

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CITY OF DURHAM CODE OF ORDINANCES, CHAPTER 54 TITLED SALE AND SOLICITATIONS; BUSINESS REGULATION, TO CREATE AND DESIGNATE THE DOWNTOWN DURHAM SOCIAL DISTRICT

WHEREAS, pursuant to N.C.G.S. § 160A-205.4 the City may adopt an ordinance designating one or more social districts for use in accordance with N.C.G.S. § 18B-300.1; and

WHEREAS, the North Carolina General Assembly enacted the above legislation 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 and the Downtown Durham, Inc. have worked together to propose a social district in the downtown Durham area; and

WHEREAS, the City believes that a social district is a valuable tool to increase economic activity and vibrancy to the downtown area of Durham; and

WHEREAS, the passing of this ordinance aligns with the City of Durham's strategic plan goal of shared economic prosperity.

NOW THEREFORE, BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF DURHAM THAT:

1. Chapter 54 titled SALES AND SOLICITATIONS; BUSINESS REGULATION of the Durham Code of ordinances is amended to create Article VII titled SOCIAL DISTRICTS to read:

ARTICLE VII. SOCIAL DISTRICTS

Sec. 54-265. Purpose and Intent.

- (a) Pursuant to the provisions of G.S. § 160A-205.4, et seq, a municipality may, by ordinance, designate one or more social districts within the City for use in accordance with N.C.G.S. § 18B-300.1. The social district(s) established by the City are described herein, along with the days and hours of operation.
- (b) The Social Districts shall be created, designated, and managed in accordance with the requirements contained in G.S. § 160A-205.4 and Chapter 18B.
- (c) To the extent required by applicable State law, any portion of a social district described within this Article that overlaps with a 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.
- (d) The City shall establish and approve a management and maintenance plan for each established and designated social district. The plans are to be maintained and posted, along with a rendering

of the boundaries of the social district and days and hours during which alcoholic beverages may be consumed in the social district on the City's website.

Sec. 54-266. Definitions.

Non-permittee means and refers to a business that is located in a social district and does not hold any ABC permit.

Open Container means any alcoholic beverage where the seal of the original manufacturer container is broken or an alcoholic beverage that is possessed in a container other than the unopened manufacturer's container.

Permittee means and refers to an establishment holding any of the following ABC permits issued by the North Carolina Alcoholic Beverage Control Commission:

- (1) An on-premises malt beverage permit issued pursuant to G.S. 18B-1001(1).
- (2) An on-premises unfortified wine permit issued pursuant to G.S. 18B-1001(3).
- (3) An on-premises fortified wine permit issued pursuant to G.S. 18B-1001(5).
- (4) A mixed beverages permit issued pursuant to G.S. 18B-1001(10).
- (5) A wine shop permit issued pursuant to G.S. 18B-1001(16)
- (6) A distillery permit issued pursuant to G.S. 18B-1100(5).

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

Premises means and refers to a fixed permanent establishment, including all areas inside or outside the permitted establishment, where the permittee has control through a lease, deed, or other legal process.

Social district means and refers to a defined outdoor area in which a citizen may consume alcoholic beverages sold by a permittee.

Sec. 54-267. Established and Designated Social Districts

- (a) The Social Districts shall be created, designated, and managed in accordance with the requirements contained in G.S. § 160A-205.4 and Chapter 18B.
 - (1) Downtown Durham Social District. The Downtown Durham Social District shall be established and is designated as shown on a map dated October 17, 2022; the map is available in the office of the city clerk, and signage and/or markings shall be posted clearly delineating the boundaries of the social district. The days and hours of operation of this social district shall be between the hours of 11:00 a.m. and 10:00 p.m., Monday through Sunday, seven days a week. At all other times, the provisions and terms contained in this article are not in effect and all provisions of state and local laws concerning the possession and consumption of alcohol shall be in full force and effect.
- (b) Any person who violates this section and any person who aids, abets, encourages, assists in, or contributes to a violation of this section shall be punishable as an infraction pursuant to N.C.G.S. § 14-3.1 the procedure for disposition of infractions is as provided in Chapter 15A Article 66 of the North Carolina General Statues.

Sec. 54-268. Application

- (a) The social districts shall operate during the hours and days provided within this article. At all other times, the provisions and terms contained in this article are not in effect and all provisions of state and local laws concerning the possession and consumption of alcohol shall be in full force and effect.
- (b) Any alcoholic beverage purchased for consumption in the Social District shall (i) only be consumed in the Social District and (ii) be disposed of before the person in possession of the alcoholic beverage exits the Social District unless the person is reentering the licensed premises where the alcoholic beverage was purchased.
- (c) Any person who violates this section and any person who aids, abets, encourages, assists in, or contributes to a violation of this section shall be punishable as an infraction pursuant to N.C.G.S. § 14-3.1 the procedure for disposition of infractions is as provided in Chapter 15A Article 66 of the North Carolina General Statutes.

Sec. 54-269. Requirements for Permittee and Non-Permittee participation in the Social Districts.

- (a) A permittee located in or contiguous to the Social District may sell alcoholic beverages for consumption within the Social District it is located in or contiguous to in accordance with the following requirements, in accordance with N.C.G.S. § 18B-300.1:
 - (1) The permittee shall only sell and serve alcoholic beverages on its licensed premises;
 - (2) The permittee shall only sell alcoholic beverages for consumption in the social district for which they are located, in a container that meets the following requirements:
 - (i) The container clearly identifies the permittee from which the alcoholic beverage was purchased.
 - (ii) The container clearly displays a logo or some other mark that is unique to the social district in which it will be consumed.
 - (iii) The container is not comprised of glass.
 - (iv) The container displays, in no less than 12-point font, the statement, "Drink Responsibly – Be 21."
 - (v) 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 beverages without proper license to be obtained by the permittee from the North Carolina Alcoholic Beverage Control Commission.
- (b) Each permittee and non-permittee located within an established and designated social district and voluntarily wishes to participate shall display a uniform sign, provided by the City or its designee, indicating its inclusion in the social district, and allows alcoholic beverages on its premises when the social district is active. No business shall be required to participate or be included in the social district or to allow customers to bring alcohol onto its premises.
- (c) Any person who violates this section and any person who aids, abets, encourages, assists in, or contributes to a violation of this section shall be punishable as an infraction pursuant to N.C.G.S.

§ 14-3.1 the procedure for disposition of infractions is as provided in Chapter 15A Article 66 of the North Carolina General Statues.

Sec. 54-270. Requirements for possession and consumption of alcoholic beverages within a social district.

- (a) The possession and consumption of an alcoholic beverage in an established and designated social district is subject to all of the following requirements:
- (1) Only alcoholic beverages purchased from a permittee located in or contiguous to the social district may be possessed and consumed in the social district.
 - (2) Open container alcoholic beverages purchased in the social district shall only be in the containers meeting the requirements set in sec. 54-269 above. Except for open containers sold by a permittee for consumption on the permittee's premises.
 - (3) Open container alcoholic beverages shall only be possessed and consumed during the days and hours set for in sec. 54-267 of this article for the social district in which the beverage was purchased from the participating permittee.
 - (4) Nothing in this subdivision shall be construed as authorizing the sale and delivery of alcoholic beverage drinks in excess of the limitation set for in N.C.G.S § 18B-1010.
 - (5) All open container alcoholic beverages purchased within the social district shall be disposed prior to a person exiting the social district boundaries, unless the person is reentering the licensed premises where the alcoholic beverage was purchased.
- (b) As authorized by and subject to the limitations of N.C.G.S. § 18B-300.1 (f), a permittee or non-permittee business may allow a person to possess and consume on the business's premises alcoholic beverages purchased from a permittee in the social district.
- (c) Any person who violates this section and any person who aids, abets, encourages, assists in, or contributes to a violation of this section shall be punishable as an infraction pursuant to N.C.G.S. § 14-3.1 the procedure for disposition of infractions is as provided in Chapter 15A Article 66 of the North Carolina General Statues.

Sec. 54-271. Consumption and Possession of alcoholic beverages on city property or public vehicular areas

- (a) Except as provided by this Article, 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 property owned, occupied, or controlled by the City.
- (b) It shall 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 permit provides other provisions for the possession of malt beverage and unfortified wine.
- (c) 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 or operation of the social district. The provision of this 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.

- (d) Any person who violates this section and any person who aids, abets, encourages, assists in, or contributes to a violation of this section shall be punishable as an infraction pursuant to N.C.G.S. § 14-3.1 the procedure for disposition of infractions is as provided in Chapter 15A Article 66 of the North Carolina General Statues.

Sec. 54-272. Exceptions

When a special event held pursuant to the issuance of a special event permit, issued by the City, the terms of the special event permit supersede the provisions of this article within the boundaries of the special event. Any alcoholic beverages purchased within the boundaries of the special event may not be taken outside the special event boundary, even if the alcoholic beverage is to be taken from the boundary of the special event into the boundary of a social district.

Sec. 54-273. Enforcement

- (a) Infraction. Any person who violates this article and any person who aids, abets, encourages, assists in, or contributes to a violation of this article shall be punishable as an infraction pursuant to N.C.G.S. § 14-3.1 the procedure for disposition of infractions is as provided in Chapter 15A Article 66 of the North Carolina General Statues.
- (b) Civil Penalty. A Permittee or Non-permittee who violates or fails to comply with the provision of this article shall be subject to a civil penalty. The civil penalty of \$250.00 per day shall be assessed and each day that the violation continues shall constitute a separate offense, not exceed a cumulative amount of \$2,000.00.
- (c) Notice. The special events office of the Parks and Recreation Department shall serve written notice of any violation of this Article to the offender.
- (d) Appeal. Any offender so assessed a violation under this Article shall have the right to appeal upon serving written notice of appeal on the Director within ten (10) days of issuance of the notice of violation.

2. The City Manager or their designee is hereby directed to create a management and maintenance plan for the Downtown Durham Social district and post the plans and a rendering of the Social district boundaries on the City website. The City manager is authorized to and may contract with a third party organization to manage and maintain the Downtown Durham Social District in accordance with N.C.G.S. § 18B-300.1. The City Manager is authorized to amend and modify said contract from time to time as may be required for proper administration of management and maintenance of the Social District.

3. The City Manager or their designee is directed to submit a detailed map of the Downtown Social district and the days and hours during which the Social District shall be in operation to the North Carolina Alcoholic Beverage Control Commission.

4. Should any section or provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not affect the validity of this ordinance as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

5. This ordinance shall be effective December 1, 2022.

Read, approved, and Adopted this ____ day of _____, 2022.