

ORDINANCE NO. 011-15

AN ORDINANCE OF THE CITY OF DE LEON, TEXAS REPEALING AND REPLACING ORDINANCE NO. 004-10, ALCOHOLIC BEVERAGES; REGULATING THE POSSESSION AND USE OF ALCOHOLIC BEVERAGES IN THE CITY; ELIMINATING THE RESTRICTIONS ON WHERE ALCOHOL MAY BE SOLD; PROVIDING FOR A CITY PERMIT FEE FOR BUSINESSES SELLING ALCOHOL; PROVIDING FOR PENALTIES FOR VIOLATION OF THE ORDINANCE; PROVIDING FOR SEVERABILITY AND REPEALING CLAUSES; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION HEREOF.

WHEREAS, the City Council of the City of De Leon, Texas finds that it is in the best interest of the health and welfare of the City, its citizens, and the public to establish rules regulating the use and possession of alcohol;

WHEREAS, the City Council finds that the restrictions on where alcohol may be sold contained in Ordinance No. 004-10 are too restrictive and wishes to eliminate those restrictions; and

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DE LEON, TEXAS that:

- I. Repeal. Ordinance No. 004-10, adopted on April 8, 2010, is hereby repealed.
- II. Enactment. The following provisions shall be and are, hereby, enacted and adopted as the Alcoholic Beverages Ordinance of the City of De Leon.

Section 1. Definitions. The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Alcoholic beverage shall mean any beverage containing more than one-half of one percent of alcohol by volume which is capable of use for beverage purposes, either alone or when diluted.

Illicit beverage is any alcoholic beverage consumed or possessed in violation of this Ordinance.

Public place shall mean any place to which the public or a substantial group of the public has access and shall include, but not be limited to, public streets, public parks, schools, hospitals, commercial businesses, and parking lots.

Section 2. Consumption and possession in public places prohibited. To the fullest extent the Texas Alcoholic Beverages Code allows the City by ordinance to prohibit the consumption or possession of alcoholic beverages, it is unlawful for any person to intentionally or knowingly consume or possess any alcoholic beverage in any public place within the City.

Section 3. Exception for certain events with approval of Council. It is an exception to Section 2 of this Ordinance if the City Council approves the possession and consumption of alcohol at the De Leon Community Park during specific events as approved by the City Council. The sponsor of an event must request this exception prior to contracting for the lease or use of the Community Park or any part of the Community Park for an event, and the specific terms under which this exception is granted by the City Council must be contained in the written contract or lease agreement between the event sponsor and the City. This exception must be granted by the City Council at a duly noticed public meeting by motion and vote of the Council on an annual basis for each event. This exception is limited to events that are open to the public and shall be restricted to permitting the event sponsor to allow participants to bring their own ice coolers or ice chests on to the premises for a charge. The ice coolers or ice chests may contain alcoholic beverages for consumption while at the event. No glass containers of any kind will be allowed to be brought into the Park under this exception. The event sponsor must agree to all terms and restrictions imposed under this exception, including but not limited to providing security personnel for the event at a level set by the City Council. All security for an approved event will consist of licensed peace officers and will be approved and coordinated by the De Leon Chief of Police. Alcohol brought on to the Community Park premises under this provision may not be sold to any other person under any circumstances. Laws prohibiting public intoxication will be enforced during any approved event.

Section 4. Seizure of illicit beverages; penalty. Any illicit beverage may be seized without warrant and be used as evidence of a violation of law. Any person in possession of an illicit beverage commits a misdemeanor punishable by a fine of not less than \$10 nor more than \$200.

Section 5. Permit fee. There is hereby levied a Permit Fee equal to one-half (1/2) of the amount of the state fee against any business, within the City limits, that sells alcoholic beverages. This fee is payable to the City at the time that the state permit for that business is granted or renewed, or prior to the date such business begins selling alcoholic beverages in the City. Entities designated under Section 11.38(d) of the Texas Alcoholic Beverages, now or as amended, are exempt from this Permit Fee.

III. Severability. Should any section or part of this Ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstances thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this Ordinance are declared to be severable.

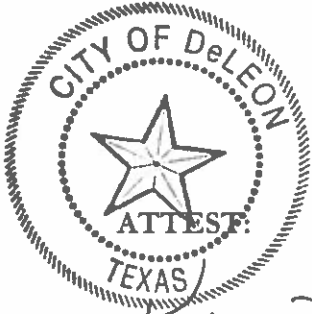
IV. Repealing Clause. All provisions in conflict with the provisions of this Ordinance shall be, and the same are hereby repealed, and all other provisions not in conflict with the provisions of this Ordinance shall remain in full force and effect.

V. Open Meetings. It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the *Open Meetings Act, Texas Govt. Code, Chapt. 551.*

VI. Effective Date. This Ordinance shall take effect immediately upon its adoption by the City Council and publication as required by the City Charter or the Texas Local Government Code.

PASSED AND APPROVED on this 13 day of October, 2015.

PASSED, APPROVED AND ADOPTED on this 26 day of October, 2015.



Ron Johnson
Ron Johnson, Mayor

Karen Wilkerson
Karen Wilkerson, City Administrator/Secretary