

[5.55.050 Terms of licensure.](#)

[5.55.060 Renewal of license.](#)

[5.55.070 Fees.](#)

[5.55.080 Penalty.](#)

5.55.010 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

“Abutting retail business property” means any real property, including any area constructed and used as a sidewalk, which is not in the public right-of-way, used for retail business, which abuts, but is not located on, the sidewalk right-of-way.

“Beverage” means any liquid intended for use in whole or in part for human consumption.

“Cafe activity” means the retail sale of beverages or food, or the provision of a place for the consumption of beverages or food.

“Cafe area” means the area used for cafe activity. Includes the entire sidewalk sales area and any part of the abutting retail business property used directly for cafe activity.

“Effective walkway width” means that portion of the sidewalk in the public right-of-way that is reasonably available for use by the pedestrian stream moving through the area.

“Food” means any raw, cooked, or processed edible substance intended for use in whole or in part for human consumption.

“Incentive zone” means that area of the downtown bordered by Riverside Drive, Chestnut Street, Seventh Street, and Court Street.

“Sidewalk sales area” means the portion of the sidewalk on the public right-of-way which the City Controller has licensed for cafe activity. The sidewalk sales area may be no larger than eight feet in width (measured perpendicularly from the property line), and must be located next to abutting retail business property. [Ord. G-86-31, passed 7-28-86. 1982 Code § 119.01; 1983 Code § 11.119.01.]

5.55.020 License required.

(A) It shall be a violation of this chapter for any person to engage in cafe activity on a sidewalk in the public right-of-way without obtaining a license in accordance with and in compliance with this chapter. However, retail sales of beverages or food may occur where otherwise permitted:

- (1) From carts licensed pursuant to Chapter 5.25 EMC.
- (2) On a temporary basis when authorized by the Board of Public Works pursuant to EMC 12.05.140 and 12.05.190.
- (3) As part of a licensed festival pursuant to Chapter 5.10 EMC.

(B) A license issued pursuant to this chapter shall obviate the requirement:

- (1) To obtain a peddler’s permit.
- (2) To obtain an encroachment permit.

(C) It is the purpose of this chapter to promote the downtown area by promoting pedestrian traffic, enhancing the attractiveness of the downtown area, and making food and beverages conveniently available for members of the public, without creating a health or safety hazard or inconveniencing pedestrians. [Ord. G-86-31, passed 7-28-86. 1982 Code § 119.02; 1983 Code § 11.119.02.]

5.55.030 Requirements for licensure.

(A) The City Controller may grant a license to a person to use a sidewalk sales area situated immediately next to the abutting retail business property owned or leased by the person, for the sole purpose of engaging in cafe activity. A person desiring a license to use a sidewalk sales area for cafe activity shall make application in writing to the City Controller.

(B) The City Controller shall grant the license herein if the following requirements are met:

- (1) The sidewalk on the public right-of-way immediately next to the abutting retail business property of the applicant is at least 14 feet, measured from the curb edge to the property line.

(2) No part of the sidewalk sales area is located within 12 feet of the point at which the right-of-way lines of two or more streets intersect, 15 feet of any bus stop sign, 10 feet of any sidewalk elevator, six feet of any building standpipe or building hydrant, or five feet of any taxi stand area, crosswalk, driveway, or alleyway.

(3) The applicant is actively engaged in a retail business involving the sale of beverages or food in the abutting retail business. The beverages or food sold in the cafe area will also be sold in the abutting retail business property. The floor area of the abutting retail business property must exceed the area of the sidewalk sales area.

(4) The proposed cafe activity is allowed by applicable zoning regulations.

(5) The Director of the Department of Transportation and Services has approved the dimensions of the area which may be used as a sidewalk sales area for cafe activity, and approved the days and hours the sidewalk sales area may be so used. This determination shall be made by the following process:

(a) The Department of Transportation and Services shall conduct a pedestrian traffic count on a representative day or days in the spring, summer, or fall for the sidewalk situated next to the abutting retail business property owned or leased by the applicant.

(b) The Department of Transportation and Services shall calculate the effective walkway width of the sidewalk after removing from consideration the sidewalk sales area proposed to be used by the applicant.

(c) The Director of the Department of Transportation and Services shall, in light of the pedestrian count and effective walkway width information, determine if the effective walkway width will safely accommodate pedestrian traffic at that location for a significant number of hours each week. If it will, the Director shall determine what days of the week and what hours of the day the pedestrian flow will be comfortably accommodated. However, in no event shall the Director allow use of a sidewalk sales area for cafe activity which would result in the effective walkway width being reduced to less than five feet.

(6) Applicable permits required by the Health Department and other regulatory agencies have been secured and are in force.

(7) The applicant has provided a certificate of public liability insurance to the City Controller, insuring the person and naming the City as an additional insured. Licensee shall maintain liability insurance providing combined single limit coverage of \$500,000 per person and occurrence for personal injuries, and \$50,000 for property damage.

(8) The applicant has provided a document in which he agrees to indemnify and hold harmless the City for

losses, damages, claims, or expenses arising out of the use of the sidewalk sales area for the cafe activity.

(9) The applicant has provided a detailed site plan showing the use and location of all furniture and equipment (including, but not limited to, tables, barriers, chairs, signs, awnings, trash receptacles, and umbrellas) in the cafe area, the color and design of the furniture and equipment, and the movement of people in the cafe area; and approval of the Director of the Department of Transportation and Services for consistency with the requirements of this section and the objectives of this chapter. [Ord. G-88-11, passed 5-9-88; Ord. G-86-31, passed 7-28-86. 1982 Code § 119.03; 1983 Code § 11.119.03.]

5.55.040 General regulations.

(A) Use of the cafe area for cafe activity pursuant to this chapter shall be subject to the following conditions:

(1) The licensee, including agents and employees of the licensee, shall be required to obey the commands of law enforcement officers, firefighters, and all other public authorities acting pursuant to law with respect to activity carried out in the sidewalk sales area, including the temporary removal of furniture and equipment and temporary cessation of cafe activity. The licensee shall fully cooperate with City officials during special events and activities as well as inclement weather and emergencies.

(2) All furniture, equipment, and goods shall be taken from the sidewalk sales area when ordered by City officials pursuant to subsection (A)(1) of this section. All furniture, equipment, and goods must be susceptible of being removed from the sidewalk sales area within a reasonable period of time at any time with the manpower normally available to the licensee.

(3) Provisions shall be made to assure the sidewalk will not be littered; including placement of adequate trash receptacles and periodic removal of litter in the sidewalk sales area and the area 20 feet from the perimeter of the sidewalk sales area.

(4) Sales of beverages or food shall not be accomplished by crying out or hawking.

(5) Pedestrians shall not be exposed to any undue safety or health hazard, nor shall a public nuisance be created.

(6) A device may not be used which would amplify or direct sound. Attention may not be drawn to the retail sales by a light-producing device.

(7) All signs must comply with applicable zoning restrictions and the detailed site plan approved by the Department of Transportation and Services.

(8) Sales of beverages or food may not be made to any person in or on any motorized vehicle.

(9) Beverages or food sold in the sidewalk sales area shall be provided for consumption in the sidewalk

sales area or in the abutting retail business property.

(10) Beverages, dispensed in disposable cans, shall have any separable opening tabs removed at the time the cans are sold.

(11) The City Controller may, by written notice to the licensee, forbid the use of the sidewalk sales area during any outdoor public festival licensed pursuant to Chapter 5.10 EMC, or require that the licensee meet the additional requirements imposed on all vendors by the organizers of the outdoor public festival.

(12) The requirements set forth in EMC [5.55.020](#) continue to be met, and the cafe activity is carried out in accordance with the detailed site plan.

(B) Use of the cafe area for cafe activity shall be in compliance with all laws and regulations, including those pertaining to health, zoning, and use of the right-of-way. The fact that a license has been obtained shall not prevent enforcement of such laws and regulations even if the enforcement action has the effect of restricting or preventing the use of the license.

(C) Every licensee, including agents and employees of the licensee, shall be subject to the duties and responsibilities set forth in this chapter.

(D) Additional terms and conditions for the sale of alcoholic beverages:

(1) Licensee shall agree to comply with all rules, regulations, guidelines, and orders of the Alcoholic Beverage Commission and its agents, officials, and employees. All laws pertaining to an alcoholic beverage permit premises shall be in full force and effect.

(2) The licensee must submit a revised floor plan which includes the cafe area. The plan must be reviewed and approved by excise officers.

(3) The cafe area must be a well-defined and enclosed area. The outer limits or border of the cafe area must be a wall, rail, or roped structure, or other structure capable of preventing general entrance or exit to the cafe area.

(4) There may be only one door, gate, or opening to provide entrance and exit into and from the cafe area.

(5) All tables must be situated in a way which would discourage the easy transfer of beverages from the tables to a passerby, and be situated as ordered by excise officers.

(6) No alcoholic beverages may be stored, mixed, or dispensed in the cafe area.

(7) All alcoholic beverages must be carried to the table by a licensed employee. There will be no carry-out.

(8) The licensee must have one employee responsible for the supervision of the cafe area at all times. Among other duties, this employee shall prevent the carry-out of alcoholic beverages, service to minors, and the passing of beverages over, under, or through the dividing structure. [Ord. G-86-31, passed 7-28-86. 1982 Code § 119.04; 1983 Code § 11.119.04.]

5.55.050 Terms of licensure.

(A) A license, unless granted for a lesser determinate period, shall be for a term of one calendar year from the date of issuance.

(B) A license issued pursuant to this chapter may not be transferred and may not be used by the licensee for another location.

(C) The granting of a license shall be at the sufferance of the City and shall not vest any rights in the licensee to continue to use the sidewalk sales area. The license to use a sidewalk sales area may be revoked at any time by the City Controller pursuant to the provisions of EMC 5.05.050 for violation of this chapter, the other rules and regulations found in this municipal code, or the laws of the State. The City Controller may cause the cafe activity conducted in the sidewalk sales area to be immediately terminated if the insurance required by this chapter is not maintained in full force and effect during the term of the license. Actions of the City Controller under this subsection may be appealed in accordance with Chapter 5.05 EMC. [Ord. G-86-31, passed 7-28-86. 1982 Code § 119.05; 1983 Code § 11.119.05.]

5.55.060 Renewal of license.

(A) Before a license is renewed, the Department of Transportation and Services shall have an opportunity to again conduct a pedestrian count and calculate the effective walkway width, and the Director of the Department of Transportation and Services shall have an opportunity to determine whether this width is sufficient to safely and comfortably accommodate pedestrian traffic flow in light of any changed conditions. If the Director determines that a renewal of a license would not allow this pedestrian flow standard to be met, the Director shall modify dimensions of the area which may be used as a sidewalk sales area for cafe activity, or shall modify the days and hours the area may be so used, or shall modify both. This process shall be completed within a period of 30 calendar days from the time a license renewal is applied for by the licensee. Renewal applications may be filed no earlier than 75 days before the license expires.

(B) Before a license is renewed, the Department of Transportation and Services shall have the opportunity to again review the detailed site plan in light of any changed conditions. If it is determined that a change in the detailed site plan is clearly needed to meet the objectives of this chapter, then the license shall not be renewed unless those site plan requirements are met. This review must be accomplished within a period of 30 calendar days from the time a license renewal is applied for by the licensee. Renewal applications may be filed no earlier than 75 days before the license expires. [Ord. G-86-31, passed 7-28-86. 1982 Code § 119.06; 1983 Code § 11.119.06.]

5.55.070 Fees.

(A) Each original application for a license to engage in cafe activity in the sidewalk sales area under this chapter shall be accompanied by a nonrefundable application fee of \$75.00. In the event the action upon the application is favorable, the application fee shall be retained as the first annual fee. In the event of unfavorable action on the application, the application fee shall be retained to defray the administrative expense incurred in investigating and processing the application.

(B) The fee for a renewal of an annual license shall be \$75.00. [Ord. G-86-31, passed 7-28-86. 1982 Code § 119.07; 1983 Code § 11.119.07.]

5.55.080 Penalty.

(A) Any person who violates any provisions of this chapter shall be subject to the penalty set forth in EMC 1.05.180. This chapter may be enforced as provided in EMC 1.05.170.

(B) In addition, any person who violates any provision of this chapter, or whose agents or employees violate any provision of this chapter, may be subject to a forfeiture of the license issued under this chapter, pursuant to EMC 5.05.050. [Ord. G-86-31, passed 7-28-86. 1982 Code § 119.99; 1983 Code § 11.119.99.]