

**AN ORDINANCE AMENDING CHAPTER 90, ARTICLE III AND ARTICLE IV
OF THE 1988 CITY OF SPRINGFIELD CODE OF ORDINANCES, AS
AMENDED, PERTAINING TO THE FEES AND HOURS OF OPERATION OF
CERTAIN LICENSES AND PERMITS, AS AMENDED**

Agenda Item 2024-231 Proposed Amendment #2

Purpose: Proposed Amendment #2 amends Agenda Item 2024-231 to allow for alcohol sales until 2:00 a.m. for all licensed establishments except for B1 and C1 package liquor sales licensees, who will still be required to cease sales at 10:00 p.m. (other license classifications allow for package sales until 2:00 a.m.). Permits allowing sales until 3:00 a.m. are still eliminated. The amendment also includes fee increase of \$100 on all licenses, except B1 and C1 (this increase applies to the reduction in license fees for prior 3:00 a.m. licensees).

WHEREAS, the City of Springfield is a home rule unit as defined in Article VII, Section 6(a) of the 1970 Illinois Constitution and has jurisdiction over matters pertaining to its government and affairs; and

WHEREAS, the City is authorized by the Illinois Liquor Control Act and its home rule powers to set the number and classification of licenses, including the fees for such licenses and the hours of operation; and

WHEREAS, the City has determined that it is no longer desirable to allow the sale of alcohol after the hour of 1:00 a.m.; and

WHEREAS, it's in the best interest of the City to amend Chapter 90, Article III and Article IV of the 1988 City of Springfield Code of Ordinances as provided for herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SPRINGFIELD, ILLINOIS:

Section 1: That the City Council hereby amends Chapter 90, Article III of the 1988 Code of Ordinances, as amended, as provided for in the attached **Exhibit A**.

Section 2: That the City Clerk is hereby directed to publish this ordinance in pamphlet form.

Section 3: That this ordinance shall take effect at 12:00 a.m. on January 1, 2025.

PASSED: _____, 2024

SIGNED: _____, 2024

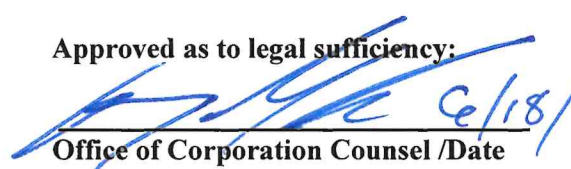
RECORDED: _____, 2024

Mayor Misty Buscher

ATTEST: _____
City Clerk Frank J. Lesko

Approved as to legal sufficiency:

Requested by: Mayor Misty Buscher
Alderman Redpath
Alderman Notariano
Alderman Conley
Alderman Donelan
Alderman Hanauer

 6/18/24
Office of Corporation Counsel /Date

§ 90.15. Classification of licenses and fees.

Licenses to sell alcoholic liquor at retail shall be of the following classes:

- (a) Class AA. A class AA license shall entitle the licensee to sell alcoholic liquor, at retail, for consumption either on the premises by the drink or pitcher or off of the premises where sold in the original package. The annual fee for such license shall be ~~\$1,000~~ \$1,100.
- (b) Class A. A class A license shall entitle the licensee to sell alcoholic liquor at retail by the drink or pitcher, for consumption only on the premises where sold. The annual fee for such license shall be ~~\$900~~ \$1,000.
- (c) Class B. A class B license shall entitle the licensee to sell alcoholic liquor, in the original package only, for consumption off of the premises, but shall not authorize consumption on the premises. The annual fee for such license shall be ~~\$800~~ \$900.
- (d) Class B1. A class B1 license shall entitle the licensee to sell alcoholic liquor in the original package only, for consumption off of the premises, but shall not authorize consumption on the premises. Said license shall entitle the licensee to sell alcoholic liquor from 7:00 a.m. until 10:00 p.m., Monday through Sunday. The annual fee for such license shall be \$700.
- (e) Class C. A class C license shall entitle the licensee to sell beer and wine only, in the original package only, for consumption off of the premises, but shall not authorize consumption on the premises. The annual fee for such license shall be ~~\$600~~ \$700.
- (f) Class C1. A class C1 license shall entitle the licensee to sell beer and wine only, in the original package only, for consumption off of the premises, but shall not authorize consumption on the premises. Said license shall entitle the licensee to sell beer and wine from 7:00 a.m. until 10:00 p.m., Monday through Sunday. The annual fee for such license shall be \$500.
- (g) Class D. A class D license shall entitle the licensee to sell alcoholic liquor, by the drink or pitcher, as part of a restaurant business, for consumption on the premises only. The annual fee for such license shall be ~~\$800~~ \$900.
- (h) Class E. A class E license shall entitle the licensee to sell beer and wine only, by the drink or pitcher, as part of a restaurant business, for consumption on the premises only. The annual fee for such license shall be ~~\$500~~ \$600.
- (i) Class F. A class F license shall entitle the licensee to sell alcoholic liquor, at retail, for consumption either on the premises by the drink or pitcher, or off the premises where sold in the original package. In addition to other requirements, in order to qualify for a class F license, a licensee shall provide an establishment, the gross building area of which is not less than 5,000 square feet, and provide live or recorded music designed and actually used for dancing. The establishment must be open to the public not less than five nights a week. A class F license shall be issued only in a nonresidential area. Commencing January 1, 1989, the annual fee for such license shall be ~~\$1,000~~ \$1,100.
- (j) Class F1. A class F1 license shall entitle the licensee to sell alcoholic liquor, at retail, for consumption either on the premises by the drink or pitcher. In addition to other requirements, in order to qualify for a class F1 license, a licensee shall provide an establishment, the gross building area of which is not less than 5,000 square feet, and provide live or recorded music designed and actually used for dancing. The establishment must be open to the public not less than five nights a week. A class F1 license shall be issued only in a nonresidential area. The annual fee for such license shall be ~~\$900~~ \$1,000.
- (k) Class G. A class G license shall entitle the licensee to sell alcoholic liquor, at retail by the drink or pitcher only, for consumption on the premises only, by clubs. The annual fee for such license shall be ~~\$700~~ \$800.

EXHIBIT A

- (l) Class H. A class H license shall entitle the licensee to sell alcoholic liquor at retail, by the drink or pitcher only, for consumption on the premises only, by a convention center. The annual fee for such license shall be \$1,250.
- (m) Class I. A class I license shall entitle the licensee to sell alcoholic beverages at retail, by the drink or pitcher only, for consumption on the premises only, in the course of a rental hall business. In the course of this business, the licensee is totally responsible for control of patrons in the business premises and at no time may patrons be allowed to act as bartenders or to otherwise dispense liquor. At all times that the premises are used for the sale of alcoholic liquor, the licensee or a manager acting for the licensee must be on the premises. The annual fee for such license shall be ~~\$250~~ \$350.
- (n) Class J. A class J license shall entitle the licensee to sell alcoholic beverages at retail, by the drink or pitcher or in the original package, by a golf course/club house, for consumption in the club house and on the golf course. The license shall only be available for premises defined as a golf course/club house within this chapter which has a minimum of 20 total acres. The annual fee for such license shall be ~~\$800~~ \$900.
- (o) Class K. A class K license shall entitle the licensee to sell alcoholic liquor at retail, by the drink or pitcher, for consumption on the premises where sold. The license shall only be available for premises defined within this chapter as a "Hotel—Full service." The licensee shall be authorized to place small, locked refrigerated units containing alcoholic liquor ("mini-bars") in the guest room; keys for "mini-bars" or access to "mini-bars" by some other system established to verify the age of the person seeking access, may only be provided to hotel guests who are at least 21 years of age and may be accessed 24 hours a day. If the hotel has a lounge, as defined herein, it shall be unlawful for any person under 21 years of age to be present in said lounge after the hour of 9:00 p.m. or at the time when live or recorded musical entertainment (with the exception of jukeboxes) commences, whichever is earlier, and otherwise, in accordance with other sections of this chapter. The annual fee for such license shall be ~~\$1,000~~ ~~1,750~~ \$1,100.
- (p) Class L. A class L license shall entitle the licensee to sell alcoholic liquor to registered guests of the hotel, or special invited guests attending a special event sponsored by the hotel at retail, by the drink, or pitcher, for consumption on the premises where sold and not for off-premises consumption. Under this license, retail sales of packaged beer and wine are limited to registered hotel guests for on-premises consumption only. The retail sale of packaged beer and wine is further limited to 12, 12 ounce beers and three bottles of wine (not to exceed 750 milliliters per bottle) in their original packaging, per registered hotel guest, per day. All employees of the licensee that are engaged in sale of beer and wine on the premises shall be certified in accordance with state and local law, including but not limited to the Beverage Alcohol Sellers and Servers Education and Training Program (B.A.S.S.E.T.) The license shall only be available for premises defined as a "Hotel—Limited service." If the hotel has a lounge, as defined herein, it shall be unlawful for any person under 21 years of age to be present in said lounge after 9:00 p.m. or at the time when live or recorded musical entertainment (with the exception of jukeboxes) commences, whichever is earlier, and otherwise in accordance with other sections of this chapter. The annual fee for such license shall be ~~\$875~~ \$975.
- (q) Class M. A class M license shall entitle the licensee to sell alcoholic liquor, at retail, for consumption on the premises by the drink or pitcher, as part of a supper club restaurant business. In addition to other requirements, in order to qualify for a class M license, a licensee shall provide an establishment, the gross building area of which is not less than 5,000 square feet. The establishment must be open to the public not less than five nights a week. A class M license shall be issued only in a nonresidential area. The annual fee for such license shall be ~~\$900~~ ~~1,750~~ \$1,000.
- (r) Class N. A class N license shall entitle restaurant licensees to sell alcoholic liquor, at retail, for consumption on the premises and will also allow the sale of beer and wine only in the original package for consumption off premises. The annual fee for such license shall be ~~\$900~~ \$1,000.

- (s) Class O. An O movie theater liquor license shall permit the theatre licensee to sell alcoholic liquor by the drink for consumption on the premises incidental to the operation of a movie theater. Alcoholic liquor may be consumed throughout the movie theater, including in the movie theater auditorium, but may not be taken off the premises. The annual fee for such license shall be \$1,750.

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§ 90.15.1. Subclassification licenses and fees.

Authorization granted under a subclass license may be limited and apply to a defined, contiguous area within the licensed premises. The licensee's original application for subclass license must contain a request for such limitation within the licensed premises and must include all information and documentation required by the commission. The ordinance authorizing approval of a subclass license must have appended thereto a description and drawing, to scale, of the limited area within the licensed premises to which the subclass license shall apply.

- (a) ~~Subclass 1. A subclass 1 license shall entitle the holder of a class AA, A, and G license to sell alcoholic beverages until the hour of 3:00 a.m. (excluding package liquor sales in class AA licensed premises after 1:00 a.m.) on Saturday and Sunday mornings. A subclass 1 license shall be deemed separate from the licensee's primary classification and shall be subject to independent disciplinary proceedings seeking a fine, suspension or revocation. A subclass 1 license may not be issued under the provisions of section 90.26 to the purchaser of an established licensed business, in the event of the sale of a licensed business bearing a subclass 1 license. No licensee may apply for a subclass 1 license until the licensee has operated the business under the primary license classification for at least six months. A subclass 1 license issued to a partnership, limited partnership or corporation shall be void and shall be surrendered to the liquor commission in the event that, if a partnership or limited partnership, any partner, general partner or limited partner, or combination of partners, general partners, or limited partners acquires a 50% or greater interest in the partnership or limited partnership, and such partner, general partner, limited partner, or combination did not own the same interest at the time application was made for the subclass 1 license, or if a corporation, any stockholder or combination of stockholders acquires 50% or more of the stock and such stockholder or combination of stockholders did not own the same percentage of the stock at the time application was made for the subclass 1 license. Such partnership, limited partnership or corporation may reapply for a Subclass 1 license, provided that the licensee has operated the business under the primary license classification for at least six months from the date of such above described acquisition of interest or stock. The annual fee for such license shall be \$500.~~ Reserved.
- (b) ~~Subclass 2. A subclass 2 license shall entitle the holder of a class AA, A, and G license to sell alcoholic beverages until the hour of 3:00 a.m. (excluding package liquor sales in class AA licensed premises after 1:00 a.m.) on Friday, Saturday and Sunday mornings. A subclass 2 license shall be deemed separate from the licensee's primary classification and shall be subject to independent disciplinary proceedings seeking a fine, suspension or revocation. A subclass 2 license may not be issued under the provisions of section 90.26 to the purchaser of an establishment licensed business, in the event of the sale of a licensed business bearing a subclass 2 license. No licensee may apply for a subclass 2 license until the licensee has operated the business under the primary classification for at least six months. A subclass 2 license issued to a partnership, limited partnership or corporation shall be void and shall be surrendered to the liquor commission in the event that, if a partnership or limited partnership, any partner, general partner or limited partner, or combination of partners, general partners, or limited partners acquires a 50% or greater interest in the partnership or limited partnership, and such partner, general partner, limited partner, or combination did not own the same interest at the time application was made for the subclass 2 license, or if a corporation, any stockholder or combination of stockholders acquires 50% or more of the stock and such stockholder or combination of stockholders did not own the same percentage of stock at the time application was made for the subclass 2 license. Such partnership, limited partnership or corporation may reapply for a subclass 2 license, provided that the licensee has operated the business under the primary license classification for at least six months~~

~~from the date of such above-described acquisition of interest or stock. The annual fee for such license shall be \$750. Reserved.~~

- (c) *Subclass 3.* A subclass 3 license shall be available to holders of a class AA or A who also hold a food service establishment operator's license for the premises or a food service establishment operator's license (food license) for a separate area within the premises. The holder of a subclass 3 license shall be entitled to be regulated by section 90.42 and section 90.43 of this chapter as if they are the holder of a license other than a class AA or A, during the hours of 10:30 a.m. to 3:00 p.m., Monday through Sunday. This in no way shall be interpreted as exempting the licensee from compliance with all other sections of this Code. A subclass 3 license shall be suspended or revoked, respectively, by order of the commissioner, upon the suspension (including ordered temporary closure) or revocation of the licensee's food license, when the commissioner is notified of such suspension or revocation, in writing, by the manager of the Springfield Department of Public Health. The length of the suspension of the subclass 3 license, due to the suspension of the food license, shall be for the same duration as the food license suspension, but shall not be for a length of time greater than otherwise allowed by this chapter. A subclass 3 license shall be deemed separate from the licensee's primary classification and shall be subject to independent disciplinary proceedings seeking a fine, suspension or revocation. A subclass 3 license may not be issued under the provisions of section 90.26 to the purchaser of an establishment licensed business, in the event of the sale of a licensed business bearing a subclass 3 license. No licensee may apply for a subclass 3 license until the licensee has operated the business under the primary classification for at least six months. A subclass 3 license issued to a partnership, limited partnership or corporation shall be void and shall be surrendered to the liquor commission in the event that, if a partnership or limited partnership, any partner, general partner or limited partner, or combination of partners, general partners or limited partners acquires a 50% or greater interest in the partnership or limited partnership, and such partner, general partner, limited partner, or combination did not own the same interest at the time application was made for the subclass 3 license, or if a corporation, any stockholder or combination of stockholders acquires 50% or more of the stock and such stockholder or combination of stockholders did not own the same percentage of stock at the time application was made for the subclass 3 license. Such partnership, limited partnership or corporation may reapply for a subclass 3 license, provided that the licensee has operated the business under the primary license classification for at least six months from the date of such above-described acquisition of interest or stock. The annual fee for such license shall be \$200.
- (d) *Subclass 4.* A subclass 4 license shall be available to holders of a class AA or A who also hold a food service establishment operator's license for the premises or a food service establishment operator's license (food license) for a separate area within the premises. The holder of a subclass 4 license shall be entitled to be regulated by section 90.42 and section 90.43 of this chapter as if they are the holder of a license other than a class AA or A, during the hours of 10:00 a.m. to 10:00 p.m., Monday through Sunday. This in no way shall be interpreted as exempting the licensee from compliance with all other sections of this Code. A subclass 4 license shall be suspended or revoked, respectively, by order of the commissioner, upon the suspension (including ordered temporary closure) or revocation of the licensee's food license, when the commissioner is notified of such suspension or revocation, in writing, by the manager of the Springfield Department of Public Health. The length of the suspension of the subclass 4 license, due to the suspension of the food license, shall be for the same duration as the food license suspension, but shall not be for a length of time greater than otherwise allowed by this chapter. A subclass 4 license shall be deemed separate from the licensee's primary classification and shall be subject to independent disciplinary proceedings seeking a fine, suspension or revocation. A subclass 4 license may not be issued under the provisions of section 90.26 to the purchaser of an establishment licensed business, in the event of the sale of a licensed business bearing a subclass 4 license. No licensee may apply for a subclass 4 license until the licensee has operated the business under the primary classification for at least six months. A subclass 4 license issued to a partnership, limited partnership or corporation shall be void and shall be surrendered to the liquor commission in the event that, if a partnership or limited partnership, any partner, general partner or limited partner, or

combination of partners, general partners or limited partners acquires a 50% or greater interest in the partnership or limited partnership, and such partner, general partner, limited partner, or combination did not own the same interest at the time application was made for the subclass 4 license, or if a corporation, any stockholder or combination of stockholders acquires 50% or more of the stock and such stockholder or combination of stockholders did not own the same percentage of stock at the time application was made for the subclass 4 license. Such partnership, limited partnership or corporation may reapply for a subclass 4 license, provided that the licensee has operated the business under the primary license classification for at least six months from the date of such above-described acquisition of interest or stock. The annual fee for such license shall be \$200.

§ 90.30. Hours of operation.

- (a) Except as provided below, it shall be unlawful for any liquor licensee other than the holder of a class B1 or class C1, as defined in 90.15(d) and (f), ~~or the holder of a supplemental subclass 1 or subclass 2 license as defined in section 90.15(p) and (q)~~, or employee of such licensee, to sell or offer for sale at retail, on the premises, any alcoholic liquor during the following hours:

Monday through Sunday

~~1:00~~ 2:00 a.m. until 7:00 a.m.

- (b) ~~On January 1 of each year, during the time an establishment holds a permit for outside sales as set forth in section 90.36 and on operating dates of the Illinois State Fair, it shall be unlawful for licensees, or their employees, to sell or offer for sale at retail, on the premises, alcoholic liquor during the following hours:~~

Monday through Sunday

~~3:00 a.m. until 7:00 a.m.~~

~~Proof of dram shop insurance covering the hours of 1:00 a.m. until 3:00 a.m. must be provided to the local liquor commissioner in order to sell or offer for sale at retail, on the premises, alcoholic liquor under this section.~~

Reserved.

- (c) Neither the holder of a class F or a class M liquor license and the holder of a class K liquor license whose immediately preceding liquor license was a class F license, nor any employee, may lawfully sell or offer for sale at retail, on the premises, any alcoholic liquor during the following hours:

Monday through Sunday

~~3:00 a.m.~~ 1:00 2:00 a.m. until 7:00 a.m.

- (d) Any licensed premises, issued a Class O license, for which the sale of alcoholic beverages is incidental to the operation of a movie theater, may remain open to the public during the hours that the public would otherwise be prohibited from being on the premises, providing the following conditions are observed:
- (1) No person in the licensed premises shall be allowed to be in possession of alcohol during the otherwise prohibited hours.
 - (2) A sign shall, during such hours, be displayed prominently that shall read:
No alcoholic liquors sold or served between the hours of 1:00 2:00 a.m. and 7:00 a.m. Monday through Sunday.
 - (3) Nothing herein contained shall be construed as granting any licensee the privilege to sell alcoholic liquor during the aforesaid closed hours and any licensee, not licensed under O, must keep its doors locked and the public barred therefrom during the said closed hours.
- (e) The periods of time the sale of liquor is prohibited until the time that liquor may again be sold shall be known as the closed hours.

§ 90.31. Hours public denied access to premises; authorization to enter licensed premises.

- (a) No patron shall remain or be permitted to remain or be admitted to any licensed premises more than 30 minutes after the sale of alcoholic liquors as prohibited by section 90.30, above, for the remainder of the closed hours described therein, except where the licensee has been issued and displays a certificate issued in accordance with section 90.29 of this chapter allowing the business to operate after the sale of liquor is prohibited.
- (b) Consumption of liquor is prohibited, without exception, including employees or agents of the licensee, more than 30 minutes after the sale of alcoholic liquor is prohibited by section 90.30, above, for the remainder of the closed hours described therein.
- (c) The doors of each licensed premises shall be locked and no person not in the employ of the licensee shall be admitted to or upon the premises during the times when patrons are prohibited from being on the licensed premises.
- (d) Any licensed premises where the sale of alcoholic beverages is not the principal business, which fact is certified by the mayor in the manner provided in section 90.29 of this chapter, may remain open to the public during the hours that the public would otherwise be prohibited from being on the premises, providing the following conditions are observed:
 - (1) All alcoholic beverages must be either removed from view or placed behind doors or slides or screens or counters or shades, or other apparatus clearly indicating that such beverages are not presently offered for sale.
 - (2) A sign shall be displayed prominently and shall read: "Closed hours, no alcoholic liquors sold or served."
 - (3) No alcoholic liquors shall be sold, donated, bartered, exchanged, served, or consumed therein during said closed hours.
- (e) Nothing herein contained shall be construed as granting any licensee the privilege to sell alcoholic liquor during the aforesaid closed hours and any licensee not certified by the mayor to be in fact a retail establishment where the sale of alcoholic liquor is not the principal business must keep its doors locked and the public barred therefrom during the closed hours.
- (f) Nothing herein contained shall be construed as requiring any adult clerk in a licensed premises where the sale of alcoholic liquors is not the principal business to be limited in duties solely relating to the sale of alcoholic liquor.
- (g) Nothing herein contained shall be construed as permitting any minor employee of any premises to handle, mix, sell, exchange, serve, or in any way take part in a licensee's business of selling alcoholic liquors.
- (h) Pursuant to the powers and duties of the local liquor control commissioner as set forth in section 90.05 of this chapter, all establishments licensed under this chapter shall have the entrance to said premises unlocked at all times during which the premises are open for business, and shall not lock or otherwise bar entrance to any section within said establishment in which people are assembled and permit investigators, inspectors and police officers of the city unobstructed access to all such areas.
- (i) During the hours when the public is denied access to a licensed premises in accordance with the provisions of sections 90.30 and 90.31 of this chapter, investigators, inspectors, and police officers of the city shall have the right of entry for inspection of the licensed premises in the event that person(s) are present within the establishment to determine if any provisions of this chapter or any state laws pertaining to the consumption, sale or distribution of alcoholic liquors have been or are being violated.

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§ 90.36.1. ~~Permit for extended hours of operation. Reserved.~~

- ~~(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, G, or L license may be issued a permit to extend the hours of operation for the sale of alcoholic liquor as authorized by his classification, upon approval by the mayor as liquor commissioner and by the alderman of the ward in which the licensed business is located or the alderman's designee as provided in section 90.36.1(d) below. In case of non-approval by the ward alderman, his designee or mayor then by separate ordinance approved by the city council. Said permit may extend the sale of alcoholic liquor and the hours of operation of the licensee until 3:00 a.m. If an event is to be conducted outside of the permanent structure and on the property where the licensee's permanent structure is located, then the licensee shall also apply for a permit under the provisions of section 90.36. No music of any kind may be played or broadcast from the outside area 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 from the outside area after 12:00 midnight.~~
- ~~(b) Upon application for a permit under this section, a licensee shall submit the following:
 - ~~(1) Proof of dram shop insurance to cover the extended hours of operation.~~
 - ~~(2) Adequate security to cover the extended hours of operation.~~~~
- ~~(c) Not more than five permits may be issued to a licensee during a calendar year.~~
- ~~(d) In the event that the alderman of the ward is unavailable and designates in writing, or has a conflict, then the council coordinator shall be authorized to act on behalf of the alderman of the ward in either granting approval or denying the permit specified in section 90.36.1(a) above.~~
- ~~(e) The fee for a permit for extended hours of operation shall be \$50 for each day for which the permit is to be used. Issuance of said permit to a licensee shall be treated separately from the licensee's primary license and shall be subject to suspension or revocation by the commissioner for just cause.~~

§ 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, F, G or M 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, F, G or M 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~~ 2:00 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~~ \$200, with a \$15 annual renewal/inspection fee.

(Ord. No. 910-11-91, 11-19-91; Ord. No. 125-03-02, § 4, 3-20-02; Ord. No. 695-10-06, § 1, 10-17-06)

§ 90.39. Caterer retail permit.

- (a) Upon approval of application and payment of application and investigation fees as set forth in section 90.16, a caterer retailer permit shall be issued to a caterer retailer, as defined in section 90.02 of this Code and shall allow the permit holder to serve alcoholic liquors as an incidental part of a food service that serves prepared food items. The issuance of the caterer retailer permit shall be subject to the following conditions:
 - (1) All restrictions contained in section 90.18 shall apply to all caterer retailer permit applications with the exception of subsections 90.18(a)(13), (14), (15), (16), (17) and (24) of this chapter.
 - (2) All application procedures contained in section 90.21 shall apply for an applicant for a caterer retailer permit with the exception of subsections 90.21(a)(3) and (5) of this chapter.
 - (3) All applicants for a caterer retailer permit shall comply with requirements for a penal bond as contained in sections 90.22 and 90.23 of this chapter.
 - (4) All holders of caterer retailer permits may renew their permits pursuant to the terms and conditions of section 90.24 of this chapter.
 - (5) All caterer retailers shall provide a written list of catered events including locations and hours no less than 10 working days prior to the catered event on a form provided by the department of licensing.
 - (6) All applicants shall submit proof of dram shop insurance with completed application.
 - (7) No holder of a caterer retailer permit shall sell, offer for sale or dispense any alcoholic liquor during the following hours:

Monday through Sunday
~~1:00~~ 2:00 a.m. until 7:00 a.m.
 - (8) No holder of a caterer retail permit shall sell alcohol inside of a restaurant doing business in the city as part of the restaurant's regular food service. This restriction does not apply to a special event held inside the restaurant.
- (b) A copy of the caterer retailer permit shall be displayed in accordance with section 90.56 of this chapter.
- (c) The annual fee for a caterer retailer permit shall be ~~\$500~~ \$600.
- (d) Each caterer retailer permit shall be for a period of one year, or as otherwise is determined by this chapter by suspension or revocation, and shall commence on January 1 and terminate on December 31.