



Ordinance

OFFICE OF THE
MAYOR
CITY OF SAN LUIS

Number 166

AN ORDINANCE OF THE SAN LUIS CITY COUNCIL AMENDING CHAPTER 9 OF THE SAN LUIS CITY CODE BY ADDING 9-1-7, SPIRITUOUS LIQUOR REGULATIONS INVOLVING PERSONS UNDER THE LEGAL DRINKING AGE; ESTABLISHING REGULATIONS AND VIOLATIONS REGARDING THE SALE, POSSESSION AND CONSUMPTION OF SPIRITUOUS LIQUOR BY PERSONS UNDER THE LEGAL DRINKING AGE, PROVIDING PENALTIES FOR VIOLATIONS THEREOF AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, AS FOLLOWS:

Section 1: That article 9-1-7, Spirituos Liquor Regulations Involving Persons Under the Legal Drinking Age, are hereby added to the City Code as follows:

9-1-7 Spirituos Liquor Regulations Involving Persons Under the Legal Drinking Age.

- A. Purpose
- B. Definitions
- C. Violations
- D. Consent
- E. Exceptions
- F. Penalties for Violations

A. Purpose

The purpose of this ordinance is to ensure the safety and welfare of the residents and visitors of the City of San Luis by promoting a spiritous liquor-free environment for persons under the legal drinking age.

B. Definitions

1. "Legal Drinking Age" means the age of twenty-one years or older.
2. "Off-Sale Retailer" means any person operating a bona fide business regularly established retail liquor store selling alcoholic beverages and any established retail store selling commodities other than alcoholic beverages and engaged in the sale of alcoholic beverages in the original unbroken package, to be taken away from the premise of the retailer and to be consumed off the premise.
3. "On-Sale Retailer" means any person operating an establishment where alcoholic beverages are sold in the original container for consumption on or off the premises or in individual portions for consumption on the premises.
4. "Person" includes a partnership, limited liability company, association, company or corporation, as well as a natural person.
5. "Posses a spirituous liquor" means actual or in constructive control, custody or detention of the spirituous liquor by a person under the legal drinking age. It also includes a person under the legal drinking age having spirituous liquor in one's body, or a concentration thereof in one's breath, urine, blood or other bodily substance, regardless of the geographic location the spirituous liquor was ingested.
6. "Spirituous Liquor" means alcohol, brandy, whiskey, rum, tequila, mescal, bacanora, gin, wine, porter ale, beer, any malt liquor or malt beverage, absinthe, a compound or mixture of any of them or of any of them with any vegetable or other substance, alcohol bitters, bitters containing alcohol, any liquid mixture or preparation, whether patented or otherwise, which produces intoxication, fruits preserved in ardent spirits and beverages containing more than one-half of one percent of alcoholic volume.

C. Violations

1. No person under the legal drinking age shall consume or be under the influence of a spirituous liquor.
2. No person shall sell, furnish, dispose of, or give, or cause to be sold, furnished, disposed of or given to a person under the legal drinking age, a spirituous liquor.
3. No person under the legal drinking age shall drive or be in actual physical control of a motor vehicle while there is any spirituous liquor in the person's body.
4. No person under the legal drinking age shall have any spirituous liquor in the person's body.
5. No person may refuse to submit to a test or tests of the person's blood, breath, urine or other substance for the purpose of determining if there is spirituous liquor in the person's body or concentration thereof, if arrested for any acts alleged to have been committed in violation of a law of the State of Arizona or an ordinance of the City of San Luis, involving the regulation of a spirituous liquor. The test or tests chosen by the law enforcement officer shall be administered at the direction of a law enforcement officer having reasonable grounds to believe that the person was:
 - a. Under the legal drinking age and has or possesses spirituous liquor in the person's body, or
 - b. Has violated a law of the State of Arizona or an ordinance of the City of San Luis, involving the regulation of spirituous liquor.

D. Consent

A person under the legal drinking age or operating a motor vehicle gives consent to a test or tests of the person's blood, breath, urine or other bodily substance for the purpose of determining if there is spirituous liquor in the person's body or to determine spirituous liquor concentration.

E. Exceptions

No part of this ordinance shall apply to any person in the following situations:

1. A person who is at least sixteen years of age and is employed by an off-sale retailer, to check out, if supervised by a person on the premises who is at least nineteen years of age, package or carry merchandise, including spirituous liquor in unbroken packages, for the convenience of the customer of the employer, if the employer sells primarily merchandise other than spirituous liquor.
2. A person who is at least nineteen years of age to sell and be in possession of a spirituous liquor in unbroken packages who is employed by an off-sale retailer.
3. A person under the legal drinking age who is employed by an on-sale retailer for the sole purpose of cleaning tables, removing dirty dishes, keeping a ready supply of needed items and helps clean up the premises.
4. A person who dispenses a spirituous liquor in the performance of a religious service or ceremony or a person who receives or consumes a spirituous liquor in the performance of a religious service or ceremony.

F. Penalties for Violations

1. Any person who violates any part of this ordinance is guilty of a class (2) two misdemeanor unless another classification is prescribed.
2. Any person who violates 9-1-7 paragraph C 1, 3 or 4 is guilty of a class (1) one misdemeanor.
3. Any person who violates 9-1-7, paragraph C.5, who is charged with violating A.R.S. § 28-1321, shall be punished as provided therein, and not otherwise.

Section 2: SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 3: CONFLICTS

All ordinances and parts of ordinances, in conflict with the provisions of this ordinance or any part of the section of code adopted herein, are hereby repealed.

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SAN LUIS CITY COUNCIL

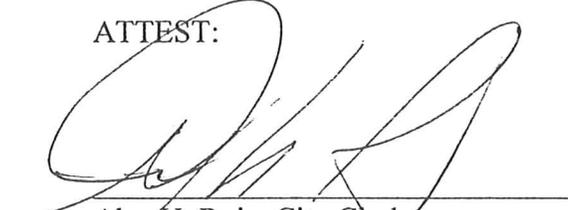
Section 4: DECLARING AN EMERGENCY

Whereas, it is necessary for the preservation of the peace, health and safety of the City of San Luis, Arizona, an emergency is declared to exist, and this ordinance shall become immediately operative and enforced on and after the date of adoption by the council of the City of San Luis, Arizona.

PASSED AND ADOPTED by the Mayor and City Council of the City of San Luis, Arizona this 10th day of May, 2000.

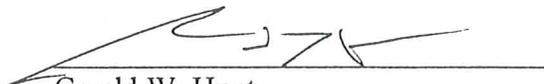
Alex Joe Harper, Mayor

ATTEST:



Alex U. Ruiz, City Clerk

APPROVE AS TO FORM



Gerald W. Hunt
City Attorney