

Proposed Ordinance

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA AMENDING AND REVISING THE SAN LUIS CITY CODE CHAPTER 94 RELATING TO REGULATING ALCOHOL IN CITY PARKS AND FACILITIES AND PROHIBITING GLASS CONTAINERS IN CITY PARKS; REPEALING ANY CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PENALTIES FOR VIOLATION.

BE IT ORDAINED by the Mayor and City Council of the City of San Luis, Arizona, as follows:

Section 1. Chapter 94 is hereby amended so its title reads as follows:

CHAPTER 94: PARKS AND RECREATION

Section 2. Under Chapter 94, subchapter titled "General Provisions," Section 94.02 of the City Code is hereby amended to read as follows:

§ 94.02 FEES.

The City Council may establish by resolution or by order fees for the use of city parks, fields, facilities, and for alcohol permits and special alcohol permits.

Section 3. Under Chapter 94, subchapter titled "General Provisions," Section 94.03 of the City Code is hereby added to read as follows:

§ 94.03 GLASS CONTAINERS PROHIBITED.

It shall be unlawful for any person to possess a glass container in any city park.

Section 4. Under Chapter 94, subchapter titled "Alcoholic Beverages," Section 94.14 of the City Code is hereby added to read as follows:

§ 94.14 DEFINITIONS.

For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALCOHOL OR ALCOHOLIC BEVERAGE. Beer, distilled spirits, spirituous liquor and wine as those terms are defined in A.R.S. §4-101.

APPLICANT. The person applying for an Alcohol Permit or Special Alcohol Permit.

BEER. As beer is defined in A.R.S. §4-101.

DEPARTMENT. The Department of Parks and Recreation of the city.

DIRECTOR. The Director of the Department of Parks and Recreation for the city.

PERMITTEE. The person issued an Alcohol Permit or Alcohol Permit with a Special Alcohol Permit.

PLAYING FIELD. The outdoor areas within city parks set up to play any turf games such as baseball, softball, soccer, futsal, etc.; and the outdoor areas within city parks set up to play court games such as basketball, tennis, etc.

PLAYGROUND. The outdoor areas within city parks where there is playground equipment for children or where there are skate parks or any other area clearly intended for children to play.

WINE. As wine is defined in A.R.S. §4-101 as it may be amended.

Section 5. Under Chapter 94, subchapter titled "Alcoholic Beverages," Section 94.15 of the City Code is hereby amended, to read as follows:

§ 94.15 ALCOHOLIC BEVERAGES PROHIBITED.

It shall be unlawful for any person, while in any city park or in any city facility to commit the following acts except as permitted in this chapter:

- (A) drink or have in his or her possession any alcoholic beverage and/or
- (B) possess any container or receptacle containing any alcoholic beverage opened, its seal broken or the contents of which have been partially removed.

Section 6. Under Chapter 94, subchapter titled "Alcoholic Beverages," Section 94.16 of the City Code is hereby repealed and replaced, to read as follows:

§ 94.16 EXCEPTIONS.

The exceptions to prohibitions on Alcohol in §94.15 are as follows:

- (A) Beer and Wine are allowed in compliance with a valid Alcohol Permit as regulated by this chapter.
- (B) Beer and Wine are allowed in compliance with a valid liquor license issued by the State of Arizona.

Section 7. Under Chapter 94, subchapter titled "Alcoholic Beverages," Section 94.17 of the City Code is hereby added to read as follows:

§94.17 ALCOHOL PERMIT.

An Alcohol Permit must be in writing and authorized by the Department.

(A) Application, Conditions, Denial, Appeal, Revocation of Alcohol Permit.

1. Application.

- a. With the Alcohol Permit application, the Applicant must either reserve a ramada in a city park or rent a facility from the Department.
- b. The Applicant must be at least 21 years of age as demonstrated to the Department at the time of application by valid photo identification or any other demonstration of age required by law.
- c. The Applicant must pay the fees to reserve a ramada or to rent a facility and the Alcohol Permit fees before the Department will consider the Alcohol Permit application.

2. Conditions. The Department may require security or make other reasonable requirements as conditions on the Alcohol Permit depending on the number of people anticipated at the event and the nature of the event.

3. Denial. The Director may deny an Alcohol Permit to Applicants with demonstrated past non-compliance with city park or facility rules or for other reasonable cause.

4. Appeal. Any person aggrieved by the denial of an Alcohol Permit may appeal the decision of the Director to the City Manager. The Applicant's appeal must be in writing on a form provided by the Department. The written appeal must be submitted to the City Clerk's office within 5 working days of the Director's denial. The City Manager shall act upon the appeal within 5 working days following receiving the appeal. The City Manager's decision is final and binding on both the Applicant and the city. The City Manager may delegate the duties in this subsection.
5. Revocation. The Director or the City Manager may revoke an Alcohol Permit if the Director or the City Manager determines that the city park or facility is being used contrary to any representation made by the Permittee or to any conditions of the Alcohol Permit or Special Alcohol Permit; or the city park or facility is being used in violation of the law. The Director's or City Manager's decision to revoke an Alcohol Permit is final.

(B) Locations.

1. Ramadas in City Parks.
 - a. An Alcohol Permit may issue for an event at a ramada in a city park and an area surrounding the footprint of the ramada up to 50 feet.
 - b. Except, the 50 feet around a ramada shall not include:
 - i. a sidewalk,
 - ii. a street,
 - iii. an area 50 feet from a Playground,
 - iv. a Playing Field and its spectator area.
2. Designated Facilities.
 - a. The Department may issue an Alcohol Permit for facilities designated by City Council.
 - b. The Department may issue an Alcohol Permit to the city at facilities City Council designates for city-hosted events.
 - c. City Council shall designate facilities or remove facilities from designation under this section by resolution or order.
 - d. The Director shall have the discretion to deny an Alcohol Permit for a facility if the particular event is unsuitable for the facility. The Director shall have the discretion to close a designated facility for maintenance, for repair or for public safety.

(C) Permittee Responsibility. Once the Alcohol Permit Issues, the Permittee shall be the person responsible for ensuring the Permittee's event complies with the Alcohol Permit.

1. Alcohol Permits are valid for adults over 21 years of age to consume Beer and Wine.
2. Permittee must ensure that at Permittee's event there is no possession or consumption of Alcohol by people under 21 years of age, no drunkenness, and no sale of alcohol.
3. Alcohol Permits are only valid for the date and time period of the ramada reservation or of the facility rental.
4. The Alcohol Permit must be in the possession of the Permittee at all times during the time reserved for the ramada or the rental of the facility.
5. The Permittee must be present at the ramada or the facility for the duration of the time reserved or rented.
6. The Permittee must show the Alcohol Permit to any peace officer with jurisdiction if the peace officer requests to see it.
7. For ramadas, glass bottles or other glass containers are prohibited.
8. Permittee shall be sure after the event that the ramada and surroundings or the facility is clean and free of litter.
9. Permittee shall follow any conditions on the Permittee's Alcohol Permit.
10. If the Permittee has a Special Alcohol Permit, the Permittee shall follow any conditions on that Special Alcohol Permit.

(D) Department Responsibility. In addition to processing applications for Alcohol Permits and Special Alcohol Permits in compliance with this chapter, the Department shall provide a copy (either on paper or electronically) of approved Alcohol Permits and Special Alcohol Permits to the San Luis Police Department. The Department and the San Luis Police Department shall devise appropriate procedures for implementation of effective communication between the two departments regarding these permits.

Section 8. Under Chapter 94, subchapter titled "Alcoholic Beverages," Section 94.18 of the City Code is hereby added to read as follows

§94.18 KEGS PROHIBITED EXCEPT WITH SPECIAL ALCOHOL PERMIT.

- (A) It shall be unlawful for any person to possess or bring Alcoholic Beverages in kegs into a city park or city facility.
- (B) **Exception.** A person may possess or bring a keg of Beer in a city park or city facility with a Special Alcohol Permit issued by the Department if the following regulations are met.
 - 1. Special Alcohol Permits shall only issue with a ramada reservation or rental of a facility and an Alcohol Permit.
 - 2. The Applicant must pay the fee to reserve a ramada or to rent a facility, pay the Alcohol Permit fee and pay the Special Alcohol Permit fee before the Department will consider the Special Alcohol Permit application.
 - 3. A Special Alcohol Permit shall be valid for Beer, for no more than 2 kegs of Beer and the maximum keg size allowed is 15.5 gallons. The Applicant may request less than the maximum quantity of Beer allowed.
- (C) **Conditions.** The Department may require security or make other reasonable requirements as conditions on the Special Alcohol Permit depending on the number of people anticipated at the event and the nature of the event.
- (D) **Revocation.** A revocation of an Alcohol Permit is an automatic revocation of a Special Alcohol Permit.

Section 9. Under Chapter 94, a new subchapter titled "*Penalty*" placed after Section 94.20 and above Section 94.99 and Section 94.99 to read as follows:

PENALTY

§ 94.99 PENALTY.

- (A) **General.** Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.
- (B) **Alcoholic Beverages.** Upon conviction for violation of §§ 94.15, 94.16, 94.17 or 94.18 the sentence to be imposed shall be a fine of not more than \$500 or imprisonment for not more than 30 days, or both. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

(C) **Tobacco products.** A person who violates § 94.20 of this chapter is responsible for a civil offense punishable under § 10.99. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

Section 10. All ordinances, parts of ordinances or resolutions in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed.

Section 11. 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 of this ordinance.

PASSED, ADOPTED and APPROVED by the Mayor and City Council of the City of San Luis, Yuma County, Arizona this ____ day of _____, 20__.

Gerardo Sanchez, Mayor

ATTEST:

APPROVED AS TO FORM:

Sonia Cornelio, City Clerk

Kay Marion Macuil, City Attorney