CHAPTER 43. SOCIAL DISTRICTS

ARTICLE I. IN GENERAL

43-1. Purpose and intent.

A. Pursuant to the provisions of N.C.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 or operation.

B. The social district(s) shall be created, designated, and managed in accordance with the requirements contained in N.C.G.S. § 160A-205.4 and Chapter 18B.

C. 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.

43-2. Reserved.

43-3. 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 a social district established by this ordinance shall:

1. only be consumed in the social district or within a participating establishment, as established in Article III of this Chapter, and
2. be disposed of before the person in possession of the alcoholic beverage exits the Social District.

43-4. Severability.

A. If any section, phrase, sentence or portion of this Chapter is held void, invalid, unconstitutional or unenforceable for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision; and such holding shall not affect the validity of the remaining portions thereof.

ARTICLE II. DISTRICTS

43-5. Downtown Brevard Social District.

A. The social district established by the City Council pursuant to G.S. §160A-205.4 is described herein, along with the days and hours of operation.

1. *Boundary*. The Downtown Brevard Social District is hereby established as shown on the "Official Downtown Brevard Social District Map," as adopted by the Brevard City Council and certified by the city clerk.

2. *Days and Hours.* The days and hours of operation for this social district shall be Monday to Sunday, from 11 a.m. to 10 p.m. 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.

43-6 – 43-10. Reserved.

ARTICLE III. PARTICIPATION

43-11. Participation in general.

A. Each ABC permittee and non-permittee located within or contiguous to 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.

B. 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. ABC permittees and non-permittee businesses in a multi-tenant establishment located within the social district may participate in the social district regardless of whether the multi-tenant establishment has a common area entertainment permit, in accordance with N.C.G.S Chapter 18B.

43-12. Requirements for ABC permittee participation in a social district.

A. An ABC permittee located in or contiguous to the social district may sell alcoholic beverages for consumption within the social district it is located in accordance with the following requirements:

1. The ABC permittee shall obtain a permit from the City of Brevard;
2. The ABC permittee shall only sell and serve alcoholic beverages on its licensed premises;
3. The ABC 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:
    a. The container clearly identifies the ABC 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.

B. 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 N.C.G.S. § 18B- 1010.

C. Nothing in this section shall be construed to authorize the sale and delivery of alcoholic beverages without proper license to be obtained by the ABC permittee from the North Carolina Alcoholic Beverage Control Commission.

43-13. Requirements for non-permittee participation in a social district.

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

1. The non-permittee business shall post the uniform signage established by the social district 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.
2. 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.
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.

43-14. 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 an ABC permittee located in or contiguous to the social district may be possessed and consumed in the social district.
2. Open container alcoholic beverages purchased from participating ABC permittees located in or contiguous to the social district shall only be in the containers meeting the requirements set in Section 43-12 of this article. Except for open containers sold by an ABC permittee for consumption on the ABC permittee's premises.
3. Open container alcoholic beverages shall only be possessed and consumed during the days and hours set for in ARTICLE II of this Chapter for the social district in which the beverage was purchased from the participating ABC permittee.
4. Nothing in this subsection 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 from participating ABC permittees located in or contiguous to ~~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), an ABC permittee or non-permittee business may allow a person to possess and consume on the business's premises alcoholic beverages purchased from an ABC permittee in the social district.

C. A person, including a customer who is in possession of an open container of an alcoholic beverage authorized under this Chapter, may possess alcoholic beverages in closed containers in a social district to the extent allowed by law.

43-15. Exceptions

A. To the extent required by applicable State law, any portion of a social district described within this Chapter 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.

B. 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.

43-16. Enforcement.

A. *Infraction*. An ABC permittee, non-permittee business or person who violates or fails to comply with the provisions of this Chapter shall be subject to one or a combination of the following methods:

1. *Permit revocation, suspension, or permanent ban*. Any ABC permittee, non-permittee business or person who violates any provision of this article may be subject to its Social District Permit being revoked or suspended, or permanently banned from participating in City of Brevard social districts. Any permit revocation or permanent ban shall be reported to the North Carolina ABC Commission.
2. *Civil penalty.* Any ABC permittee, non-permittee business, or person who violates any provision of this article may be fined by a civil penalty of $100.00 per occurrence which may be recovered by the City in a civil action in the nature of a debt if the violator does not pay the penalty within 30 days from the date the violator is notified of the penalty. Any other service charges imposed by this article may be collected by the City as a civil penalty in a civil action.
3. *Equitable remedy*. The City may apply to a court of competent jurisdiction for an injunction, abatement order or any other appropriate equitable remedy.

B. *Notice.* The City of Brevard Police Department shall serve written notice of any violation of this Chapter to the offender.

C. *Appeal*. Any offender so assessed a violation under this Chapter shall have the right to appeal upon serving written notice of appeal on the Police Chief within 10 days of issuance of the notice of violation.