

Ordinance No. 4802

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, ESTABLISHING INTERIM REGULATIONS FOR AMENDING SECTION 2.34.300 TO ALLOW FOR THE SALE, SERVICE AND CONSUMPTION OF ALCOHOL AT ROTARY PAVILION.

WHEREAS, the City of Ellensburg ("City") adopted Ordinance 4795 on April 23, 2018, which repealed and replaced Chapter 6.54 of the Ellensburg City Code ("ECC") to create a new Special Events Code; and

WHEREAS, Ordinance 4795 also amended ECC 2.34.300 to allow for the sale, service and consumption of alcohol in the Rotary Pavilion area under the terms and conditions established in the new Special Events Code; and

WHEREAS, the City has subleased the Rotary Pavilion and the remaining area of the property located at 110 W. 4th Avenue (collectively referred to as the "Rotary Pavilion"), through January 31, 2020; and

WHEREAS, Ordinance 4795 will not take effect until October 1, 2018, but at least one community event is scheduled prior to that date, which will use the Rotary Pavilion for the sale, service and consumption of beer and wine; and

WHEREAS, the City Council desires to adopt interim regulations which will clarify the approval process for street closures, and also allow for the sale, service and consumption of alcohol which will be effective until Ordinance 4795 becomes effective on October 1, 2018;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ELLENSBURG DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 2.34.300 of the Ellensburg City Code and Section 1 of Ordinance 4515 is hereby amended to read as follows:

2.34.300 Alcohol policy for city facilities.

A. Private Parties or Groups. Subject to the prior approval of the Ellensburg city council, private parties or groups may be authorized to serve and/or consume alcohol at the city facilities identified in this section.

B. Types of Alcohol Allowed. Conditions of this policy allow for the serving of wine, champagne and bottled or canned beer only. Individuals may consume beer in a can; otherwise,

these types of alcohol may only be consumed from a plastic or paper cup or similar soft-sided container. Liquor, drinks containing liquor and beer kegs are prohibited.

C. ~~Sole~~ Locations.

1. Adult Activity Center. The service and consumption of alcohol may be allowed ~~only~~ at the Adult Activity Center subject to the requirements of this chapter. Alcohol is only allowed in areas of the center designated by the parks and recreation director. Alcohol is not allowed outside of the center ~~or at any other city facility~~.

2. Rotary Pavilion. The service and consumption of alcohol may be allowed at Rotary Pavilion for permitted events subject to city council approval. The restrictions of subsections (B), (D) and (E) of this section do not apply to events held at the Rotary Pavilion for which city council approval has been obtained. Notwithstanding the foregoing, the following requirements must be met for the sale, service and consumption of alcohol at Rotary Pavilion:

a. Obtain and comply with the applicable liquor license or permit issued by the Washington State Liquor and Cannabis Board, and provide a copy of such license or permit to the city;

b. Service of alcohol must end by 12 a.m.;

c. The alcohol service area must be clearly designated with a minimum of a four (4) foot high fencing surrounding the area; fencing, tables, chairs, etc. must be able to be removed quickly to allow passing of emergency vehicles;

d. Clearly designated entrance/exit points must be provided;

e. Trained volunteers or paid security personnel must be posted at every entrance/exit point to ensure that no person under 21 will be allowed into the alcohol service area; and

f. No outside alcohol may be brought into an alcohol service area and no alcohol may be removed.

g. Insurance must be provided as follows: At least seven days prior to the event, the applicant shall purchase: (1) a commercial general liability policy of no less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, and (2) a liquor liability policy of no less than \$1,000,000 per occurrence, and shall furnish the city by such time a certificate of insurance for each such policy, naming "The City of Ellensburg" as an additional named insured.

D. Approval Procedure. Parties or groups wishing to serve alcohol at the Adult Activity Center must:

1. Fill out the appropriate city of Ellensburg facility use permit form. Forms are available at the administrative offices for the parks and recreation department. This form requires information including, but not limited to, the name of the private party or group sponsoring the event (the "applicant"), the number of people expected to attend the event, the date, time and location of the event, and the type or types of alcohol proposed to be served. This form shall contain a requirement that the applicant shall indemnify, defend and hold the city of Ellensburg, its officials, officers and employees harmless from and against any and all claims, damages, losses, demands, actions, causes of action or liabilities of any nature or kind whatsoever (including reasonable attorneys' fees) arising out of the applicant's, and applicant's invitees', use of the facility, including the service and consumption of alcohol. Applicants must complete and submit a facility use permit form at least six weeks prior to the scheduled date of the event.

2. The request will then be forwarded to the city council for consideration of approval. If approved, city staff will issue a letter in reply giving permission for the applicant to obtain a banquet permit or special event permit from the Washington State Liquor and Cannabis Control Board for the event. This letter will be sent to the applicant or applicant's representative.

3. ~~This letter of approval must then be taken to the local liquor store at least 10 days prior to the event. Upon presentation of this letter, a Washington State Liquor Control banquet permit or special event permit will be sold to the applicant.~~ The applicant must then provide staff with a copy of a valid Washington State Liquor Control banquet permit or special event permit issued by the Washington State Liquor and Cannabis Board for the event and display the permit for the duration of the event. The applicant's failure or inability to obtain the necessary permit from the Liquor and Cannabis Control Board shall preclude the service and/or consumption of alcohol at the event, and the city shall bear no responsibility for the applicant's failure or inability to obtain such permit(s).

4. At least seven days prior to the event, the applicant shall purchase: (a) a general liability policy of no less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, and (b) a liquor liability policy of no less than \$1,000,000 per occurrence, \$1,500,000 general aggregate, and shall furnish the city by such time a certificate of insurance for each such policy, showing "The City of Ellensburg" as an additional named insured. Both policies shall be occurrence-based and must provide, or be endorsed to provide, that the applicant's insurance coverage shall be the primary insurance. Any insurance, self-insurance, or insurance pool coverage maintained by the city of Ellensburg will be excess of the applicant's insurance and shall not contribute to it. The two insurance policies and terms thereof shall be subject to review and approval by the city attorney.

E. Additional Requirements.

1. Security. The applicant shall provide adequate security for the event, consisting of either off-duty police personnel, a licensed private security company or a combination

thereof. All arrangements for security, including the nature and extent of the security to be provided, are subject to the prior approval of the city and shall be dependent upon the nature, attendance, time and duration of the event.

2. No Advertising Permitted. The applicant shall not advertise to the general public any alcoholic beverage in conjunction with the event.

3. Training Required. Prior to the event, volunteers or staff for the event will be required to attend a training session run by the Liquor and Cannabis Control Board on ID checks and overservice.

4. Presence of Minors. Applicants must ensure that if minors are by law authorized to be present at the event, that they do not possess or consume alcohol.

5. No Overservice Allowed. Applicants must take all necessary measures to control the amount of alcohol consumed by each individual to prevent them becoming a public nuisance or hazard to themselves or others.

6. License to Be Posted. The applicant shall post the event's approved liquor license(s) in a conspicuous location for the duration of the event.

7. Violations. Serving or consuming alcohol without proper approval or in violation of any of the rules or requirements of this section or those of the Washington State Liquor and Cannabis Control Board will result in appropriate law enforcement action by police and/or the Washington State Liquor and Cannabis Control Board, immediate shut down of the event, forfeiture of any damage deposit and/or facility use fees, and liability for any damages in excess of such deposit and fees. Further, any such violation may result in the applicant's loss of eligibility to serve alcohol at the Adult Activity Center in the future.

8. Compliance with Laws. The authorization to serve and/or consume alcohol under this section shall in no way relieve the applicant from the obligation to secure any other applicable license, permit or approval required by city ordinance, local, state or federal law, rule or regulation; and the applicant shall at all times comply with all applicable city ordinances and local, state and federal laws, rules and regulations, as well as with all applicable parks and recreation department facility use requirements and other department rules, regulations and requirements pertaining to applicant's use of the Adult Activity Center.

9. Parks and Recreation Director's Authority. The parks and recreation director is hereby authorized to promulgate any and all rules, regulations and requirements necessary to implement the provisions of this section and not inconsistent herewith.

F. Intent. The provisions of this section are intended for the protection of the public in general and are not intended to create any duty to individuals or to any particular class of individuals. These provisions are not for the protection of any person or class of persons. [Ord. 4515 § 1, 2008.]

Section 2. **Term.** This interim ordinance shall commence on its effective date and will expire on September 30, 2018.

Section 3. **Severability.** If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portion(s) of this ordinance.

Section 4. **Corrections.** Upon the approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 5. Effective Date. This ordinance shall take effect and be in full force five (5) days after publication as required by law.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the 4th day of June, 2018.

ATTEST:


MAYOR


CITY CLERK

Approved as to form:


CITY ATTORNEY

Publish: 6-7-18

I, Coreen M. Reno, City Clerk of said City, do hereby certify that Ordinance No. 4802 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4802 was published as required by law.


COREEN M. RENO