



**City of North St. Paul
City Council
Workshop Meeting Agenda**

**May 3, 2022
5:30 PM**

The City Council Meeting will be conducted on **May 3, 2022** at 5:30 p.m. The meeting location is the City Council Chambers of City Hall, located at 2400 Margaret St., North St. Paul.

The City Council will also be meeting by interactive TV under Minn. Stat. 13D.02. Members of the public are permitted to attend the meeting in person. However, it is encouraged to participate in the meeting remotely. Instructions can be found below.

The **May 3, 2022** Zoom meeting can be accessed via:

<https://tinyurl.com/NSPCityCouncil>

(from a PC, Mac, tablet, iPhone or Android device)

or by phone at 1-929-205-6099.

Participants accessing the meeting by phone please use the following meeting ID:
84409094358

You can also watch the meeting on our YouTube channel here tinyurl.com/NSPYouTube

I. Call to Order

II. Roll Call

Council Member Thorsen
Council Member Petersen
Council Member Wong
Council Member Cole
Mayor Furlong

III. Adopt Agenda

IV. Topic(s)

A. Discussion on Enclosures for Establishments Serving Alcohol Outdoors

V. Other Business

VI. Adjournment

The next regularly scheduled City Council Workshop meeting is Tuesday, May 17, 2022.



To

Honorable Mayor Furlong and City Council

Date

May 3, 2022

Agenda Placement # IV.A

Topic(s)

Subject

Discussion on Enclosures for Establishments Serving Alcohol Outdoors

Background/Facts

Recommended Action

Attachments

1. Memo-Patio Liquor Regulations

Respectfully submitted,
Brandy Howe, Planner

Memorandum



To: City Administrator
From: Jared Johnson, Planner
Brandy Howe, Sr. Planner
Date: April 26, 2022
Re: City of North Saint Paul – Outdoor Patio Fencing Regulations
WSB Project No. 018602

BACKGROUND

Staff has been asked to research outdoor patio enclosure requirements for establishments that serve liquor to see if there may be alternative approaches to replace the existing requirement.

Existing North St. Paul Ordinance

Section 117.120(B)(2) of the municipal code requires licensed establishments with an attached deck or patio to be enclosed by a six-foot fence.

(2) Patios/decks/outdoor areas.

(a) Licensed establishments may choose to have an attached patio/deck or outdoor area on their premises. Licensee shall comply with M.S. § 144.413 when building the structure. The area must have a fence that is at least six-feet high. The fence should have a gate with a lock. Entry to the patio shall be limited to accesses through the establishment unless the entry is staffed by employees or security personnel. Storage of alcoholic beverages is not allowed on the attached patio/deck/outdoor area, except that malt liquor beverages may be stored in locked or sealed containers in confined spaces or structures that limit access by unauthorized persons.

(b) The patio/deck/outdoor area must be included in the original application and be compact and contiguous with the liquor service area. If an addition, a new license application shall be made.

State Statute

Minnesota state statute 340A.410 Subd. 7. limits the licensing authority to issue liquor licenses to spaces that are compact and contiguous. This means establishments can have outdoor patio space if it's defined and contiguous with the principal building. Cities can decide whether to impose further restrictions such as requiring a physical fence as means to be contiguous with the principal establishment.

ANALYSIS

It is our understanding based on a recent inquiry for Mac's Diner that a solid, 6-foot fence may be too restrictive in the downtown. Staff looked at other communities in Minnesota with similar downtowns and found many ordinances do not require fencing or even explicitly regulate outdoor patio areas. Staff has reviewed several cities that do have outdoor patio regulations for liquor and has come up with some options.

The **City of Stillwater** has no fencing requirements for outdoor seating areas. Restaurants in Stillwater use a variety patio encloses (see below). We contacted the city to verify whether or not there have been any issues regarding alcohol in outdoor seating areas; staff confirmed they haven't had issues or complaints.

The **City of Robbinsdale** has fencing requirements. They require a 3-foot fence if the grade is less than 6-feet.

The **City of Rosemount** has separate patio regulations in their liquor ordinance. They don't require a certain fence height, but they require the fence to be wrought iron. Rosemount also includes safety net language to allow them to impose any unique conditions on the patio when it comes to public safety.

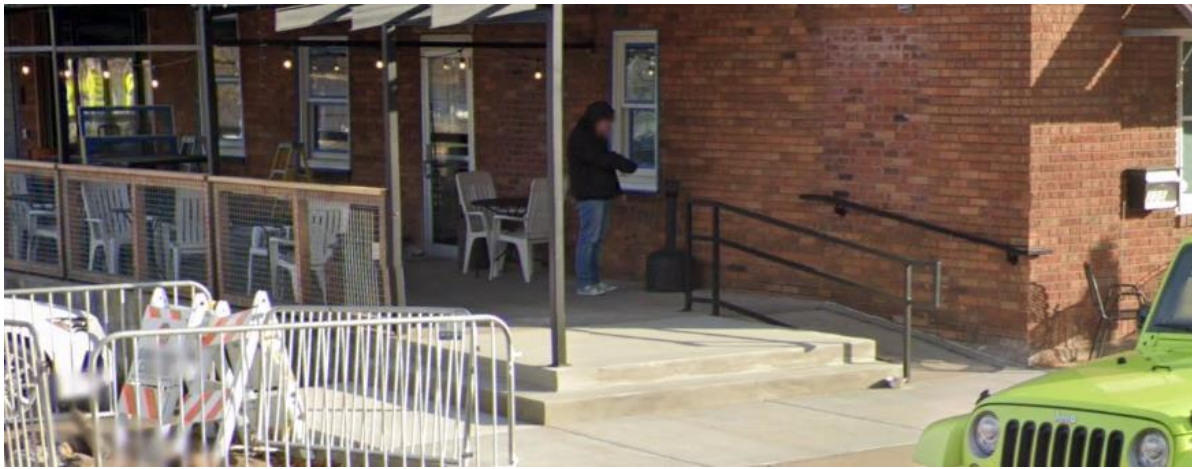
Regulatory Options to Consider

1. Materials: To protect aesthetics of a downtown area, cities can require material standards for fencing of patio areas. The city could also prohibit certain unwanted fencing types. Common decorative fencing types include wood, vinyl, wrought-iron, picket, and aluminum. Staff has found black iron fencing is common for outdoor patios. It is up to the city on how far they want to regulate the perimeter of outdoor areas.
2. Buffer: The city could require a 24-36" landscape buffer strip along the interior or exterior of the fence to reduce the ability to pass drinks from inside the patio area to outside the patio area.
3. Height: Reduce the height requirement from 6-feet. A shorter fence would reduce the dominant feel of a large fence while still providing a physical and visual barrier. The city could also decide to not have a height requirement and allow the applicant more creativity but would open the door for potential undesirable fence heights in the downtown area. This could be solved by setting a specific height range (i.e., 36" to 54"). A retaining wall in conjunction with a fence could also meet a proposed height requirement.
4. Gate: There are several options regarding gates. Cities can require them to provide emergency access and/or allow patrons to exit when leaving the establishment. Staff has found some cities do not have gate requirements. If the city wishes to not require a gate, there should be added liability in the establishments' liquor license.
5. Additional Conditions: The following language could act as a safety net for possible problems with patio areas: *"The city council may impose any additional conditions it deems necessary in the interest of the public health, safety, and welfare at the time of initial approval or any renewal of the license for a patio or deck. The conditions set forth allowing the patio or deck shall be reviewed during the yearly renewal period."* Adding this language could provide the city a security net for any establishments that need unique conditions in which city code doesn't address.

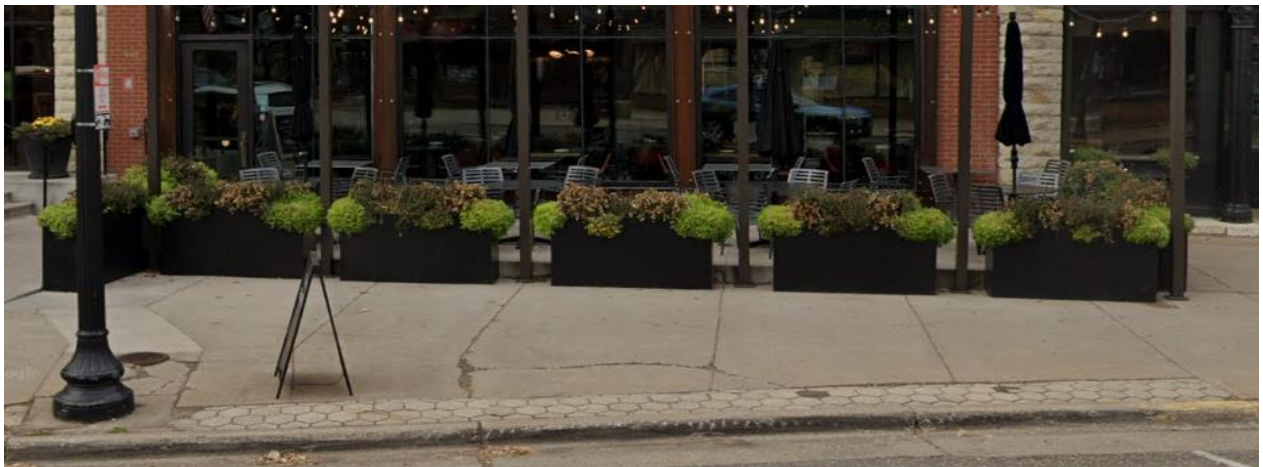
CONCLUSION

Staff has found many cities that do not have regulations for outdoor patio areas serving liquor. Patio areas by law must be compact and contiguous. It is assumed city staff reviews this requirement when an application is made for a liquor license, and it is up to the applicant to provide their own unique plan for a patio area. It's up to the city if they want specific regulations for the outdoor patio area.

Example Photos (Stillwater):



Patio with no gate, rather an open end (patrons can easily carry alcohol off the patio)



Large planter boxes



Iron fencing with brick columns



Wood fence with stairs (left), tall wood fence with brick columns and an iron gate (right)