



Town of Huachuca City

The Sunset City

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ORDINANCE NO. 2018-26

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF HUACHUCA CITY, ARIZONA, AMENDING THE TOWN CODE CHAPTER 2.85 "TOWN FACILITY USE POLICY," SECTION 2.85.060 "RULES AND REGULATIONS," TO: REMOVE THE PROHIBITION OF INTOXICATING LIQUOR AND ALLOWING BEER AND WINE CONSUMPTION, PROVIDED THE BEER AND WINE ARE NOT IN GLASS BOTTLES AND PROVIDING THAT NO TOWN FUNDING IS USED FOR THE EVENT; TO REMOVE THE PROHIBITION ON SMOKING, UNDER CERTAIN CONDITIONS; TO PROHIBIT CAMPING AND FIRES IN THE PARK; TO PROHIBIT FOOD, BEVERAGE AND MERCHANDISE SALES, WITHOUT A SPECIAL PERMIT; AND TO PROVIDE PENALTIES FOR VIOLATIONS.

WHEREAS, the Town Council of the Town of Huachuca City has adopted by Resolution No. 84-002 a code known as the Town Code of the Town of Huachuca City, Arizona [the "Code"], and has amended and republished the Code from time to time, as authorized by A.R.S. section 9-240 (B) (28); and

WHEREAS, pursuant to the Code, Chapter 2.85, the Town establishes rules and regulations for use of its facilities; and

WHEREAS, the Town Council wishes to amend the Code to make changes to the Town's rules and regulations for use of Town parks and facilities; and

WHEREAS, as required by the Code, section 2.25.040, this Ordinance was first read at a public meeting of the Town Council on October 25, 2018, and at a subsequent meeting on November 8, 2018.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Huachuca City, Arizona, as follows:

SECTION 1. The Code, Chapter 2.85 "TOWN FACILITY USE POLICY," Section 2.85.060 "Rules and Regulations," is amended as follows, with deletions in ~~strike through~~ and additions in underlined text:

2.85.060 Rules and regulations.

A. The rules and regulations of this section shall apply to ~~The~~ the Community Center, Senior Center, restrooms, and kitchen ~~shall be available for use under this policy.~~

B. The town parks and athletic fields shall be available for use under this policy.

C. Users of the facilities will dispose of all refuse properly and adequately clean up after usage. Failure to provide proper clean up/maintenance will result in forfeiture of deposit and/or future use of the facilities. This will be determined by the town ~~clerk~~ manager.

No person shall dig or remove any soil, rock, stones, trees, shrubs or plants, down-timber or other wood or materials, or make any excavation by tool, equipment, blasting or other means.

~~D. The use of intoxicating liquor is prohibited in the facilities and all other town-owned property. Children, eight (8) years old and younger, must be supervised by an adult while playing on park playground equipment.~~

~~E. Pursuant to law, smoking is strictly prohibited. No overnight camping is allowed in the parks. No overnight parking of recreational vehicles is allowed in the parks without a Town permit. The Town will only permit twenty (20) vehicles per park facility permit for overnight use.~~

~~F. The town of Huachuca City assumes no liability for loss, damage, injury or illness incurred by the users of the facilities. Fire restrictions issued by the Town or other authorities to help prevent wildfires may prohibit all fires, including the use of park grills, from time to time. No open fires are permitted, unless specifically authorized by permits issued by the town and the fire department. Only charcoal may be used in fixed grills provided in town parks, and charcoal fires shall be attended at all times.~~

~~G. At the time of scheduling, all users must provide the town of Huachuca City with a certificate of insurance and other documentation as may be required. The certificate of insurance should list adequate limits of liability. Food, beverage and merchandise sales, smoking and the use of intoxicating liquor are prohibited in the parks and all other town-owned facilities and property, except as provided below:~~

1. Beer and wine, in plastic containers only, may be consumed when a special event permit for beer and wine sales to the public has been approved by the Town.

2. Consumption of beer and wine pursuant to a special event permit issued for town parks is only permissible when there are no children's sports leagues events taking place at the same time as the special event.

3. Individuals applying for a special event permit, or selling or consuming alcoholic beverages must abide by all terms and conditions of the special event permit, as well as all state and town laws, rules and regulations. Any event including the sale of alcohol must be a non-town sponsored event, and no town funds may be utilized for an event involving the sale of alcohol.

4. The special event permit holder shall check every person's identification and provide wristbands for purchase and consumption of alcohol. No alcohol shall be sold or provided to anyone who is under age or showing signs of inebriation.

5. Smoking is prohibited within 20 feet of any athletic field, athletic facility, children's play area or entrance to the Community Center, Senior Center, or Town Hall. For purposes of this subsection, "smoking" means to inhale, exhale, burn, carry or possess any lighted tobacco or smoke tobacco-type products including cigarettes, medicinal or recreational marijuana, cigars, pipes, e-cigarettes, vapor and other synthetic-type products or smokeless types of devices, water pipes, hookah, shisha, chewing tobacco, snuff and other products containing tobacco.

6. Glass beverage bottles and containers are not allowed in the parks or other town facilities.

7. The sale of food, beverages or other merchandise is prohibited, unless specifically authorized by permit issued by the Town.

H. The town of Huachuca City assumes no liability for loss, damage, injury or illness incurred by the users of the facilities. User Users shall secure and maintain, throughout the period of use contemplated under this agreement, general liability insurance with policy limits of not less than \$1,000,000 per occurrence. The town of Huachuca City, its elected and appointed officials, officers, agents and employees shall be named as additional insured by endorsement. Such policy or policies of insurance shall further provide that said policies of user shall be primary over any insurance held by the town that may be applicable. The types and limits of insurance may be changed from time to time as determined by the town of Huachuca City. Within 72 hours of scheduling, excluding weekends and observed holidays, all users must provide the town of Huachuca City with a certificate of insurance and other documentation as may be required by the town. Failure to provide the required documentation may result in cancellation and forfeiture of any deposits paid.

User agrees to hold the town of Huachuca City harmless and free from any liability of any nature arising out of the use of town recreational facilities, to include reimbursement of any legal costs and fees incurred in defense of such claims.

I. [Unchanged]

J. [Unchanged]

K. [Unchanged]

L. [Unchanged]

M. Civil Violations. When a violation of this chapter is undesignated or designated a first offense by the enforcement officer or the Town Attorney, a person found to have been in violation of this chapter shall be deemed to have committed a civil offense and shall be subject to a civil penalty of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), plus restitution for personal injuries, property damage or any other economic loss suffered by any person(s) including the Town.

N. Criminal Violations. When a person convicted of a violation of this chapter is a person who has been previously found responsible or convicted of a violation of a provision of this chapter within a period of twelve (12) months, the person shall be deemed to have committed a Class 2 misdemeanor, pursuant to Arizona Revised Statutes, Title 13, Chapters 6, 7 and 8, as amended, and shall be subject to a fine of not less than seventy-five dollars (\$75.00) nor more than seven hundred fifty dollars (\$750.00) for each violation or count, plus surcharges, fees and restitution for personal injuries, property damage or any other economic loss suffered by any person(s) including the Town.

SECTION 2. All ordinances, parts of ordinances, resolutions, parts of resolutions, policies, and parts of policies in conflict with the provisions of this Ordinance, or any part hereof, are hereby repealed.

SECTION 3. If any section, subsection or portion of this Ordinance is for any reason held to be invalid or unenforceable by the decision of a court of competent jurisdiction, such decision shall not affect the validity or enforceability of the remaining portions hereof.

SECTION 4. The Town Clerk is hereby directed, pursuant to the Code, sections 2.25.080 and 2.25.090, to post this Ordinance in three or more public places within the Town, and to publish this Ordinance as required by A.R.S. 9-812 and 39-204.

PASSED AND ADOPTED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF HUACHUCA CITY, COCHISE COUNTY, ARIZONA, THIS 8th DAY OF NOVEMBER, 2018.

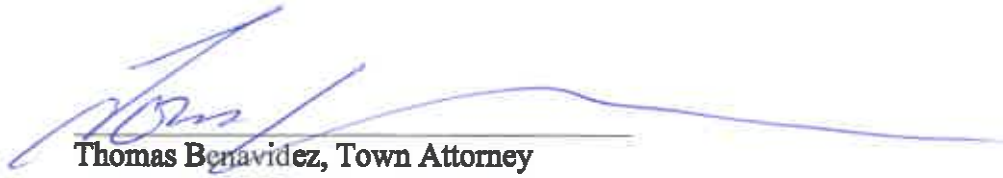

Kenneth Taylor, Mayor

ATTEST:



Jennifer Fuller, Town Clerk

Approved as to Form:



Thomas Benavidez, Town Attorney

