



ORDINANCE 2023-03
An Ordinance to Establish a Pineville Social District

WHEREAS, NCGS § 160A-205.4 and 18B-300.1 allow that a city may adopt an ordinance designating one or more social districts,

WHEREAS, nothing herein supersedes or replaces any other state or federal law or relieves any participant from acts prohibited in NCGS 18B-300-309,

WHEREAS, a Pineville Social District(s) shall be created and maintained in a manner that protects the health and safety of the general public,

NOW THEREFORE, BE IT ORDAINED by the Pineville Town Council the Pineville Social District is created as follows:

1. Purpose and Intent

- (a) Pursuant to the provisions of North Carolina General Statute 160A-205.4, et seq and 18B-300.1, one or more Social Districts may be created within the town and the Town hereby creates and designates the Downtown Pineville Social District, hereafter “Social District” as shown on **Exhibit A**.
- (b) The Pineville Social District shall be created, designated, and managed in accordance with the requirements contained in North Carolina General Statute 160A-205.4 and Chapter 18B, as may be amended, updated or adopted from time to time.
- (c) Any Permittee, Non-Permittee or Person who violates this ordinance, and any Permittee, Non-permittee or Person who aids, abets, encourages, assists in, or contributes to such violation, shall be subject to one or a combination of the following methods:

Permit revocation, suspension, or permanent ban. Any Permittee, Non-permittee 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 the Pineville Social District(s).

Civil Penalty. Any 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 Town 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 Town as a civil penalty in a civil action.

Equitable remedy. The Town may apply to a court of competent jurisdiction for an injunction, abatement order or any other appropriate equitable remedy.

2. Definitions

- (a) “Social District” means and refers to a defined area in which a Person 21 years or older may consume alcoholic beverages sold by a Permittee. A Social District may include both indoor and outdoor areas of businesses within or contiguous to the defined area. A Social District may include privately owned property, including Permittees and Non-permittee businesses, and multi-tenant establishments, as defined in G.S. 18B-1001.5, and public streets, crosswalks, or parking areas whether or not the streets or parking areas are closed to vehicle traffic.
- (b) “**Permittee**” means and refers to a Person holding any of the following permits issued by the North Carolina Alcoholic Beverage Control Commission established under North Carolina General Statute 18B-200.:
 - (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 distillery permit issued pursuant to G.S. 18B-1100(5).
 - (6) A wine shop permit issued pursuant to G.S. 18B-1001(16).
- (c) “**Non-permittee**” means and refers to a business that is located in a Social District and does not hold an ABC permit.
- (d) "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.
- (e) “Customer” means and refers to a Person who purchases an alcoholic beverage from an ABC Permittee that is in a Social District.
- (f) "Premises" means and refers to a fixed permanent establishment, including all areas inside or outside the establishment, where the business has control through a lease, deed, or other legal process.
- (g) “Waiver” means and refers to businesses in the Social District both Permittee and Non-permittee who do not want to participate in the Social District.

3. Application

- (a) The provisions and terms contained in this ordinance shall be applicable to the Social Districts illustrated in Exhibit A **between the hours of 12:00 PM and 10:00 PM, Monday through Sunday.**
- (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.

4. Requirements for Sale of Alcoholic Beverages

Any Permittee in a Social District desiring to engage as a Social District participant, must apply for and obtain a Social District permit from the Town. The Permittee shall be responsible to operate its business in accordance with all Town and State ordinances, laws, rules, regulations and operations plan that governs Social District activities.

A Permittee located in the Social District may sell open containers of alcoholic beverages for consumption within the Social District and allow Customers to exit its Premises to the Social District in accordance with the following requirements:

- (a) The Permittee shall only sell and serve alcoholic beverages on its licensed Premises.
- (b) The Permittee shall only sell open containers of alcoholic beverages for consumption in the Social District and off the Permittee's Premises in a container that meets all of the following requirements:
 - (1) The container clearly identifies the Permittee from which the alcoholic beverage was purchased.
 - (2) The container clearly displays the Town-approved Social District logo that is unique to the Pineville Social District.
 - (3) The container is comprised of a recyclable and/or reusable material other than glass.
 - (4) The container displays, in no less than 12-point font, the statement, "Drink Responsibly - Be 21."
 - (5) The container shall not hold more than 16 fluid ounces.
 - (6) The container will be provided by the Permittee.
- (c) Notwithstanding G.S. 18B-300 and G.S. 18B-301, **a Permittee business may allow a customer to possess and consume on the business's Premises alcoholic beverages purchased from any Permittee in the Social District.**

5. Non-permittee Business Located within the Social District

- (a) The Town shall create and provide to participating Non-permittee businesses a uniform sign that indicates the Non-permittee business is participating in the Social District.
 - 1. The participating Non-permittee business shall display the uniform sign in front window at all times during the times when the Social District is active. A Customer may not bring an alcoholic beverage into a Non-permittee business that does not display the uniform sign.
 - 2. No Non-permittee business shall be required to participate or be included in a Social District or to allow Customers to bring alcohol onto its Premises.
- (b) All Non-permittee businesses that are part of a Social District and that allow Customers to bring alcoholic beverages onto their Premises shall clearly post town-approved signage on any exits that do not open to the Social District indicating that alcoholic beverages may not be taken past that point.
- (c) During the days and hours when the Social District is active, a Non-permittee business that allows Customers to bring alcoholic beverages onto its Premises shall allow law enforcement officers access to the areas of the Premises accessible by Customers.

6. Waiver of Participation

Businesses in the Social District, both Permittees and Non-permittees, who do not want to participate (allow Customers to bring alcohol on its Premises or will not serve alcohol for Social District purposes) shall sign a waiver and file it with the Town. The “Not Permitted Here” sign will be provided by the Town to be displayed by the Business.

7. Requirements for Possession and Consumption of Alcoholic Beverages

The possession and consumption of an alcoholic beverage in the Social District is subject to all of the following requirements:

- (a) Only alcoholic beverages purchased from a Permittee located in the Social District may be possessed and consumed.
- (b) Alcoholic beverages shall only be in containers meeting the requirements set forth in Section 4(b) of this ordinance, except for alcoholic beverages sold by a Permittee for consumption on the Permittee’s Premises.
- (c) Nothing in this ordinance shall be construed as authorizing the sale and delivery of alcoholic beverage drinks in excess of the limitation set forth in North Carolina General Statute 18B-1010 or permitting consumption in a motor vehicle or other type of transportation per North Carolina state law.
- (d) A Person shall dispose of any open container of an alcoholic beverage in the Person's

possession prior to exiting the Social District unless the Person is reentering the licensed Premises where the alcoholic beverage was purchased.

8. Penalty

The Town may enforce the provisions of this ordinance by one or a combination of the following methods:

Permit revocation, suspension, or permanent ban. Any Permittee, Non-permittee or Person who violates any provision of this article may be subject to its Social District Permit being revoked, suspended, or permanently banned from participating in the Social District.

Civil Penalty. Any Permittee, Non-permittee 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 Town 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 Town as a civil penalty in a civil action.

Equitable remedy. The Town may apply to a court of competent jurisdiction for an injunction, abatement order or any other appropriate equitable remedy.

9. Severability

If any section, phrase, sentence or portion of this ordinance 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.

That all ordinances in conflict with the provisions of this ordinance are hereby repealed or amended to the extent of such conflict.

Adopted this _____ day of _____, 2023. Effective on date of signing.

Jack Edwards, Mayor

ATTEST:

APPROVED AS TO FORM:

Town Clerk

Town Attorney

EXHIBIT A

Downtown Pineville Social District

