

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

**HOUSE BILL 211
RATIFIED BILL**

AN ACT TO RECODIFY AND CLARIFY THE STATUTES GOVERNING COMMON AREA ENTERTAINMENT PERMITS AND SOCIAL DISTRICTS AND TO CLARIFY A REAL PROPERTY OWNER DENIED WATER OR SEWER SERVICE TO PROPERTY SUBJECT TO AN ANNEXATION AGREEMENT BETWEEN LOCAL GOVERNMENTS IS ALLOWED TO SEEK OTHER SERVICE OR PETITION THE COURT FOR RELIEF.

The General Assembly of North Carolina enacts:

COMMON AREA AND SOCIAL DISTRICT CONFORMING CHANGE FOR FORTIFIED WINE AND MIXED BEVERAGES

SECTION 1. G.S. 18B-301 is amended by adding a new subsection to read:

"(b1) Possession in a Social District or Common Area. – It shall be lawful, without an ABC permit, for a person to possess an open container of fortified wine or spirituous liquor in a social district or a designated consumption area under a common area entertainment permit in compliance with the provisions of G.S. 18B-300.1 or G.S. 18B-1001.5, respectively."

COMMON AREA ENTERTAINMENT PERMIT REVISIONS

SECTION 2.(a) G.S. 18B-1000(4a) is repealed.

SECTION 2.(b) G.S. 18B-1001(21) is repealed.

SECTION 2.(c) Article 10 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-1001.5. Authorization of common area entertainment permit.

(a) Policy. – The intent of this section is to regulate open containers of alcoholic beverages that customers of a multi-tenant establishment take from a permittee's licensed premises into another area where consumption of the alcoholic beverages is allowed. This section shall not in any way limit the consumption or possession of alcoholic beverages otherwise allowed under this Chapter.

(b) Definitions. – For purposes of this section:

- (1) Common area. – An indoor or outdoor portion of a multi-tenant establishment that is open to the public.
- (2) Customer. – A person who purchases an alcoholic beverage from a permittee that is in a designated consumption area.
- (3) Designated consumption area. – An indoor or outdoor common area on the premises of a multi-tenant establishment designated by the owner or property owners' association of the multi-tenant establishment for consumption of alcoholic beverages and either of the following:
 - a. Any indoor or outdoor area of a permittee business that is contiguous to the designated common area.
 - b. Any indoor or outdoor area of a non-permittee business that is contiguous to the designated common area and that chooses to allow customers to bring open containers of alcoholic beverages onto its premises.



- (4) Mixed-use development. – 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 tracts 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.
- (5) Multi-tenant establishment. – 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, and under common ownership, control, or property owners' association governance, that contains or contain multiple businesses that sell food, goods, services, or a combination of food, goods, and services, and that include or are connected by common areas. The term multi-tenant establishment includes a mixed-use development.
- (6) Non-permittee business. – A business that is a commercial tenant of a multi-tenant establishment and does not hold any ABC permit.
- (7) Permittee. – A business that is a tenant of a multi-tenant establishment and that holds any of the following permits issued by the Commission:
 - a. An on-premises malt beverage permit issued pursuant to G.S. 18B-1001(1).
 - b. An on-premises unfortified wine permit issued pursuant to G.S. 18B-1001(3).
 - c. An on-premises fortified wine permit issued pursuant to G.S. 18B-1001(5).
 - d. A mixed beverages permit issued pursuant to G.S. 18B-1001(10).
 - e. A wine shop permit issued pursuant to G.S. 18B-1001(16).
 - f. A distillery permit issued pursuant to G.S. 18B-1100(5).

(c) Authorization. – A common area entertainment permit may be issued to the owner or property owners' association of a multi-tenant establishment that has at least two tenants anywhere within the multi-tenant establishment that are permittees. A customer of a permittee may exit the permittee's licensed premises with an open container of the alcoholic beverage sold by the tenant and consume the alcoholic beverage within the confines of any indoor or outdoor designated consumption area.

(d) Designation of Areas Allowed for Consumption. – The owner or property owners' association of a multi-tenant establishment that holds a common area entertainment permit shall designate one or more areas as designated consumption areas. A designated consumption area may include the premises of any business that is open to customers, if the business chooses to allow outside alcoholic beverages on its premises during the days and hours set by the owner or property owners' association of the multi-tenant establishment pursuant to subsection (e) of this section. A permittee may be included in the designated consumption area even if it chooses to exclude open containers of alcoholic beverages purchased from other permittees. A designated consumption area may include privately maintained streets, parking spaces on privately maintained streets, sidewalks, and courtyards. Privately maintained streets and parking areas may be open to vehicular traffic during the dates and times when the designated consumption area is active. The boundaries of a designated consumption area must be marked in a way that clearly indicates to customers where the boundaries of the designated consumption area are located, such as with conspicuous signage, in the discretion of the owner or property owners' association. Vertical delineated boundaries shall not be required to indicate the boundaries of a designated consumption area. The owner or property owners' association of the multi-tenant establishment shall submit to the Commission for review and approval (i) a plat or site map of the multi-tenant establishment property with the designated consumption areas clearly marked or (ii) a detailed

map of the relevant building or buildings on the multi-tenant establishment property with the designated consumption area clearly marked. The Commission shall reject any plat or map submitted under this subsection that does not meet the requirements of this section. The owner or property owners' association of the multi-tenant establishment shall submit a plat or map as required under this subsection for each renewal of the permit issued under this section and at least 10 days prior to making any adjustments to a designated consumption area.

(e) Days and Hours When Consumption is Allowed. – Customer-purchased alcoholic beverages may only be consumed within designated consumption areas during the hours in which the alcoholic beverage may be sold under G.S. 18B-1004, and the owner or property owners' association of the multi-tenant establishment may further limit the days and times in which an alcoholic beverage may be consumed in a designated consumption area. The owner or property owners' association of the multi-tenant establishment shall post signs in conspicuous locations on the multi-tenant establishment property indicating the days and times in which a customer may consume alcoholic beverages in a designated consumption area.

(f) Open Containers Sold by Permittees. – A permittee located in a designated consumption area may sell open containers of alcoholic beverages and allow customers to exit the premises to the designated consumption area in accordance with the following requirements:

- (1) The permittee shall only sell and serve alcoholic beverages on its licensed premises.
- (2) The permittee shall only sell an open container of an alcoholic beverage for consumption in the designated consumption area 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 designated consumption area in which it will be consumed.
 - c. No later than January 1, 2024, the container shall not be 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 subsection 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.

(g) Limitations on Open Containers. – Unless open containers otherwise allowed by law are allowed in designated consumption areas by the owner or property owners' association of the multi-tenant establishment, the possession and consumption of an open container of an alcoholic beverage in a designated consumption area is subject to all of the following requirements:

- (1) A customer may only possess and consume open containers of alcoholic beverages that were purchased from a permittee located in the designated consumption area.
- (2) Customer-purchased open containers of alcoholic beverages in the designated consumption area shall only be in containers meeting the requirements set forth in subsection (f) of this section, except for open containers sold by a permittee for consumption on the permittee's premises.
- (3) A customer may only possess and consume open containers of alcoholic beverages in the designated consumption area during the days and hours set by the owner or property owners' association of the multi-tenant establishment in accordance with subsection (e) of this section, not to exceed the hours for consumption authorized pursuant to G.S. 18B-1004.

- (4) A customer shall not possess at one time open containers of alcoholic beverages in the designated consumption area 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.
- (5) A customer shall dispose of any open container of an alcoholic beverage in the customer's possession prior to exiting the designated consumption area.
- (6) 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 designated consumption area.

(h) Closed Containers. – A person, including a customer who is in possession of an open container of an alcoholic beverage authorized under this section, may possess alcoholic beverages in closed containers in a designated consumption area to the extent otherwise allowed by this Chapter.

(i) Responsibilities of Non-Permittee Businesses. – A non-permittee business that is part of a designated consumption area and that allows customers to bring alcoholic beverages onto its premises shall not be responsible for enforcement of this Chapter. All non-permittee businesses that are part of a designated consumption area and that allow customers to bring alcoholic beverages onto their premises shall clearly post signage on any exits that do not open to a designated consumption area indicating that alcoholic beverages may not be taken past that point. During the days and hours when the designated consumption area 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.

(j) Responsibilities of Permit Holder. – The owner or property owners' association of a multi-tenant establishment shall comply with this section but shall not be responsible for enforcement of other sections of this Chapter. The Commission shall take no action against the owner or property owners' association of a multi-tenant establishment for violations of other sections of this Chapter unless the owner or property owners' association of the multi-tenant establishment knowingly committed the violation or knowingly allowed the violation to occur."

SOCIAL DISTRICT REVISIONS

SECTION 3.(a) G.S. 18B-502(a) reads as rewritten:

"(a) Authority. – To procure evidence of violations of the ABC law, alcohol law-enforcement agents, employees of the Commission, local ABC officers, and officers of local law-enforcement agencies that have contracted to provide ABC enforcement under G.S. 18B-501(f) shall have authority to investigate the operation of each licensed premises for which an ABC permit has been issued, to make inspections that include viewing the entire premises, and to examine the books and records of the permittee. The inspection authorized by this section may be made at any time it reasonably appears that someone is on the premises. Alcohol law-enforcement agents are also authorized to be on the premises to the extent necessary to enforce the provisions of Article 68 of Chapter 143 of the General Statutes. For purposes of this subsection, the phrase "licensed premises for which an ABC permit has been issued" includes a social district authorized under ~~G.S. 18B-904.1~~ G.S. 18B-300.1 and an extended area authorized under G.S. 18B-904(h)."

SECTION 3.(b) G.S. 18B-904(h)(8) reads as rewritten:

"(8) Except as allowed under ~~G.S. 18B-904.1~~ G.S. 18B-300.1 or to reenter the licensed premises, a person shall not exit an extended area with an alcoholic beverage purchased from the permittee."

SECTION 3.(c) G.S. 18B-904.1 is repealed.

SECTION 3.(d) G.S. 153A-145.9 reads as rewritten:

"§ 153A-145.9. Authorization of social ~~district~~ districts."

A county may adopt an ordinance designating ~~a one or more social district districts~~ for use in accordance with ~~G.S. 18B-904.1~~G.S. 18B-300.1."

SECTION 3.(e) G.S. 160A-205.4 reads as rewritten:

"§ 160A-205.4. Authorization of social ~~district~~ districts.

A city may adopt an ordinance designating ~~a one or more social district districts~~ for use in accordance with ~~G.S. 18B-904.1~~G.S. 18B-300.1."

SECTION 3.(f) Article 3 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-300.1. Authorization and regulation of social districts.

(a) Policy. – The intent of this section is to regulate open containers of alcoholic beverages that customers of a permittee take from the permittee's licensed premises into another area where consumption of the alcoholic beverages is allowed. This section shall not in any way limit the consumption or possession of alcoholic beverages otherwise allowed under this Chapter.

(b) Definitions. – The following definitions apply in this section:

(1) Customer. – A person who purchases an alcoholic beverage from a permittee that is in a social district.

(2) Non-permittee business. – A business that is located in a social district and does not hold any ABC permit.

(3) Permittee. – An establishment holding any of the following permits issued by the Commission:

a. An on-premises malt beverage permit issued pursuant to G.S. 18B-1001(1).

b. An on-premises unfortified wine permit issued pursuant to G.S. 18B-1001(3).

c. An on-premises fortified wine permit issued pursuant to G.S. 18B-1001(5).

d. A mixed beverages permit issued pursuant to G.S. 18B-1001(10).

e. A wine shop permit issued pursuant to G.S. 18B-1001(16).

f. A distillery permit issued pursuant to G.S. 18B-1100(5).

(4) Social district. – A defined area in which a person 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 during the days and hours set by the local government by ordinance pursuant to subsection (d) of this section. 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.

(c) Local Ordinances Authorized. – Pursuant to G.S. 153A-145.9, a county may adopt an ordinance designating one or more social districts in the parts of the county outside any city. Pursuant to G.S. 160A-205.4, a city may adopt an ordinance designating one or more social districts.

(d) Requirements for Designation. – A social district designated under this section shall meet all of the following requirements:

(1) The social district shall be clearly defined with signs posted in a conspicuous location indicating which area is included in the social district, the days and hours during which alcoholic beverages may be consumed in the social district, the telephone number for the ALE Division and the local law enforcement agency with jurisdiction over the area comprising the social district, and a clear statement that an alcoholic beverage purchased from a permittee for consumption in a 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. The hours set by a city or county during which customer-purchased alcoholic beverages may be consumed in a social district shall be in accordance with G.S. 18B-1004.

(2) The city or county, or the city's or county's designee, shall establish or approve management and maintenance plans for the social district and post these plans, 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 website for the city or county. The city's or county's designee may include a private entity, including a property owner or property owner's association. Any plan established under this subdivision shall be approved by the governing body of the city or county. The social district shall be maintained in a manner that protects the health and safety of the general public. The city or county may establish guidelines in the ordinance establishing the social district or in its management and maintenance plan to allow for suspension of regular days and hours of alcohol consumption in all or part of a social district during events requiring other permits pursuant to subsection (j) of this section.

(3) Before allowing consumption of alcoholic beverages in a social district, the city or county shall submit to the Commission a detailed map of the social district with the boundaries of the social district clearly marked, and the days and hours during which alcoholic beverages may be consumed in the social district. The city or county shall only be required to submit a revised map to the Commission if the city or county amends the geographic footprint of a social district. A permittee may be included in the social district even if it chooses to exclude open containers of alcoholic beverages purchased from other permittees in the social district.

(4) The city or county, or the city's or county's designee, shall develop or approve uniform signs indicating that a non-permittee business is included in the social district and allows alcoholic beverages on its premises when the social district is active and distribute the signs to non-permittee businesses that are included in the social district. The city's or county's designee may include a private entity, including a property owner or property owner's association. The signs may be in the form of a sticker, placard, or other format as deemed appropriate by the city or county. A participating non-permittee business shall display the uniform sign 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. 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.

(e) Open Containers Sold by Permittees. – A permittee located in a social district may sell open containers of alcoholic beverages and allow customers to exit its licensed premises to the social district in accordance with the following requirements:

(1) The permittee shall only sell and serve alcoholic beverages on its licensed premises.

(2) The permittee shall only sell an open container of an alcoholic beverage 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 subsection 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.

(f) Limitations on Open Containers. – Except where otherwise allowed by local ordinance, the possession and consumption of an open container of an alcoholic beverage in a social district is subject to all of the following requirements:

- (1) A customer may only possess and consume open containers of alcoholic beverages that were purchased from a permittee located in the social district.
- (2) Customer-purchased open containers of alcoholic beverages in the social district shall only be in containers meeting the requirements set forth in subsection (e) of this section, except for open containers sold by a permittee for consumption on the permittee's premises.
- (3) A customer may only possess and consume open containers of alcoholic beverages in the social district during the days and hours set by the city or county in accordance with subsection (b) of this section, not to exceed the hours for consumption authorized pursuant to G.S. 18B-1004.
- (4) A customer shall 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.
- (5) A customer shall dispose of any open container of an alcoholic beverage purchased from a permittee in the customer's possession prior to exiting the social district unless the customer is reentering the licensed premises of the permittee where the customer purchased the alcoholic beverage.
- (6) 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.

(g) Limitations on Closed Containers. – A person, including a customer who is in possession of an open container of an alcoholic beverage authorized under this section, may possess alcoholic beverages in closed containers in a social district to the extent allowed by law.

(h) Responsibilities of Non-Permittee Businesses. – A non-permittee business that is part of a social district and that allows customers to bring alcoholic beverages onto its premises shall not be responsible for enforcement of this Chapter. 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 signage on any exits that do not open to the social district indicating that alcoholic beverages may not be taken past that point. 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.

(i) Multi-Tenant Establishments Located in a Social District. – 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 permit.

(j) Interaction with Other Permits. – The Commission shall issue permits for special events occurring partially or entirely within the boundaries of a social district as follows:

- (1) The Commission may issue special one-time permits pursuant to G.S. 18B-1002(a)(2) or (a)(5) for events occurring on premises located partially or entirely within the boundaries of a social district. If the event is scheduled to occur during hours when alcoholic beverages may be consumed in the social district, the event permittee shall, in addition to obtaining such signed law enforcement notification as may be required under the Commission's rules, include in such notification a statement that the event is to occur in a social district during days and hours designated for consumption of alcoholic beverages.
- (2) A permittee holding a winery special event permit, malt beverage special event permit, or spirituous liquor special event permit pursuant to G.S. 18B-1114.1, 18B-1114.5, and 18B-1114.7, respectively, may sell and serve products at special events taking place in a social district.
- (3) A permittee holding a mixed beverages catering permit pursuant to G.S. 18B-1001(12) may serve spirituous liquor to guests at events taking place in a social district."

ALLOW AGREEMENTS BETWEEN CONTIGUOUS SOCIAL DISTRICTS AND COMMON AREA ENTERTAINMENT PERMITTEES

SECTION 4. Article 3 of Chapter 18B of the General Statutes is amended by adding a new section to read:

§ 18B-300.2. Interaction between contiguous social districts and common area entertainment permittees.

If the boundary of a social district directly borders a designated consumption area established by the owner or property owners' association of a multi-tenant establishment that holds a common area entertainment permit, the owner or property owners' association of the multi-tenant establishment and the local government that designated the social district may enter into a memorandum of understanding signed by both parties that allows open containers approved for possession and consumption in the designated consumption area to be possessed and consumed in the social district, and open containers approved for possession and consumption in the social district to be possessed and consumed in the designated consumption area during days and hours when both the social district and the designated consumption area are active. All requirements of G.S. 18B-300.1 and G.S. 18B-1001.5 shall apply when a customer takes an alcoholic beverage from a social district to a designated consumption area that is contiguous to or within the social district or from a designated consumption area to a social district that is contiguous to or overlapping with the designated consumption area. A customer may not take a container comprised of glass from a designated consumption area to a contiguous social district or the area of an overlapping social district that is outside the designated consumption area. The holder of the common area entertainment permit shall submit to the Commission a copy of the memorandum of understanding signed by both parties. Either party may terminate a memorandum of understanding by notifying the other party and the Commission in writing of the termination."

RELIEF FOR PROPERTY OWNERS SUBJECT TO ANNEXATION AGREEMENTS BETWEEN LOCAL GOVERNMENTS

SECTION 5.(a) G.S. 160A-317 is amended by adding a new subsection to read:

"(e) The owner of real property subject to an agreement under Part 6 of Article 4A or Article 20 of Chapter 160A of the General Statutes that is denied connection to water or sewer by a city may, notwithstanding the agreement, seek to obtain water or sewer from any other unit

of local government. If a court order impacts the provision of water or sewer to real property, the owner of real property denied the provision of water or sewer shall have standing to petition the court for an order for appropriate relief and the court shall, as promptly as possible, set any such petition for hearing. For purposes of this subsection, "impacts" shall include any effect or ramification that prevents the owner of real property from seeking voluntary annexation by a city capable of providing water or sewer to that real property."

SECTION 5.(b) G.S. 153A-284 is amended by adding a new subsection to read:

"(d) The owner of real property subject to an agreement under Article 20 of Chapter 160A of the General Statutes that is denied connection to water or sewer by a county may, notwithstanding the agreement, seek to obtain water or sewer from any other unit of local government. If a court order impacts the provision of water or sewer to real property, the owner of real property denied the provision of water or sewer shall have standing to petition the court for an order for appropriate relief and the court shall, as promptly as possible, set any such petition for hearing. For purposes of this subsection, "impacts" shall include any effect or ramification that prevents the owner of real property from seeking voluntary annexation by a city capable of providing water or sewer to that real property."

SECTION 5.(c) This section is effective when it becomes law and applies to court orders, annexation agreements, and interlocal agreements existing on or after that date.

EFFECTIVE DATE

SECTION 6. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of July, 2022.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

Roy Cooper
Governor

Approved _____m. this _____ day of _____, 2022