

CITY OF CLAREMONT
NORTH CAROLINA
ORDINANCE #31-23
AN ORDINANCE TO AMEND TO THE CODE OF ORDINANCES
OF THE CITY OF CLAREMONT
SOCIAL DISTRICT
Sec. 6-2-25 BEER & WINE CONSUMPTION

WHEREAS, Session Law 2021-150 for AC Social Districts was ratified on September 8, 2021; and

WHEREAS, the law allows governing bodies of local government units to establish Social Districts and common areas where Permittees may sell alcoholic beverages in designated cups to be taken into the common area for consumption; and

WHEREAS, the City Council desires to establish and manage a Social District in accordance with G.S. 160A-205.4 and Chapter 18B; and

WHEREAS, the City Council finds that the designation of Social Districts pursuant to the Act is in the best interest of the citizens and businesses of the City of Claremont; and

WHEREAS, the City Council designates the Social District shown in the Ordinance as permitted by G.S 160A-205.4 and Chapter 18B,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLAREMONT,

That Title Six (6), Chapter 2 Street and Sidewalk Use & Regulation, Article B, Sec. 6-2-25 Beer and wine consumption; possession of open container; disposal of containers; exception for community sponsored public festivals is hereby amended by changing the following (new language appears as highlighted; deleted language and/or deleted sections appear as “strike-throughs”):

Sec. 6-2-25 Beer and wine consumption; possession of open container; disposal of containers; exception for community sponsored festivals.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Alcoholic beverage. Any beverage containing at least one-half of one percent (0.5%) alcohol by volume, including malt beverages, unfortified wine, fortified wine, spirituous liquor, and mixed beverages, as defined by G.S. § 18B-101.

Beer. The same as the term *malt beverage*, as defined by G.S. § 18B-101.

“City Event Hours”: “Those hours during which a community-sponsored public function, festival or celebration is being conducted upon and within designated areas of any public street, sidewalk or other property owned or lawfully occupied by the city.”

Commission. The North Carolina Alcoholic Beverage Control Commission established under G.S. § 18B-200.

Fortified wine. Any wine, of more than 16% and no more than 24% alcohol by volume, made by fermentation from grapes, fruits, berries, rice, or honey; or by the addition of pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine and produced in accordance with the regulations of the United States, as defined by G.S. § 18B-101.

Malt beverage. Beer, lager, malt liquor, ale, porter, and any other brewed or fermented beverage except unfortified or fortified wine as defined by this chapter, containing at least one-half of one percent (0.5%), and not more than 15%, alcohol by volume. Any *malt beverage* containing more than 6% alcohol by volume shall bear a label clearly indicating the alcohol content of the malt beverage, as defined by G.S. § 18B-101.

Mixed beverage. Either of the following:

(1) A drink composed in whole or in part of spirituous liquor and served in a quantity less than the quantity contained in a closed package.

(2) A premixed cocktail served from a closed package containing only one serving as defined by G.S. § 18B-101.

Nontaxpaid alcoholic beverage. Any alcoholic beverage upon which the taxes imposed by the United States, this state, or any other territorial jurisdiction in which the alcoholic beverage was purchased have not been paid, as defined by G.S. § 18B-101.

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

Permit or permits. Any written or printed authorization issued by the Commission pursuant to the provisions of this chapter, other than a purchase-transportation permit. Unless the context clearly requires otherwise, as in the provisions concerning applications for permits, *ABC permit* or *permit* means a presently valid permit.

Public street. Any highway, road, street, avenue, boulevard, or other way within and under the control of the city and open to public use, including the sidewalks of any such street.

Spirituous liquor or *liquor.* Distilled spirits or ethyl alcohol, including spirits of wine, whiskey, rum, brandy, gin and all other distilled spirits and mixtures of cordials, liqueur, and premixed cocktails, in closed containers for beverage use regardless of their dilution, as defined by G.S. § 18B-101.

Unfortified wine. Any wine of 16% or less alcohol by volume made by fermentation from grapes, fruits, berries, rice, or honey; or by the addition of pure cane, beet, or

dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine and produced in accordance with the regulations of the United States, as defined by G.S. § 18B-101.

Wine. The same as the term *unfortified wine*, as defined by G.S. § 18B-101.

***Social District.* This means an outdoor area in which a person may consume alcoholic beverages sold by an ABC permittee within the boundaries of the Social District.**

(b) *Public consumption unlawful.* It shall be unlawful for any person, to consume any alcoholic beverage, including malt beverages, fortified or unfortified wine, mixed beverages, or other spirituous or other spirituous liquors, all as defined in G.S. § 18B-101, upon or within the limits of rights-of-way

of any street, boulevard, alley or sidewalk in city parks and buildings, or on any other property owned or occupied by the city.

(c) *Private premises consumption regulated.* It shall be unlawful for any person to consume any alcoholic beverage, including malt beverages, fortified or unfortified wine, mixed beverages, or other spirituous or other spirituous liquors, all as defined in G.S. § 18B-101, upon the private business premises of another without permission of the owner or person in control of such premises.

(d) *Possession of open container in public unlawful.* It shall be unlawful for any person to possess an open container of alcoholic beverage, including malt beverages, fortified or unfortified wine, mixed beverages, or other spirituous or other spirituous liquors, all as defined in G.S. § 18B-101, upon or within the limits of any public right-of-way of any street, boulevard, alley or sidewalk in city parks and buildings, or on any other property owned or occupied by the city.

(e) *Container disposal.* It shall be unlawful for any person to drop, throw, cast or deposit any used container of alcoholic beverage, including malt beverages, fortified or unfortified wine, mixed beverages, or other spirituous or other spirituous liquors, 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) *Exception; permit required.* Consumption of beer and wine and spirituous liquor or mixed beverages is permitted during any community-sponsored public function, festival or celebration being conducted upon and within designated areas of any public street, sidewalk or other property owned or lawfully occupied by the city pursuant to a written permit issued by the city manager or his duly authorized designee to the holder of a valid permit from the Commission applicable to the community sponsored public function, festival or celebration. The permit issued by the city manager or his or her duly authorized designee shall be consistent with the permit issued to the permittee by the Commission. This permit, when issued, may allow the sale, service and distribution of beer, wine and spirituous liquors, including mixed beverages, on designated streets, sidewalks and areas reserved for the event, subject to all applicable ABC or ALE rules or regulations or laws of the State of North Carolina. The permit issued by the city shall designate the boundary of the area in which sale, service, distribution or consumption of beer and wine or spirituous liquors is permitted and the specific times during which such sale, service, distribution and/or consumption is permitted. The area in which such sale, service, distribution and/or consumption is permitted shall be delineated by barricades, with an entrance into such barricaded area clearly marked; the entrance shall be so constructed as to allow ready control of patrons, including viewing of identification to avoid underage persons being within the barricaded area; no malt beverages or unfortified wine or other alcoholic beverage shall be consumed outside of such barricaded area. Proper application for special permit to the proper state authorities shall be made so that a permit may be received prior to the opening of the special event, and such permit to be available for inspection by the city and its officers at any time. However, before permit is issued under this section, the City Manager or his or her duly authorized designee shall designate the boundaries of the event and provide for temporarily closing those streets or public areas within the boundaries for general public use during the times the permit is to be effective.

***Social Districts.* The purpose of this ordinance (section) shall be to establish Social Districts within the City of Claremont to promote health, safety, and welfare of persons consuming alcoholic beverages pursuant to the provision of North Carolina General Statutes 160A-205.4 et seq which allows for the creation of one or more Social District by the City.**

(1) General: The city hereby creates and designates the following Social District:

(a) Downtown Claremont Social District which is designated as the area within the City as follows:

(Attached as Exhibit A)

(2) Management: The Social District shall be created, designated, and managed in accordance with the requirement contained in the North Carolina General Statutes Section 106A-205.4 and Chapter 18B. Alcoholic beverages may be consumed in the District during City Event Hours Only which are set by The City Manager.

“City Event Hours as set by the City Manager shall have set hours of commencement and termination for each day of each community-sponsored public function, festival or celebration during which Social Districts are permitted. The Social District Permit issued to each Social District permittee shall contain the dates and hours of the City Event during which the Social District Permit is valid”.

(3) Permittee: Any business establishment located within or contiguous to a Social District which holds a valid ABC permit designed to engage as a Social District participant must apply for and obtain a Social District permit from the Planning and Zoning Department of the City. The establishment shall be responsible to operate its business in accordance with all City and State ordinances, laws, rules, regulations, and the operations plan governing Social District activities.

(4) Violation: Any Person violating this section, and any person who aids, abets, encourages, assists, or contributes to such consumption, and any person who, having control of the premises where such consumption occurs in violation of this section, willfully permits or allows such consumption to occur, shall be guilty of a misdemeanor.

(5) Severability: If any portion of this section is for any reason invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed severable, and such holding shall not affect the validity of the remaining portions thereof.

(g) *Application for permit.* Application forms for the permit referred to in division (f) of this section are available from the City Manager and must be filed at least 21 days prior to the opening day of the event. (Ord. of 5-6-13, No. 11-12)

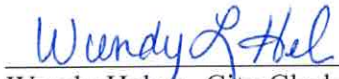
(h) Repealed: All ordinances or provisions of the Claremont City Code of Ordinances which are not in conformance with the provisions of the Amendment occurring herein are repealed as of the effective date of this Ordinance.

Adopted this the 6th day of March 2023.



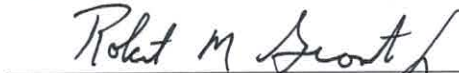
Dale Sherrill, Mayor Pro Tem

ATTEST:



Wendy Helms, City Clerk

APPROVED AS TO FORM:



Robert M. Grant Jr., City Attorney