

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, AMENDING CHAPTER 24, STREETS AND SIDEWALKS, BY CREATING A NEW ARTICLE XI, DOWNTOWN SOCIAL DISTRICT, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA

WHEREAS, the North Carolina General Assembly enacted legislation in 2021 allowing municipalities to designate social districts within their jurisdiction to allow alcoholic beverages sold by licensed premises to be consumed within the district, outside of the establishment where the beverage was purchased; and

WHEREAS, the City of Fayetteville and the Cool Spring Downtown District, Inc., have worked together to propose a social district in downtown Fayetteville; and

WHEREAS, the City of Fayetteville and the Cool Spring Downtown District, Inc., believe that a social district is a valuable tool to increase economic activity and the vibrancy of downtown Fayetteville; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Fayetteville, North Carolina that:

Section 1. A new Article XI, Downtown Social District, be created as follows:

ARTICLE XI. DOWNTOWN SOCIAL DISTRICT

Sec. 24-350. Definitions

The following words, terms, and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context indicates a different meaning:

Customer means a person who purchases an alcoholic beverage from a permittee that is in a social district.

Liquor means "spirituous liquor," defined by G.S. §18B-101.

Malt Beverages means beer, lager, malt liquor, ale, etc., defined by G.S. §18B-101.

Mixed-Use Development means an integrated development containing both residential and nonresidential uses and adhering to a comprehensive plan and located on a single tract of land or on two or more parcels of land which may be separated only by a privately maintained street or other right-of-way or which may be contained in a single building.

Multi-Tenant Establishment means a building or structure, or multiple buildings and structures on the same property or within the same planned development project, that may be subject to a common declaration of restrictive covenants administered by a common property owners' association. Under common ownership, control, or property owners' association governance, that contains or contains multiple businesses that sell food, goods, services, or a combination of food, goods, and services, which include or are connected by common areas. The term multi-tenant establishment consists of a mixed-use development.

Non-Permittee Business is a business located in a social district and does not hold any North Carolina Alcoholic Beverage Control Commission (ABC) permit.

Open Container means a container that has a broken seal or a container other than the manufacturer's unopened original container.

Permittee means a person holding any of the following ABC permits:

- i. An on-premises malt beverage permit issued pursuant to G.S. §18B-1001(1).
- ii. An on-premises unfortified wine permit issued pursuant to G.S. §18B-1001(3).
- iii. An on-premises fortified wine permit issued pursuant to G.S. §18B-1001(5).
- iv. A mixed beverages permit issued pursuant to G.S. §18B-1001(10).
- v. A wine shop permit issued pursuant to G.S. §18B-1001(16).
- vi. A distillery permit issued pursuant to G.S. §18B-1100(5).

Public Street means any highway, road, street, avenue, boulevard, or another way within and under the control of the City or State and open to public use, including the sidewalks of any such street.

Person means an individual, firm, partnership, association, corporation, limited liability company, other organization or group, or other combination of individuals acting as a unit.

Premises means a fixed permanent establishment, including all areas inside or outside the licensed establishment, where the permittee has control through a lease, deed, or other legal processes.

Social District is defined as an outdoor area set by ordinance where alcoholic beverages sold by an establishment licensed for the sale of alcoholic beverages for on-premises consumption may be consumed in accordance with G.S. §18B-904.1 or other applicable State law. A social district may include both indoor and outdoor areas of businesses within or contiguous to the defined area during the days and hours established for the social district. A social district may include privately owned property, permittees, non-permittee businesses, multi-tenant establishments, public streets, crosswalks, or parking areas, whether or not the streets or parking areas are closed to vehicle traffic.

Wine means "fortified or unfortified wine," defined by G.S. §18B-101.

Sec. 24-351. Downtown Fayetteville's Social District

- a. The social district established by the City Council pursuant to G.S. §18B-904.1 is described herein, along with the days and hours of operation. To the extent required by applicable State law, any portion of a social district described within this Section that overlaps with premises subject to a permit for on-premises consumption of alcohol issued by the North Carolina Alcoholic Beverage Control Commission for a special event shall be suspended during the event to the extent the social district and the permitted premises are in conflict.

1. Boundary. A social district shall be established within the following boundaries: (i) Hay Street between Winslow Street and Market Square; (ii) Franklin Street between Winslow Street and Gillespie Street; (iii) West Russell Street between Winslow Street and Donaldson Street; (iv) Segra Stadium access between Hay Street and Ray Avenue; (v) Person Street between Market Square and Ottis F. Jones Parkway; (vi) Winslow Street between West Russell Street and Hay Street; (vii) Williams Street between West Russell Street and Franklin Street; (viii) Ray Avenue between West Russell Street and Maiden Lane; (ix) Burgess Street between Hay Street and Old Street; (x) Anderson Street between Hay Street and Old Street; (xi) Green Street between Market Square and 225 Green Street; (xii) Gillespie Street between Market Square and Franklin Street; (xiii) Market Square; (xiv) Pittman Street; (xv) Maxwell Street; (xvi) Donaldson Street; (xvii) Old Street; (xviii) Bow Street; and (xix) Ottis F. Jones Parkway
 2. The days and hours of operation for this social district shall be Monday to Saturday, from 12 p.m. to 10 p.m., and 10 a.m. to 10 p.m. on Sunday.
- b. Sale of Open Containers of Alcoholic

It shall be unlawful for a permittee located in a social district to sell open containers of alcoholic beverages and allow customers to exit its licensed premises to the social district unless the permittee meets the following requirements:

1. The permittee is located in an ABC-approved and City of Fayetteville-approved social district.
2. The permittee shall only sell an open container of an alcoholic beverage (malt beverage, fortified wine, or liquor) for consumption in the social district and off the premises of the permittee in a container that meets all of the following requirements:
 - a) The container clearly identifies the permittee from which the alcoholic beverage was purchased.
 - b) The container clearly displays a logo or some other mark that is unique to the social district in which it will be consumed.
 - c) The container is not comprised of glass.
 - d) The container displays, in no less than 12-point font, the statement, "Drink Responsibly - Be 21."
 - e) The container shall not hold more than 16 fluid ounces.
3. Nothing in this section shall be construed to authorize the sale and delivery of alcoholic beverage drinks in excess of the limitation set forth in G.S. § 18B- 1010.

c. Consumption in Public

Except as permitted in Chapter 5, Chapter 24 Article VIII, and Chapter 18 Article I of this section, no person shall consume any beer, wine, or liquor or

upon or within the limits of any public street or sidewalk in the city or upon any transit platform.

d. Possession of Open Container in Public

Except as permitted in Chapter 5, Chapter 24 Article VIII, and Chapter 18 Article I of this section, no person shall consume any beer, wine, or liquor within the limits of any public street or sidewalk in the city or upon any transit platform.

e. Container Disposal

It shall be unlawful for any person to drop, throw, cast, or deposit any used beer, wine, or liquor container upon any public street or sidewalk or upon the private business premises of another without permission of the owner or person in control of such premises.

f. Responsibilities of Non-Permittee Businesses in Social Districts

Any non-permittee business that is part of the social district and allows customers to bring alcoholic beverages onto its premises is not responsible for enforcement of G.S. §18B but must comply with the following requirements:

1. Clearly, post signage at any exits that do not open to the social district indicating that alcoholic beverages may not be taken past that point.
2. Post the uniform signage provided to the non-permittee business indicating that customers may bring alcoholic beverages onto the premises of the non-permittee business during the days and hours that the social district is active.
3. Allow law enforcement officers access to the areas of the premises accessible by customers during the days and hours the social district is active.

g. Requirements for Possession and Consumption of Open Containers of Alcoholic Beverages in the Social District.

Except where otherwise allowed by local ordinance, it shall be unlawful to possess or consume an open container of an alcoholic beverage in a social district during the hours established for the social district unless:

1. The alcoholic beverage is purchased from a permittee located in the social district;
2. The customer-purchased open container of alcoholic beverage is in a container meeting the requirements set forth in Sec. C, except for open containers sold by a permittee for consumption on the permittee's premises.
3. The person does not possess at one-time open containers of alcoholic beverages in the social district in excess of the number of alcoholic beverages that may be sold and delivered by a retail permittee as set forth in G.S. §18B-1010.

4. The person does not enter the premises of a non-permittee business in the social district with an open container of an alcoholic beverage unless the non-permittee business has the uniform sign for the social district as set forth in Sec. H displayed.
5. The person disposes of any open container of an alcoholic beverage purchased from a permittee in the person's possession prior to exiting the social district unless the person is reentering the licensed premises of the permittee where the alcoholic beverage was purchased.

Notwithstanding G.S. §18B-300 and G.S. §18B-301, a permittee or non-permittee business may allow a customer to possess and consume on the business's premises alcoholic beverages purchased from a permittee in the social district.

h. Multi-Tenant Establishments

Permittees and non-permittee businesses in a multi-tenant establishment located within a social district may participate in the social district regardless of whether the multi-tenant establishment has a common area entertainment ABC permit.

i. Standards and Provisions

Before beginning to operate, each social district's management and maintenance plan shall be approved by City Council. It shall be unlawful to operate a social district in violation of the standards and provisions adopted pursuant to this section.

j. Consumption and Possession of Alcoholic Beverages On City Property Or Public Vehicular Areas.

Except as provided by this temporary downtown social district, it shall be unlawful for any pedestrian to consume malt beverages or unfortified wine on any City street, and it shall be unlawful for any person to possess an open container of malt beverages or unfortified wine on any property owned, occupied, or controlled by the City. It shall also be unlawful to possess malt beverages and unfortified wine on any street, alley, or parking lot which is temporarily closed to regular traffic for a special event unless the City Manager or designee approves the permit in accordance with the policies set forth in City Council's Special Event Policy closing the street, alley, or parking lot makes other provisions for the possession of malt beverages or unfortified wine. An open container is one whose seal has been broken or a container other than the manufacturer's unopened original container.

Notwithstanding the above, the provisions of this section shall not be applicable to any streets or sidewalks located within a social district during the hours of operation of the social district. The provisions of the section shall remain applicable for any property owned, occupied, or controlled by the City that is located within a social district unless that property has been designated by the City as eligible for the consumption of alcohol under the rules of the social district and applicable State law.

k. Exceptions

Any public, community-sponsored function or activity being conducted on public streets, alleys, or parking lots that are temporarily closed to regular traffic or other city-owned parks and facilities located within the Downtown Social District, as defined by Section 24-350 of this Section, upon approval of a special events permit pursuant to Section 24-15 of Article IV and all applicable ABC regulations.

Sec. 24-352. Enforcement

Any person who violates this Article, and any person who aids, abets, encourages, assists in, or contributes to such violation, shall be guilty of a misdemeanor as provided in G.S. § 14-4 and, upon conviction, shall be subject to a maximum fine of \$500.00 per occurrence, imprisonment, or both.

Sec. 24-353. Severability

If any provision of this section is declared invalid or unconstitutional for any reason, the remaining provisions shall be severable and shall continue in full force and effect.

Section 2. It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance shall become effective on December 1, 2022, and be made part of the Code or Ordinances, City of Fayetteville, North Carolina, and the section of this ordinance may be renumbered to accomplish such intention.

ADOPTED this 28th day of November, 2022.

CITY OF FAYETTEVILLE



MITCH COLVIN, Mayor

ATTEST:



PAMELA J. MEGILL, City Clerk

