

Title 5

BUSINESS LICENSES AND REGULATIONS

Chapters:

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Chapter 5.04

CARNIVALS AND CIRCUSES

Sections:

5.04.010 Permit required-Fee.

5.04.010 Permit required - Fee.

A. No person shall, in any street or other public place within the town, expose or operate any carnival, circuses or other exhibition under tent or other cover without a permit. No event shall exceed seven days, unless otherwise provided by the Mayor and Commissioners.

B. The permit fee shall be established by the Mayor and Commissioners for the event, and shall be refunded at the satisfactory completion of the event as determined by the director of public works or his designee.

C. Any person or persons requesting a permit as covered in subsection A of this section shall submit said request at least ninety (90) days prior to scheduled event. Such events shall be limited to no more than one such event every thirty (30) days. All permits shall be approved in the order in which they are submitted by any person or persons, provided that all other requirements of this chapter are complied with. (Amended during 1996 codification; prior code ' 47-1)

Chapter 5.08

PEDDLING AND SOLICITING

Sections:

Article I. Peddlers

- 5.08.010 Definitions.**
- 5.08.020 License required.**
- 5.08.030 Registration and license application.**
- 5.08.040 Verification of information.**
- 5.08.050 Effect of misrepresentation of facts.**
- 5.08.060 Restriction on peddling in public places.**
- 5.08.070 Fees - Exemptions.**
- 5.08.080 Violation - Penalty.**

Article II. Transient or Temporary Dealers.

- 5.08.090 Definitions and word usage.**
- 5.08.100 Licenses required.**
- 5.08.110 Applicability - Exemptions.**
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- 5.08.130 Bond - Deposit.**
- 5.08.140 Verification of information - Effect of false statements on applications.**
- 5.08.150 Issuance and duration of license.**
- 5.08.160 Fees.**
- 5.08.170 Engaging in business without license prohibited.**
- 5.08.180 Sunday sales.**
- 5.08.190 Effect on other regulations.**
- 5.08.200 Violation - Penalty.**

Article I. Peddlers

5.08.010 Definitions.

As used in this article, the following terms shall have the meanings indicated:

“Peddler” means a person, firm, corporation or legal entity engaged in business for profit who sells or offers for sale any

commodity or article, traveling from place to place in the town, or who sells or offers for sale and delivery, from any vehicle going from place to place in the town, any commodity or article and who carries such commodity or article with him for delivery at the time of sale. The definition of “peddler” shall include any person, firm, corporation or legal entity selling or offering for sale any commodity or article from an established spot on a street or other public place. The term “peddler” does not include transient or temporary dealers as defined in Article 11 of this chapter. (Ord. 1-95 § 1 (part): prior code § 84-1)

5.08.020 License required.

It is unlawful for any person, firm or corporation to engage in the business of hawker or peddler of any merchandise, article or thing without having first secured a license therefor. (Ord. 1-95 § 1 (part): prior code § 84-2)

5.08.030 Registration and license application.

Every peddler shall, prior to engaging in such activity, register with the town and furnish, in writing, on an application to be furnished by the town, the following information:

- A. The applicant’s name and address;
- B. The name and address of the person by whom the applicant is employed or with whom the applicant is associated;
- C. The length of such employment or association;
- D. The place of residence and nature of employment of the applicant during the preceding twelve (12) months;
- E. The nature of the commodities or articles the applicant is selling or offering for sale in the town;
- F. An estimate of the length of time and a statement of the part of the town in which the applicant will pursue his activities;
- G. The names and addresses of three persons who have known the applicant for at least one year and from whom the applicant is willing that inquiry be made to verify the facts

stated by the applicant;

H. A personal description of the applicant, including marks of physical identification;

I. Applicant shall present a valid driver’s license, state-issued identification card or other proper identification;

J. The location of sale if intended to sell any commodity or article from an established spot on a street or other public place;

K. Proof of having obtained a Maryland State Transient Vendor’s License. (Ord. 1-95 §1 (part): prior code § 84-3).

5.08.040 Verification of Information.

A. The town shall promptly make such verification of the facts stated by the applicant as the circumstances may require and shall complete such verification in not more than fourteen (14) days after the filing of the registration statement.

B. It is unlawful for the applicant to engage as a peddler within the town until the period of fourteen (14) days has elapsed or until the town has advised the applicant that the applicant has complied with the requirements and the same have been sufficiently verified. (Ord. 1-95 § 1 (part): prior code § 84-4)

5.08.050 Effect of misrepresentation of facts.

In the event that any applicant shall intentionally misrepresent any facts or information required, the town shall not issue a license. (Ord. 1-95 § 1 (part): prior code § 84-5)

5.08.060 Restriction on peddling in public places.

A. No peddler shall ply his/her vocation on any street, sidewalk, park, parkway or in any other public place, unless authorized to do so by the town and said peddler’s license specifies that peddling in such public place(s) is permitted thereunder.

B. No peddlers shall be permitted to sell or offer for sale any goods, commodities, foodstuffs, merchandise or products of

whatsoever nature or kind from any parking space adjacent to any parking meter. This restriction shall not apply to any special event sponsored by the Town of Elkton. (Ord. 1-95 § 1 (part): Prior code § 84-6)

5.08.070 Fees - Exemptions.

A. All peddlers as defined herein shall pay a license fee prior to commencing business within the town, on the following basis: fifty dollars (\$50.00) for annual license; twenty-five dollars (\$25.00) for a six-month license; and five dollars (\$5.00) for a daily license.

B. Any civic, charitable, educational, service or other nonprofit organization having a local chapter in the Town of Elkton, shall be exempt from payment of the required fees but shall be in compliance with all other provisions of this chapter. (Ord. 1-95 § 1 (part): prior code § 84-7)

5.08.080 Violation - Penalty.

A violation of this article shall be a civil infraction and a person violating any provision thereof shall be subject to the penalties provided under Article XIV, §Section C14-1B Charter of the Town of Elkton.

Article II. Transient or Temporary Dealers

5.08.090 Definitions and word usage.

A. The terms “transient dealers” and “temporary dealers” when utilized in this article, shall be synonymous.

B. As used in this article, the following terms shall have the meanings indicated:

“Transient dealers” or “temporary dealers” means all persons, partnerships, corporations and any legal entity of whatsoever nature or kind, and their principals and agents, who engage or conduct in the Town of Elkton, either in one locality or in traveling from place to place, a temporary or transient business for the purpose of selling or soliciting orders for the sale of goods, wares, commodities, foodstuffs, merchandise or products of whatsoever nature or kind with the

intention of continuing in said business in the Town of Elkton for a period of not more than one year and who, for the purpose of carrying on such business or businesses, hire, rent, lease, use or occupy, in whole or in part, any room, including but not limited to rooms or halls in motels, hotels, or other lodging houses, buildings, tents, or any other temporary structure(s), public auditoriums, civic centers, any lot or parcel of land or any motor vehicle or nonmotorized vehicle or cart, including but not limited to automobiles, trucks or boats, or who use or occupy any street, alley, road, park or public facility or public space of whatsoever nature or kind for the purpose of the exhibition and sale of such goods, wares and merchandise as herein defined. (Ord. 1-95 § 1 (part): prior code § 84-9)

5.08.100 License required.

All transient or temporary dealers, as defined in this article, shall be and are required to obtain a license in accordance with the provisions of this article prior to conducting business and for the purpose of conducting business in the Town of Elkton. (Ord. 1-95 § 1 (part): prior code § 84-10)

5.08.110 Applicability - Exemptions.

A. The provisions of this article shall not apply to commercial travelers or selling agents in the usual course of business, nor to bona fide sales of goods, wares or merchandise for future delivery in interstate commerce, where wither no measurements or design specifications are made or prepared in the town or where no payment or deposit is collected in the town as a condition for the placement of orders or where no license made is collected under the provisions of the Constitution or laws of the United States, nor to any sales of goods, wares or merchandise as defined herein or exhibition thereof on the grounds of any agricultural society during the continuance of any annual fair held by such society, dealers, merchants, vendors or exhibitors located in the town, nor any sales by any other nonprofit organization or society

acting for charities or religious or other public purposes.

B. The promoter, sponsor or other person, firm, corporation or legal entity of whatsoever nature or kind organizing a convention, show or sale, which convention, show or sale includes ten or more transient or local dealers, merchants or exhibitors, shall pay a license fee and obtain a license in accordance with the provisions and schedule of this article.

C. Conventions of religions, civic, charitable or benevolent groups, nonprofit trade associations, concerts and cultural events shall be exempt from this article.

D. Transient dealers, vendors or merchants participating in a convention, show or sale licensed hereunder shall not be required to have separate transient dealer's licenses.

E. Peddlers, as defined in Article I of this chapter, shall not be considered as transient or temporary dealers. (Ord. 1-95 § 1 (part): prior code §84-11)

5.08.120 License application.

At least twenty (20) days prior to the holding of such sale or solicitation, every such transient dealer or person, firm, corporation or legal entity covered under this article shall furnish to the town an application, in writing, verified and setting out the following:

A. The name and address of the applicant and also the name of the true owner if the applicant is not such true owner of the goods, wares or merchandise, as defined herein, to be sold or exhibited for sale;

B. The name and address of the employer of the applicant or the persons with whom the applicant is associated and the length of such employment or association;

C. The place of residence and nature of employment of the registrant or applicant during the preceding twelve (12) months and the place of business of the same during said period;

D. An estimate of the length of time and a statement of the exact location or parts of the town in which the applicant or registrant will pursue the activities in question. If a fixed site

is to be utilized, the exact address and owner of the property in question shall be designated and furnished;

E. The names and addresses of at least three persons who have known the applicant for at least one year and from whom the applicant or registrant is willing that inquiry may be made to verify the facts stated by the applicant or registrant;

F. Maryland State Retail Sales Tax Number. The address of any permanent place of business in the town or the state of Maryland or, if there is no permanent place of business in the state of Maryland a copy of a certificate from the State Department of Assessments and Taxation evidencing the fact that the dealer has qualified to do business in the state of Maryland and the name and address of its agent for the service of process in this state if the same is a corporation, limited partnership or such other legal entity. If the applicant is an individual or partnership, the same shall be required to provide proof that he or it is qualified to do business and has obtained all necessary permits and licenses required by the state of Maryland and the county requisite for the operation of said business;

G. A description of the goods, wares or merchandise, as defined in this article, which the applicant intends to offer for sale, if sales are to be made other than from inventory, a copy of the catalog or other sales materials and/or a listing of the samples to be displayed or utilized;

H. Applicant shall present a valid driver's license, state-issued identification card or other proper identification;

I. Such other information as the Town may prescribe. (Ord. 1-95 § 1 (part): prior code § 84-12)

5.08.130 Bond - Deposit.

A. Every applicant for a transient dealer's license shall execute and file with the town a good and sufficient bond in the amount of ten thousand dollars (\$10,000.00), with the surety thereon a surety qualified to do business in the state of Maryland and approved by the town,

and which shall be payable to the Town of Elkton to the extent that any taxes or fines as determined by the town to be due or not paid or any fees due hereunder or any other license fees of any kind, and upon judicial determination, to those authorized to file suit thereunder, and which shall be conditioned upon faithful observance of all the conditions of this article, and which shall also indemnify any purchaser at such sale who suffers any loss by reason of defective merchandise or any misrepresentation in said sale. Said bond shall also provide that the Town of Elkton may file suit in its own name against the licensee and/or the surety on said bond for any taxes, fees or fines due from the licensee which are not paid within thirty (30) days of the termination of the sale or termination of the license. Said bond shall also provide that any purchaser at any sale or sales may maintain an action against a licensee and/or said surety for claims arising from such sale. Said bond shall also provide that it shall continue in effect for one year after the termination of the sale and/or license for which the same was made and until all actions are concluded and the judgment or judgments, if any, have been paid and fully satisfied or the amounts of the bond exhausted by such payments. This bond shall be in addition to all deposits, license fees, permit fees or any other requirements under any other ordinances of the town.

B. Upon application for the license in question, the applicant shall, in addition to the bond, deposit a sum in cash equivalent to the full amount that would be due hereunder for the license based upon the estimated time required. (Ord. 1-95 § 1 (part): prior code § 84-13)

5.08.140 Verification of information - Effect of false statements on application.

The town shall verify the statements contained in the application for the license by the applicant. In the event that there are any false statements contained in said application,

then the license required hereunder may be denied. In said event, the town shall refund the deposit less any administrative costs in handling the application, bond and verification of the same. (Ord. 1-95 § 1 (part); prior code §84-14)

5.08.150 Issuance and duration of license.

A. Upon receipt of the application required in this article, the surety bond and the amount of the license, the town shall issue the license within twenty (20) days thereafter.

B. The license shall be for the duration and term specifically applied for and set forth therein. The same shall terminate automatically upon the expiration of the time set forth. (Ord. 1-95 § 1 (part): prior code § 84-15)

5.08.160 Fees.

All transient dealers as defined herein shall pay a license fee prior to commencing business within the town, on the following basis:

A. A minimum of one thousand dollars (\$1,000.00) shall be paid, which shall be for and cover a period of up to one month from the date of issuance or any portion thereof.

B. Thereafter, five hundred dollars (\$500.00) shall be paid per month or any portion thereof.

C. The maximum amount payable for the license in question shall be three thousand five hundred dollars (\$3,500.00), and the license shall be issued for no longer than a period of one year from the date of issuance. The "date of issuance" shall be defined as being the date when the license is actually obtained and it is legal for the dealer to proceed with business. (Ord. 1-95 § (part): prior code § 84-16)

5.08.170 Engaging in business without license prohibited.

It is unlawful for any transient or any persons or legal entities covered under this article or to which this article is applicable to engage in business as described herein without first obtaining the necessary license and permit licenses as required. (Ord. 1-95 § 1

(part): prior code § 84-17 (A))

Chapter 5.12

5.08.180. Sunday sales.

No sales of goods, wares or merchandise as defined shall be made on a Sunday by a transient dealer licensed hereunder, unless otherwise permitted by law. (Ord. 1-95 § 1 (part): prior code § 84-17 (B))

TAXICABS

(Repealed)

Ordinance 4-2014 effective 12/9/14

5.08.190 Effect on other regulations.

Nothing in this article shall be construed to relieve any person or firm or legal entity to which the same is applicable from obtaining any other licenses or permits or being subjected to any liability, or any other regulations that may be applicable wither by the United States, the state of Maryland, the county of Cecil or the Town of Elkton. (Ord. 1-95 § 1 (part): prior code § 84-18)

5.08.200 Violation - Penalty.

A violation of this article shall be a civil infraction and a person violating any provision thereof shall be subject to the penalties provided under Article XIV, § Section C14-1B Charter of the Town of Elkton.

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Chapter 5.16

VIDEO GAMES

Sections:

- 5.16.010 Definitions.**
- 5.16.020 Compliance required.**
- 5.16.030 Licenses generally.**
- 5.16.040 Expiration of license.**
- 5.16.050 License fees.**
- 5.16.060 Administration.**
- 5.16.070 Violation - Penalty.**

5.16.010 Definitions.

As used in this chapter the following terms shall have the meanings indicated:

“Board of Commissioners” means the Mayor and Commissioners of the Town of Elkton.

“Person” means any individual, partnership, corporation, joint-stock association, firm, joint venture or other business entity. “Person” does not include a government or government agency.

“Town” means the Town of Elkton.

“Video game” means any coin-or-token operated electronic amusement device using or containing a video image or display. (Prior code § 108-1)

5.16.020 Compliance required.

It is unlawful for any person to own, keep, maintain or allow the operation of any video game for public amusement or public operation in any place or vehicle in the town without complying with the provisions of this chapter. (Prior code § 108-2)

5.16.030 Licenses generally.

A. Any person who keeps, holds or allows the operation of any video game for public amusement or public operation in any place or vehicle in the town annually shall obtain a license from the town prior to permitting any operation by the public.

B. The application for a license will be on the form and contain the information that the town determines, but shall include at least:

1. The name and address of the licensee;
2. The location of the video game;

3. The number of video games at each location;
4. The name and address of the owner of the video game at each location.

C. Each license issued shall be displayed in a prominent place near the video games.

D. Each licensed video game shall have affixed to it in a prominent place the name, address and telephone number of the owner.

E. Any change in the information stated on the license, including the acquisition of additional video games and the transfer of ownership, shall be reported to the town within thirty (30) days of the change.

F. Records.

1. Each person licensed under this chapter shall keep and preserve for a period of two years suitable records of the number of video games licensed and the gross receipts from those video games.
2. Upon request, the records shall be furnished to the town. (Prior code § 108-3)

5.16.040 Expiration of license.

Each license issued under this chapter expires on the March 1st after the effective date of the license unless the license is renewed for a one-year term. (Prior code § 108-4)

5.16.050 License fees.

A. The fee for a license issued under this chapter is:

1. Paid to the town;
2. In the amount that the Board of Commissioners by regulation sets;
3. Not refundable.

B. If a video game is added to video games already licensed under this chapter, the license fee is prorated on an annual basis. (Prior code § 108-5)

5.16.060 Administration.

A. The town shall;

1. Issue each license;
2. Conduct the inspections.

B. The Board of Commissioners may issue any necessary regulation to implement this chapter. (Prior code § 108-6)

5.16.070 Violation - Penalty

A. Any violation of the provisions of this chapter or regulations adopted under this chapter is punishable as a misdemeanor as set forth in the laws of this town.

B. Each day of any violation of this chapter or rule or regulation adopted under this chapter constitutes a separate offense. (Prior code § 108-7)

Chapter 5.20

YARD SALES

Sections:

- 5.20.010 Definitions.**
- 5.20.020 Permit required.**
- 5.20.030 Application for permit.**
- 5.20.040 Signs.**
- 5.20.050 Nonapplicability of provisions.**
- 5.20.060 Waiver of requirements.**
- 5.20.070 Violation - Penalty.**

5.20.010 Definitions.

As used in this chapter, the following terms shall have the meaning indicated:

“Person” means and includes individuals, partnerships, voluntary association and corporations.

“Yard sale” means any sale of used merchandise not conducted as part of a continuing business venture or any casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of said sale. The term “yard sale” shall include all sales entitled “yard sale,” “lawn sale,” “attic sale,” “rummage sale,” “garage sale” or “flea market sale.” (Prior code § 111-1)

5.20.020 Permit required.

A. No person shall conduct a yard sale within the Town of Elkton without first filing with the administration office the information required and obtaining a yard sale permit from the administration office.

B. A yard sale permit shall be issued, without fee, to any applicant who complies with the terms and conditions of this chapter, except that such permit shall not be issued to the same applicant or for the same property more than twice within any calendar year.

C. A yard sale permit shall not be issued for more than two consecutive calendar days.

D. A yard sale permit must be prominently displayed on the premises upon which the yard sale is conducted throughout

the entire period of the sale.

E. No Sunday yard sales shall be conducted unless a special permit is issued by the Mayor and Commissioners. (Amended during 1996 codification; prior code § 111-2)

5.20.030 Application for permit.

The following information must be filed with the administration office on a form provided therefor before a yard sale permit may be issued:

A. Name of the person conducting the sale;

B. Written consent of the owner if the applicant is a tenant in possession of the property on which the sale is to be conducted;

C. Location at which the sale is to be conducted;

D. Number of days of the sale;

E. Date and nature of any past sale;

F. Whether the applicant is conducting the sale together with, for or on behalf of any other person, firm, group, organization, association or corporation and, if so, the name of said person, firm, group, organization, association or corporation and the date or dates of any past sale held by same;

G. Whether or not the applicant has been issued any other vendor’s license by any local, state or federal agency;

H. Sworn statement of affirmation by the person signing that the information therein given is full and true and known by him to be so. (Amended during 1996 codification; prior code § 111-3)

5.20.040 Signs.

A. All signs advertising a yard sale shall have a space allotted thereon upon which shall be placed the name and address of the person to whom the permit has been issued.

B. All signs advertising a yard sale shall be removed within twenty-four (24) hours after the completion of said sale. (Prior code § 111-4)

Chapter 5.24

5.20.50 Nonapplicability of provisions.

The provisions of this chapter shall not apply to or affect the following persons or sales:

A. Persons selling goods pursuant to an order or process of a court of competent jurisdiction;

B. Persons acting in accordance with their powers and duties as public officials;

C. Any persons selling or advertising for sale an item or items of personal property which specifically named or described in the advertisement and which separate items do not exceed five in number. (Prior code § 111-5)

5.20.060 Waiver of requirements.

Upon application by any bona fide charitable, educational, culture or government institution or organization, the town council may waive any or all of the requirements of this chapter; provided, however, that burden of establishing eligibility for a waiver shall be on the organization or institution applying for such waiver. (Prior code § 111-6)

5.20.070 Violation - Penalty.

A violation of this article shall be a civil infraction and a person violating any provision thereof shall be subject to the penalties provided under Article XIV, §Section C14-1B Charter of the Town of Elkton.

SIDEWALK CAFÉS

Sections:

- 5.24.010 Definitions.**
- 5.24.020 Permit required.**
- 5.24.030 Eligibility; Application for permit.**
- 5.24.040 Requirements for sidewalk cafés.**
- 5.24.050 Term of permit and renewal; Revocation; Termination.**
- 5.24.060 Annual permit fee.**
- 5.24.070 Violation – Penalty**

5.24.010 Definitions.

As used in this Chapter, the following terms shall have the meanings indicated:

A. Operator: The person or entity to which a sidewalk café permit is issued and who is responsible for compliance with the applicable provisions of this Chapter.

B. Sidewalk Café: An outdoor food service area operated adjacent to and in conjunction with a restaurant or other business licensed to sell alcoholic beverages for consumption on the business premises and permitted to operate on a public sidewalk.

C. Sidewalk: That portion of the street between the curblin and the adjacent property line intended for use of pedestrians.

5.24.020 Permit required.

No person or entity shall operate a sidewalk café without a valid permit issued under this Chapter. This permit shall be in addition to any other permit or license required by the Town, Cecil County’s government and/or the State of Maryland.

5.24.030 Eligibility; Application for permit.

A sidewalk café permit shall be granted to the operator of a restaurant or other business

licensed to sell alcoholic beverages for consumption on the business premises that is in conformance with the Elkton Zoning Ordinance and that holds a license for the sale and consumption of alcoholic beverages from the Cecil County Board of Liquor License Commissioners. An application for a permit for a sidewalk café shall be submitted on a form provided by the Town's administration office and shall require at least the following information and as otherwise set forth under this Chapter.

A. The applicant's name, business address, mailing address (if different), telephone number and contact person for the applicant.

B. A scaled [1" = 5'] and detailed drawing of the area and portion of the sidewalk adjacent to the applicant's business premises designated for the proposed sidewalk café and indicating the existing façade, the points of ingress and egress applicable to the applicant's building, the proposed location of tables, chairs, serving equipment, planters, borders, awnings, umbrellas and other facilities to be included in the seating area, and the location of public improvements, including fire hydrants, street signs, street lights, traffic signals, mail boxes, trees and tree grates, parking meters, planting boxes or planting areas, building fire escapes or other overhead obstructions and any other public obstructions.

C. A copy of the applicant's license issued by the Cecil County Board of Liquor License Commissioners.

D. A nonrefundable application fee of \$100.00

5.24.040 Requirements for sidewalk cafés

A. General Standards.

1. The sidewalk café may be located only along that portion of the perimeter of the restaurant building or other building's business premises and shall be subject to approval of the Town. All tables, chairs, and other equipment shall be set up in such a manner as to be easily removed at any time and as required by the Town, and shall not be fastened to the sidewalk

and/or through means hazardous to business customers or to the public.

2. The sale and consumption of alcoholic beverages shall be restricted by the type of license issued by the Cecil County Board of Liquor License Commissioners.

3. The sidewalk café shall not be detrimental to the health, safety and/or general welfare of persons residing, working or otherwise in the vicinity of the sidewalk café.

4. The sidewalk café shall only be open from April 15th through September 30th and between the hours of 11:00 a.m. and 8:00 p.m.

5. The operator shall be required to provide additional outdoor trash receptacles for the sidewalk café that are acceptable to the Town. All trash receptacles shall be clean and covered.

6. The sidewalk café seating capacity shall be included in the determination of the business premises' maximum occupancy with regard to the Town's plumbing code, specifically with respect to public toilet facility requirements.

7. No food shall be stored, cooked or otherwise prepared in the area defined and occupied as the sidewalk café.

8. No soiled food equipment, utensils or tableware may be kept in the sidewalk café.

9. All clean food service equipment, utensils or tableware must be covered at all times.

10. The sidewalk café shall be accessible to the disabled and the operator shall at all times comply with all applicable federal, state and/or Town ordinances and regulations concerning accessibility and non-discrimination in the provision of service.

11. The sidewalk café shall not obstruct any fire exit, fire escape, fire hydrant, building sprinkler systems, fire receptacle or any other required ways or means of ingress and egress.

12. In no event shall the operator or the operation of the sidewalk café interfere

with the passage of pedestrians or reduce the open portion of the public sidewalk to less than five (5) feet, clear of all obstructions, measured from the edge of the sidewalk closest to the curb, streetlight, parking meter or other fixture. In addition, no seating or other equipment shall be closer than five (5) feet from any tree or government sign.

13. In no event shall the operator or the operation of, or placement of equipment for the sidewalk café, obstruct access to any bus stop, crosswalk, mailbox, curb cut or other public property. The equipment shall not obstruct the clear view of any traffic signal, regulatory sign or street sign. Whether the placement of equipment obstructs access to any of the foregoing shall be the sole determination of the Town.

14. Outdoor equipment materials and finishes shall be durable, smooth and easily cleaned and shall be maintained in good condition.

15. Pets shall not be allowed within the boundaries of the sidewalk café.

16. The operator shall not place outdoor equipment in the sidewalk café during inclement weather, including during rain or storm events, during weather conditions attended by wind that would likely or reasonably move or blow equipment to any area outside the boundaries of the sidewalk café.

17. The operator shall provide the Town, in a form acceptable to the Town's Attorney, the following:

- a. an agreement to indemnify, defend and hold harmless the Town for any and all claims for liability or damages arising from the operation of the sidewalk café; and
- b. a certificate of general liability insurance and workers compensation insurance. The amount of the required general liability coverage shall not be less than \$1,000,000.00 per occurrence and \$2,000,000.00 annual aggregate. The Town shall be named

as an additionally insured on the face of the certificate.

18. The operator shall be responsible for the maintenance, cleanliness and upkeep of the sidewalk used for the sidewalk café and the replacement of damaged public property, including, but not limited to, brick pavers. No furniture or other outdoor equipment may be attached by any means to the sidewalk or any other public property. Maintenance shall include daily cleaning of the sidewalk by the operator.

19. The operator may not store furniture or outdoor equipment on the sidewalk between the hours of 8:00 p.m. to 11:00 a.m. of any day and/or non-business hours and/or when the sidewalk café is not open or being operated.

20. The seating area where alcoholic beverages are sold or consumed shall be enclosed by a border or other means of defining the sidewalk café and shall be supervised at all times by the operator. No alcoholic beverages may be removed from the sidewalk café, except to the interior of the restaurant or other building business premises.

B. Submittal Requirements.

The following shall be submitted at the time of the application:

1. A completed application form, including a letter from the building owner, if applicable, consenting to the applicant's use of the premises, if a tenant, lessee, or who is otherwise authorized to use of owner's property, for a sidewalk café.
2. The application fee of \$100.00.
3. The drawing [Scale 1" = 5'] or site plan, as provided under § 5.24.030, B., illustrating the location of the proposed sidewalk café and all items required and showing the placement of every item of furniture or equipment to be used as part of the sidewalk café.
4. A Plat of Survey of the property, which shall include the right-of-way between the building and the curb.

5.24.050 Terms of permit and renewal; Revocation; Termination.

A. Term. A sidewalk café permit shall be valid for a term of one (1) year. A renewal application shall provide the same information as an original application, but copies of the initial site plan may be used if there are no changes.

B. Revocation. A sidewalk café permit may be suspended or revoked by the Town for a violation of the permit or for a violation by the operator of any federal or state law or regulation, and/or Town ordinance or regulation attributable to the operation of the sidewalk café.

C. Permit not personal property. The permit issued by the Town for a sidewalk café shall not constitute the personal property of the operator and the Town shall retain ownership at all times. The Town reserves the right to terminate any sidewalk café permit or to completely eliminate this type of permit upon thirty (30) days written notice to the operator. If the sidewalk café subsequently becomes subject to any change or amendment to the Elkton Zoning Ordinance regulations, the change or amendment, as applicable, shall apply to each sidewalk café regardless of the date of establishment or initial date of permit issuance by the Town. No sidewalk café shall be deemed at any time to be a legal nonconforming use.

5.24.060 Annual permit fee.

The annual fee for a sidewalk café shall be \$50.00. The fee shall be due upon the Town's approval of the application for a sidewalk café and upon issuance of the permit.

5.24.070 Violation – Penalty.

A person violating this Chapter, convicted thereof, shall be guilty of a misdemeanor and shall be subject to a fine not to exceed Five Hundred Dollars (\$500.00).