

ORDINANCE Ord #_2017-004

**AN ORDINANCE TO ADOPT
CHAPTER 5- ALCOHOLIC BEVERAGES, ARTICLE 1. - IN GENERAL, ARTICLE 2. -
LICENSING AND PERMITTING SALE AND ARTICLE 3. - ALCOHOL POLICY**

WHEREAS, the City Commission of Polson has determined that it is in the best interests of the citizens of Polson to reestablish, rewrite and reauthorize the Ordinances of the City;

WHEREAS, the Commission recognizes the most expeditious way of adopting such Ordinances is by adoption in a near sequential manner over a term of months to give the Commission and the public time to review the material;

WHEREAS, it appears in the best public interest that the following ordinances be adopted for the City of Polson;

NOW, THEREFORE, BE IT ORDAINED by the City of Polson that the following Articles of the Ordinances of the City of Polson be adopted in full as attachments hereto:

CHAPTER 5- ALCOHOLIC BEVERAGES

- Article 1. - In General**
- Article 2. - Licensing And Permitting Sale**
- Article 3. - Alcohol Policy**

The clerk is hereby instructed to codify this Ordinance and to place the same in the Book of Ordinances of the City of Polson.

Date: August 21, 2017

First Reading: 6 ayes nays 1 absent

Date: September 6, 2017

Second Reading: 5 ayes nays abstentions

Effective Date: October 6, 2017

Mayor

Attest: _____
City Clerk

CHAPTER 5- ALCOHOLIC BEVERAGES

ARTICLE 1. - IN GENERAL

ARTICLE 2. - LICENSING AND PERMITTING SALE

ARTICLE 3. - ALCOHOL POLICY

ARTICLE 1. - IN GENERAL

Sections:

- Sec. 5.01.010. - Applicability.
- Sec. 5.01.020. - License; exceptions.
- Sec. 5.01.030. - City license required; application; license fees.
- Sec. 5.01.040. - Form of city license.
- Sec. 5.01.050. - Special permits—When granted.
- Sec. 5.01.060. - Same—Limitations; fees.
- Sec. 5.01.070. - City license not transferable; exceptions.
- Sec. 5.01.080. - City license suspension or revocation conditions.
- Sec. 5.01.090. - City license fees.
- Sec. 5.01.110. - Violation; penalty
- Secs. 5.01.120-5.01.250. Reserved.

Sec. 5.01.010. - Applicability.

A. For the purposes of this article, the definitions, words, phrases and expressions as set forth in this article are to be construed the same as those set forth in the Montana Alcoholic Beverage Code. Wherever the words "Montana Alcoholic Beverage Code" are used in this article, they shall be held and construed to refer to that code.

B. All of the prohibitory and regulatory provisions contained in the Montana Alcoholic Beverage Code are adopted as provisions of this article and all licenses issued under the provisions of this article shall be subject to all applicable prohibitory and regulatory provisions of the code in addition to the provisions of this article.

Sec. 5.01.020. - License; exceptions.

The limitations set forth in MCA 16-3-306(1) do not apply to restaurants holding a "restaurant beer and wine license" also known as a "cabaret beer and wine license" nor to those owning a "catering endorsement" as those terms are defined in the Montana Alcoholic Beverage Code.

Sec. 5.01.030. - City license required; application; license fees.

A. No person shall manufacture or sell alcohol in the city, under the provisions of the Montana Alcoholic Beverage Code, or at all, without first procuring a license to do so from the city. Application for a city license shall be made to the city commission on a form to be provided by the city clerk. Separate licenses shall be required for the sale of beer and for the sale of wine. The application will be signed by the applicant, notarized, include the license fee and contain, at a minimum, the following information:

1. Applicant's name, age, and address;
2. The business' name and address or, in the case of a transfer or relocation, the address of the proposed new location;
3. The type of alcohol beverage license either applied for or granted by the state, when it was applied for, the date it was granted and expiration date;
5. A short statement of the applicant's purpose for obtaining the license;
5. A short explanation for the applicant's benefit explaining the city's authority to revoke or suspend the business license in response to a similar action by the state.

B. The application shall be filed with the city clerk and presented for the consideration of the commission. The commission may, in its discretion, postpone any action for investigation or other good cause. The action of the commission with reference to the application shall be recorded in the meeting's minutes.

C. If the application is rejected, the reasons must be noted in the minute entry, the applicant notified, and the tendered fee returned.

D. License fees must be payable in advance and shall accompany the application therefor, whether original or renewal. All licenses under this article will expire at 12:00 midnight of December 31, in the year for which such license is issued. In the event that a license is granted after June 30 of any year, the license fee will be one-half of the entire yearly license.

E. If the entire yearly license fee has been paid in advance and the business under the license is discontinued before July 1 in the year in which such license is granted, the city clerk will refund one-half of the yearly license fee upon surrender of the license, make an appropriate book entry, and report to the commission.

Sec. 5.01.050. - Form of city license.

A. Licenses issued under the provisions of this article must be prominently posted in the business and will contain, at a minimum, the following information:

1. The licensee's name and the business' name and address;
2. The purpose for the license;
3. The expiration date of the license; and
5. The minute book and page number containing the commission's approval.

B. The city clerk will keep an accurate record of all licenses issued under this article, showing the date issued, the minute book and page where authority for its issuance is found, the date of issuance, to whom issued, the amount collected, the date of expiration, a description of the premises, change of location, or transfer, if any, and minute entry showing authority therefor, and any other pertinent fact with reference to such license, so that the same may be conveniently available.

Sec. 5.01.050. - Special permits—When granted.

A. The city commission, in its discretion and upon application, may grant a special permit to sell beer or wine for consumption on the premises to the following:

1. Any association or corporation conducting a picnic, convention, fair, civic or community enterprise or sporting event within the city limits;
2. A nonprofit arts organization, organized and operated for the principal purpose of providing artistic or cultural exhibitions, presentations, or performances for viewing or attendance by the general public, to be served at an exhibition, production, performance or program for on-premises consumption; and
3. Any other organization or for any other reason the city commission, in its discretion, determines should be allowed to serve or sell alcohol during a function.

B. The application for a special permit shall be granted only upon the organization acquiring a special permit from the state as provided in the Montana Alcoholic Beverage Code. The applicant must specify the location and nature of the event and the period it is scheduled to be held. All applications will be signed by one or more of the association's officers will be notarized and will be accompanied by the amount of the permit fee. The permit issued under this section will not authorize the sale of beer or wine for a longer period than one day before the event is scheduled to begin and one day after the event has been concluded.

Sec. 5.01.060. - Same—Limitations; fees.

The city commission will, on an annual basis, set the fee for alcohol licenses as well as special permits by resolution.

Sec. 5.01.070. - City license not transferable; exceptions.

No license issued under the provisions of this article shall be transferable except as provided in the Montana Alcoholic Beverage Code, and then only after such transfer is approved by the city commission after written application for permission to transfer. Such application shall be in writing, and the same form as in the original business license application in accordance with section 5.01.030.

Sec. 5.01.080. - City license suspension or revocation conditions.

The revocation or suspension of any license or permit granted under the provisions of the Montana Alcoholic Beverage Code will also operate as a suspension or revocation, as the case may be, of any license granted under this article.

Sec. 5.01.090. - City license fees.

A. The license fees under this article shall be established by resolution.

B. License fees under this article are payable with the application and subject to the half-yearly rate as hereinbefore provided. Fees and fines collected under this article shall be allocated to the "protection of life and property fund" of the city; it being hereby recited that licenses imposed under the provisions of this article are exclusively for the purpose of defraying the cost of necessary police regulation, inspection, and control under the police power of the city, and not for revenue, and that any business licensed under this article requires, and is subject to, the general police regulations of the city for the safety, health, peace, quiet, and good order of the city and the inhabitants thereof.

C. All fees provided for in this article are in addition to any and all other license fees required to be paid under any other ordinance of the city.

Sec. 5.01.100. - Inspection and control of premises.

Any business licensed under this article shall at all times be subject to the police inspection and control of the city. The licensee, and/or employees of such licensee, hereunder, shall at all times permit any member of the city commission, city manager, city attorney, and member of the police force of the city, and they and/or any of them shall have the right to enter the premises where such licensed business is conducted for inspection of such premises and every part thereof, and for exercise of police supervision, inspection and control thereof, including arrests, so long as any business licensed under this article shall be conducted therein or in any part thereof. Denial, restriction or obstruction of such right or permission shall be deemed a violation of this article, make any license granted hereunder subject to revocation or suspension forthwith, and subject the offender to the fines and penalties herein provided.

Sec. 5.01.110. - Violation; penalty.

Every person, including those employed in or in connection with any business licensed under this article, who is convicted in the police court of the city of any violation of this article shall be subject to a fine of not more than \$300.00, or imprisonment in county jail for not less than ten days nor more than six months, or both such fine and imprisonment; and in addition to such fine and imprisonment, or either, if the convicted person is a licensee under this article, or an employee of such licensee engaged in or about, or in connection with, the conduct or operation of the business so licensed, such license may be revoked or suspended, as provided in section 5.01.080.

Secs. 5.01.120-5.01.250. Reserved.

ARTICLE 2. - LIQUOR—RETAIL SALE

Sections:

- Sec. 5.02.010. - Definitions.
- Sec. 5.02.020. - City licenses—Requirements generally; statutory provisions.
- Sec. 5.03.030. - Same—Application; form, contents and filing.
- Sec. 5.03.040. - Same—Form of issuance.
- Sec. 5.03.050. - Deposit and use of license fees.
- Sec. 5.03.060. - Violation; penalty.
- Secs. 5.02.070-5.02.250. Reserved.

Sec. 5.02.010. - Definitions.

Whenever used in this article, the words and phrases set out in the Montana Alcoholic Beverage Code, shall be given the interpretation and meaning given to such words and phrases in such code, and all other words and phrases used in this article shall be given their usual and ordinary meaning according to the common understanding and usage of the English language.

Sec. 5.02.020. - City licenses—Requirements generally; statutory provisions.

- A. All licensees of the state department of revenue licensed to sell liquor at retail in the city shall pay therefore to the city an annual license fee, to be established by resolution.
- B. The city will make such proportionate refund of any license paid under this article as is made by the state, if any, for a part of the year when such licenses may be ineffective to permit operations under it.

Sec. 5.03.030. - Same—Application; form, contents and filing.

A. Applications for license under the provisions of this article shall be in writing, signed and sworn to by the applicant before a person authorized to administer oaths, and be substantially in the following form:
City of Polson, Montana

Application for License to Sell Liquor at Retail Under Chapter 5, Article 2 of the Polson Code

Date _____ / _____ / _____

I, _____ / _____ / _____, hereby make application to the city commission of the City of Polson for a license to sell liquor at retail in the City of Polson at the premises known and described as _____ / _____ / _____, in said City, and I hereby state:

That I am the holder of a license from Montana Department of Revenue to sell liquor at retail in the City of Polson at the above described premises.

That said license is dated _____ / _____ / _____, 20____, and is Numbered _____.

That said license is in full force and effect and has not been suspended nor revoked.

I agree that if the license hereby applied for is granted it:

1. Shall expire with the expiration of the license from Montana Department of Revenue in this application above described.
2. Shall be subject to all of the provisions of the Montana Alcoholic Beverage Code, all rules and regulations adopted and promulgated by Montana Department of Revenue pursuant to the provisions of such code, all of the provisions of these ordinances under which this application is made, and all other applicable ordinances of the City of Polson where not in conflict with the provisions of said Montana Alcoholic Beverage Code and said rules and regulations.
3. Shall stand suspended or revoked upon suspension or revocation of the license from the Montana Department of Revenue, hereinabove referred to and described.
4. Shall not be transferable.

The fee of \$ _____ for the license hereby applied for accompanies this application and is tendered herewith.

(Signed) _____ / _____ / _____

Subscribed and sworn to before me this _____ day of _____ / _____ / _____, 20_____.
_____ / _____ / _____

B. Such application shall be filed with the city clerk and be presented to the commission at the next available meeting.

Sec. 5.03.040. - Same—Form of issuance.

Any license issued under the provisions of this article shall be substantially in the following form:

CITY OF POLSON, MONTANA

Retail Liquor License

_____ / _____ / _____ is hereby licensed to sell liquor at retail at the premises known and described as _____, Polson, Montana, subject to all of the provisions of the Montana Alcoholic Beverage Code, the rules and regulations adopted and promulgated by Montana Department of Revenue pursuant to such code, of all of the provisions of these ordinances, and all other applicable city ordinances where not in conflict with the provisions of the Montana Alcoholic Beverage Code, and said rules and regulations.

This license runs concurrently, and expires, with the license issued by Montana Department of Revenue to the above named _____, which is dated _____ / _____ / _____, 20_____, and is numbered _____ / _____.

This license must be posted in a conspicuous place in the premises above described and alongside the license from Montana Department of Revenue as above dated and numbered.

City Clerk, City of Polson

Sec. 5.03.050. - Deposit and use of license fees.

Fees and fines collected under this article shall be allocated to the "general fund" of the city, it being hereby recited that licenses imposed under the provisions of this article are exclusively for the purpose of defraying the cost of necessary police regulation, inspection and control under the police power of the city, and not for revenue, and that any business licensed under this article requires and is subject to the general police regulations of the city for the safety, health, peace, quietness and good order of the city and the inhabitants thereof. All fees provided for in this article are in addition to any and all other license fees required to be paid under any other city ordinance.

Sec. 5.03.060. - Violation; penalty.

Every person, as defined by the Alcoholic Beverage Code, who violates any of the provisions of this article, shall, upon conviction thereof in the police court, be fined in a sum not exceeding \$300.00 or by imprisonment in the city or county jail for not exceeding 90 days, or by both such fine and imprisonment; and the police magistrate, upon such conviction, shall certify the same forthwith to the city commission who may, in its discretion, forward such certificate to the Montana Department of Revenue with a request that the license issued to the offender by such board be suspended or revoked, pursuant to the provisions of Montana Alcoholic Beverage Code applicable to such case.

Secs. 5.02.070-5.02.250. Reserved.

ARTICLE 3. - ALCOHOL POLICY

Sections:

- Sec. 5.03.010. - General provisions and intent.
- Sec. 5.03.020. - Definitions.
- Sec. 5.03.030. - Public drinking or display of open alcoholic beverages prohibited.
- Sec. 5.03.040. - Exemptions to section 5.05.030.
- Sec. 5.03.050. - Exceptions to section 5.05.030.
- Sec. 5.03.060. - Revocation of waiver.
- Secs. 5.03.070-5.03.200. Reserved.

Sec. 5.03.010. - General provisions and intent.

A. The city commission declares that alcohol possession and consumption by minors, high risk drinking behaviors by minors, and the supply and sale of alcohol to minors have negative and detrimental impacts on the community and are, therefore, a nuisance, and constitute conduct calculated to disturb the public peace of the city and threaten the health, safety and welfare of the citizens of Polson.

B. Significant problems exist when persons possess and consume alcoholic beverages in an irresponsible manner. Such persons create a public safety hazard by their consumption of alcoholic beverages and the subsequent driving of motor vehicles or violent encounters on public property. Therefore, because of the negative and detrimental impacts of such behaviors on the community, the irresponsible consumption and possession of alcoholic beverages which disturb the public peace of the city are declared a nuisance and threaten the health, safety and welfare of the citizens of Polson.

C. It is the intent of the city commission to address those areas related to alcohol access, consumption and usage which are not otherwise addressed by the current law in the state. Violations such as Endangering Welfare of Children (MCA 55-5-622), Unlawful Transactions with Children (MCA 55-5-623), Unlawful Attempt to Purchase or Possession of Intoxicating Substance (MCA 55-5-625), Driving under the Influence of Alcohol or Drugs or Operation with Alcohol Concentration of .08 or More (MCA 61-8-501 and 61-8-506), and Operation of Vehicle by Person under Twenty-One with Alcohol Concentration of .02 or More (MCA 61-8-510) have all been specifically addressed by state law as noted and will be enforced within the city under those laws. Disorderly Conduct and Public Nuisance (MCA 55-8-101 and 55-8-111) violations shall be addressed by state code. Noise issues shall be addressed through ordinances enacted by the commission.

Sec. 5.03.020. - Definitions.

A. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.
2. "Alcoholic beverage" means a compound produced and sold for human consumption as a drink that contains more than 0.5 percent of alcohol by volume.
3. "Beer" means a malt beverage containing not more than seven percent of alcohol by weight.
4. "Intoxicating substance" means a controlled substance, as defined in title 50, chapter 32, Montana Code Annotated (MCA 50-32-101 et seq.), or its successor provision, and an alcoholic beverage, including but not limited to a beverage containing one-half of one percent or more of alcohol by volume. Intoxicating substance does not include dealcoholized wine or a beverage or liquid produced by the process by which beer, ale, port, or wine is produced if it contains less than one-half of one percent of alcohol by volume.
5. "Knowingly." A person acts knowingly with respect to conduct or to a circumstance described by a statute defining an offense when the person is aware of the person's own conduct or that the circumstance exists; a person acts knowingly with respect to the result of conduct when the person is aware that it is highly probable that

the result will be caused by the person's conduct. When knowledge of the existence of a particular fact is an element of an offense, knowledge is established if a person is aware of a high probability of its existence.

6. "Liquor" means an alcoholic beverage except beer and table wine.

7. "Negligently." A person acts negligently with respect to a result or to a circumstance described by a statute defining an offense when the person consciously disregards a risk that the result will occur or that the circumstance exists or when the person disregards a risk of which the person should be aware that the result will occur or that the circumstance exists. The risk must be of a nature and degree that to disregard it involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation. The term "gross deviation" means a deviation that is considerably greater than lack of ordinary care.

8. "Possession" means the knowing control of anything for a sufficient time to be able to terminate control.

9. "Public places" means all streets, avenues, alleys and parks in the city, all municipal and public buildings, and places to which the public or a substantial group has access, but does not include premises licensed for the sale of alcoholic beverages at retail by the state department of revenue, or the city. The term "public place" does not include a private residence and its contiguous real property (front or rear yard) or a private hotel or motel room so long as the possession and consumption is in compliance with the Montana Alcoholic Beverage Code, title 55 of the Montana Code Annotated (MCA 55-1-101 et seq.) and this article; but does include the commonly shared areas such as common hallways of a building or apartment complex, and areas of city rights-of-way, including sidewalks and streets.

10. "Public display or exhibition of open alcoholic beverages" means and includes the carrying and exhibiting of open cans or bottles of any alcoholic beverage or the carrying and exhibiting of glasses, cups, or other types of containers for alcoholic beverages, to, in, on or within any public place within the city, even though empty, but does not include carrying or transporting such alcoholic beverages from retail liquor or beer establishments in sacks, cases, boxes, cartons or similar containers with unbroken seals or when no display or exhibition is made and does not include carrying or exhibiting any empty or discarded bottle, can or other container solely for the purpose of disposal in a proper waste receptacle.

11. "Public drinking" includes the consumption or possession for the purpose of consumption of open alcoholic beverages in or on any public place in the city.

12. "Purposely." A person acts purposely with respect to a result or to conduct described by a statute defining an offense if it is the person's conscious object to engage in that conduct or to cause that result. When a particular purpose is an element of an offense, the element is established although the purpose is conditional, unless the condition negatives the harm or evil sought to be prevented by the law defining the offense.

Sec. 5.03.030. - Public drinking or display of open alcoholic beverages prohibited.

Public drinking or display or exhibition of open alcoholic beverages (open container) as defined in section 5.05.020 is prohibited, and it is unlawful for any person to engage in public drinking, public display or exhibition of open alcoholic beverages (open container) within the city limits.

Sec. 5.03.040. - Exemptions to section 5.05.030.

This provision shall not apply to a governmental agency for authorized activities conducted upon the agency's premises.

Sec. 5.03.050. - Exceptions to section 5.05.030.

A. The director of parks and recreation may grant a waiver to the provisions of section 5.05.030 for the purpose of holding picnics, parties, reunions, barbecues or other public assemblies in public parks, provided the number of adults does not exceed 75. Larger groups shall seek a waiver from the city manager under subsection B of this section.

1. Applications which are for events only in a public park, and do not involve more than 75 adults may be submitted without the public assembly permit application. All public park reservations are separate from the waiver process and a reservation for a park area does not guarantee the issuance of a waiver under this section.

2. An application shall designate either the applicant, or one or more members of the group submitting the application, as the contact person for the event. The contact person shall be present at all times during the event, or shall arrange for an alternate contact person. The contact person shall be in charge of the event and be responsible for those attending the event.

B. The city manager may grant a waiver to the provisions of section 5.05.030 for activities occurring in or on a public place other than a park or where the number of adults exceeds 75.

1. All applications for a waiver under this subsection B shall be made in conjunction with an application for a public assembly permit in conformance with the procedures in these ordinances, which are incorporated herein by reference, subject to any specific changes as contained in this section. The form for such application shall be provided by the city and shall be signed by the applicant.

2. An application must be filed in a timely manner prior to the event. Timely, in this instance, is a minimum of 15 days under this subsection B. The application may not be filed more than 180 days before the event. The minimum period may be waived after due consideration of the factors specified under subsection G of this section.

3. Applications submitted under this subsection B shall have proof of insurance in an amount acceptable to the city; and which includes the city as an additional insured.

4. For applications under this subsection B, a safety plan for the event shall be submitted with the application, to be reviewed by the chief of police. The safety plan shall address admission of those who are under the legal age to drink, consequences when those under the legal age are caught drinking, the policy for service of those who are intoxicated or under the influence of alcohol, prohibiting those who are intoxicated or who appear to be impaired or under the influence from operating a motor vehicle by providing safe transportation alternatives, actions to be taken in the event of a disturbance or medical or other emergency, and other measures designed to maintain a safe environment for those in attendance.

5. For applications submitted under this subsection B, there shall appear in the application arrangements for providing responsible beverage service for any group of 50 or more adults. Responsible beverage service requires that all beverage servers receive specific training through a recognized program approved by the city prior to the event. A beverage server under this section does not consume any alcoholic beverage during the event.

6. The application shall designate either the applicant, or one or more members of the group submitting the application, as the contact person for the event. The contact person shall be present at all times during the event, and shall not consume any alcoholic beverages during the event, and shall be in charge of and responsible for all beverage servers and patrons.

C. In seeking a waiver to section 5.03.030, the group leader or authorized representative shall file with the director of parks and recreation, or city manager, as applicable, an application for a city alcoholic beverage waiver.

1. All application for a waiver shall be submitted after payment of the appropriate fee to the city clerk. This fee shall be set by resolution of the city commission. This fee is a nonrefundable fee to cover administrative costs of processing the waiver. Payment of the fee does not entitle the applicant to a waiver.

2. If the application is for the use of any city equipment or if any city services shall be required, the applicant shall pay, prior to the issuance of a waiver, the charges for those services in accordance with a schedule of service costs approved by the city commission by resolution.

3. If the event is to be held on a regular or recurring basis at the same location, an application for a waiver for the calendar year or any portion thereof may be filed at

least 60 days and not more than 180 days before the date and time of the first event proposed. The city manager or director of parks and recreation as appropriate, may waive the minimum period after due considerations of the factors under subsection G of this section.

4. An application not acted upon within ten calendar days of submission, or by the day of the event, shall be deemed denied.

D. Prior to the issuance of the waiver an investigation shall be made into the suitability and compatibility of the proposed function with other activities and the surrounding area. In making the investigation the director of parks and recreation or the city manager shall consider the criteria listed in subsections D.1 through 5 of this section in addition to those found in these ordinances. The director of parks and recreation or the city manager may issue a waiver subject to consideration of the relevant criteria and imposition of any conditions deemed necessary and reasonable, and may, in the director of parks and recreation or city manager's discretion, deny the waiver based upon the consideration of the relevant criteria, the application, and any other information as may be otherwise obtained.

1. The type of activity, the hours involved, and the impact it may have on the safe and orderly movement of pedestrian or vehicular traffic and any significant negative impact on individuals living in the vicinity of the activity.

2. The potential for the activity which is the subject of the application to conflict or interfere with any other scheduled or permitted use of the area, including the use of a public address system or amplification system.

3. Any previous history with the requesting party or organization, including but not limited to past abuses of any privileges granted under this article or any similar provision, past successful requests, and any other information which may be deemed pertinent to an evaluation of the proposed event.

4. The impact of the activity on the resources of the city, including but not limited to the need for additional policing, road service, clean-up crews, and other services.

5. The need for and availability of any additional liability insurance over and above the standards required by the city.

E. The director of parks and recreation or city manager shall make an investigation, which shall include input from appropriate city staff and may include any individuals who may be directly affected.

1. The granting of a waiver in no way abrogates the responsibility and liability of the applicants, which includes but is not limited to cleaning up the area and having a responsible contact person who, for events under subsection B of this section, does not consume alcoholic beverages before, during or after the event.

2. Any police officer shall have full authority to void a waiver for violation of park or other rules and regulations, any term or condition of the waiver as issued, or any ordinances or state law, committed by any member of the group, which may include voiding of waivers for subsequent days. Such action shall be immediately reported to the director of parks and recreation or the city manager for action in conformance with this article; and

3. Public address systems and amplified music may be permitted, and may be subject to the provisions of the ordinances of the city.

5. The city may include additional conditions as a part of the waiver. The city will notify the applicant of such conditions.

F. The director of parks and recreation or the city manager shall uniformly consider each application upon its merits and shall not discriminate in granting or denying waivers under this article based upon political, religious, ethnic, color, race, creed, national origin, age, marital status, gender, or actual or perceived sexual orientation, gender identity or disability related grounds.

G. Any application submitted in a less than timely manner as designated in this section may be denied as untimely without further review, unless a waiver of the minimum filing period is

granted after due consideration of the date, time, place, and nature of the event, and a determination that the impact on city services and public safety will not be adversely impacted by granting such a waiver. An approved application shall be given to the applicant by personal delivery or by mail. If no action has been taken within ten calendar days of submission or by the date of the event, the application has been deemed denied.

H. Upon granting the waiver, a copy of the waiver shall be routed to appropriate city departments and to other individuals as may be appropriate in the discretion of the director of parks and recreation or the city manager.

I. In the event the city denies the waiver request, the city may authorize the activity at a different time, date, or location and issue an alternate waiver to the applicant. A denial by the director of parks and recreation may be submitted to the city manager for reconsideration within four business days of the denial. If the city manager does not act on the request within ten calendar days it will be deemed denied.

J. In the event the waiver is denied by the city manager, the applicant may appeal the decision to the city commission by submitting the completed application, as it existed at the time of the decision by the city manager, to the city clerk together with a letter explaining why the applicant believes the decision should be overturned. The appeal materials must be received within seven calendar days of the decision by the city manager. Appeals received after that time will be returned as untimely. The city clerk shall, upon receipt of a timely appeal, schedule the item to be heard at the next City Commission meeting, providing it meets the timeline for items to be included on the agenda. The decision of the city commission shall be final.

Sec. 5.03.060. - Revocation of waiver.

The city manager shall have the authority to revoke a waiver instantly upon a violation of the conditions or standards for issuance as set forth in this article or when a public emergency arises. The revocation of a waiver due to an emergency shall not automatically operate to revoke all waivers under a recurring event waiver. The revocation of a waiver upon violation of the conditions or standards of the waiver shall automatically operate to revoke the entire waiver for a recurring event. A new application may be submitted in the event of a revocation of a recurring event waiver.

Secs. 5.03.070-5.03.200. Reserved.