

SIDEWALK CAFE APPLICATION REQUIREMENTS

THE FOLLOWING MUST BE INCLUDED WITH THE APPLICATION

- Site plan – A new drawing is required if changes from the previous year are requested or a new sidewalk café application is being submitted
- Statement of Restaurant Use
- A certificate of insurance as described here and must include this statement: “The City of Evanston is named an additional insured pursuant to the City Code sections regulating sidewalk cafes, and all City staff regulations regarding sidewalk cafes.”
- The signed Release, Indemnification & Hold Harmless Agreement
- Copy of valid City of Evanston Business License and Liquor License (if applicable)
- All documents must be signed and dated for the current permit year

If Year-Round with Permanent Fixtures

- Proof of Public Notification (copy of notice in publication of local circulation and list of addresses within 250' of café area that were delivered notification)
- Annual bond (amount to be determined by the Public Works Agency)

REQUIRED ADDITIONAL INFORMATION

- Reusable dishware/flatware will be used for café customers.
- Disposable dishware/flatware will be used for café customers.
- Public parking is available within 1 block.
- Valet parking is offered.
- Storage of tables, benches or chairs will be on the city sidewalk.
- Liquor service will be available at the café. *(Include a copy of current Evanston liquor license.)*

PLEASE READ - CITY CODE 7-2-6 RULES AND REGULATIONS FOR ALL SIDEWALK CAFES:

Rules And Regulations For All Sidewalk Cafes

a. A type 1 restaurant with an alcoholic liquor license outside the "core area", Enoteca/Class K liquor licensee desirous of selling alcoholic liquor on the sidewalk cafe premises must first obtain an alcohol license from the City Council.

(1) Licensed type -1 restaurants, possessing an alcoholic liquor license of any classification and located within the "core area" may sell alcoholic liquor on sidewalk cafe premises. Such sale of alcoholic liquor shall be for consumption on the premises during the period when their patrons are offered a complete meal.

(2) Licensed restaurants, possessing an alcoholic liquor license of any classification, but located outside the "core area" as defined in Section 3-4-1 of this Code, unless otherwise permitted in Section 7-2-6(D)(5)(a)(3), are prohibited from serving alcoholic liquor on the sidewalk cafe premises or allowing any patron to consume or have in his or her possession, any alcoholic liquor on said cafe premises. Licensed restaurants outside the core area which serve alcoholic liquor in the principal establishment, unless otherwise permitted in Section 7-2-6(D)(5)(a)(3) which serve alcoholic liquor in the principal establishment shall clearly state on the menu for outdoor service that the sale and/or consumption of alcoholic liquor is prohibited.

(3) Type 2 restaurants are, generally, prohibited from serving alcohol and must clearly state on the menu for outdoor service that the sale and/or consumption of alcoholic liquor is prohibited. However, Type 2 restaurants which serve alcoholic liquor in the principal establishment, may serve alcohol on their sidewalk café only if the restaurant complies with the requirements of a Type 1 restaurant in Section 7-2-6(D) on the restaurant's sidewalk café. All alcoholic beverages must be served in reusable glassware.

(4) Licensed type 1 restaurants, possessing an alcoholic beverage license of any classification, but located outside the "core area," may request a sidewalk cafe permit which allows the sale of alcoholic liquor on sidewalk cafe premises subject to the standards and procedures of Section 7-2-6(D)(6) and in compliance with all other applicable provisions of this Code.

(5) An Enoteca possessing a Class K liquor license sell wine within the boundaries of the sidewalk cafe premises.

(6) A Class K liquor licensee may sell beer, wine, or liquor within the boundaries of the sidewalk café premises.

(7) Alcohol is not permitted on the sidewalk cafe of a restaurant that does not possess a City of Evanston liquor license.

b. At all times, including while being stored, prepared, displayed, served or transported to the table, food shall be protected from potential contamination by being covered and/or refrigerated if necessary.

c. Reusable, non-disposable flatware, dishware and beverage containers, are required for use in association with all sidewalk cafes. No food or beverage, including water, shall be served in, on, or with single use paper, plastic, or polystyrene plastic dishes or utensils, nor shall any food or beverage be served to the customer wrapped or packaged in foil, paper, plastic, or polystyrene plastic. The prohibition on the use of single use dishes, utensils, beverage containers or foil, paper, plastic, or plastic wrapping or packaging may be waived by the Design & Project Review Committee or City Council upon a showing of good cause. Such good cause includes, but is not limited to, provisions of table bus service, a litter control and disposal plan, or equivalents, sufficient to obviate any adverse off site effects of the grant of the waiver.

d. When associated with type 1 restaurants, food or beverages consumed at sidewalk tables, benches, or chairs must be served by a waiter or waitress of the restaurant at said tables, benches, or chairs. When associated with type 2 restaurants, bakeries, ice cream stores or any other licensed food service establishment or other licensed retail food store, a sidewalk cafe shall provide bus service during all hours of operation. When associated with Enotecas or Class K liquor licensees, food or beverages consumed at sidewalk tables, benches, or chairs must be served by a waiter or waitress of the Enoteca or Class K liquor licensees at said tables, benches, or chairs.

e. The operator of any licensed food service establishment or licensed retail food store or Enoteca or Class K liquor licensees must maintain the exterior of the premises, including the sidewalk cafe area, in accordance with applicable regulations of the Evanston Health Department and Public Works Department. This duty to maintain extends to the removal of all litter, regardless of its source.

f. Generally, Sidewalk tables, benches, or chairs may not be attached by any means to the public sidewalk or any other public property. If a restaurant has a right of way space that is rectangular and is larger than six hundred (600) sq.ft., the restaurant can apply to install permanent infrastructure for its sidewalk café.

g. Sidewalk tables, benches, or chairs may be stored on the City sidewalk, in an area approved by the City, upon the payment of a three hundred dollar (\$300.00) fee for type 2 restaurants or a two-hundred and fifty (\$250.00) for all other types of businesses.

h. A sidewalk cafe shall not be open for business when the interior aspect of the business is not open for business.

i. The outdoor seating area shall be accessible to the disabled, and the licensee shall at all times comply with all applicable federal, state, and City laws, ordinances, and regulations concerning accessibility and nondiscrimination in the providing of services.

j. No animals, except those assisting the disabled, shall be allowed in the outdoor restaurant seating area.

k. Except for an Enoteca business or Class K liquor license establishment, alcohol will only be served at sidewalk cafes in conjunction with a full meal. The sidewalk cafe shall not function as a "bar," as that term is defined in Section 3-4-1, the City's liquor control regulations, of this Code.

l. Alcohol will not be served at sidewalk cafes after 9:30 p.m. on weekdays and after 10:30 p.m. on weekends.

m. Any violation of the City's liquor control regulations at the sidewalk cafe premises may result in the revocation of the liquor license for the entire licensed premises in accordance with the provisions of

- n. Revocation or suspension of a sidewalk café permit by the City Manager or his/her designee pursuant to Section 7-2-6(D)(7) prohibits service of alcoholic liquor on the sidewalk café premises for the duration of the revocation or suspension.
- o. No amplified music, whether live or recorded, is allowed on sidewalk café premises.
- p. The sidewalk café permit and approved plan shall be conspicuously displayed on the exterior wall or window of the main entrance of the licensed retail food establishment during all hours of operation. The boundaries of the Sidewalk Café, including the physical boundary separating the permitted outdoor seating from the remainder of the public way, shall reflect the approved plan and shall not be modified or altered unless approved by the Design & Project Review Committee or City Council.
- q. If a boundary is installed enclosing the permitted area from the remainder of the public way, the boundary shall be no less than twenty-four (24) inches or more than thirty-six (36) in height and shall include cane detectable barriers located twenty-seven (27) inches or less above ground.
- r. Non-permissible enclosure of City property within the boundaries of the sidewalk café shall include, but not limited to parking meters/boxes, fire hydrants, newspaper stands/boxes, trees, planters and bike racks. These types of items must be accessible to the public or to the City for emergency services.
- s. No portion of the sidewalk café shall expand to include neighboring businesses, residences or empty lots. No portion of the sidewalk café shall be elevated. Sidewalk cafes cannot operate under scaffolding or construction canopies.
- t. Permittees are required to be current with payment of all taxes and any fee payment due the City of Evanston. Permit shall be automatically revoked sixty (60) days after notice on non-payment and equipment shall be removed from café area.
- u. Smoking of any type is prohibited on sidewalk cafes. Permittees are responsible for the conduct of patrons of their sidewalk café. Failure to enforce the City's prohibition against smoking can result in revocation of the sidewalk café permit or a fine.

6. *Rules for year-round sidewalk café:* In addition to rules & regulations for all sidewalk cafes, if a sidewalk café permittee chooses to offer café service year-round, the following additional regulations shall be complied with:

- a. Fees: Permit Fee per square foot shall be \$6 for Type 1 and 2 cafes with year round operations plus \$300 annual permit fee and \$250 (Type 1)/\$300 (Type 2) outdoor storage fee (optional). Permit fee per square foot shall be \$4 for all other businesses plus \$250 annual permit fee and \$250 outdoor storage (optional).
- b. Operational: The approved café space must remain operational. The café area cannot be used for winter month storage of café structures (barriers, tables, chairs) or for the storage of snow.
- c. Enclosure: No enclosure of the sidewalk café. While a canopy or awning can be used to provide overhead coverage, complete enclosure of a sidewalk café is prohibited. Any partial enclosure including overhead, must comply with City of Evanston Building and Fire Code regulations and permit requirements.
- d. Heating Equipment: Any heating equipment shall be identified on the site plan; shall maintain a minimum clearance distance of three (3) feet from all combustibles; shall be listed for use by an approved agency and any use of electrical power supply for the heating equipment shall be properly grounded and not obstruct the means of egress. The unit and layouts shall be compliant with existing Fire Prevention and Building code regulations. Fire Department review required.
- e. Snow: All permittees are responsible for snow shoveling and snow removal from café area and adjacent public right of way including snow accumulated on the sidewalk as a result of street plowing. Accumulated snow must be hauled from "core area." Café area cannot be used for snow storage. Snow must be removed within twenty-four (24) hours following the snowfall.

7. *Rules for any café with year-round permanent fixtures:* In addition to rules and regulations for all sidewalk cafes and year-round sidewalk cafes, if a sidewalk permittee chooses to offer café

service year-round that includes the installation of permanently attached fixtures within the café limits, the following additional regulations shall be complied with:

a. Layout Approval: The layout of permanent sidewalk café will be reviewed by the Design and Project Review Committee and subject to final approval by the City Council. Layout must include all fixtures to be installed into or attached upon the public sidewalk as well as all other café items. Submittal documents shall include fixture specifications showing all season design. All structural elements of fixtures and attachment methods shall be reviewed and sealed by a structural engineer with current licensure with the State of Illinois.

b. Public Notice: All addresses within two hundred fifty (250) feet of café area shall be notified of intent to occupy sidewalk space for year round café operation which includes permanently attached fixtures. Notice shall be published in a publication of local circulation of applicant's intent to occupy the sidewalk space for year round café operation which includes permanently attached fixtures. Expense for notification is the applicant's responsibility. Notice shall be published in a publication of local circulation a minimum of 15 days prior to DAPR hearing date

c. Construction: The permittee shall be responsible for the construction and cost of any improvement in the public right of way.

d. Maintenance: The permittee shall be responsible for all maintenance and repair of café area and permanently attached fixtures.

e. Site Restoration: The permittee shall be required to provide an annual bond for the removal of the permanent fixtures and restoration of the sidewalk after the permittee ceases café operation. Restoration of the sidewalk shall be the responsibility of the permittee. If a license is revoked or not renewed, the permittee shall coordinate with the Public Works Agency Director and restore the sidewalk to its original condition within sixty (60) days of revocation or expiration of the permit. The Public Works Agency Director may grant extensions for good cause. Bond amount to be determined by Public Works Agency and submitted annually with sidewalk café application.

f. Access: The City has the right to access the café area for the purpose of sidewalk and utility maintenance.

g. Changes to fixtures or layout: Proposed changes to the layout or fixtures shall be reviewed and approved by the Design and Project Review Committee prior to any changes being made.

h. Clearance: Sidewalk cafes with permanently attached fixtures are required to maintain a minimum of eight (8) unobstructed feet in width measured from any public improvement within the right of way, including but not limited to parking meters and boxes, signs, planters to any barrier delimiting the sidewalk café area as indicated on the approved site plan. Clearance should provide for a lineal path for pedestrian traffic. Café area shall be two (2) feet minimally from the inside of the street curb and shall not encroach the streetscape paver band.

i. Good Standing: Applicant is eligible for permanent fixture installation only if all taxes and payments/fees owed the City are current. Applicant must be in good standing with the City of Evanston for previous 12 months.

ADDITIONAL RULES AND REGULATIONS FOR ALL SIDEWALK CAFES:

- Smoking will be prohibited at both the sidewalk café and interior of the restaurant in accordance with § 8-21 Clean Air Act – Smoking of the Evanston City Code and that wait staff and management will actively enforce this.
- A clear distance of a minimum of six (6) unobstructed feet in width, measured from the sidewalk curb and from any public improvements within the right of way, including, but not limited to, parking meters, signs, and planters to the ropes or chains delimiting the sidewalk café area as indicated on the approved site drawing will be maintained. The clear distance requirement is increased to a minimum of eight (8) unobstructed feet in width if operating a year round café with permanent fixtures.
- As per § 7-2-6(C)(3)(f), a Certificate of Insurance showing coverage through November 1 (seasonal)

or March 31 (year-round) of the permit year must be submitted as part of the application. If coverage expires before November 1 or March 31, a Certificate of Insurance must be submitted 30 days before the expiration date.

- No BYOB liquor service or consumption is allowed at the sidewalk café; the establishment must have a valid liquor license.
- Outdoor amplified music is not allowed at the sidewalk café.

SITE PLAN DRAWING GUIDELINES

(Site assessment and approval by the Planning & Zoning Division required for permit issuance)

A detailed drawing to scale of the proposed site indicating the following: the existing facade; the points of ingress and egress; and the proposed location of the tables, chairs, serving equipment, planters, awnings, lighting, delimiting ropes or chains and other facilities to be included in the cafe operation. The detailed scale drawing must indicate the location of the existing public improvements including the following: fire hydrants, parking meters, streetlights, traffic signals, street signs, bus shelters, trees, tree grates, planting boxes and/or planting areas, and any other public or private obstruction. A plat of survey may be required.

Provide clear distance of a minimum of six (6) unobstructed feet in width, measured from the sidewalk curb and from any public improvements within the right-of-way, including, but not limited to, parking meters, signs, and planters to the ropes or chains delimiting the sidewalk cafe area. Clearance should provide for a lineal path for pedestrian traffic. Café area shall be two (2) feet minimally from the inside of the street curb and shall not encroach the streetscape paver band. Please note: the six (6) feet requirement should consider occupied seating where the chair is pushed away from the table to accommodate the space of a patron. Sidewalk cafes with permanently attached fixtures are required to maintain a clear distance of eight (8) unobstructed feet in width.

There should be unobstructed passage for pedestrians, with consideration for those with disabilities, vehicle flow, or access to buildings.

Do not place sidewalk tables, benches, or chairs in a location that interferes with the operation of fire hydrants, pedestrian crosswalks, intersections, bus stops, or taxi stands, or in a location that is harmful to trees or other plantings.

Do not utilize any of the required or non-required parking space area for sidewalk tables, benches, chairs, or other furniture and materials associated with the sidewalk café.

The sidewalk café permit and ground plan shall be conspicuously displayed on the exterior wall or window near the main entrance of the establishment during all hours of operation.

STATEMENT OF RESTAURANT USE
(Sidewalk Café)

Name of Establishment _____

Address _____

(Check the definition that best describes your operation.)

____RESTAURANT, TYPE 1: An establishment in which the principal use is the service of prepared food and beverages for consumption on the premises. All service of prepared food and beverages for consumption on the premises shall require customers to order at a table, booth or dining counter with service by a waiter or waitress at said table, booth or dining counter and also shall require the use of reusable (non-disposable) flatware and dishware. Drive-through facilities are prohibited. (7-2-6(D)1)

____RESTAURANT, TYPE 2: An establishment in which the principal use is the service of prepared food and/or beverages for consumption on and/or off the premises and that is not a "restaurant type 1" as defined in this section. This definition shall not include establishments wherein incidental prepared food and beverage service is accessory to a bakery, food establishment, convenience store, food store establishment, meat market, or similar principal use nor shall it include cafeterias that are accessory to hospitals, colleges, universities, schools or other similar principal uses. (7-2-6(D)1) Type 2 Restaurants are required to post the enclosed LITTER COLLECTION PLAN on site.

____ICE CREAM STORE: An establishment selling primarily ice cream, soda water, frozen yogurt and soft drinks.

____BAKERY: An establishment for any process of mixing, compounding and baking any bread, biscuits, crackers, rolls, cakes, pies, or any food products of which flour or meal is the principal ingredient, for sale at retail or at wholesale.

____OTHER FOOD SERVICE ESTABLISHMENT or RETAIL FOOD STORE

____ENOTECA or CLASS K LIQUOR LICENSEE: a special type of local or regional wine, beer shop

*If you have questions or need assistance completing **this document**, contact the Planning & Zoning Division, zoning@cityofevanston.org or call 847-448-4311.*

**RELEASE, INDEMNIFICATION &
HOLD HARMLESS AGREEMENT
(Sidewalk Café)**

WHEREAS, the undersigned desires to maintain a sidewalk café (e.g. an outdoor dining seating area) on a portion of the public sidewalk in the City of Evanston; and

WHEREAS, the City of Evanston may permit the undersigned to maintain such an area, provided that the City shall not thereby incur the risk of any liabilities to the undersigned, or to any third party or employee of the undersigned, by virtue of the presence or actions of the undersigned;

NOW, THEREFORE, the undersigned agrees to release, indemnify, defend and hold harmless the City of Evanston, its officers, employees and agents against any and all loss, liability, damage, claims, costs, attorney's fees, and expenses which it may hereafter incur as a result of the undersigned's operation of the sidewalk café/outdoor dining seating area. The undersigned shall at his or her own expense, appear, defend, and pay all attorney's fees, and all costs and other expenses arising therefrom or incurred in connection with the undersigned's operation of the sidewalk café/outdoor dining seating area. If any judgments shall be rendered against the City in any such action, the undersigned shall satisfy and discharge the same excluding only such claims, demands or losses, which result from the sole negligence of the City of Evanston or its officers, agents or employees.

I HAVE CAREFULLY READ THIS RELEASE AND FULLY UNDERSTAND ITS CONTENTS. I AM AWARE THAT THIS IS A RELEASE AND HOLD HARMLESS AGREEMENT, AND A CONTRACT BETWEEN THE CITY OF EVANSTON AND ME, AND I SIGN IT OF MY FREE WILL.

Signed at _____ this _____ day of _____, 20____.
City, State *Date* *Month*

Signature

Name (Please Print)

TitleAddress

City, State, Zip

LIABILITY AND INSURANCE REQUIREMENTS
(Do Not Return This Instruction Sheet With Your Application)

Sidewalk Café Permit applicants shall, during the entire term hereof, keep in full force and effect, at its own expense, the following insurance requirements **for the entire permit period (Seasonal April 1 – Nov 1 or Year-Round April 1-March 31)**. Please submit certificate on insurance with the following:

1. Commercial general liability insurance in the amount of \$1,000,000 per occurrence for bodily injury and property damage. The City must be named as an additional insured on this policy and an endorsement must be issued as part of the policy evidencing compliance with this requirement. A certificate of insurance as described here and must include this statement: "The City of Evanston is named an additional insured pursuant to the City Code sections regulating sidewalk cafes, and all City staff regulations regarding sidewalk cafes."
2. Worker's compensation and employer's liability as required by the State of Illinois.
3. All policies must be issued by companies authorized to do business in the State of Illinois and rated B+: VE or better per Best's Key Rating guide, latest edition.
4. The City shall receive at least thirty (30) days written notice prior to any cancellation, nonrenewal or material change in the coverage provided.
5. The permittee must provide and have approved by the City's Risk Manager an original certificate of insurance as evidence that the above requirements have been met prior to the permit becoming effective. Failure to comply with these requirements shall cause a suspension or revocation of this permit.
6. **If Year-Round with Permanent Fixtures:** The permittee shall be required to provide an annual bond for the removal of the permanent fixtures and restoration of the sidewalk after the permittee ceases cafe operation. Restoration of the sidewalk shall be the responsibility of the permittee. Bond amount to be determined by Public Works Agency and submitted annually with sidewalk café application.