

11. *Permit required for outdoor alcoholic beverage area.*

1. *Definition.* An outdoor alcoholic beverage area is defined as an open air, roofed or unroofed area adjacent to or accessory to a Class B intoxicating liquor and/or Class B fermented malt beverage and/or Class C licensed premises, where beer and other alcoholic beverages are consumed, which is not included within the licensed premises.
2. *Required for outdoor consumption.* No licensee shall allow the consumption of alcoholic beverages on any part of the licensed premises property not enclosed within the licensed premises as described on the license, except under permit granted by the city council. The permits are a privilege in which no rights vest and, therefore, may be revoked by the city council at its pleasure at any time or shall otherwise expire on June 30 of each year. An initial permit request may be applied for any time throughout the year, by completing a city outdoor alcoholic beverage area permit application, but after the initial request is approved any renewals shall accompany the regular license renewal application. No person shall consume or have in his or her possession alcoholic beverages on any unenclosed part of premises property not within a licensed premises as described on the license and which is not described in a valid outdoor alcoholic beverage area permit.
3. *Limitations on issuance of permit.*
 1. ~~No outdoor alcoholic beverage area permit shall be issued if the total outdoor entertaining area associated with the licensed premises is greater than 50 percent of the gross floor area of the licensed premises enclosed within the building.~~ Each applicant for an outdoor alcoholic beverage permit shall accurately describe the area ~~intended for use as an outdoor entertaining area~~ and shall indicate the nature of fencing or other measures intended to provide control over the operation of the outdoor alcoholic beverage area. Applicants shall submit a site plan professionally drawn to scale and an application for review by the city's zoning administrator. The zoning administrator will review all proposed outdoor alcoholic beverage area permit design plans and applications to determine impacts upon the surrounding neighborhood and then recommend that the license be granted as requested, modified or denied.
 2. Every outdoor beverage area shall be completely enclosed with a ~~solid~~ permanent barrier ~~or screen~~; not less than ~~six-four~~ feet in height ~~and will achieve not less than 50% screening. The barrier may consist of a vegetative screen, permanent fencing, or a combination of the two. The barrier shall be well kept and maintained in an orderly fashion. If any portion of the barrier is compromised, in disrepair, or otherwise not functioning, the outdoor alcoholic beverage area permit shall be suspended until such steps are taken to restore the barrier to working order. For those establishments in which the sale of alcoholic beverages accounts for more than 50 percent of gross receipts. For those establishments where alcoholic beverage sales do not account for 50 percent of gross receipts a permanent barrier is still required, but its structure may be less opaque and less than six feet in height.~~
 - 2.3. ~~Barriers adjacent to residential properties shall provide a six-foot tall 100% screened barrier along all sides directly abutting a residential property.~~
4. *Grant of permit.* The city clerk shall forward any outdoor beverage area permit application to the chief of the police and the fire departments of the city, to the building ~~inspection~~ ~~inspector department~~ and to the director of planning and community development for their, or their designees, recommendation to the common council for approval or disapproval of such permit. Their recommendation shall be based upon their respective

investigations and/or inspections of the applicant and/or the premises and proposed outdoor alcoholic beverage area as to the suitability and character of any applicants, as to any issues relevant to the safety, traffic, security, and well-being of the citizens and neighborhoods of the City of Kaukauna, and as to whether any additional special conditions, restrictions, or limitations should apply to said permit.

5. *Restrictions.* All premises receiving outdoor alcoholic beverage area permits approved after the adoption date of this section will be required to comply with all of the following restrictions. For those businesses for which the licensed premises includes an outdoor alcoholic beverage area that was established, licensed, and authorized by the city prior to the adoption of this section, the restrictions under this subsection (e) do not apply, except as specified.

1. Access to the outdoor entertaining area shall only be through the main entrance to the Class B intoxicating liquor, Class B fermented malt beverage; and Class C premises. The outdoor entertaining area shall be equipped with a locking system on a fire exit that meets applicable fire codes. In cases where site configuration or parcel shape prevent a single entrance to the outdoor beverage area through the main entrance of the building, the Plan Commission may review the outdoor beverage area site plan and approve alternative entrances.
2. No amplified sound or music is permitted outside the enclosed (building) premises. Amplified sound or music is not permitted in the outdoor alcoholic beverage area. Any premises licensed prior to the adoption of this ordinance for which such premises includes areas not enclosed within the building of the premises shall be required to obtain approval from the city council for amplified sound or music.
3. All sales of alcoholic beverages shall be restricted to the enclosed licensed premise.
4. The outdoor alcoholic beverage area may only be open for consumption of alcohol from 10:00 a.m. until 9:00 p.m., Sunday through Thursday and from 10:00 a.m. until 10:00 p.m. Friday and Saturday.
5. No outdoor alcoholic beverage area which is less than 80 feet from any school ~~public school property, parochial school property, hospital property, or church property~~ shall be open for operation during school hours as specified on the outdoor alcoholic beverage area permit. Such distance shall be measured by the shortest route from the closest point of such school, ~~church, or hospital property~~ to the closest point of the outdoor alcoholic beverage area.
6. A licensed bartender shall be present and actively monitoring the outdoor alcoholic beverage area at all times it is open for operation.
7. The outdoor alcoholic beverage area shall be monitored at all times. If any area is required by the permit specification to be monitored by surveillance cameras such surveillance cameras and security recording system shall be maintained in good operating condition at all times. Upon request by the Kaukauna Police Department surveillance video shall be made available for review to aid in the investigation of any incident, altercation or crime under investigation.
8. The capacity for the licensed premises' building shall remain the same even with the addition of an outdoor alcoholic beverage area permit.
9. A licensee shall not permit any activities within the outdoor alcoholic beverage area that constitute a nuisance.
10. A licensee shall comply with all other applicable state statutes and city ordinances.

6. *Adjoining property owners to be notified of pendency of applications.* All property owners within 150 feet of the proposed outdoor entertaining area measured from property line to property line shall be notified of the pendency of application for an outdoor alcoholic beverage area permit and notice of informational hearing to be held prior to city council approval. Such notice shall be made by the city clerk's office via first class mail.
7. *Authority of police to suspend outdoor alcoholic beverage area permit.* The shift commander or designee of the police department has the authority to order any outdoor alcoholic beverage area to be closed down at any time the shift commander/designee believes its continued operation is in violation of this section, any other applicable city ordinance or provisions of Wis. Stats. ch. 125.
8. *State statutes enforced within outdoor entertaining area.* Every licensee under this section shall comply with and enforce all provisions of Wis. Stats. ch. 125 applicable to Class B and/or Class C licensed premises, except insofar as such provisions are clearly renewal of the outdoor alcoholic beverage area permit by the city council.
9. *Fee required.* The city council shall approve the fee for outdoor alcoholic beverage area permits.