



cityofnovi.org

CITY of NOVI CITY COUNCIL

Agenda Item 3

March 8, 2010

SUBJECT: Consideration of City Code Amendments 10-149.10 and 10-113.02, to clarify rules regarding consumption of alcohol on certain publicly-owned properties, and adoption of Resolution approving "Policy and Rules Regarding Alcohol on Public Property," allowing consumption of alcohol at Civic Center and Novi Public Library on a trial basis through October 31, 2010, and also establishing rules for consumption of alcohol at Lakeshore Park. **First Reading of Code Amendments**

SUBMITTING DEPARTMENT: Facility Operations/William McCusker

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

At its February 22, 2010 meeting, City Council directed Administration to draft a policy and set of rules, together with any necessary ordinance amendments, relating to the use of alcohol at certain City facilities, for City Council's consideration.

The draft "Policy and Rules Regarding Alcohol on Public Property" establishes a policy for alcohol use that takes into consideration Council's concerns regarding the City's risk of liability, potential problems associated with alcohol consumption, and the need to provide a safe environment for persons utilizing the facility, and to address those concerns establishes rules for the use of alcohol at the municipal facilities identified during the discussion, specifically, the Civic Center and the Library, and also incorporates the currently unwritten rules for alcohol consumption at Lakeshore Park.

The document describes the kinds of events at which alcohol may be consumed: (1) events conducted by non-profit organizations under a temporary license or permit (a "special event license") from the State of Michigan, to which members of the public can be invited and alcohol may be sold; and (2) private parties to which the public generally is not invited and where alcohol is not sold but is provided free of charge. Some general rules for alcohol use are established. An "Alcohol Use Application" must be submitted, a security deposit is required, alcohol use is limited to non-business hours, only bottled beer, wine, and champagne are allowed, etc. Insurance is required for events under a special event license, and an indemnification agreement is required regardless of the type of event. At least one bartender who has completed a Michigan Server Training Program is required to be present and supervise service of alcohol at any licensed special event, and also for private events of more than 25 people (though not at Lakeshore Park). All servers shall be over the age of 21.

The proposed ordinance amendments involving Chapter 3 of the City Code, "Alcoholic Liquor," are primarily a change to the definition of "public place," to both allow the use of alcohol at these facilities if a resolution is adopted and to more clearly **prevent** the use at other public facilities. Changes to Chapter 25, "Parks and Recreation," reverse the way the ordinance now works. Currently, consumption is prohibited if the park is "posted" to prohibit alcohol. The proposed amendment would provide that consumption is generally prohibited unless the park is posted to allow consumption. The intention would be to allow through the attached Policy and Rules document the consumption of alcohol only at Lakeshore Park, under posted rules.

The City's Insurance Risk Agent, Mr. Bob Bucko, has reviewing the proposed Policy and Rules and had no objections with regard to events as outlined for the Civic Center or the Library.

Note that, while the use of alcohol at the Ice Arena and Power Park was discussed, the proposed Policy and Rules document does not address those facilities. If in the future the Council decides that those facilities can be made available for either private events or non-profit sponsored special events, the Policy and Rules document is set up to be "expandable," meaning that those facilities and any special rules that might be applied can be added to the end of the document where it now refers to the Civic Center, the Library, and lakeshore Park. If, on the other hand, the City were to authorize a more formal and regular service of alcohol, that would be better done by actually securing a separate municipal liquor license for those facilities, to be administered either by the City or a private company on the City's behalf.

RECOMMENDED ACTION: Three separate actions/motions:

- a. Approve FIRST READING of City Code Amendment 10-149.10, to change to the definition of "public place," in order to allow the use of alcohol at certain public facilities if a resolution of City Council is adopted and to prohibit the use at other public facilities; **and**
- b. Approve FIRST READING of City Code Amendment 10-113.02, to prohibit alcohol consumption in parks except where authorized by city council resolution; **and**
- c. Adoption Resolution approving "Policy and Rules Regarding Alcohol on Public Property," allowing consumption of alcohol at Civic Center and Novi Public Library on a trial basis through October 31, 2010, and also establishing rules for consumption of alcohol at Lakeshore Park.

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Crawford				
Council Member Fischer				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Staudt				

CITY OF NOVI

POLICY AND RULES

REGARDING ALCOHOL ON PUBLIC PROPERTY

Purpose

In response to inquiries and requests from residents, local businesses, and community organizations, the City of Novi has determined to authorize, on a limited basis, the use of alcohol at certain City-owned or City-managed facilities. The use is limited to specific locations and is subject to the rules set forth below. The purpose of this Policy and corresponding Rules is to prevent common and recognized problems that can arise from alcohol consumption, to ensure a safe and enjoyable environment for all those who use City facilities, and to reduce the risk of liability.

General Policy

The City does not maintain a liquor license for any of its facilities. In addition, by City ordinance, alcohol may not be consumed at public facilities except as authorized by City Council resolution. The City Council has determined that, at the specific facilities designated in this policy *only*, alcohol can be possessed and consumed either:

- (1) Under to a special event license issued by the State of Michigan/Liquor Control Commission to a non-profit organization for a specific event; or alternatively
- (2) As part of a private event for which no license is required from the State of Michigan.

Private events for which no special event license is required are those in which a limited number of people are invited in connection with a private gathering—such as a wedding shower or reception or a banquet sponsored for a particular group of individuals and their guests—and alcohol is provided free of charge by the host or Sponsor or brought to the event by individuals for personal consumption.

Events requiring a special event license are those that the general public is permitted to attend and which involve the provision of alcohol by the non-profit entity sponsoring the event for a charge, as Michigan law does not allow the provision of alcohol to the general public free of charge.

Some of the following rules apply to either type of event. Additional rules may apply depending on which type of event is held.

The City reserves the right to deny the request for the use of alcohol, and to deny the Alcohol Use Application, if it finds that the Sponsor cannot or likely will not meet the requirements of this Policy and these Rules, cannot sufficiently indemnify or hold harmless the City, or if the proposed event is in any way inconsistent with the use of the public facilities and the purpose of this Policy as stated above.

Generally-Applicable Rules

1. Unless otherwise specified in this Policy and under these Rules, an Alcohol Use Application shall be completed indicating the intent to serve or sell alcoholic beverages. Approval shall be received from the City Manager and the Police Chief or their designees. An Application for a **private event** shall be submitted at least five (5) business days before the event. An Application for an event under a **special event license** shall be submitted at the time the application for the license is submitted to the State of Michigan Liquor Control Commission.
2. A \$500 deposit is required to be paid 7 days in advance of the event to guarantee compliance with these rules. The deposit is refundable at the conclusion event unless forfeited in accordance with these rules.
3. No alcohol may be consumed at any City facility during hours of operation for the conduct of official business. (8:00 am to 5:00 pm, Monday through Friday.)
4. No alcohol may be taken from the City facility. All alcoholic beverages shall be consumed on the premises where use has been authorized.
5. Alcohol service is limited to beer, wine, and champagne packaged in bottles. Hard liquor and beer kegs are not allowed.
6. Low and non-alcoholic drinks must be available at all times that alcohol is available. Non-alcoholic drinks must be available at a lower price than alcoholic drinks.
7. Food must be available at all times when alcohol is being served.
8. If bar service is provided, a maximum of two drinks may be served to an individual at any one time.
9. If bar service is provided, no special sales or reductions will be permitted for volume purchases.

10. Alcohol may be possessed or consumed only by individuals over the age of 21. The event Sponsor shall ensure that identification is in accordance with applicable law, to ensure that no one under the age of 21 is served alcohol. The only acceptable forms of identification shall be a state or other official identification card, a driver's license with photo, or a passport.
11. No alcohol shall be served to any person who is obviously intoxicated. Doing so may result in criminal prosecution.
12. The availability of liquor at an event shall not be advertised without the prior written approval of the City.
13. If bar service is provided, no announcement of "last call" may be made. The bar shall simply close at the required time.
14. Alcohol must be possessed, consumed, and served only in areas designated for the specific event by the City.
15. City representatives may enter the event at any and all times to review compliance with this policy and these rules.

Event Sponsor Obligations

For purposes of this policy, "Sponsor" means the person or group responsible for organizing an event involving alcohol in a City facility or on City lands.

Individual representatives(s) of the event Sponsor shall be identified in the Alcohol Use Application and the event Sponsor, if an individual, or at least representative of the event Sponsor, if a group, must be present at the event at all times.

The event Sponsor is responsible for:

- (1) Submitting the Alcohol Use Application, if required, and posting the required deposit.
- (2) Securing and paying the premium for insurance and providing proof of insurance (to the extent required by this Policy and these Rules).
- (3) Securing the required special event license from the State of Michigan/Michigan Liquor Control Commission, if alcohol is to be sold at the event.
- (4) Providing "server trained" supervisors or bartenders as required in this Policy and these Rules.
- (5) Providing the required hold harmless/indemnification agreement to the City.

Insurance

Insurance requirements differ depending on whether the event involves the sale of alcohol to invited members of the public in connection with an event sponsored by a non-profit organization or is a private event at which the Sponsor provides the alcohol free of charge or alcohol is brought for personal consumption.

A. Non-profit “special event”

A certificate of insurance coverage of not less than \$500,000 per occurrence and a minimum aggregate coverage of not less than \$1,000,000, including \$1,000,000 of alcohol liability coverage, is required to cover any liability arising out of or associated with the event. The City of Novi and its City Council, officers, agents, and employees must be named as “additional insured.” The certificate is required five (5) days in advance of the event. The certificate shall be provided to the City Clerk’s office, which shall be responsible for verifying that the required coverage is provided.

B. Private event/party

Sponsors must provide a copy of their Personal Liability Home Owners, Condominium Owners, or Renters liability policy. Sponsors are strongly encouraged to advise their insurance broker that they will be serving/selling alcohol at an event away from their residence in order that their Personal Liability Home Owners or Tenants and Condominium Owners Liability can be extended and endorsed to include Host Liquor Law/Liquor Law Liability.

Indemnification/Hold Harmless Agreement Required

The event Sponsor must agree to defend, indemnify and hold harmless the City of Novi, its officers, agents and employees from all claims, liabilities, demands, damages and actions, or whatever form or nature, for property damage, personal injury or death, arising out of or in any way relating to the event and the use by the Sponsor.

Alcohol to be served by Trained Servers (Licensed Events and Large Private parties)

At every event conducted under a *special event license* at which alcohol is sold, the sponsor must provide at least one (1) bartender who has completed a Michigan Server Training Program established pursuant to the Michigan Liquor Control Commission, and specifically MCL 436.1906 (such as TAM, TIPS, C.A.R.E., or ServSafe Alcohol). The trained server must oversee all other servers during the event. All servers shall be over the age of 21.

At any *Private event* at which more than 25 people will be present and at which alcohol will be provided by the Sponsor at no charge, the Sponsor shall provide least one (1) bartender who has

completed a Michigan Server Training Program, except as otherwise provided in this Policy and these Rules.

Violation of Policy/Rules

A City of Novi staff member will intervene whenever he or she encounters a violation of the policy. Depending upon the severity of the infraction, City of Novi staff may ask the Sponsor of the event to stop the violation, or may close down the portion of the event involving alcohol. Should the Sponsor fail to comply, staff members may call the police for enforcement. Violations of this Policy and these Rules shall result in a forfeiture of the deposit.

No Gambling or Games of Chance

No gambling or games of chance will be permitted at any event except as specifically authorized by the City Council.

City Facilities at which Alcohol is Permitted

Alcohol may be possessed and consumed in the following facilities or on the following properties, subject to the above rules except as noted below and to the extent authorized by Resolution of the City Council:

- (1) The Civic Center, in locations identified in the approval of the Alcohol Use Application by the City Manager and Police Chief or their designees.
- (2) The Novi Public Library, in locations authorized by the Library Director and identified in the approval of the Alcohol Use Application by the City Manager and Police Chief or their designees. The City will grant the Application only if and to the extent the Board of Trustees of the Library similarly authorize the use of alcohol at the Library facility.
- (3) Lakeshore Park, subject to the following:
 - a. Alcohol may be possessed and consumed by individuals who provide their own alcohol, or may be provided at no charge by an event Sponsor.
 - b. Unless the event is conducted under a special event license, a trained server is not required to be provided by the event Sponsor.
 - c. Unless the event is conducted under a special event license, no alcohol may be sold.
 - d. Park hours must be observed; no consumption is permitted outside of park hours.
 - e. No insurance is required.

Adopted:

CITY OF NOVI

COUNTY OF OAKLAND, MICHIGAN

RESOLUTION APPROVING "POLICY AND RULES REGARDING ALCOHOL ON PUBLIC PROPERTY"

Minutes of a _____ Meeting of the City Council of the City of Novi, County of Oakland, Michigan, held in the City Hall in said City on _____, 2010, at _____ o'clock P.M. Prevailing Eastern Time.

PRESENT: Councilmembers _____

ABSENT: Councilmembers _____

The following preamble and Resolution were offered by Councilmember _____ and supported by Councilmember _____.

RECITALS:

- 1. The City Council has on various occasions received requests from residents, businesses, and other organizations inquiring about the possibility of holding events at certain public facilities at which alcohol may be provided to event participants.
2. Currently, the City's ordinances do not allow consumption of alcohol at public facilities except under certain very limited conditions. The City has, however, commenced the process to amend the Code of Ordinances to allow the consumption of alcohol in public facilities and on publicly-owned/operated properties if authorized by City Council resolution.
3. The City Council has considered the matter and has determined to implement a trial period during which consumption of alcohol may permitted, pursuant to certain rules and limitations, at the Civic Center and the Library, only, for certain types of events.

4. The trial period for the consumption of alcohol shall commence on the effective date of the ordinance amendments referred to in paragraph 2 above and shall end on October 31, 2010.

5. The consumption of alcohol in these facilities shall be subject to the Policy and Rules Regarding Alcohol on Public Property, which is attached hereto and which is hereby adopted by the City Council.

6. Regardless of the continuing effect of this Resolution with regard to the Civic Center and Library, the rules set forth in the Policy and Rules Regarding Alcohol on Public Property relating to alcohol consumption at Lakeshore Park shall remain in place until revoked or repealed by the City Council.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Novi hereby adopts the attached Policy and Rules Regarding Alcohol on Public Property, which shall govern the consumption of alcohol at the Civic Center and the Library until October 31, 2010, and which may be further extended by the City Council at the end of such period. Such Policy and Rules Regarding Alcohol on Public Property shall govern the consumption of alcohol at Lakeshore Park until revoked or repealed by the City Council.

AYES:

NAYS:

ABSTENTIONS:

ABSENT:

RESOLUTION DECLARED ADOPTED.

MARYANNE CORNELIUS, CITY CLERK

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the City Council of the City of Novi at _____ meeting held this _____ day of _____, 2010.

MARYANNE CORNELIUS, CITY CLERK

1386738

**“REDLINE” OF POSSIBLE CHANGES TO
CODE OF ORDINANCES RELATING TO
ALCOHOL ON PUBLIC PROPERTY**

CHAPTER 3, ALCOHOLIC LIQUOR

Sec. 3-1. Definitions.

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

Alcoholic liquor means those beverages containing alcohol as defined in the Michigan Liquor Control Code (MCL 436.1101 et seq.).

Beer means those beverages defined as "beer" in the Michigan Liquor Control Code (MCL 436.1101 et seq.).

Highway and *street* mean any public road or highway, if used as such, or to which the public has access.

Minor means a person less than twenty-one (21) years of age.

Motor vehicle means any vehicle as defined by the Michigan Vehicle Code (MCL 257.1 et seq.).

Public place means any street, alley, park, public building, publicly-owned or administered area, or public place of amusement, or any place of business or assembly open to or frequented by the public, or to which the public has access. *Public place* does not include places either licensed to sell alcohol under the Michigan Liquor Control Code or for which a temporary permit is granted by the Michigan Liquor Control Commission for consumption on the premises, provided, however, that consumption of alcohol in publicly-owned buildings and in parks or other publicly-owned or administered areas, or public places of amusement, shall be permitted only pursuant to a policy and rules adopted by resolution by the City Council.

Wine means those beverages defined as "wine" in the Michigan Liquor Control Code (MCL 436.1101 et seq.).

Sec. 3-2. Possession in public places.

It shall be unlawful for any person in any public place, as defined in Section 3-1, or upon any public street or highway to have in his possession any bottle, vessel or container which contains alcoholic liquor, where it is open or the seal has been broken thereon, or in a container from which the contents can be used without breaking a seal.

Sec. 3-3. Consumption in public places.

It shall be unlawful for any person in any public place, as defined in Section 3-1, or upon any public street or highway to consume any alcoholic liquor, unless it be excepted by definition in section 3-1.

CHAPTER 25, PARKS AND RECREATION

Sec. 25-59. Conduct within parks.

It shall be unlawful within a park for any person to:

- (1) Prevent or interfere with another's lawful use of a park or any park facility;
- (2) Conduct or participate in any form of gambling, lottery or game of chance, except as permitted by state law and approved by the council and department of parks and recreation;
- (3) Consume alcoholic liquor unless authorized by resolution of City Council and posted with a notice that such consumption; or
- (4) Play any musical instrument, radio, record, tape player or other device in a manner which interferes with the enjoyment of the park by others or which is disturbing to adjacent residents.

Note: As a reminder, here's the state statute on consumption in parks:

436.1915 Possessing or consuming alcoholic liquor on public highway or in park, place of amusement, or publicly owned area; authority of local governmental unit or state department or agency to prohibit possession or consumption of alcoholic liquor; definitions.

Sec. 915.

- (1) Alcoholic liquor shall not be consumed on the public highways.
- (2) Except as provided in subsections (3) and (4), alcoholic liquor may be possessed or consumed in public parks, public places of amusement, or a publicly owned area not licensed to sell for consumption on the premises.
- (3) The governing body of a local governmental unit may prohibit by ordinance, order, or resolution the possession or consumption of alcoholic liquor in any public park, public place of amusement, or publicly owned area that is owned or administered, or both, by that local governmental unit. When land is leased from a department or agency of this state, an ordinance, order, or resolution adopted pursuant to this subsection shall be subject to the approval of the department or agency.

(4) A department or agency of this state that administers public lands may prohibit by rule, order, or resolution the possession or consumption of alcoholic liquor on the public land under its jurisdiction.

(5) As used in this section:

(a) "Local governmental unit" means a county, city, township, village, or charter authority.

(b) "Publicly owned area" means an area under the jurisdiction of a local governmental unit

**STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI**

ORDINANCE NO. 10-149.10

AN ORDINANCE TO AMEND CHAPTER 3, "ALCOHOLIC LIQUOR," OF THE CITY OF NOVI CODE OF ORDINANCES, TO CHANGE TO THE DEFINITION OF "PUBLIC PLACE," IN ORDER TO ALLOW THE USE OF ALCOHOL AT CERTAIN PUBLIC FACILITIES IF A RESOLUTION OF CITY COUNCIL IS ADOPTED AND TO PROHIBIT THE USE AT OTHER PUBLIC FACILITIES

THE CITY OF NOVI ORDAINS:

PART I

That Chapter 3, "Alcoholic Liquor," Article I, "In General," Section 3-1, "Definitions," definition of "Public place," is hereby amended to read as follows:

Sec. 3-1. Definitions.

Public place means any street, alley, park, public building, publicly-owned or administered area, or public place of amusement, or any place of business or assembly open to or frequented by the public, or to which the public has access. *Public place* does not include places either licensed to sell alcohol under the Michigan Liquor Control Code or for which a temporary permit is granted by the Michigan Liquor Control Commission for consumption on the premises; provided, however, that consumption of alcohol in publicly-owned buildings and in parks or other publicly-owned or administered areas, or public places of amusement, shall be permitted only pursuant to a policy and rules adopted by resolution by the City Council.

PART II

That Chapter 3, "Alcoholic Liquor," Article I, "In General," Section 3-2, "Possession in public places," is hereby amended to read as follows:

Sec. 3-2. Possession in public places.

It shall be unlawful for any person in any public place, as defined in Section 3-1, or upon any public street or highway to have in his possession any bottle, vessel or container which contains alcoholic liquor, where it is open or the seal has been broken thereon, or in a container from which the contents can be used without breaking a seal.

PART III

That Chapter 3, "Alcoholic Liquor," Article I, "In General," Section 3-3, "Consumption in public places," is hereby amended to read as follows:

Sec. 3-3. Consumption in public places.

It shall be unlawful for any person in any public place, as defined in Section 3-1, or upon any public street or highway to consume any alcoholic liquor, unless it be excepted by definition in section 3-1.

PART IV

Savings Clause. That the amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART V

Severability. That should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART VI

Repealer. All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

PART VII

Effective Date: Publication. That the provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

CERTIFICATION

It is hereby certified that the foregoing Ordinance was adopted by the Novi City Council, Oakland County, Michigan, at a meeting of the Council duly called and held on the ____ day of _____, 2010.

CITY OF NOVI

By: _____
Maryanne Cornelius, City Clerk

ADOPTED:

EFFECTIVE:

PUBLISHED:

1387668

**STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI**

ORDINANCE NO. 10-113.02

AN ORDINANCE TO AMEND CHAPTER 25, "PARKS AND RECREATION," TO PROHIBIT ALCOHOL CONSUMPTION IN PARKS EXCEPT WHERE AUTHORIZED BY CITY COUNCIL RESOLUTION

THE CITY OF NOVI ORDAINS:

PART I

That Chapter 25, "Parks and Recreation," Article IV, "Parks and Recreation Protection," Division 1, "Generally," Section 25-59, "Conduct within parks," is hereby amended to read as follows:

Sec. 25-59. Conduct within parks.

It shall be unlawful within a park for any person to:

(1) and (2) [Unchanged]

(3) Consume alcoholic liquor unless authorized by resolution of City Council and the property is posted with a notice that such consumption is permitted pursuant to certain rules and requirements; or

(4) [Unchanged]

PART II

Savings Clause. That the amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART III

Severability. That should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART IV

Repealer. All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

PART V

Effective Date: Publication. That the provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

CERTIFICATION

It is hereby certified that the foregoing Ordinance was adopted by the Novi City Council, Oakland County, Michigan, at a meeting of the Council duly called and held on the _____ day of _____, 2010.

CITY OF NOVI

By: _____
Maryanne Cornelius, City Clerk

ADOPTED:

EFFECTIVE:

PUBLISHED:

1387670