

Sec. 6-70. - Temporary expansion of licensed premises; outdoor sales and service.

The purpose of this section is to allow temporary expansion of the licensed premises of a liquor licensee, to temporarily include limited outdoor areas directly adjacent to and contiguous with the permanently licensed premises on city owned land or city public right of way, subject to such conditions as the council determines will protect the public health, safety and welfare. The city council finds that allowing outdoor sales and service in the downtown commercial areas is beneficial to the creation of a vibrant and prosperous business community so long as adequate review, controls and accountability are in place. Accordingly, both liquor licensees and purveyors of food and beverages who are not liquor licensees shall be entitled to apply for the benefits available under this section.

Therefore, the holder of any retail liquor license for premises located in the C-1 or C-2 zoning districts of the city may, on an annual basis, apply for a permit for temporary expansion of its licensed premises, for an area directly adjacent to and contiguous with the permanently licensed premises. Similarly, and as provided by chapter 14, article V of this code, a purveyor of food and beverages on premises located in such districts who is not a liquor licensee may, on an annual basis, apply for a permit to use such an area for the sale and service of food and beverages other than alcoholic beverages. The city council may grant such a permit on the terms and conditions specified in this section and such other terms and conditions as the city council may determine are necessary or advisable to protect the public health, safety and welfare. Such a permit shall authorize use of any temporary expansion area on particular days, dates and times and shall be valid for a period of time as specified in the permit, not to exceed one year. If approved by the city council, a temporary expansion area may include defined areas on public property including public sidewalks. Application for a permit for temporary expansion of a licensed premises or other unlicensed premises shall be subject to the following requirements and procedures.

- (a) *Application.* Application for a permit for temporary expansion of a licensed premises or other premises shall be made on a form provided by the city and shall contain the following information and such other information as the city may require from time to time:
  - (1) The names, addresses and telephone numbers of the license holder and of all managers of the licensed establishment or of the owner and manager of an unlicensed premises.
  - (2) A specific description and diagram of the area in which the temporary expansion activity is to occur. The description and diagram must include location, dimensions, barriers proposed to be used, ingress and egress arrangements, seating capacity, and other pertinent information.
  - (3) Written consent of the owner of the expansion area or of a person with lawful responsibility for the expansion area, if the owner is someone other than the licensee or business owner.
  - (4) The purpose for which the temporary expansion is sought, a description of planned activities, including food and beverage service, entertainment, if any, security plans (including lighting, sanitation, liquor control, etc.), and days and hours of operation including beginning and ending dates.
  - (5) Proof that any necessary auxiliary permits have been obtained.
  - (6) A detailed description of the planned staffing of the temporary expansion area during hours of operation, and methods the licensee will use to ensure that consumption of alcoholic beverages is restricted to the licensed premises and the temporary expansion area and that alcoholic beverages are not removed from those areas.
  - (7) Such other information as the city may deem necessary.
- (b) *Fees.* Each application shall be accompanied by an application fee in such amount as may be determined by the city council by resolution from time to time.
- (c) *Review.* Applications shall be submitted to the community development department and shall be reviewed by such staff persons as may be appropriate in the circumstances, including the chief of police in all applications which involve the outdoor sale of liquor. Review of applications shall include consideration of all pertinent building code, fire code and other life safety issues, applicable zoning

ordinances, history of the licensee with regard to maintaining order on the licensed premises and complying with applicable laws, potential impact of proposed outdoor service on adjoining properties in terms of light, noise and liquor control, and other considerations.

(d) *Conditions.* Approval of an application may be made subject to any appropriate restrictions or conditions, which may vary from establishment to establishment depending on the circumstances. At a minimum, the following restrictions and conditions shall apply:

- (1) A temporary expansion area must be compact and contiguous to the permanently licensed premises and must be contained by approved physical enclosure devices. The enclosure requirement may be waived if no alcoholic beverages will be served in the area. An expansion area located on public property shall not unreasonably impede visibility of or access to a neighboring premises or business without permission from the neighboring premises or business owner.
- (2) Hours of operation shall be limited to between 6:00 a.m. and 10:00 p.m., subject to other limitations imposed by this chapter or other law and subject to any greater restrictions which the city council may determine should apply to a temporary expansion area due to its particular circumstances.
- (3) Days or dates of operation shall be as specified in the permit and no permit shall be valid for more than one year.
- (4) Service of alcoholic beverages shall be only at tables and limited to the approved seating capacity in a temporary expansion area, and food service shall be available in the temporary expansion area during all hours when liquor is sold.
- (5) The city council may specify the type of beverage containers which may be used in a temporary expansion area, may require a specific type and number of refuse containers to be provided within the area, and may require sanitary facilities in addition to the facilities located within the permanent premises.
- (6) An approved temporary barrier between 24 and 36 inches in height, as determined by the council, shall be in place between the temporary expansion area and any other public or private property during all hours of operation, provided that the city council may require a higher and more secure barrier depending on the circumstances. This requirement may be waived if no alcoholic beverages will be served in the expansion area.
- (7) The city council may require that access to and egress from a temporary expansion area be only through a door connecting it to the permanently licensed premises or to other property controlled by the licensee.
- (8) The licensee shall have submitted adequate plans addressing liquor control and other public safety concerns and shall at all times comply with all such plans which have been approved by the city in issuing a permit under this section.
- (9) If the temporary expansion area includes a public sidewalk or other walkway, at least 3½ feet of walkway must be maintained outside the temporary expansion area for barrier-free (including wheelchair accessible) pedestrian traffic.
- (10) All temporary barriers, tables, chairs, and other property of the licensee shall be removed from any public property within a temporary expansion area, or shall be stored in some defined and secure area approved by the city, at all times other than hours of operation. [Included for information only—the section already allows tables and chairs to remain outside if approved by the city.]
- (11) The licensee shall be responsible for picking up trash and litter, whether generated by the operation of the temporary expansion area or not, within the temporary expansion area and within a reasonable distance (a minimum of 20 feet) from the temporary expansion area.
- (12) All applicable liquor laws shall be faithfully observed by the licensee and the licensee's employees.

- (13) No smoking, as defined by Minnesota Statutes § 144.413, subd. 4, shall be allowed within a temporary expansion area on public property.
  - (14) The licensee or owner shall have secured any other permit or license which may be required for the use, area, and period of time proposed.
  - (15) The council may prohibit or may authorize entertainment to be conducted in an outdoor area, in the discretion of the council, and may restrict any authorized entertainment as necessary or desirable for the protection of the repose and welfare of the public and adjoining property owners.
  - (16) The licensee shall maintain commercial general liability insurance expressly covering any temporary expansion area, with a limit of not less than \$1,000,000.00 each occurrence, and shall name the City of Northfield as an additional insured thereon. The licensee shall provide proof of such insurance to the city prior to issuance of any permit under this section and from time to time thereafter upon request of the city.
  - (17) By applying for and receiving a permit hereunder, the licensee or owner shall be deemed to have agreed to defend, indemnify and hold the city, its officers, employees and agents, harmless from any claims, damages, losses, costs and expenses which may arise as a result of the use of the temporary expansion area by the licensee, owner, and/or the licensee's or owner's employees, agents and customers. Specifically, but not by way of limitation, the licensee or owner shall be responsible for the cost of any clean up and repair required by reason of such use, whether within or outside the temporary expansion area, which may be incurred by the city, and the city shall have a lien against the licensed premises or the regular premises of the permittee for any such claim, damage, loss, cost or expense which is incurred by the city.
- (e) *Violation.* In addition to any other penalties which may be available under applicable law, and regardless of any other limitation on sanctions which may be imposed by the city, the following occurrences shall be cause for immediate suspension of the temporary expansion permit, exercisable by the Northfield Chief of Police or his/her designee and subject to review by the city council:
- (1) Any violation of this section, or of a material term or condition of a permit issued hereunder, or of any applicable liquor law or other law; or
  - (2) Any use of public property pursuant to a temporary expansion permit which results in a nuisance to neighbors or the public, including but not limited to noise, harassment, litter, property damage, or other condition which would be considered a harm or annoyance to a person of ordinary sensibility.

The chief of police or his/her designee shall deliver written notice to the licensee or owner of the suspension of the temporary expansion permit, which shall be effective as of the date and time stated in the notice. The licensee or owner may, within five days of the date of the notice of suspension, file with the city clerk a written request for reinstatement of the permit by the city council. If such a request is filed, the city council shall consider reinstatement of the permit at its next regular meeting which is at least ten days following the date the request is filed. The council may, in its sole discretion, reinstate, reinstate on conditions, continue the suspension of, or revoke the permit.

(Ord. No. 878, 5-19-2008; Ord. No. 894, 5-4-2009)