

July 15, 2020

POLICY MEMORANDUM 2002-2 (Revised July 15, 2020)

Subject: Guidelines for the Extension of a Licensed Premises

1. **Purpose:** The purpose of this memorandum is to provide clarification of the statutes and regulations as they pertain to the extension of a licensee's licensed premises.
2. **Applicability:** Class A clubs, class B clubs, drinking establishments, and hotel/drinking establishments.
3. **Discussion:** There are frequent questions involving the details of a licensee permanently or temporarily extending its licensed premises, especially concerning such extensions into public spaces such as sidewalks, alleyways, roads, etc. The following information explains the procedure and requirements for extensions.
 - a. Who may extend the licensed premises?
 - Drinking establishments
 - A licensee of a drinking establishment may, with written permission from the director, extend its licensed premises into adjacent and contiguous property beyond the boundaries of its building.
 - Class A and class B clubs
 - A licensee of a class A or class B club may, with written permission from the director, extend its licensed premises into adjacent and contiguous property beyond the boundaries of its building.
 - The extended premise is accessible only to members of the club and their bona fide guests. Members of the general public are not permitted on the club premises.
 - Hotel/drinking establishments
 - A licensee of a hotel/drinking establishment may, with written permission from the director, extend its licensed premises into adjacent and contiguous property beyond the boundaries of its building.
 - The licensee of a hotel/drinking establishment in which the licensed premises does not cover the entire hotel may extend its licensed premises provided that the extension would not result in the entire hotel being licensed, which would require a higher license fee.

b. Procedure for requesting an extension of premises.

- Any licensee wishing to extend its licensed premises shall submit a Request for Premise Approval form [ABC-806](#) (for a permanent extension) or an [ABC-816](#) (for a temporary extension) to the director at least 10 days prior to the extension.
- The ABC-806 or ABC-816 form shall include a diagram of the extended premises, clearly showing the boundaries of the premises, entrances to and exits from the premises, and the area in which the service of alcoholic liquor would take place.
- For a temporary extension, the written request shall include the date(s) and time(s) during which the premises will be extended.
- The request shall include proof of ownership or legal rights to the property into which the premises is being extended, except:
 - If the licensee does not own or lease the property into which the premises is being extended, the request shall include written permission from the governing body, owner or property manager to extend the premises into that area.

c. Requirements for extended premises.

- If the licensee is requesting an extension into public property (such as a sidewalk, alleyway, street, etc.), the city or county must first pass an ordinance or resolution authorizing the possession and consumption of alcoholic liquor on that property. The ordinance or resolution shall specify the dates and times that alcohol possession or consumption is authorized, and shall state that such property is closed to motor vehicle traffic during those times.
- The boundary of any premises extending beyond the walls of a building shall be clearly marked by a three-dimensional obstacle. This shall be interpreted in the following manner:
 - The three-dimensional obstacles do not need to be continuous and unbroken. However, gaps between the obstacles shall not exceed five feet in distance.
 - Where such gaps exist, a clear line of demarcation shall be indicated on the ground, sufficiently demonstrating to the public the boundary beyond which alcohol cannot be removed. It is also strongly recommended that signage be placed at these openings indicating the same.
 - The requested extended premises shall not extend more than 30 feet in any direction from any given point of the licensee's original licensed premises.
- The licensee shall maintain, on the licensed premises, a copy of the approved ABC-806 or ABC-816 extended diagram and the ordinance or resolution authorizing alcohol possession or consumption on the property (if one was necessary). The approved diagram and ordinance or resolution shall be available for inspection upon request by any law enforcement officer or agent or employee of the director.

- The licensee shall be charged with complying with all applicable state and local restrictions concerning the sale, service, possession and consumption of alcoholic liquor on the extended premises.
- Any drinking establishment that elects to extend its licensed premises into a “special event” as defined by K.S.A. 41-719, for which a temporary permit has been issued shall post a copy of the ABC-816 approval to extend the premises at each entrance to the special event area and at each entrance to the drinking establishment.

d. Nature and duration of the extension

- Since K.A.R. 14-21-21(f) requires a valid lease or deed for the property if a licensee wishes to permanently extend into such property, extensions into public property shall only be temporary in nature, as the licensee could not obtain a valid lease or deed for such property.
- These “temporary” extensions shall be valid for a period of time not to exceed two years.
- Any request for an extension that would result in the blocking of entrances to neighboring businesses may be denied, absent written permission of those businesses. Such permission should also be kept on the licensee’s licensed premises at all time and be made available for inspection upon request.

4. Additional Comments:

- a. Failure to comply with the applicable statutes, regulations and/or this policy memorandum, may result in administrative action for violation of the liquor laws.
- b. ABC enforcement agents will verify compliance with the provisions of the applicable statutes, regulations and this policy memorandum.

5. Clarification of Policy: All clarification requests to this policy should be directed in writing to this office via mail, fax, or submitted to the agency’s email at kdor_abc.email@ks.gov.

6. Effective Date of this policy: This policy is effective from the date of signature until further notice.

Original Signed and On File

Debbi Beavers, Director
Alcoholic Beverage Control

CC: Assistant Attorney General
Chief of Enforcement
Operations Manager/Licensing Supervisor
Enforcement Agents