

ORDINANCE NO. 2014-010

AN ORDINANCE OF THE CITY OF CASTROVILLE, TEXAS, AMENDING SECTION 6-2 OF THE CITY'S CODE OF ORDINANCES BY PROHIBITING THE SALE, POSSESSION OR CONSUMPTION OF ALCOHOLIC BEVERAGES IN CITY PARKS; PROVIDING FOR THE CONSUMPTION AND POSSESSION OF BEER AND WINE IN CITY PARKS WITH A SANCTIONED EVENT PERMIT; PROVIDING FOR THE SALE, CONSUMPTION AND POSSESSION OF BEER AND WINE IN CITY PARKS WITH A SPONSORED EVENT PERMIT; PROVIDING FOR PENALTIES; PROVIDING FOR A CUMULATIVE & CONFLICTS CLAUSE; PROVIDING FOR SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Texas Local Government Code Section 331.001(b) provides that a municipality may acquire land and buildings for public parks, playgrounds and museums; and

WHEREAS, Texas Local Government Code Section 331.051(a) provides that public parks acquired by the municipality are under the control and management of the municipality; and

WHEREAS, pursuant to the authority provided in the Texas Local Government Code and vestment of legal title to City public parks in the City of Castroville, the City Council is entrusted with managing the City's public parks in a manner that protects and benefits the morals, health, safety and welfare of the public; and

WHEREAS, the City Council has determined that the unfettered possession and consumption of alcoholic beverages in public parks jeopardizes the morals, health, safety and welfare of members of the public who use or live near public parks, by causing increased crime, noise, and trash, among other maladies; and

WHEREAS, the City Council deems it advisable to allow the consumption and possession of beer and wine for events for which the City Administrator has reviewed of the event's originators and to allow sale, consumption and possession of beer and wine for City sponsored events, as this will decrease the potential that the sale, consumption or possession in a public park will cause harm to the morals, health, safety and welfare of the public; and

WHEREAS, the City Council finds that the payment of a fee as proposed in this ordinance is warranted to cover the costs associated with administering this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CASTROVILLE, TEXAS, THAT:

Section one. Amendment to Municipal Code of Ordinances. The City of Castroville's Code of Municipal Ordinances, Chapter 6 (entitled "*Alcoholic Beverages*"), Section 6.-2 (entitled "*Possession or consumption in city parks; application for permit, fee.*") is hereby amended by replacing the existing language with the language that follows:

Sec. 6-2. Sale, possession or consumption of Alcoholic Beverages in City Parks.

- (a) **Purpose.** *This section regulates the sale, possession and consumption of Alcoholic Beverages within certain real property owned by the City.*
- (b) **Scope:** *This section shall apply to all real property designated as a Public Park by the City Council, including Castroville Regional Park, Houston Square, September Square and the city softball fields. This section shall apply to those parcels that may be designated as Public Parks by City Council in the future.*
- (c) **Prohibition.** *Except as provided in this Section, it shall be unlawful for any person to sell, possess or consume any Alcoholic Beverage at any Public Park within the City.*
- (d) **Sanctioned Events.** *Persons planning Sanctioned Events (e.g., company picnics, family reunions, parties, tournaments, etc.), who wish to consume alcoholic beverages within a City Park may apply for a special city permit.*
- (e) **City Sponsored Events.** *City Council may designate certain events in City Parks as City Sponsored Events. In designating an event a City Sponsored Event, City Council may also approve the sale, possession and consumption of beer and or wine at the event. Before beer and wine may be sold, possessed or consumed at a City Sponsored Event, the purveyor of the beer and wine must be issued a Permit.*
- (f) **Permits, Sanctioned Events and City Sponsored Events.** *The City Administrator shall have final approval authority for the issuance of a Permit for a Sanctioned Event or City Sponsored event, and shall approve only those applications which demonstrate the ability of the permittee to sell, in the case of a City Sponsored Event, and allow consumption, in the case of a Sanctioned Event or City Sponsored Event, of permitted alcoholic beverages only in accordance with state law, having due regard for the safety of participants at the event and others who may be present in the City Park. The processing of permits shall proceed as follows:*
 - (i) *An appropriate application form for such permit shall be promulgated by the City Administrator and shall be available during normal business hours at the city hall.*
 - (ii) *Applications will be reviewed by the police department and recommended for approval/disapproval to the City Administrator.*

- (iii) *The permit shall define and limit the areas where alcoholic beverages may be consumed within the park and the hours of permitted consumption.*
- (iv) *A Sanctioned Event permittee shall be prohibited from, in any manner, offering alcoholic beverages for sale in a Public Park.*
- (v) *A Sanctioned Event permit shall authorize the possession and consumption of beer and wine only by members, guest or invitees of the sanctioned event during the hours and at the location authorized by the permit.*
- (vi) *A City Sponsored Event permit shall authorize the Permittee to sell beer or wine for consumption by participants, guests and invitees to the City Sponsored Events during the hours and at the location authorized by the permit.*
- (vii) *Payment of the permit fee. As of the date of this ordinance the fee is \$20.00. The fee is subject to amendment and inclusion in the comprehensive fee schedule.*
- (g) *The sale, possession or consumption of an alcoholic beverage in a City Public Park shall be a Class "C" misdemeanor and upon conviction a violator shall be punished by fine as provided in Section 1-4 of this Code. It is an affirmative defense to prosecution that:*
 - (i) *the consumption or possession of an alcoholic beverage was authorized by a Sanctioned Event Permit;*
 - (ii) *the sale, consumption or possession of an alcoholic beverage was authorized by a City Sponsored Event Permit.*
- (h) **Condition:** *The Administrator may impose reasonable conditions of a special use permit to ensure compliance with City rules and regulations. The issued permit will contain, in writing, all conditions and requirements that apply to the special use permit.*
- (i) **Permit Revocation:** *The Administrator may revoke a permit for a special use after it is issued due to the permit holder's failure to comply with:*
 - (i) *any condition or requirement of the permit; or*
 - (ii) *any requirement of this Section.*
- (j) **Appeals from denial or revocation:** *An applicant may appeal a permit denial, revocation, or imposition of conditions by the Administrator to the City*

Council at its next regularly scheduled meeting after such denial or revocation.

Section two. Cumulative and Conflicts. This Ordinance shall be cumulative of all provisions of ordinances of the City of Castroville, Texas, except where the provisions of the Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. Any and all previous versions of this Ordinance to the extent that they are in conflict herewith are repealed.

Section three. Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section four. Effective Date. This Ordinance shall become effective immediately upon its passage, approval and publication as provided by law.

PASSED AND APPROVED on first reading this the 22nd day of April, 2014.

CITY OF CASTROVILLE

By: * No signature
Robert Lee, Mayor

ATTEST:

APPROVED AS TO FORM:


Debra Howe, City Secretary

City Attorney

*Local Government Code 52.003 (b):

“If the mayor does not sign an ordinance or resolution before the fourth day after the date it is placed in the secretary’s office and does not return the ordinance or resolution under Subsection (c), the ordinance or resolution takes effect as provided by law.”

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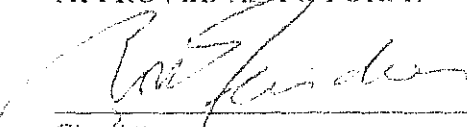
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