

City of Bandon

CITY COUNCIL AGENDA DOCUMENTATION	DATE: Nov 6, 2017
SUBJECT: Ordinance #1621 – Proposed Amendments to BMC Title 9: Drinking in Public Places	ITEM #: 5.3.1

BACKGROUND

Ordinance #1618 (included herein) was approved by the Council in November of 2015.

Upon further review, Ordinance #1618 establishes language that appears to contradict with the intent of the regulation and provide a potential conflict with other laws and regulations.

Specifically,

The first paragraph of Ordinance #1618 summarizes the intent of the amendment to Title 9, stating:

"...the Mayor and Council of the City of Bandon have determined that it is in the best interest of the City of Bandon to allow residents to consume their own alcoholic beverages on City property, under certain circumstances;"

Then the adopted language strictly prohibits persons from consuming alcoholic beverages in public places unless they purchase the beverage from a licensed vendor, who is selling on-site.

"No person shall drink or consume alcoholic beverages in or upon a street, alley, mall, parking lot or structure, motor vehicle, public grounds or other public places unless the beer and/or wine is legally purchased in exchange for financial consideration at the site from a business licensed for the purpose by the Oregon Liquor Control Commission, except as provided immediately below."

The only other allowed usage requires written permission from the City Manager.

"The City Manager may provide an event organizer written permission for attendees to consume their own beer and wine at a specific event, in accordance with state law."

The adopted language also fails to mention that other federal, state and local laws & regulations may apply to the sale or consumption of alcohol in public places, providing for a potential conflict when police or other city staff are faced with enforcement of these additional laws and regulations.

PROPOSED AMENDMENT

Ordinance #1621 proposes the following language in support of the consumption of alcoholic beverages by residents and visitors, so long as the beverages are provided for their own use. It establishes additional language noting that other laws & regulations may govern their activities. It also excludes motor vehicles, which is included in the vending portion of Title 9 to accommodate food trucks, and so forth.

"It shall be lawful for a resident of, or visitor to, the City of Bandon to bring and consume alcoholic beverages, upon a street, alley, mall, parking lot or structure, public grounds or other public places, so long as the beverages are intended for the resident or visitor's own use and such usage is in accordance with all governing federal, state or local laws & regulations."

Ordinance #1621 proposes additional language to the vending section, noting that other laws & regulations may apply.

No person shall vend in exchange for financial consideration alcoholic beverages in or upon a street, alley, mall, parking lot or structure, motor vehicle, public grounds or other public places unless licensed for the purpose by the Oregon Liquor Control Commission

"and vending is conducted in accordance with all governing federal, state or local laws & regulations."

Ordinance #1621 would strike the following language from Title 9:

~~No person shall drink or consume alcoholic beverages in or upon a street, alley, mall, parking lot or structure, motor vehicle, public grounds or other public places unless the beer and/or wine is legally purchased in exchange for financial consideration at the site from a business licensed for the purpose by the Oregon Liquor Control Commission, except as provided immediately below.~~

~~The City Manager may provide an event organizer written permission for attendees to consume their own beer and wine at a specific event, in accordance with state law.~~

With the inclusion of the proposed new language, these two paragraphs become unnecessary.

Ordinance #1618 and Ordinance #1621 are included for reference.

FISCAL IMPACT

Not applicable.

RECOMMENDATION

Motion to approve Ordinance #1621.

SUBMITTED BY



Robert J Mawson, City Manager

ORDINANCE NO. 1621

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY
OF BANDON, OREGON, AMENDING TITLE 9 OF THE MUNICIPAL
CODE REGARDING DRINKING IN PUBLIC PLACES

WHEREAS, Title 9.16.020 of the Bandon Municipal Code establishes regulations for the consumption of alcohol in public places; and

WHEREAS, Ordinance No. 1618 established language in Title 9.16.020 that appears to contradict with the intent of the regulation; and

WHEREAS, the Mayor and Council of the City of Bandon have determined that it is in the best interest of the City of Bandon to clarify the intent of the regulation and establish more favorable language that allows residents and visitors to bring and consume their own alcoholic beverages on public property, under certain circumstances;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council that the City of Bandon Municipal Code, Title 9, PUBLIC PEACE AND WELFARE, Chapter 16.020, DRINKING IN PUBLIC PLACES, is hereby amended to read as follows:

9.16.020 Drinking in public places

It shall be lawful for a resident of, or visitor to, the City of Bandon to bring and consume alcoholic beverages, upon a street, alley, mall, parking lot or structure, public grounds or other public places, so long as the beverages are intended for the resident or visitor's own use and such usage is in accordance with all governing federal, state or local laws & regulations.

No person shall vend in exchange for financial consideration alcoholic beverages in or upon a street, alley, mall, parking lot or structure, motor vehicle, public grounds or other public places unless licensed for the purpose by the Oregon Liquor Control Commission *and vending is conducted in accordance with all governing federal, state or local laws & regulations.*

~~No person shall drink or consume alcoholic beverages in or upon a street, alley, mall, parking lot or structure, motor vehicle, public grounds or other public places unless the beer and/or wine is legally purchased in exchange for financial consideration at the site from a business licensed for the purpose by the Oregon Liquor Control Commission, except as provided immediately below.~~

~~The City Manager may provide an event organizer written permission for attendees to consume their own beer and wine at a specific event, in accordance with state law.~~

ADOPTED THIS 6TH DAY OF NOVEMBER, 2017.

Mary Schamehorn, Mayor

Attest:

Denise Russell, City Recorder

City of Bandon, Ordinance # 1621

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ORDINANCE NO. 1618

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY
OF BANDON, OREGON, AMENDING TITLE 9 OF THE MUNICIPAL
CODE REGARDING DRINKING IN PUBLIC PLACES

WHEREAS, the Mayor and Council of the City of Bandon have determined that it is in the best interest of the City of Bandon to allow residents to consume their own alcoholic beverages on City property under certain circumstances;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council that the City of Bandon Municipal Code, Title 9, PUBLIC PEACE AND WELFARE, Chapter 16.020, DRINKING IN PUBLIC PLACES, is hereby amended to read as follows:

9.16.020 Drinking in public places

No person shall ~~vend in exchange for financial consideration~~ ~~drink or consume~~ alcoholic ~~liquor~~ beverages in or upon a street, alley, mall, parking lot or structure, motor vehicle, public grounds or other public places unless licensed for the purpose by the Oregon Liquor Control Commission.

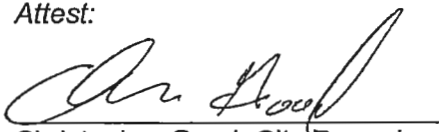
No person shall drink or consume alcoholic beverages in or upon a street, alley, mall, parking lot or structure, motor vehicle, public grounds or other public places unless the beer and/or wine is legally purchased in exchange for financial consideration at the site from a business licensed for the purpose by the Oregon Liquor Control Commission, except as provided immediately below.

The City Manager may provide an event organizer written permission for attendees to consume their own beer and wine at a specific event, in accordance with state law.

ADOPTED THIS 2nd DAY OF NOVEMBER, 2015.


Mary Schamehorn, Mayor

Attest:


Christopher Good, City Recorder