

ORDINANCE # 121

AN ORDINANCE SUPPLEMENTING CHAPTER 15, CREATING ARTICLE 2, SECTIONS 15-12 THROUGH 15-18 OF THE CODE OR ORDINANCES OF THE CITY OF WHEELER, TEXAS, ENTITLED "ALCOHOLIC BEVERAGES-CONSUMPTION AND OPEN CONTAINERS" MAKING IT UNLAWFUL TO CONSUME AN ALCOHOLIC BEVERAGE OR TO BE IN POSSESSION OF AN OPEN CONTAINER OF AN ALCOHOLIC BEVERAGE WITH THE INTENT TO CONSUME SAID ALCOHOLIC BEVERAGE UPON THE PUBLIC STREETS, HIGHWAYS, ALLEYS, SIDEWALKS, AND PARKING LOTS WITHIN THE CORPORATE LIMITS OF THE CITY OF WHEELER, TEXAS; DEFINING TERMS DECLARING POSSESSION OF AN OPEN CONTAINER OF AN ALCOHOLIC BEVERAGE PRIMA FACIE EVIDENCE OF AN INTENT TO CONSUME SAID ALCOHOLIC BEVERAGE; DECLARING A VIOLATION OF THIS ORDINANCE TO BE A MISDEAMNOR AND PROVIDING A PENALTY UPON CONVICTION THEREOF; PROVIDING FOR A SAVINGS CLAUSE, AND PROVIDING FOR PUBLICATION..

WHEREAS, the City Council has determined that the ordinance set forth below would be in the best interest of the citizens of the City of Wheeler, now, therefore:

BE IT ORDAINED BY THE CITY OF WHEELER, TEXAS:

ART. 2. Alcoholic Beverages-Consumption and Open Containers  
Sec. 15-12. Definitions.

As used in this ordinance, the following definitions will apply:

(a) "Alcoholic Beverage" means alcohol, or 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.

(b) "Possession" means care, custody, control, or management. Ownership in unnecessary nor is the possession required to be exclusive..

(c) "Open Container" shall include bottles or other containers of alcoholic beverage which have had the seal broken but have the cap or lid on the container and shall also include containers such as cups, mugs, glasses, thermos bottles, cans, and flasks..

(d) "Parking Lot" includes parking areas provided by business establishments for the convenience of their customers, clients or patrons, parking lots owned and operated by the State of Texas, County of Wheeler or by the City of Wheeler, Texas, or any other parking area owned and operated for the convenience of, and commonly used by, the public.

Sec.. 15--13.

It shall be unlawful for any person to drink or consume an alcoholic beverage or have in such person's possession an open container of an alcoholic beverage with the intent to drink or consume said alcoholic beverage while on any of the public highways, streets, alleys, sidewalks, or parking lots as defined in this ordinance, within the corporate limits of the City of Wheeler, Texas.

Sec. 15-14.

Possession of an open container of alcoholic beverage will be prima facie evidence of an intent to drink or consume said alcoholic beverage.

Sec. 15-15.

Any person who shall be convicted of a violation of this ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$1.00 nor more than \$200.00.

Sec. 15-16.

Should any provision of this ordinance be declared invalid for any reason, such declaration shall not effect the validity of other provisions of t this ordinance, it being the intent that the provisions of this ordinance be severable and remain valid not withstanding such declaration..

Sec 15-17.

This ordinance shall become effective from and after its final passage and publication as provided by law.

Sec 15-18.

The City Secretary is hereby authorized to cause publication of the descriptive caption of this ordinance as an alternative method provided by law..

AND IT IS SO ORDERED

Passed by the Council on first reading this 21 day of February, 1983..

Passed by the Council on second reading this            day of            1983.

Louis C. Stas  
Mayor

ATTEST

Mildred Ramsey  
Secretary