

ORDINANCE NO. 2159

AN ORDINANCE OF THE CITY OF DAVIS AMENDING ORDINANCE NO. 2084 RELATING TO THE PROHIBITION OF THE POSSESSION OF OPEN CONTAINERS OF, AND THE CONSUMPTION OF, ALCOHOLIC BEVERAGES IN SPECIFIED PUBLIC PLACES AND AROUND SCHOOLS, AND THE PROHIBITION ON THE CONSUMPTION OF ALCOHOLIC BEVERAGES ON OR NEAR THE PREMISES OF OFF SALE LIQUOR LICENSEES, AND AMENDING ARTICLE 26.04 OF THE DAVIS MUNICIPAL CODE TO ADD OXFORD PARK TO THE LIST OF PUBLIC PLACES WHERE IT IS UNLAWFUL TO CONSUME ANY ALCOHOLIC BEVERAGE OR POSSESS ANY OPEN CONTAINER OF AN ALCOHOLIC BEVERAGE

WHEREAS, the City Council adopted Ordinance Number 2084 on June 12, 2002, which added Article 26.04 to the Davis Municipal Code, which, among other things, made it unlawful for any person to consume any alcoholic beverage or to have in his or her possession any open container of any alcoholic beverage in certain public places, with certain exceptions; and

WHEREAS, Ordinance Number 2084 also provided that Article 26.04 would sunset two years from its effective date; and

WHEREAS, the City Council finds that the provisions in Article 26.04 have been effective in addressing the problems associated with the consumption of alcoholic beverages in public, including vandalism, violence, litter, trespassing, graffiti and drug activity; and

WHEREAS, the City Council finds that continuing to regulate and prohibit the possession of open containers of alcoholic beverages is necessary to preserve the public health, safety and welfare,

THE CITY COUNCIL OF THE CITY OF DAVIS DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Article 26.04 of the Davis Municipal Code is hereby amended to read as follows:

- 26.04.010 Definitions
- 26.04.020 Consumption of Alcoholic Beverages and Possession of Any Open Container of Alcoholic Beverage in Public Unlawful
- 26.04.030 Signage Prohibiting the Possession and Consumption of Alcoholic Beverages
- 26.04.040 Permit Authorizing Possession or Consumption of Alcoholic Beverages
- 26.04.050 Possession of Any Open Container of Alcohol Prohibited on Off-Sale Premises
- 26.04.060 Penalty for Violation

26.04.010 Definitions

- (a) "Alcoholic beverage" means alcohol, spirits, liquor, wine, beer, and any liquid or solid containing alcohol, spirits, liquor, wine, or beer, and which contains one-half of one percent or more of alcohol by volume.
- (b) "Cedar Park" means the City park located at 626 K Street, between Hunt Way and Yale Drive, also known or referred to as "K Street Park."
- (c) "Central Park" means the City park bordered by 3rd Street, 5th Street, B Street and C Street.
- (d) "Open container" means a bottle, can, jug, box or other receptacle that contains an alcoholic beverage and has been opened, a seal broken, or the contents partially removed.
- (e) "Oxford Circle Park" means the City park located at 505 Oxford Circle, between Guava Lane, Wake Forest Drive and Oxford Circle.
- (f) "Primary or secondary school" includes a school that offers primary instruction to kindergarten through twelfth grade, or any fraction thereof.
- (g) "Special event" includes, but is not limited to, the following types of activities: a neighborhood block party, barbecue, picnic, fundraiser, community event or any other type of similar social event.

26.04.020 Consumption of Alcoholic Beverages and Possession of Any Open Container of Alcoholic Beverages in Public Unlawful

- (a) It shall be unlawful for any person to consume any alcoholic beverage or to have in his or her possession any open container of beer, wine, or any alcoholic beverage, or intoxicating liquor on any street, sidewalk, alley, highway, off-street public parking lot or structure; in Cedar Park, Central Park, or Oxford Circle Park; within six hundred feet of any primary or secondary school campus property lines at any time loitering is prohibited pursuant to Section 26.03.030; or in other areas commonly held open to the public use, except:
 - 1. Any public park and greenbelt, except for the parks listed above or within six hundred feet of any primary or secondary school campus property lines at any time as specified above; or
 - 2. Public streets or sidewalks on which the City has granted an encroachment permit for a sidewalk cafe, beer garden or equivalent use that includes on-site alcohol sales; or
 - 3. Special events if the City has granted a street use or other permit that, during the event, authorizes or permits persons attending the event to consume alcoholic beverages in areas where such consumption/possession is otherwise prohibited by this section.

(b) It shall be unlawful for any person to consume any alcoholic beverage or to have in his or her possession any open container of beer, wine, or any alcoholic beverage, or intoxicating liquor in any private parking lot that is located on property containing two or more residential dwelling units if such parking lot is posted with a sign prohibiting the possession of an open container of an alcoholic beverage or the consumption of an alcoholic beverage.

26.04.030 Signage Prohibiting the Possession and Consumption of Alcoholic Beverages

(a) The City Parks and Community Services Department shall post appropriate signs in Cedar Park, Central Park, and Oxford Circle Park advising the public that the possession of an open container of an alcoholic beverage or the consumption of an alcoholic beverage within the park and its adjacent sidewalks and streets is not permitted. At least one sign shall be posted to face each street of each park. For example, a minimum of four signs shall be placed in Central Park. At least one sign shall face each of the four streets that border Central Park (3rd Street, 5th Street, B Street and C Street). Such signs shall be posted in a conspicuous manner.

(b) The City shall post signs at or near the main entrances of each primary or secondary school campus, and/or within, but not exceeding the six hundred foot perimeter around each campus. The signs shall be clearly and conspicuously posted and shall state when the possession of an open container of an alcoholic beverage or the consumption of an alcoholic beverage is not permitted, pursuant to Section 26.04.020.

(c) The owner of property containing two or more dwelling units may prohibit the possession of an open container of an alcoholic beverage or the consumption of an alcoholic beverage within any parking lot on such property by posting a sign in plain view at or near each driveway to the parking lot that sets forth such prohibition substantially in the following form:

"Possession of an open container of an alcoholic beverage or consumption of an alcoholic beverage is prohibited in this parking lot. Article 26 of the Davis Municipal Code."

Such sign shall be no smaller than seventeen (17) inches by twenty-two (22) inches in size, shall contain lettering at least one (1) inch in height, and shall be mounted so that the lower edge of the sign is at least four (4) feet, and the top edge does not exceed seven (7) feet above ground level. The property owner shall have sole responsibility for the construction and maintenance of such sign.

26.04.040 Permit Authorizing Possession Or Consumption Of Alcoholic Beverages

Any person who desires to consume or possess an alcoholic beverage during a special event, in which a permit is required under Section 26.04.020(a), may apply for an open container permit. The open container permit application shall be submitted to the Police Department in conjunction with an encroachment, street use or similar permit, or shall be submitted as a separate open container permit if no other permit is required. The cost of such permit shall be in accordance with the City Master Fee Schedule. Permits not issued in conjunction with an encroachment, street use or similar permit shall be subject to the following:

(a) If the special event will involve ten (10) or fewer people, an open container permit shall be submitted to the Police Department within three (3) business days of the date in which the special event is anticipated to occur.

(b) If the special event will involve eleven (11) or more people, an open container permit shall be submitted to the Police Department within sixteen (16) business days of the date in which the special event is anticipated to occur. During the sixteen business days, notice of the application shall be provided by the applicant to all residents who reside within two hundred (200) feet of the proposed special event.

26.04.050 Possession of Any Open Container of Alcohol Prohibited on Off-Sale Premises

It shall be unlawful for any person who has in his or her possession an open container of beer, wine, or any alcoholic beverage or intoxicating liquor, to enter, be, or remain on, the premises of (including the parking lot and public sidewalk immediately adjacent thereto) any retail package off-sale alcoholic beverage licensee licensed pursuant to Division 9 (commencing with Section 23000) of the state Business and Professions Code, if those premises contain a clearly visible notice(s) prohibiting such possession.

26.04.060 Penalty for Violation

A violation of this article shall constitute an infraction. A judge or magistrate may apply any remedy that is in accordance with state law to punish a person who has violated this article.

Section 2. Section 2 of Ordinance 2084 is hereby amended to read as follows:

In coordination with the Police Department, the City Manager shall provide an annual informational report, including offenses and issues, to the City Council and applicable City commissions on the impacts and effectiveness of this Ordinance based on police data.-

Section 3. Section 3, relating to a two-year sunset, of Ordinance 2084 is hereby repealed.

Section 4. All other terms and provisions of Ordinance 2084 shall remain in full force and effect.

INTRODUCED ON April 20, 2004 and PASSED AND ADOPTED, by the City Council of the City of Davis this 4th day of May, 2004, by the following vote:

AYES: GREENWALD, PUNTILLO, SAYLOR, SOUZA, ASMUNDSON.

NOES: NONE.

Ruth Uy Asmundson, Mayor

ATTEST

Bette Racki, City Clerk