



Staff Report

File #: 18-268

Version: 1

Date: 6/11/2018

Item #: 4.e.

TO: Mayor and City Council
THROUGH: Steve Powers, City Manager
FROM: Peter Fernandez, PE, Public Works Director

SUBJECT:

Changes to *Salem Revised Code* Chapter 94 to allow permitting of restricted concessionaire sales of alcoholic beverages with 14 percent or more alcohol by volume at Riverfront Park and Bush's Pasture Park.

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

ISSUE:

Shall Council advance Ordinance Bill No. 9-18, which amends *Salem Revised Code* Chapter 94 to second reading to allow sales of alcoholic beverages with 14 percent or more alcohol by volume at Riverfront Park and Bush's Pasture Park if the alcoholic beverage is purchased from a concessionaire that is operating pursuant to a permit issued by the Director of Public Works and licensed by the Oregon Liquor Control Commission?

RECOMMENDATION:

Proceed to second reading of Ordinance Bill No. 9-18, which amends *Salem Revised Code* Chapter 94 to allow sales of alcoholic beverages with 14 percent or more alcohol by volume at Riverfront Park and Bush's Pasture Park if the alcoholic beverage is purchased from a concessionaire that is operating pursuant to a permit issued by the Director of Public Works and licensed by the Oregon Liquor Control Commission.

SUMMARY AND BACKGROUND:

Salem Revised Code (SRC) Chapter 94 (Offenses in Parks) currently prohibits possession of alcohol in any park, sports field, city-owned facility, or event on property controlled by the City unless a permit has been issued by the Public Works Director. Per SRC 94.195, sales of alcoholic beverages must be authorized by the Public Works Director and the vendor must operate pursuant to a permit issued by the Oregon Liquor Control Commission (OLCC). If alcoholic beverages are allowed, the alcohol content by volume (ABV) must be less than 14 percent.

On March 12, 2018, City Council adopted a motion that staff review SRC Section 94.195 (Possession of alcoholic beverages in parks) and return to Council with a recommendation regarding whether to allow beverages with over 14 percent ABV in Salem's parks during permitted events.

The March 12, 2018, Council motion followed a request from Salem-based vendor Oregon Beverage Services. In their request, Oregon Beverage Services made several points in favor of increasing the ABV: (1) providing hard liquor at events can add to the experience of participants; (2) allowing sales of hard liquor could increase revenues and provide opportunities for sponsorships at events; (3) OLCC establishes equivalencies among beer, wine, and hard liquors based on volume. Therefore, if served properly, the ABV of a drink should be immaterial to its effect on the drinker; (4) hard liquor is currently allowed at many large events throughout Oregon; and (5) based on their years of experience, serving hard liquor at events has not caused additional problems compared to events where hard liquor has not been served. At the March 12 Council meeting, one Salem resident provided written comment against allowing hard liquor sales in City parks, positing that doing so would increase the number of drunk drivers.

Following Council's action, staff analyzed options and issues related to increasing the ABV for beverages at City-permitted events. Additionally, 24 jurisdictions and event organizers were contacted to review their policies and practices. The Salem Police Department conducted an analysis of alcohol-related incidents in the downtown area over a five year period during the weekends of the Bite and Brew of Salem and the World Beat Festival.

Based on the information available and the practices of other jurisdictions, staff has concluded that there are no persuasive arguments against increasing the ABV at City-permitted events. Based on the information received and data analysis, staff recommend amending SRC 94 to allow a limited expansion of the current alcohol policy. Specifically:

1. Sales and possession of alcohol with ABV of 14 percent or higher will only be allowed at public events conducted at the reservable facilities in Riverfront Park and Bush's Pasture Park.
2. Alcohol sales must be authorized by the Public Works Director. Sales must be performed by a concessionaire operating pursuant to a permit issued by the City and licensed by the Oregon Liquor Control Commission.
3. No other changes are proposed to existing regulatory requirements or practices regarding alcoholic beverages at any other parks or City-owned facilities.
4. The ordinance contains an emergency clause allowing the changes to take effect immediately upon second reading; thereby allowing events planned this summer to use the expanded authority.

Salem Parks and Recreation Advisory Board Review and Comments

The June meeting of the Salem Parks and Recreation Advisory Board (SPRAB) is June 14. To bring this matter for Council consideration in time for the summer event season, staff provided an advance copy of the staff report to members of SPRAB in advance of their June meeting and solicited comments. No formal position was taken by SPRAB, six members individually endorsed the proposal, one opposed the proposal and one did not respond.

One SPRAB member suggested that Council consider limiting the number of consecutive days that alcohol can be served at Riverfront Park, noting;

The code change should be limited to permits lasting approximately one week or less and should not allow for consecutive weeks, or there should be a limited number of hard alcohol permits. All of the events in these two parks that I am aware of that serve alcohol last less than a week except Salem on Ice which is there several months. I would not want hard liquor served in any Salem park for an extended amount of time.

Council Action on May 29, 2018

On May 29, 2018, Council received a staff report documenting the research conducted by staff on this issue and recommending Council conduct first reading of the ordinance to amend SRC 94.195 to allow the alcohol sales. At the meeting Council adopted a motion to conduct a public hearing prior to considering adoption of the code amendment.

FACTS AND FINDINGS:

Ordinance Bill No. 9-18 (Attachment 1) amends SRC Chapter 94 to allow sales of alcoholic beverages with 14 percent or more alcohol by volume at Riverfront Park and Bush's Pasture Park. The information below provides additional context to sales of alcoholic beverages.

1. What are the current regulations in *Salem Revised Code* Chapter 94 regarding possession of alcoholic beverages in City Parks?

SRC Chapter 94.195 (Possession of alcoholic beverages in parks) prohibits alcoholic beverages in any park, sports field, city-owned facility, or any event on property controlled by the City except under specific circumstances. Summarizing the listed circumstances where possession of alcoholic beverages is allowed:

- (1) At Wallace Marine Softball Complex if the alcoholic beverage is purchased from a concessionaire that is operating pursuant to a permit issued by the Director and licensed by the Oregon Liquor Control Commission;
- (2) At events authorized by the Director and conducted on city-owned premises, if the alcoholic beverage is purchased from a concessionaire that is operating pursuant to a permit issued by the City and licensed by the Oregon Liquor Control Commission;

- (3) As part of an event for which the Director has issued a permit for the consumption of alcohol pursuant to regulations adopted by the Director; and
- (4) At events at city-owned facilities, including, but not limited to, Deepwood Estate, Bush Art Barn, Bush House, the Riverfront Carousel, and A.C. Gilbert's Discovery Village, if such possession has been authorized by the Director or the City's authorized operational contractor of the facility.

In all cases where possession of alcoholic beverages is allowed, a person must be 21 years of age or older to possess an alcoholic beverage and the alcoholic beverage must be less than 14 percent of alcohol by volume.

2. What is a "drink"?



A standard drink is equal to:

- 12-ounces of beer
- 5-ounces of wine
- 1.5-ounces of 80-proof or "hard" liquor

3. What are representative alcohol percent by volume (ABV) of various drinks?

Note: ABV values vary by brand and producer.

Drinks with ABV ≤ 14%

Beer	ABV: 2.0%-12% (usually 4%-6%)
Hard Cider	ABV: 2.0%-12% (usually 4%-8%)
Wine	ABV: 9%-16% (most often 12.5%-14.5%)

Drinks with ABV > 14%

Absinthe	ABV: 45-89.92%
Brandy	ABV: 35-60% (usually 40%)
Gin	ABV: 37.5-50%
Rum	ABV: 37.5-80% (usually 40%)
Tequila	ABV: 32-60% (usually 40%)
Vodka	ABV: 35-95% (usually 40%)
Whiskey	ABV: 40-68% (typical is 40%, 43%, 46%)

Source: https://en.wikipedia.org/wiki/Alcohol_by_volume

4. What are the City's current policies/procedures for alcohol in Salem's parks?

Alcohol is not allowed in any Salem park unless the following conditions are met.

Specific City Facilities. Alcohol is only allowed to be consumed, served, and/or sold at specific, reservable park facilities. These include: Cascades Gateway Park (Beaver Grove, Blue Gil A, and Blue Gil B); Bush's Pasture Park (Amphitheater and Lower Lefelle Picnic Area); Minto-Brown Park Shelter; Pringle Hall; Riverfront Park (Amphitheater, North Meadow, South Meadow, and Rotary Pavilion); River Road Park Shelter; and Woodmansee Park Shelter.

Remain within the Facility. Alcohol can only be consumed within reservable picnic areas, defined as within 100 feet of the reserved area. Note: For large events-for example, the Salem Art Fair, Bite and Brew of Salem, and World Beat Festival-alcohol may be allowed in the park beyond the specific facility serving the drink provided the event area is controlled by fencing and alcohol remains within the fenced area.

Permit Completed and Alcohol Use Authorized. The organizer must have completed a "Facility Use Permit and Agreement" and the form must indicate that alcohol has been approved for the event.

Permit Fee Paid. The facility rental and alcohol permit fees must have been paid in advance.

Alcohol Content Limited. Per *Salem Revised Code* (SRC 94.195), sales and consumption of alcohol at City-permitted events is limited to beverages with an alcohol content of 14 percent or less by volume.

Age. Alcohol cannot be provided to anyone under the age of 21.

Proof of Insurance. If alcohol is to be served or sold at an event that is open to the public, the organizer must also provide proof of insurance for at least \$2,000,000 per occurrence for personal injury and property damage and the insurance must list the City of Salem, its officers, agents, employees, and volunteers as additional insured.

Concessionaire Permit. If alcohol is to be sold, the organizer must complete a Short-term Concessionaire Permit and pay the applicable permit fee.

OLCC License. If alcohol is to be sold, the provider must be a licensed server through OLCC. The event organizer must provide proof that every vendor has a completed and approved OLCC Special Event License.

5. If alcohol is being provided under an OLCC Special Event License, what are some of the requirements that the vendor must follow?

Among the requirements of the OLCC for outdoor sales of alcohol:

- The boundaries of the outdoor area must be defined;
- The area must be appropriately posted regarding minors;
- The applicant or licensee must obtain OLCC approval of a designated area for alcohol consumption within the outdoor area;
- The applicant or licensee must demonstrate there will be adequate supervision of the outdoor area so as to prevent violations of the liquor laws.
- The licensee must maintain and adequately control the defined boundaries of the outdoor area and the approved and designated alcohol consumption area.
- A licensee or permittee may not allow a person to consume or to continue to consume alcoholic beverages on the licensed premises after observing that the person is visibly intoxicated.
- One patron shall not possess more than two open containers of alcohol at the same time in the outdoor area, and the amount of alcohol in each container shall not exceed 16 ounces of malt beverages, 6 ounces of wine, 16 ounces of cider or 2 ounces of distilled spirits except under specific listed circumstances (generally, involving more than one patron)
- Amplified entertainment is not allowed in the outdoor area from 10:00 p.m. to 7:00 a.m. on the succeeding calendar day.
- The sale, service, and consumption of alcoholic beverages in the outdoor area are not allowed from 10:00 p.m. to 7:00 a.m. on the succeeding calendar day.
- All licensees and permittees of the Oregon Liquor Control Commission, before selling or serving alcoholic liquor to any person about whom there is any reasonable doubt of the person's having reached 21 years of age, shall require such person to produce proof of age.
- Any person in possession of a valid retail liquor license, who sells liquor by the drink for consumption on the premises or sells for consumption off the premises shall post a sign informing the public of the effects of alcohol consumption during pregnancy.

6. How many events (based on alcohol beverage permits issued) have been held in the City over the past five years (2013-2017)?

There were 378 one-day events during the five-year period. These are non-OLCC licensed events where alcohol was permitted to be served (e.g., business gatherings, family events). Examples include:

- 74 birthday parties
- 61 wedding receptions
- 37 picnics (no specific event listed)
- 26 baptism parties
- 26 graduation parties
- 17 reunions
- 12 baby showers
- 8 retirement parties

There were 71 distinct events during the five-year period. These are OLCC licensed events open to the general public where alcohol was sold and consumed on premises. Examples include:

- Bite and Brew of Salem (est. 15,000 total attendees/year)
- River Rock Concert Series (est. 4,000 total attendees/year)
- Salem Art Fair (est. 45,000 total attendees/year)
- Reventón de Verano (El Rey) Concert (est. 4,000 total attendees/year)
- World Beat Festival (2017 first year) (est. 30,000 total attendees/year)
- Salem on Ice (2017 first year) (est. 34,000 total attendees/year)

7. How do other jurisdictions limit the alcohol content in their parks?

Policies regarding sales and consumption of hard liquor vary amongst jurisdictions. For any event where alcohol is sold, all agencies require specific permit conditions be met, the organizer/vendor be OLCC licensed, and all OLCC rules followed (See Question #5). Based on information received from twenty-four agencies and event organizers, generally:

- Sales and consumption of hard liquor *is allowed* at the Oregon State Fair
- Sales and consumption of hard liquor *is allowed* at the Portland Rose Festival
- Sales and consumption of hard liquor *is allowed* at county fairs
- Sales and consumption of hard liquor *is not allowed* in county parks
- Alcohol *is not allowed* at the Oregon Country Fair

Of the 12 cities surveyed:

- Sales and consumption of hard liquor at events *is allowed* at six cities. (Corvallis, Hillsboro, Keizer, Mount Angel, Portland, Vancouver WA)
- Sales and consumption of hard liquor at events *is not allowed* at five cities, although these cities do allow sales and consumption of beer, wine, and cider. (Dallas, Eugene, Monmouth, Silverton, Spokane WA)
- No alcohol is allowed in city parks under any circumstances at one city. (McMinnville)

8. What has been law enforcement's experiences regarding alcohol in parks?

As noted in the answer to Question 6, alcohol with less than 14 percent ABV is offered at many events in City parks each year. At issue is whether increasing the ABV to 14 percent or more will result in an increase of alcohol-related incidents. Staff chose to examine this question quantitatively by comparing two similar Salem events: the Bite and Brew of Salem, where alcohol is sold by OLCC-licensed concessionaires, and the World Beat Festival, where alcohol was not allowed until 2017. Two questions were addressed: (1) Is there a significant difference in alcohol-related incidents between the two events? (2) Was there was a significant increase in alcohol-related incidents during the 2017 World Beat Festival?

The Salem Police Department (SPD) conducted a quantitative analysis of alcohol-related events that occurred during the past five years when the Bite and Brew of Salem and World Beat Festival were taking place. From this analysis, two conclusions can be drawn:

- a. There is no significant difference in alcohol-related incidents-as measured in Average Alcohol Events per Day-between the two events.
- b. There was no significant increase in alcohol-related incidents when the World Beat Festival started allowing alcohol sales in 2017.

Using the results of this analysis, which is specific to OLCC-licensed sales at City-permitted events, one can extrapolate that increasing the allowed ABV for OLCC-licensed sales is unlikely to result in an increase in alcohol-related incidents.

The tables below summarize the results of the SPD analysis. The number of alcohol events provided in the table is based on recorded incidents occurring within the downtown exclusion area bounded by Water Street NE, Union Street NE, High Street, and Ferry Street SE. While the incidents correlate with the dates of the events, it is not possible to establish cause and effect.

Bite and Brew of Salem

Date	No. of Days	Total No. Alcohol Events in Exclusion Area	Average Alcohol Events per Day
July 26-28, 2013	3	1	0.3
July 25-27, 2014	3	6	2.0
July 24-26, 2015	3	6	2.0
July 21-24, 2016	4	5	1.25
July 20-23, 2017	4	3	0.75

World Beat Festival

Date	No. of Days	Total No. Alcohol Events in Exclusion Area	Average Alcohol Events per Day
June 29-30, 2013	2	6	3.0
June 28-29, 2014	2	1	0.5
June 27-28, 2015	2	3	1.5
June 25-26, 2016	2	0	0
June 24-25, 2017	2	3	1.5

Attachments:

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1. Ordinance Bill 9-18
2. Written testimony (2)