

ORDINANCE NO. 96

(Alcoholic Beverages)

CITY OF NEW GERMANY

CARVER COUNTY, MINNESOTA

November 18, 2008

AN ORDINANCE AMENDING ORDINANCE NO. 83 OF THE CITY OF NEW GERMANY REGULATING THE POSSESSION, SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN THE CITY OF NEW GERMANY

THE CITY COUNCIL OF THE CITY OF NEW GERMANY, CARVER COUNTY, MINNESOTA, ORDAINS:

Section 1. Section 2 of Ordinance No. 83 (Definitions) is amended to add the following definitions:

Premises or Licensed Premises, means the compact and contiguous space specified in the license granted.

Outdoor Area, means any area that is not bounded by the walls, doorways, and closeable windows covering one-hundred percent (100%) of the combined surface area of the vertical planes constituting the perimeter of the area. A wall does not include any retractable divider, garage door, or other physical barrier, whether temporary or permanent.

Section 2. Section 4 of Ordinance No. 83 (Liquor in Unlicensed Places. Restrictions on Purchase and Consumption) is amended to add subsection (c) as follows:

4(c) No on-sale or off-sale license shall be effective or valid beyond the licensed premises. No alcoholic beverages shall be sold, served or consumed outside of the licensed premises as described in the application for a license and as approved by the City.

Section 3. Ordinance No. 83 of the City of New Germany is amended to add a **new section 17.5** pertaining to service and consumption of alcoholic beverages in outdoor areas, patios and decks as follows:

Section 17.5. Outdoor Areas, Patios and Decks.

Consumption of alcohol in outdoor areas, patios or decks (hereinafter sometimes referred to as the “outdoor area”) is allowed under this section but subject to the following conditions:

(a) The applicant for a liquor license or for renewal of a license shall include in the application a request that the license allow the consumption of alcohol in an outdoor area or on a patio or deck in compliance with this section. Alcohol shall not be sold or served in the outdoor area unless a Special Event Permit has been obtained as provided in subsection (o).

(b) The outdoor area shall be immediately adjacent to the rear of the building or structure comprising the remainder of the licensed premises and shall be no closer than 10 feet from any adjacent residential property.

(c) The application shall contain the street address and a scaled drawing or diagram of the location of the premises to be licensed including the outdoor area, patio or deck and describing the proposed fencing and lighting as required herein.

(d) The outdoor area shall have a permanent surface of concrete, asphalt, wood or other fabricated construction material.

(e) Any portion of an outdoor area at grade or less than six (6) feet above grade shall be enclosed by an opaque fence at least six (6) feet high (with an emergency exit) so as to require all persons using the outdoor area to enter and exit such area through the building or structure comprising the remainder of the licensed premises. A fence permit as provided by Chapter 5, Subdivision 4, of the City of New Germany Zoning Ordinance (Ordinance No. 38A) is not required.

The fence shall be a nonpermanent barrier or temporary in nature to demarcate the limits of the outside area. The fencing shall be of a material that can be readily removed and shall not require permanent attachment to the ground such as concrete footings or similar type of structural attachment. No permanent fencing shall be allowed. The exact type and kind of fencing proposed shall be subject to Council approval prior to issuance of the license.

(f) Any exterior stairway or ramp access to an outdoor area must be gated so as to require all persons using the outdoor area to enter and exit such area through the building or structure comprising the remainder of the licensed premises.

However, if the configuration of the licensed premises is such that the fenced outdoor area constitutes the main entrance used by customers for access to the building or structure, the Council, upon written request by the licensee, may allow access to the main building through the outdoor area under such conditions as the Council may determine appropriate.

(g) If any portion of the outdoor area lies within 200 feet of a residential district, the outdoor area shall be screened in a manner approved by the City Council so as to prevent viewing of the outdoor area from the residential district and to dampen noise and/or deflect noise away from the residential district.

(h) Exterior lighting for the outdoor area shall promote public safety and be designed and installed so that the globe is recessed and enclosed on all sides except the bottom and no light is cast directly at any other property.

(i) The outdoor area and surrounding landscaping shall be designed to compliment the building or structure comprising the remainder of the licensed premises structure.

(j) The outdoor area shall comply with all applicable laws, zoning district regulations and building codes, including but not limited to those relating to handicap accessibility.

(k) The licensee's dram shop liability carrier shall have acknowledged, in writing, that the outdoor area is covered by dram shop insurance.

(l) The outdoor area shall meet all such other requirements as the City Council finds necessary or desirable to protect nearby properties and the public.

(m) Additional requirements applicable to licensed outdoor areas:

- (1) An employee must be assigned to supervise the outdoor area at all times if alcohol is allowed to be sold or served in the outdoor area pursuant to a Special Events Permit as provided by subsection (o).
- (2) Any activity that would disturb the peace of the surrounding area is prohibited in or on the outdoor area, patio or deck. This includes the prohibition against the use of any device designed to produce, reproduce or amplify sound, including, but not limited to loud speakers, amplifiers, microphones, radios, televisions or musical instruments.
- (3) The licensee or his employees shall:
 - (a) Remove any person from the outdoor premises that becomes unruly or noisy.
 - (b) Maintain at least one waste receptacle in the outdoor area.
 - (c) Maintain at least one fire safe cigarette disposal receptacle in the outdoor area.
 - (d) Pick up trash and litter generated by the operation of the outdoor area within a reasonable distance from the outdoor area.

(e) Provide and maintain a fire extinguisher in the outdoor area.

(n) The licensee may allow smoking on or in the outdoor area, patio or deck, provided that such smoking is in full compliance with the Minnesota Freedom to Breath Act of 2007.

(o) Special Events. The City Council may waive any of the conditions imposed under this section for special events upon written request submitted by the licensee at least 14 days prior to the special event as may be deemed appropriate and reasonable by the City Council. A Special Events Permit shall be obtained from and provided by the City for such event.

Passed and adopted by the City Council of the City of New Germany this 18th day of November, 2008.

APPROVED:

C. Pete Pederson, Mayor

ATTEST:

Joan Guthmiller, Clerk

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