

ORDINANCE NO. 442

AN ORDINANCE OF THE CITY COUNCIL OF SATELLITE BEACH, FLORIDA, MAKING IT UNLAWFUL TO DRINK FROM OR POSSESS AN OPEN CONTAINER CONTAINING ANY ALCOHOLIC BEVERAGE WHILE IN OR ON A VEHICLE ON ANY HIGHWAY; PROVIDING DEFINITIONS, PENALTIES AND EXCEPTIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Satellite Beach has an interest in protecting the health safety and welfare of the residents of the City of Satellite Beach; and

WHEREAS, the City Council has determined that there is a direct relationship between vehicle accidents and the consumption of alcoholic beverages; and

WHEREAS, the City Council has determined that prohibiting the consumption of alcoholic beverages in a vehicle will reduce the danger of impaired drivers;

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF SATELLITE BEACH, FLORIDA:

SECTION 1. Policy and Intent. The City Council of the City of Satellite Beach finds that the consumption of alcoholic beverages in or on a vehicle on a highway poses a grave and imminent hazard to the health, safety and welfare of the residents of the City of Satellite Beach, Florida, and is in conflict with and of the spirit of the beverage laws of the State of Florida. It therefore is declared to be the policy of the City of Satellite Beach that the consumption of alcoholic beverages and/or the possession of any open container containing alcoholic beverages in or on a vehicle on a highway is prohibited.

SECTION 2. Definitions. For purposes of this ordinance, the following words and phrases shall have the following meanings:

(a) Vehicle shall mean every device, in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(b) Alcoholic Beverage shall mean any beverage which contains more than one percent (1%) of alcohol by weight.

(c) Highway shall mean any public street, avenue, boulevard, roadway, alley, sidewalk, parking lot or other right-of-way or any area upon which the public has the right to travel, whether public or private, located within the incorporated area of the City of Satellite Beach, Florida.

(d) Open Container shall mean any bottle, can or other receptacle or container containing any alcoholic beverage or any mixture containing an alcoholic beverage, which has been opened or a seal broken, or the contents of which have been partially removed.

(e) Possession shall mean actual physical possession or being located within a vehicle not within the exception set forth in Section 4 (d) of this Ordinance.

SECTION 3. Prohibitions. No person shall drink from or have in his possession any open container containing any alcoholic beverage or any mixture containing an alcoholic beverage while in or on a vehicle, whether moving or stopped on any highway.

SECTION 4. Exceptions. This ordinance shall not apply to:

(a) Any person engaged in picking up empty beverage containers for the purpose of collecting the deposit or value of the bottle or can itself.

(b) Any person taking part in a litter control campaign.

(c) The possession of any open container by any licensed distributor or licensed vendor of alcoholic beverages provided that such alcoholic beverage is being transported solely for commercial purposes.

(d) The transportation of any open container of alcoholic beverage in or on any vehicle on a highway provided that such container is in a compartment of the vehicle not readily accessible to the driver or passengers, such as a locked (not merely latched) glove compartment, trunk, or other non-passenger or non-driver area of the vehicle.

(e) The transportation of any open container or the consumption of alcoholic beverage in or on any vehicle on a highway duly licensed and operated for hire to transport passengers, such as charter buses, regularly scheduled buses, taxi cabs, and the separate passenger compartments of limousines; provided the operator thereof is not in immediate possession of, or engaged in the consumption of, any alcoholic beverage or open container of alcoholic beverage.

(f) The operation, for a consideration, of any vehicle by an individual duly licensed and supplied by a chauffeur service, limousine service, taxicab company, or bus company; provided the operator thereof is not in immediate possession of, or engaged in the consumption of, any alcoholic beverage or open container or alcoholic beverage, and is operating the vehicle while under, and in the scope of, the employment of a chauffeur service, limousine service, taxicab company, or bus company. The operator must have in his possession evidence of employment by a bona-fide chauffeur service, limousine service, taxicab company, or bus company.

SECTION 5. Penalty. Any person found guilty of violating the provisions of this ordinance shall be punished by a fine not to exceed five hundred dollars (\$500.00) and/or incarceration not to exceed sixty (60) days.

SECTION 6. Severability. In the event a court of competent jurisdiction shall hold or determine that any part of this ordinance is invalid or unconstitutional, the remainder of the ordinance shall not be affected and it will be presumed that the City Council did not intend to enact such invalid or unconstitutional provision. It shall further be assumed that the City Council would have enacted the remainder of this ordinance without said invalid or unconstitutional provision thereby causing said remainder to remain in full force and effect.

SECTION 7. Effective Date. This ordinance shall become effective immediately upon its adoption.

SECTION 8. Adoption. This ordinance was duly passed at a regular meeting of the City Council on the 4th day of March, 1987 and adopted on second and final reading at a regular meeting of the City Council on the 18th day of March, 1987.

Attest:

Mary E. Terrill  
City Clerk/Deputy Clerk

David R. Schechter  
David R. Schechter,  
Mayor