
Sec. 6-1-19. Beer gardens regulated.

- A. *Purpose.* To enliven downtown and other areas of the city and provide opportunities for social and economic activities, the city council finds and determines:
- (1) That there exists the need for outdoor facilities in certain areas of the city to provide a unique environment for relaxation, social interaction, and the consumption of food and alcohol beverages.
 - (2) That the establishment of conditions and safety standards for beer gardens is necessary to protect and promote public health, safety, welfare, and the general peace among adjacent property owners.
- B. *Definitions.* For purposes of this section, the following terms have the following meanings:
- Alcohol beverages.* Fermented malt beverages and intoxicating liquor as defined in Wis. Stats. § 125.02(1), (6) and (8), or any successor to that statute.
- Barrier.* Any permanent physical structure designed to restrict ingress and egress from the beer garden to designated openings and that is not less than four feet in height.
- Beer garden.* An expansion of the licensed premises to an outdoor area for the purpose of conducting outdoor sales and consumption of food and alcohol beverages, said outdoor area being directly attached to the licensed building, and used daily or on a seasonal basis as part of the normal operations of the licensed premises.
- Licensed premises.* The enclosed building premises as designated on the establishment's operator's license. A beer garden is an expansion of the licensed premises.
- C. *Location.*
- (1) No permit shall be issued for a beer garden located in a nonresidential district if any part of the beer garden is within 50 feet of a structure used for residential purposes and located on a residentially zoned parcel, except residential uses located in the same structure as the licensed premises or a residence which is owned by the same person who owns the licensed premises. Upon appeal to the city council, a full or partial waiver of the distance requirements in this provision may be granted.
 - (2) No permit shall be issued to an establishment if it is located in a district zoned R-1 through R-4.
 - (3) The beer garden shall be on the same parcel as the main licensed premises; provided, however, that a beer garden may extend onto an adjacent and contiguous parcel owned or leased by the permittee.
- D. *Application.* Application for a permit to operate a beer garden shall be submitted to the city clerk's office.
- (1) Each applicant for a beer garden permit shall provide a plan diagram that accurately depicts the area intended for use as a beer garden and shall indicate the nature of the barriers or other measures intended to provide control over the operation of the beer garden; and
 - (2) Approval of any beer garden is subject to review and recommendation of the police department; and
 - (3) The permittee shall be responsible for complying with the approved beer garden plan as submitted in the initial permit application; and
 - (4) Notice of pending applications for new or modified beer gardens shall be published as a Class 1 notice in the official city newspaper prior to the city council meeting at which such application may be acted upon.
- E. *Appeals.* Any person denied a beer garden permit may appeal the denial. An appeal shall be made, in writing, to the city clerk, who shall forward the request to the city manager and city council. The city council will convene within 30 days of the appeal being filed with the clerk to hear from the chief of police and the affected business. After deliberation, the city council shall act on the appeal. A written copy of the decision shall be provided to the affected business.

F. *Permit and fees.*

- (1) License fees. The fee for a beer garden permit shall be as set forth on the schedule of fees in section 1-2-1.
- (2) Each permit shall be effective for one year from July 1 to June 30.
- (3) The permit issued hereunder is not transferable by the owner to any other establishment or any subsequent owner of the premises.

G. *Suspension or revocation of permit.* 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. The city manager or the chief of police, upon obtaining reasonable information that any permittee has violated any provision of this chapter or any state or federal law, may suspend or temporarily revoke a permit granted under this chapter pending review by the city council.

H. *Standards and conditions.*

- (1) A minimum of 80 percent of any beer garden perimeter shall consist of a barrier as defined herein. The barrier shall be substantial in nature in that it is not constructed of easily removable or temporary materials such as snow fencing. At a minimum, one designated opening shall be created of sufficient width to accommodate ease of ingress or egress, other than through the licensed establishment, for emergency purposes.
- (2) No permit shall be issued for a beer garden if the beer garden area is greater than the gross floor area of the adjoining licensed premises; provided, however, the size of any beer garden may exceed the gross floor area upon review and recommendation of the police chief and approval of the city council. Such recommendation shall take into consideration the property size, location, occupancy limitations (based on square footage), or other conditions directly related to public safety.
- (3) When a portion of the beer garden's perimeter lies along the shoreline of the East or West Twin River, there shall be no requirement for a barrier along such river frontage; provided, however, that the fence or wall enclosing the balance of the beer garden's perimeter shall extend to points as close to the water as practicable, subject to the review and recommendation of the police department. The city reserves the right to require such fence to extend toward the water to the maximum extent allowed by law (i.e., to the ordinary high-water mark or the bulkhead line, if a bulkhead exists).
- (4) Lighting. All beer gardens shall be sufficiently lighted to ensure the safety of patrons at all times when any patrons shall be therein and at all times when the beer garden is open to the public. Lighting of the area must be shielded and not be of intensity or brilliance to create glare which is distracting to adjoining property owners or can become a hazard or danger to vehicular or marine traffic.
- (5) Amplified sound or music is not permitted after 9:00 p.m., except that such sound or music is permitted until 10:00 p.m. from the Friday before Memorial Day to Labor Day and on Fridays and Saturdays only from May 1 to the Friday before Memorial Day and after Labor Day to October 31. Noise from any source that is emitted from the outdoor area shall not exceed the standards contained in section 9-2-5, loud and unnecessary noises.
- (6) There shall be a licensed operator within the beer garden when alcohol beverages are dispensed in the beer garden.

I. *Hours of operation.* The beer garden shall remain closed to the public between the hours of 11:00 p.m. and 6:00 a.m.

J. *State statutes enforced.* Every permittee under this section shall comply with and enforce all provisions of Wis. Stats. Ch. 125, applicable to Class B licensed premises, except insofar as such provisions are clearly

inapplicable. Violation of the provisions of Wis. Stats. Ch. 125, may be grounds for immediate revocation of the beer garden permit as described in subsection G. above.

- (1) The permittee shall not allow patrons of the beer garden to bring alcohol beverages nor to carry open containers of alcohol beverages outside of the licensed premises or beer garden.
- (2) The permittee shall be responsible for the acts of all employees, patrons and agents of the business. A violation of any provision of this section, any city ordinance or Wis. Stats. Ch. 125, by a patron, agent or employee of the permittee shall constitute a violation by the permittee.

K. *Penalty.* Any person who shall violate any provisions of this chapter or any order, rule or regulation made or adopted hereunder shall be subject to the general provisions penalty of this Code.

(Amended 10-5-2020; 11-30-2020; 7-6-2021)