

Ordinance No. 4795

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, RELATING TO SPECIAL EVENTS, REPEALING SECTIONS 2.34.080 AND 2.34.120; AMENDING SECTIONS 2.34.280 AND 2.34.300; AND REPEALING AND REPLACING CHAPTER 6.64 OF THE ELLENSBURG CITY CODE WITH A NEW CHAPTER ENTITLED "6.64 SPECIAL EVENTS."

WHEREAS, the Ellensburg Comprehensive Plan recognizes that local arts, culture, and year round events, which include performance, visual arts and cultural events, help shape our local identity; and

WHEREAS, the City Council reaffirms that special events provide the Ellensburg community and its citizens with substantial public benefits, including cultural enrichment, economic vitality, tourism, and enhanced community identity and pride; and

WHEREAS, the City Council's goal is to encourage, support and accommodate special events in a manner that fulfills the City's responsibility to protect public health and safety; and

WHEREAS, in furtherance of this goal, the City Council desires to adopt a comprehensive administrative review and approval process for special events that is efficient, clear and predictable for City staff and event organizers, and is protective of first amendment rights;

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

Section 1. Chapter 6.64 of the Ellensburg City Code, as last amended by Section 9 of Ordinance 4774, is hereby repealed in its entirety and replaced with a new chapter 6.64 entitled "Special Events" to read as follows:

**Chapter 6.64
SPECIAL EVENTS**

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- 6.64.060 Special event permit required; authority of responsible official; application fee.
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- 6.64.500 Delegation of city manager's authority.
- 6.64.520 City manager authorized to adopt rules and regulations.
- 6.64.540 Penalties for violation.

6.64.020 Purpose.

It is the purpose of this code to provide for the issuance of special event permits to regulate events on the public rights-of-way, public property, and on private property if the event will impact the delivery of governmental services, in the interest of public health, safety and welfare of the city; and to provide for fees, charges and procedures required to administer the permit process.

6.64.040 Definitions.

“Business” means and includes any activity which involves sale of any goods or services, whether conducted for profit or not, and regardless of by whom conducted.

“Event organizer” means any person who conducts, manages, promotes, organizes, aids, or solicits attendance at a special event.

“Expressive activity” includes conduct including but not limited to marches, rallies or gatherings, the sole or principal object of which is the expression, dissemination or communication by verbal, visual, literary or auditory means of opinion, views or ideas and for which no fee or donation is charged or required as a condition of participation in or attendance at such activity. For purposes of this chapter, expressive activity does not include sports events, fundraising events, or events the principal purpose of which is entertainment.

“Sidewalk” includes any and all structures or forms of street improvement included in the space between the street margin and roadway, and specifically includes curbs or other delineation for pedestrian travel.

“Sign” means any sign, pennant, flag, banner, inflatable display, or other attention-seeking device

“Special event” means any activity which is to be conducted on public property or on a public right-of-way, or any event held on private property which would:

1. Have a direct significant impact on traffic congestion or traffic flow to and from the event over public streets or right-of-ways; or
2. Substantially impact public streets or right-of-way near the event; or
3. Significantly impact the need for emergency services, such as police, fire or medical aid;
or
4. Is to be held in the city’s Central Commercial Zone and involves the sale of tickets for attendance or is open to the general public with attendance expected to exceed more than 100 people.

Any event on private property which involves an open invitation to the public to attend, or an event where the attendance is by private invitation of 100 or more people, is presumed to be an event that will have a direct significant impact on the public streets, right-of-way or emergency services, and therefore a “special event.” Special events might also include, but are not limited to, fun runs/walks, athletic competitions, auctions, bike-a-thons, public fundraisers, parades, festivals, shows or exhibitions, outdoor film/movie events, block parties and fairs, trade shows, arts and crafts shows, home shows, recreational vehicle shows, boat shows, and antique shows.

“Special event permit” means a permit issued under this chapter.

“Special event venue” means that area for which a special event permit has been issued.

“Street” means a way or place of whatever nature publicly maintained and open to use of the public for purposes of vehicular travel. Street includes highway.

“Tax-exempt nonprofit organization” means an organization that is exempted from payment of income taxes under Section 501 of the Internal Revenue Code.

“Vendor” means any person, association, group, partnership, corporation or firm selling goods, food, beverages or services within a special event venue.

“Use” shall mean to construct, erect, or maintain in, on, over or under any street, right-of-way, park or other public place, any building, structure, sign, equipment or scaffolding, to deface any public right-of-way by painting, spraying or writing on the surface thereof, or to otherwise occupy in such a manner as to obstruct the normal public use of any public street, right-of-way, park or other public place within the City, including a use related to special events.

6.64.060 Special event permit required; authority of responsible official; application fee.

A. Except as provided elsewhere in this chapter, a special events permit issued by the city manager or his/her designee (“responsible official”) must be obtained from the city to conduct, promote, or manage a special event.

B. The responsible official is authorized to:

1. Issue, deny or revoke permits for special events occurring within the city limits, pursuant to the procedures established in this chapter.
2. Determine the special event venue, including the setting of reasonable boundaries for the special event venue, balancing the special event requirements and the public health, safety, and welfare.

3. Coordinate the issuance of a special event permit with other local, state or federal public agencies in whose jurisdiction or on whose property the special event or portion thereof occurs and to issue a special event permit upon the concurrence of other public agencies involved.

4. Establish a non-refundable application fee, subject to approval by city council resolution, to be paid by the event organizer at the time the special event permit application is first submitted to the responsible official. The application fee shall not be charged for an application to conduct an expressive activity.

6.64.080 Exemptions from the special event permit requirement.

A. Although not required to be issued a special event permit, an event organizer of an activity exempted from this chapter is required to comply with all local, state and federal laws and regulations governing public safety or health.

B. Nothing in this chapter shall be construed to abrogate or limit the authority and jurisdiction of the city to enforce any other provisions of the Ellensburg City Code.

C. The following activities are exempt from having to obtain a special event permit under this chapter:

1. Parades, athletic events or other special events that occur exclusively in city parks or in the public right of way or sidewalks, streets, or publicly owned property, and which are organized or conducted by the City of Ellensburg.

2. Funeral and wedding processions.

3. Use of city park picnic shelters for which a permit has been issued to the user or gatherings of fewer than one hundred (100) people in a city park, unless merchandise, food or services are offered for sale or trade to the public, in which case a special event permit is required.

4. Farmers markets, which may require a separate agreement and city council approval for street closure pursuant to ECC 2.34.280;
5. Temporary sales conducted by businesses, such as holiday sales, grand opening sales, sidewalk sales, or anniversary sales.
6. Carnivals or rodeos, which require a separate permit and license pursuant to Chapter 6.56 ECC.
7. Events held at the Kittitas Valley Event Center.
8. Garage sales, rummage sales, lemonade stands and car washes.
9. The indoor exhibition of films or motion pictures.
10. Other similar events and activities which do not directly affect or use City services or right-of-way property, as determined by the responsible official.
11. Activities conducted by a governmental agency acting within the scope of its authority.

D. Notwithstanding an event being exempt from the requirement to obtain a special event permit, the event organizer may still be required to obtain a right-of-way permit, noise waiver, or other appropriate permits as required by the Ellensburg City Code.

6.64.100 Time for filing application for special event permit; priority; expressive activity event.

A. Application for a special event permit, on a form provided by the city, shall be filed with the responsible official not less than sixty (60) calendar days, nor more than one year, before the date and time when it is proposed to conduct the special event.

B. Upon good cause shown and provided that no risk or burden to the City results, the responsible official has discretion to allow a later filing. Allowance of a later filing may result in the responsible official adjusting other deadline requirements in this chapter. Notwithstanding the foregoing, applications for special events which require city council approval pursuant to ECC 2.34.280 must be submitted by no later than thirty (30) days prior to the scheduled event.

C. Priority may be given for the scheduling of a special event permit to local tax-exempt nonprofit organizations operating in and providing services to the citizens of the city. Priority may also be given to annual, semiannual, or other regularly scheduled or recurring special events if the event organizer notifies the responsible official within ninety (90) days of an event of their intent to hold the same event on a specific date the following year, and otherwise complies with all requirements of this chapter. If competing applications cannot be resolved on this basis, permits shall be granted to the earliest completed application received for the time and place requested.

D. An application for an expressive activity special event permit shall be filed with the responsible official no less than seven (7) calendar days before the time when it is proposed to conduct the expressive activity special event. Upon good cause shown, the responsible official may, in his or her discretion, allow a later filing.

6.64.120 When application for special event permit is deemed complete; routing.

A. An application for a special event permit is deemed complete when the applicant has submitted all of the information required in Section 6.64.140 on the city's application form, including any additional information required by the responsible person, and paid the special event application fee;

B. A completed application will be routed by the responsible official for review to other city departments, the city manager, mayor and/or city council, as applicable. Each of the above-listed departments and/or officials shall provide the responsible official a written recommendation of approval (conditional or otherwise) or denial of the application based on the considerations referenced in ECC 6.64.180.

6.64.140 Content of special event permit application.

A. Except as provided elsewhere in this chapter, the application for a special event permit shall include the following:

1. Contact information such as the name, address, telephone number, cell phone number, website address and e-mail address of the applicant.
2. A statement of the purpose of the special event, including the dates, times and location(s) (or routes, with map, if applicable), along with estimated attendance.
3. A list of emergency contacts that will be in effect during the event.
4. A statement of fees to be charged for the special event.
5. The proposed plan for clean-up, sanitation facilities, garbage and recycling collection, for the period during and after the event is completed.
6. Information documenting compliance, if needed, with the Americans with Disabilities Act (ADA) requirements for accessibility, parking and restrooms.
7. A description of the nature of any equipment to be used to produce sounds or noise. An outdoor event which will include amplified sound requires a noise waiver pursuant to ECC 5.60.120.
8. The number of persons proposed or required to monitor or facilitate the special event and provide spectator or participant control and direction for special events using city streets, sidewalks, or facilities, together with any anticipated security and/or traffic control provisions.
9. The anticipated quantity and types of any alcohol that will be served at the event, for which a separate Washington State Liquor and Cannabis Board permit is required.

10. Liability insurance documentation, including the certificate(s) of insurance, along with a Hold Harmless and Indemnity Agreement in such form as may be issued by, or acceptable to, the city.

11. A list of participating vendors.

12. Any other information required by the responsible official.

B. The responsible official will notify the applicant within fifteen (15) business days of receiving a special event permit application of any information that the applicant has failed to provide or is incomplete.

6.64.160 Date of special event not confirmed until notice of confirmation issued.

Notwithstanding the responsible person's acceptance of a completed application, the date of the event shall not be considered confirmed until the responsible official issues a written notice of confirmation.

6.64.180 Conditions affecting issuance of a special event permit.

A. Where the event organizer has not requested, and the special event does not require city services, equipment, or personnel, the responsible official will issue a special event permit, when based upon the completed application, all of the conditions listed in this section are met as determined by the responsible official.

1. The special event will not substantially interrupt public transportation or other vehicular and pedestrian traffic in the area of its route.

2. The special event will not cause an irresolvable conflict with construction or development in the public right-of-way or at a public facility.

3. The special event will not block principal transportation arterials during peak commute hours on weekdays between 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m., or other times as determined by the city.

4. The special event will not require the diversion of police employees from their normal duties.

5. The concentration of persons, animals or vehicles will not unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets.

6. The special event will move from its assembly location to its disbanding location expeditiously.

7. The special event will not substantially interfere with any other special event for which a permit has already been granted or with the provision of city services in support of other scheduled special events or unscheduled governmental functions.

B. In order to ensure that the conditions in this section are met, the responsible official may place conditions on the special event permit.

6.64.200 Events where alcohol is to be provided, sold or served.

A. If alcohol is to be provided, sold or served on public property or public right-of-way, or if served on private property but within a special event location that encompasses public right-of-way (e.g., closed street, alley or sidewalk), the event organizer shall comply with the following conditions:

1. 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;

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

3. Liquor Liability must be included on insurance coverage;
4. 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;
5. Clearly designated entrance/exit points must be provided;
6. 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
7. No outside alcohol may be brought into an alcohol service area and no alcohol may be removed.

6.64.220 Insurance required to conduct special event.

- A. The event organizer of a special event must possess or obtain comprehensive general liability (“GL”) insurance to protect the city against loss from liability imposed by law for damages on account of bodily injury and property damage arising from the special event. Coverage types and limits shall be set forth in the special event application and/or published by the responsible official.
- B. The insurance required by this section shall encompass all liability insurance requirements imposed for other permits required under other sections of this chapter and is to be provided for the benefit of the city and not as a duty, express or implied, to provide insurance protection for spectators.
- C. Special events that are primarily athletic in nature (marathons, running events, triathlons, regattas and similar events) require a GL policy which includes Athletic Participant coverage providing protection for claims made by athletic participants.

D. The event organizer's current effective insurance policy, or copy, along with necessary endorsements, shall be filed with the responsible official at least 30 calendar days before the special event, unless the responsible official for good cause modifies the filing requirements.

6.64.240 Waiver of insurance requirements.

A. Except for special events where the sale of alcoholic beverages is authorized or where traffic control plans are required, the insurance requirements of this chapter may be waived by the responsible official. The responsible official may determine that the insurance requirements should be waived if one or more of the following factors are associated with the special event application:

1. It is objectively impossible for the applicant to obtain insurance coverage;
2. The special event is open to the general public at no charge to the attendees;
3. The event is an expressive activity; and
4. Any other factor the responsible official deems relevant to the determination.

Notwithstanding the foregoing, the insurance requirements of this chapter shall not be waived for a special event that will involve: the sale, provision or service of alcohol; vehicles; animals; fireworks; or pyrotechnics.

B. To claim that it is objectively impossible to obtain insurance coverage pursuant to this section, the applicant shall submit a statement from at least two independent licensed insurance brokers demonstrating the insurance is unavailable in the market place.

C. Even though insurance is waived, the responsible official shall require the event organizer of a special event to defend, indemnify, and hold harmless the city from any claim or liability arising from the special event.

6.64.260 Responsible official's action on special event permit application.

A. Except as provided in this section, the responsible official shall take final action upon an application for a special event permit within thirty (30) calendar days of when the application is deemed "complete" in compliance with ECC 6.64.120(A).

B. The responsible official is not required to take final action upon any special event permit application prior to one hundred and eighty (180) calendar days before the special event.

C. The responsible official is not required to take final action on an untimely special event permit application, nor, after providing notice pursuant to ECC 6.64.140(B), on an incomplete special event permit application.

D. Any event requiring closure of a street or alley, or temporary suspension of parking regulations, shall be routed to the mayor or his/her designee for approval. Closure of streets or alleys require the following for approval:

1. Concurrence with the request(s) by both the city manager and police chief;

2. For street or alley closures, concurrence with the request by at least 75% of businesses with storefronts on streets, or with access from an alley, in the closure as evidenced by the signatures of the business owner or their agent on a form approved by the city;

Notwithstanding the foregoing, the mayor or his/her designee may refer any street or alley closure request to the city council at the next scheduled council meeting for consideration of whether it should be approved.

E. The following special events, or activities associated with a special event, shall require city council approval pursuant to ECC 2.34.280 prior to the issuance of a permit by the responsible official:

1. Any event at which alcoholic beverages are served, subject to compliance with all other requirements of this chapter; and

2. Any event which uses city rights-of-way as a part of the event which could substantially affect the normal flow of right-of-way traffic (for example, walk-a-thons, parades, foot races, etc.).

F. Final action on a completed special event permit application shall consist of one of the following:

1. Issuance of a special event permit in accordance with the terms of the application; or

2. Issuance of a special event permit in accordance with the terms of the application, as modified by mutual agreement between the responsible official and the applicant; or

3. Denial of the special event permit application by the responsible official pursuant to ECC 6.64.280.

6.64.280 Reasons for denial of a special event permit.

A. The responsible official shall deny a special event permit to an applicant who has not met one or more of the following requirements:

1. Provided a traffic control plan (if required); or

2. Provided sufficient monitors for crowd control and safety; or

3. Provided sufficient safety, health, or sanitation equipment services, or facilities that are reasonably necessary to ensure that the special event will be conducted with due regard for safety; or

4. Provided sufficient off-site parking or shuttle service, or both, when required, to minimize any substantial adverse impacts on general parking and traffic circulation in the vicinity of the special event; or
5. Submittal of a completed application for a special event permit, including payment of all fees due and owing prior to the event; or
6. Provided a copy of any permit or license required by another local or state agency.

B. The responsible official may deny a special event permit if, based on consideration of the permit application and from such other information obtained in reviewing the permit, in his or her opinion:

1. The special event will create the imminent possibility of violent or disorderly conduct likely to endanger public safety or to result in significant property damage; or
2. The special event will violate public health or safety laws; or
3. The special event fails to conform to the requirements of law or duly established city policy; or
4. The applicant demonstrates an inability or unwillingness to conduct a special event pursuant to the terms and conditions of this chapter; or
5. The applicant has failed to conduct a previously authorized or exempted special event in accordance with law or the terms of a permit, or both; or
6. The applicant has not obtained the approval of any other public agency within whose jurisdiction the special event or portion thereof will occur; or
7. The applicant has failed to provide an adequate first aid or emergency medical services plan based on special event risk factors.

C. The responsible official shall deny a special event permit to an applicant who has failed to comply with any material term of this chapter or condition of a special event permit previously issued to the applicant.

6.64.300 Appeals from denial of special event permit.

A. If the responsible official denies issuance of a special event permit pursuant to ECC 6.64.280, he or she shall notify the applicant in writing, stating the reason(s) for the denial, within five (5) business days of the decision.

B. The denial of a special event permit may be appealed to the city manager or his or her designee.

C. An appeal shall be made within five (5) business days of the date of the written denial. An appeal is made by filing a written petition with the responsible official, setting forth the grounds for appeal and including any relevant documents.

D. The city manager shall consider the appeal and issue a written decision within five (5) business days of its receipt.

E. Judicial review of any such final decision may be obtained through the filing of an appropriate action with a court of competent jurisdiction within thirty (30) days of issuance of the written decision.

6.64.320 Use of City logo or name.

It is unlawful for any Event Organizer to use in the title of an event the words “The City of Ellensburg” or “City of Ellensburg,” the name of any city department, or a facsimile or duplication of any logo of the City of Ellensburg or city department, or to indicate city sponsorship of an event, without the city’s written authorization.

6.64.340 Display of special event permit required.

A copy of the special event permit shall be displayed in the special event venue in the method prescribed by the responsible official applicable to the particular special event and shall be exhibited upon demand of any city official.

6.64.360 Revocation of special event permit.

A. Any special event permit issued pursuant to this chapter is subject to revocation, pursuant to this section.

B. A special event permit may be revoked if the city determines:

1. That the special event will or is being conducted in violation of the standards or conditions for special event permit issuance; or
2. The special event is being conducted in violation of the law or of any condition of the special event permit; or
3. The special event poses a threat to health or safety; or
4. The applicant or any person associated with the special event has failed to obtain any other permit required pursuant to the provisions of this chapter; or
5. The applicant has not paid all fees when due; or
6. The applicant has failed to provide confirmation or proof that it has obtained the minimum number of required volunteers to perform safety functions; or
7. The special event permit was issued in error or contrary to law.

C. Except as provided in this section, notices of revocation shall be in writing and specifically set forth the reasons for the revocation.

D. If there is an emergency requiring immediate revocation of a special event permit, the responsible official may notify the permit holder verbally of the revocation.

E. An appeal from a revocation shall be handled in the same manner and under the same time requirements as denials of special event permits, pursuant to ECC 6.64.300.

6.64.380 Effect of receipt of donations on status of tax-exempt nonprofit organizations.

A tax-exempt nonprofit organization sponsoring a special event may acknowledge the receipt of cash or in-kind services or goods, donations, prizes, or other consideration from for-profit organizations without changing their status as a tax-exempt nonprofit organization within the meaning of this chapter. Such acknowledgment may include use of the name, trademark, service mark, or logo of such a for-profit organization in the name or title of the special event or the prominent appearance of the same in advertising or on collateral material associated with the special event.

6.64.400 Authorized special event vendors and license fees.

A. The issuance of a special event permit confers upon the permit holder or event organizer the right to control and regulate the sale of goods, services, food and beverages within the special event venue in accordance with the terms and conditions of the special event permit.

B. Only vendors authorized by the permit holder or event organizer shall be allowed to sell goods, services, food or beverages in the special event venue.

1. The special event permit application shall include a preliminary list of the vendors anticipated at the special event for which the license is sought, which shall include the vendor's name, addresses, business telephone numbers, and Washington State tax identification number, together with a general description of the goods, food, beverages and/or services offered by each vendor. In the event that there are changes to the preliminary list, such as the addition or deletion of vendors or the completion or correction

of information required from each vendor, those changes shall be set out in a final list by the promoter and submitted to the responsible official within five business days following the end of the special event.

2. Food and beverage vendors shall maintain and display their food handling licenses and permits as required by state and local law.

3. All vendors at a special event shall, upon request from the responsible official or his/her designee, provide proof of authorization from the permit holder or event organizer to sell goods, services, food and beverages at the special event.

C. Vendor license fees.

1. Unless the vendor has already obtained a city business license pursuant to Chapter 6.54 ECC, or is otherwise exempt from such requirement, each vendor participating in a special event shall be required to pay a fee to obtain a license pursuant to this chapter in the amount of \$5.00 per day for each for-profit vendor, not to exceed a total of \$20.00 for each vendor; provided, however, any bona fide charitable, educational, religious, or nonprofit organization or club is exempt from the licensing fee requirements of this subsection.

2. Each license issued under this subsection shall be limited to the number of days approved for the operation of the special event for which the license was issued. No license shall be effective for more than ten (10) consecutive calendar days.

3. The license fee required by this subsection shall be collected by the special event permit holder from each vendor who intends to participate in the special event. The special event permit holder shall be personally responsible for any sums collected, or any sum which should have been collected from a vendor. Payment of the license fees is due within five business days following the end of the special event.

6.64.420 Unlawful to conduct special event without permit.

It is unlawful to conduct a special event without a special event permit as required pursuant to this chapter.

6.64.440 Other permits, licenses, fees and taxes.

The issuance of a special event permit does not relieve any person from the obligation to obtain any other permit or license, and/or pay any fees and taxes, as required by the Ellensburg City Code, including but not limited to any general business licensing that may be required under Chapter 6.54 ECC, or any other applicable law.

6.64.460 Unlawful to sell goods in special event venue without authorization.

It is unlawful for any person to sell, resell, or offer to sell or resell, any goods, food, or beverages in a special event venue, except:

- A. From any building, meaning any fully enclosed permanent structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind; or,
- B. From any tent, booth, or temporary structure expressly authorized pursuant to a special event permit.

6.64.480 Cost recovery for unlawful special event.

Whenever a special event is conducted without a special event permit, when one is required, or a special event is conducted in violation of the terms of an issued special event permit, the event organizer shall be responsible for, and the city shall charge the event organizer for, all city costs incurred for personnel and equipment for a public safety response caused or necessitated by the adverse impacts of the special event or the violation of the special event permit upon public safety.

6.64.500 Delegation of city manager's authority.

The city manager may delegate any or all of his or her functions under this chapter to his or her directors, supervisors or subordinates.

6.64.520 City manager authorized to adopt rules and regulations.

The city manager is authorized to promulgate additional rules and regulations that are consistent with and that further the terms and requirements set forth within this chapter and the provisions of law that pertain to the conduct and operation of a special event.

6.64.540 Penalties for violation.

A. The special event permit authorizes the applicant to conduct only such an event as is described in the permit, and in accordance with the terms and conditions of the permit. It is unlawful for the applicant to violate the terms and conditions of the permit, or for any event participant to violate the terms and conditions of the permit or to continue with the event if the permit is revoked or expired. All requests for changes to a permit must be submitted for review by the responsible official.

B. Any person or organization violating the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a penalty of a fine of not more than five hundred dollars or by imprisonment of not more than ninety days, or both such fine and imprisonment.

Section 2. Section 2.34.080 of the Ellensburg City Code and Section 2 of Ordinance 3391 is hereby repealed in its entirety.

2.34.080 Permits required.

~~No individual or group of individuals shall hold any meeting or conduct group recreation activities of such a nature or in such manner as to effectively preempt to the exclusion of the general public a major part of any of the following city facilities: city-owned outdoor recreation facilities, the city/county community center, the Rotary Pavilion and associated equipment, except by permit issued pursuant to and in accordance with the terms of this chapter; provided, however, such permit requirements shall not be deemed to apply to scheduled city activities.~~
[Ord. 3391 § 2, 1983.]

Section 3. Section 2.34.120 of the Ellensburg City Code and Section 3 of Ordinance 3391 is hereby repealed in its entirety.

~~2.34.120 Application procedure.~~

~~A. Upon application, a permit shall be issued unless:~~

~~1. Its issuance would obstruct and/or interfere substantially with other city authorized use.~~

~~2. The date and time requested have been reserved by a previous permit.~~

~~B. Applications shall be completed by a qualified adult member of the organization requesting use.~~

~~C. Applications shall be submitted at least five days in advance of the event or activity to the city recreation department.~~

~~D. Cancellations shall be made 48 hours in advance of the scheduled event or activity. If such cancellations are not made within this time period, fees and charges shall be forfeited.~~

~~E. A single application may be made for a series of slated meetings of like character. [Ord. 3391 § 3, 1983.]~~

Section 4. Section 2.34.280 of the Ellensburg City Code and Section 7 of Ordinance 3391 is hereby amended to read as follows:

2.34.280 Events or activities requiring council city approval.

The events or activities listed below shall require city council approval prior to the issuance of a permit:

A. Any event requiring the closure of a city street or alley, or temporary suspension of parking regulations, shall be routed to the mayor or his/her designee for approval. Closure of streets or alleys require the following for approval:

1. Concurrence with the request(s) by both the city manager and police chief; and

2. Concurrence with the request by at least 75% of businesses with storefronts on streets, or with access from an alley, in the closure area as evidenced by the signatures of the business owner or their agent on a form approved by the city;

Notwithstanding the foregoing, the mayor or his/her designee may refer any street or alley closure request to the city council at the next scheduled council meeting for consideration of whether it should be approved.

~~B. Any outdoor event involving amplified sound after 10:00 p.m.;~~

~~C. Any event in connection with which alcoholic beverages are served, subject also to the requirement that the applicant secure an appropriate required state license;~~

~~D. Any event which uses city rights-of-way as a part of the event and which could substantially affect the normal flow of right-of-way traffic (for example, walk-a-thons, parades, foot races, etc.);~~

~~EB. Any event involving the retail sales of merchandise (excluding fund-raising events or special events requiring a permit pursuant to Chapter 6.64 ECC).~~

C. Any event allowed under this chapter in connection with which alcoholic beverages are served, subject to compliance with all other requirements of this chapter or Chapter 6.64 ECC (if applicable). [Ord. 3391 § 7, 1983.]

Section 5. 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. ~~Sele~~ 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 special events subject to the requirements of Chapter 6.64 ECC, including city council approval. The restrictions of subsections (B), (D) and (E) of this section do not apply to special events issued a permit pursuant to Chapter 6.64 ECC.

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 and Cannabis Board 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 6. 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 7. 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 8. Effective Date. This ordinance shall take effect and be in force on October 1, 2018.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council

on the 16th day of April, 2018.



MAYOR


CITY CLERK

ATTEST:

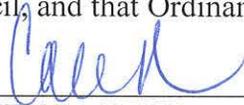
Approved as to form:



CITY ATTORNEY

Publish: 4-19-18

I, Coreen M. Reno, City Clerk of said City, do hereby certify that Ordinance No. 4795 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4795 was published as required by law.



COREEN M. RENO