



Memorandum

To: Mayor, Town Council
From: Rick Wixom
Date: September 3, 2020
Re: **September 9, 2020 Town Council Meeting
Ordinance 2020-07 – Amending Section 7-6-13 to remove provisions for event
related beer and wine sales at the ball field**

Overview

Section 7-6-13 of the Town Code prohibits a person from bringing an alcoholic beverage or controlled dangerous substance into a town park or recreation area. This section was modified in May of 2009 to allow the sale and consumption of beer on the ball field. This change was done in support of the Zion Canyon Music Festival, which was a town event at that time. Later in April of 2013, this code section was further revised to allow the sale and consumption of wine on the ball field. Again, this was primarily done in support of the music festival event. A few years ago the Zion Canyon Music Festival was transferred from the Town to private ownership and moved from the ball field to the OC Tanner Amphitheater.

When this ordinance was first proposed, the Council had some concerns. Because of this, the ordinance amendment was drafted so that the Town had to have some ownership of the event in order to for the alcohol exemption to have effect; specifically the event had to be a Town organized or Town sponsored event. The Town received a request this year from the Redrox Music Festival to use the ball field for their event and include beer and wine. The Council approved a sponsorship for the event that waived the park rental fees. This event, along with several other events in the area, was ultimately cancelled due to the impacts of the COVID-19 pandemic.

Members of the Council have expressed some concern taking on liability for a private event through a town sponsorship and the Town staff took on a review of this code section.

The Town's department directors have discussed this at length and have come to the conclusion that the best course of action for the Town is to remove the provision for alcohol (beer and wine) to be sold and consumed on the ball field. We recognize the Council's decision making in this matter and wanted to get it on your agenda for discussion and deliberation.

Some concerns that have been raised in our discussions:

- **Liability (general and alcohol); Indemnifications:** While any event organizer bears the risk of injury or damage at an event, there is some risk to the Town that ultimately cannot be waived away. We have insurance indemnifications in place for all private events on the ball field, which to a large degree would cover the Town. However, as the owner of

the property, if there was a suit resulting out of damages related to an event, we would get drawn into that case. We would certainly argue that insurance coverage, hold harmless agreements, and indemnification would apply, but we would still need to defend the Town.

- Sponsorship: Further, if we through sponsorship or helping to plan an event, voluntarily agree to pick up a portion of the event's liability, we feel it more unlikely that any indemnification would completely remove it.
- Subjectivity of review: An ordinance that adopts minimum standards in order to have an alcohol exemption may not provide the Town sufficient guarantee that an event is not going to harm the Town's character or reputation. On the other hand, adding clauses to an ordinance that allow the Council to grant an exemption subjectively open the Council up to criticism and complaints of bias if an event was not approved.
- State Code: State code identifies parks among the list of 'community locations' that help to govern the location of alcohol related businesses. Having an allowance for beer and wine to be sold on the ball field appears to be inconsistent with this provision which is intended to separate alcohol from uses generally associated with youths and children. Other 'community location' uses include public or private schools, churches, public libraries, and public playgrounds.
- Competition with Private Business: An ordinance granting an exception to the alcohol prohibition may have some impact on businesses who run event spaces.

We did look at a potential ordinance that would codify the exemption for beer and wine to be sold that added standards to the ordinance and remove the provision for the Town to be a sponsor or organizer. Ultimately, we did not feel that this change adequately resolved the concerns and instead determined to bring an ordinance change to you that simply removed the provision.



ORDINANCE 2020-07

AN ORDINANCE OF THE SPRINGDALE TOWN COUNCIL REVISING SECTION 7-6-13 REGARDING ALCOHOLIC BEVERAGES IN TOWN PARKS REPEALING THE SALE AND CONSUMPTION OF BEER AND WINE UNDER CERTAIN CIRCUMSTANCES

WHEREAS, section 7-6-13 of the Town Code specifically prohibits a person from consuming alcoholic beverages in public parks; and

WHEREAS, in May 2009, the Springdale Town Council adopted Ordinance 2009-02, which modified section 7-6-13 to allow the sale and consumption of beer on the town ball field under certain circumstances in support of certain town events held on the ball field; and

WHEREAS, in April 2013, the Springdale Town Council adopted ordinance 2013-13 amending section 7-6-13 further to allow for wine to be sold and consumed under certain circumstances, again in support of certain town events held on the ball field; and

WHEREAS, the Town Council now finds that circumstances in the town have changed, specifically those certain town events that necessitated the sale of alcohol on the ball field have been discontinued or moved to private operation and ownership; and

WHEREAS, the Town Council also now finds that sponsorship of privately operated events unnecessarily subjects the Town of Springdale to potential liabilities that cannot be completely mitigated; and

WHEREAS, the community encourages festivals and events for the enjoyment of residents and visitors and there are several private venues that are suitable for events which may include the sale and consumption of alcoholic beverages. The Town Council now finds that the use of the ball field as a location for beer and wine sales is unneeded;

NOW THEREFORE BE IT ORDAINED, by the Springdale Town Council that section 7-6-13 of the Town Code is revised as follows:

7-6-13: ALCOHOLIC BEVERAGES, CONTROLLED DANGEROUS SUBSTANCES, ALMS, GAMBLING:

While in a public park or recreation area, all persons shall conduct themselves in a proper and orderly manner, and in particular, no person shall:

A. Alcoholic Beverages, Substances:

~~— 1. Bring alcoholic beverages or controlled dangerous substances, drink or use the same at any time, nor shall any person be under the influence of intoxicating liquor or a controlled dangerous substance in a park or recreation area.~~

~~— 2. Notwithstanding subsection A1 of this section, beer or wine may be sold and consumed on the ball field once the following conditions are met:~~

~~— a. The event is a Town organized event or a Town sponsored event, meaning the Town contributes significant money, time or effort in supporting, organizing or running the event.~~

~~— b. The event organizer has applied for and received an event permit from the Town of Springdale under section 10-22-4 of this Code.~~

~~— c. The event organizer or alcohol retailer has applied for and received a single event permit from the Utah State Division of Alcohol and Beverage Control.~~

B. Alms: Solicit alms or contributions for any purpose, whether public or private.

C. Gambling: Play any game of chance or have possession of any instrument or device for gambling.

D. Games, Competitive Sports For Money: Play, engage or take part in any game or competitive sport for money, or other valuable thing, without a written permit.

PASSED AND ADOPTED by the Springdale Town Council the 9th day of September 2020. This ordinance shall be effective upon passage and posting.

By: _____
Stanley J. Smith, Mayor

Attest:

Darci Carlson, Town Clerk

ROLL CALL VOTE		
R. Aton	Yes	No
S. Elger	Yes	No
A. Player	Yes	No
S. Smith	Yes	No
L. Zumpft	Yes	No

CERTIFICATE OF POSTING

I, Darci Carlson, acting on behalf of the Town of Springdale, hereby certify that accurate copies of Ordinance 2020-~~0607~~07, were posted at three places within the municipality: Springdale Town Hall, Springdale Post Office, and the Canyon Community Center on the ____ day of _____, 2020.

Darci Carlson, Town Clerk