

EVANSVILLE RESTAURANT RELIEF PROGRAM

In order to help local restaurants maximize their permitted operations in compliance with the Governor's Roadmap to Reopen Indiana (Executive Order 20-26) and other Executive Orders still in force, the City of Evansville is providing existing restaurant operators the relief found in the temporary provisions and guidance below (the "Program").

Effective immediately, and remaining effective until expiration or termination of the Governor's declaration of public health emergency for the COVID-19 pandemic, restaurant operators desiring to establish or expand outdoor dining areas may do so subject to the following provisions:

1. On-premises outdoor seating:

- a. Temporary outdoor restaurant seating may be established in any outdoor area on the restaurant's premises not being used for outdoor seating upon submission and approval by the Chief Fire Marshal or his/her designee of an application and site plan.
- b. Enforcement of off-street parking minimum requirements is suspended where non-compliance is due to restaurant use of a parking area for temporary outdoor seating under this Program, including any non-compliance by a non-restaurant business furnishing a parking area for temporary outdoor seating for an adjacent restaurant.

2. Off-premises outdoor seating:

- a. If temporary closure of all or part of the public right-of-way for use as, or in conjunction with, temporary outdoor seating is proposed because a restaurant lacks appropriate on-premises areas for such use, an application and site plan for an encroachment permit must first be approved.
- b. Areas proposed to be used for outdoor seating that are limited to sidewalks or other areas not designed for motor vehicle traffic require approval of the application and site plan by the Chief Fire Marshal, the City Engineer, and the Board of Public Works, or their respective designee.
- c. Encroachments involving temporary closure of a public street or any portion thereof require approval of the application and site plan by the Chief Fire Marshal, the City Engineer, and the Safety Board, or their respective designee. Any approved closure will be subject to barricading requirements as determined by the Director of Transportation and Services.

3. Applications and site plans:

a. Applications and site plans submitted pursuant to this Program will not be referred to the Site Review Committee and instead will be reviewed for approval by the above-listed authorities in consultation with any other agency as the authority deems necessary.

b. Special applications and site plan requirements for on-premises and off-premises seating areas will be developed by the City's Legal Department in coordination with the above-listed authorities, and will be as simple as possible and require only the data and documentation necessary to protect public health, safety, and welfare, especially that of customers and restaurant employees on the restaurant premises as well as persons and businesses nearby.

c. No application or permit fees will be charged for such review or approval under this Program; fees otherwise charged for encroachment permits or review are not waived by this Program.

d. All applications and site plans, regardless of whether they include proposed encroachments, must be submitted via email to the Evansville Fire Department addressed to Chief Fire Marshal Greg Main at gmain@evansvillefiredepartment.com; Chief Main and his Deputy Fire Marshals will coordinate with the other authorities whose approval is required.

e. A copy of all approved applications and site plans will be delivered to the Building Commission for its records.

4. Establishment and operation of any new outdoor seating area under this Program, whether on-premises or off-premises, is subject to the following:

a. Restaurant operators are responsible for maintaining ADA-compliant access in and around the seating area(s) and for compliance with all other local, state, and federal laws, including without limitation the restrictions contained in the Governor's Executive Orders and the regulations and guidance promulgated by the Indiana Alcohol and Tobacco Commission and the Indiana and Vanderburgh County Health Departments.

b. Total indoor and outdoor restaurant seating will be limited to the applicable percentage of pre-emergency capacity per the Governor's Executive Orders (50% before June 14, 75% beginning June 14), such that adding outdoor seating does not increase the total number of seats a restaurant would be able to fill at a given time without the added outdoor seating.

c. All social distancing requirements must be met.

UPDATE!

Send all completed applications and site plans instead to Andria Glenn at City Legal: aglenn@zsws.com 812-424-7575 ext 226

d. The outdoor seating area does not facilitate gatherings of a number of people in excess of the maximums prescribed in the Governor's Executive Orders.

e. Establishment of outdoor seating under this Program does not entitle a business owner to establish permanent outdoor seating or encroachment into the public right-of-way, and all outdoor seating established or maintained after July 3, 2020, must meet all applicable requirements including, without limitation, obtaining an Improvement Location Permit after application to and review by the Site Review Committee.

5. Because conditions are constantly changing during the COVID-19 public health emergency, restaurant operators, employees, and customers must bear in mind that all provisions of this Program are subject to change or termination without advance notice in the event additional emergency protections are put into place by the Mayor, the Governor, or any other agency or body having jurisdiction.

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The following FAQs regarding patio expansions have been provided by the Indiana Alcohol and Tobacco Commission and are reproduced here for reference (note Evansville is part of District 5):

1. *Can a restaurant expand the foot print of its restaurant by increasing the size of the patio?* Yes as long as the restaurant continues to limit seating capacity to 50% of the original seating capacity of the restaurant, spaces the tables at least 6 feet apart, limits parties to 6 people or less, and only provides table service.

2. *Can a restaurant expand the seating capacity of its restaurant during Stage 2 and Stage 3?* No.

3. *Can a restaurant add a patio area if the restaurant did not previously have a patio area?* Yes as long as the restaurant continues to limit seating capacity to 50% of the original seating capacity of the restaurant, spaces the tables at least 6 feet apart, limits parties to 6 people or less, and only provides table service.

4. *Can a restaurant expand a patio area into the right-of-way including a sidewalk or closed street?* Yes, if the restaurant has permission from the local unit of government and follows the other requirements of the executive order.

5. *How do I notify Indiana State Excise Police about my amended floor plan?* Send your amended floorplan to the district commander of the Excise district where your establishment is located. Information on Excise districts can be found [here](#). (District 1 – ncanal@atc.in.gov; District 2 – krinehart@atc.in.gov; District 3 – kakers@atc.in.gov; District 4 – blang@atc.in.gov; District 5 – tthickstun@atc.in.gov; District 6 – jlang@atc.in.gov)

6. *How do I indicate the new foot print of my patio area?* The temporary patio area must be delineated in some manner by rail, wall, or hedge. The delineation may be a temporary structure while the executive order is in place limiting the seating capacity of the restaurant.

7. *Can I add an outdoor bar to my patio?* No. Outdoor bars are not allowed for many permit types. Additionally, bar areas must remain closed during Stage 2. Alcoholic beverage service on patios should be through table service only.