

**§ 90.37. Outdoor cafe permit.**

(a) On application and payment of an investigation and processing fee as set forth in section 90.16, the holder of a Class AA, A, D, E, or F license may be issued an outdoor cafe permit.

(b) An outdoor cafe permit shall, upon issuance, entitle the holder of Class AA, A, D, E or F licenses to sell alcoholic liquor as authorized by his primary classification, outside of the permanent structure of his premises under the following conditions:

(1) The holder of an outdoor cafe permit must conclude all sales and clear the cafe area no later than 1:00 a.m.

(2) A permanent fence, not less than five feet in height, made of wood or other similar material, and when erected not less than six feet in height from the sidewalk or ground level shall be erected. The fence shall be designed in such a manner so that the vision of a person on either side of the fence is obscured when viewing through the fence. The fencing shall be positioned between the area in which alcoholic liquor can be consumed outside and any adjoining residential or commercial property.

(3) Access into the outdoor cafe shall be from the permanent structure only and no access shall be permitted from the street, sidewalk, or adjoining property. Emergency exits as required by city ordinances must be provided.

(4) No music of any kind may be played or broadcast from the outdoor cafe or within the permanent structure which is of such a volume so as to disturb the neighborhood in any manner. Music shall not be played or broadcast after 10:00 p.m.

(5) No sales or dispensing of alcoholic liquor may be made from the outside area or permanent structure to any person upon adjoining property, public street, sidewalk or alley, and no alcoholic liquor served in an open container may be removed from the outdoor cafe or permanent structure.

(6) The permit for the outdoor cafe shall be displayed in accordance with section 90.56 of the Code and shall be subject to suspension or revocation by the commission.

(7) The foregoing requirements shall be prospectively applicable in all instances upon the passage of this section in ordinance form. The commissioner shall have the right to modify or waive any requirement and approve the issuance of a permit at his discretion upon a showing of unique circumstances by the applicant.

(8) The annual fee for an outdoor cafe permit shall be \$100, with a \$15 annual renewal/inspection fee.