

**A NON-CODED ORDINANCE DESIGNATING AN OUTDOOR REFRESHMENT
AREA AND REQUESTING THE BOARD OF DIRECTORS OF THE VIRGINIA
ALCOHOLIC BEVERAGE CONTROL AUTHORITY TO INCREASE THE ANNUAL
FREQUENCY OF LICENSEE EVENTS WITHIN THE DESIGNATED OUTDOOR
REFRESHMENT AREA**

Section 1. Purpose and intent.

The purpose and intent of this ordinance is to conform to Code of Virginia § 4.1-206.3, permitting the City to designate an outdoor refreshment area and increase the frequency of events allowed within the designated outdoor refreshment area, subject to approval by the alcoholic beverage control board (ABC), in which the limited possession of alcoholic beverages in designated public places is allowed.

Section 2. Designation and boundaries of outdoor refreshment area.

The City, subject to approval by the ABC, hereby designates portions of Downtown Hampton as an outdoor refreshment area. A map of such area, identified as Exhibit A, is attached hereto and incorporated herein.

Section 3. License, requirements and compliance.

The rules and allowances contained herein shall only become effective upon the granting of a designated outdoor refreshment area license by the ABC to the Downtown Hampton Development Partnership, Inc. Such licensee shall file a copy of their ABC license with the Special Event Coordinator. Such licensee shall be responsible for abiding by the terms of the license and any other ABC laws or regulations to which the licensee is subject. Such licensee shall be prohibited from selling alcoholic beverages pursuant to the designated outdoor refreshment area license and any alcohol consumed within the designated outdoor refreshment area must be purchased as provided in Section 6(a) of this ordinance. Such licensee shall have no more than thirty-two (32) events held pursuant to Code of Virginia § 4.1-206.3 within a single calendar year. No such event shall exceed three consecutive days.

Any licensee authorized by the ABC to permit the consumption of alcoholic beverages within a designated outdoor refreshment area shall also comply with all applicable license and permit requirements of the City of Hampton, including but not limited to City Code Chapter 2, Article XIII, Special Events, and all applicable regulations and requirements of the Commonwealth of Virginia.

Section 4. Signage.

The designated outdoor refreshment area shall be marked with temporary, durable weatherproof signage at all places where a public sidewalk intersects the designated outdoor refreshment area. The signage shall face the interior of the designated outdoor refreshment area and indicate "No alcohol permitted past this point". All signs must be approved by the Special Event Coordinator at least 48 hours prior to the licensed event.

Section 5. Exceptions and limitations.

Notwithstanding the prohibition on the drinking of alcoholic beverages in public places imposed by Code of Virginia § 4.1-308, it shall be lawful to drink alcohol in any public place within the designated outdoor refreshment area, including outdoor seating, public sidewalks, public plazas, and private businesses lacking an ABC license, subject to the following conditions:

- (a) Any alcohol consumed within the designated outdoor refreshment area must have been purchased from an ABC-licensed vendor located within the designated outdoor refreshment area.
- (b) Alcohol may only be consumed on the public property within the designated outdoor refreshment area during the hours of a licensed event held pursuant to a designated outdoor refreshment area license.
- (c) Except when on the premises of an ABC-licensed vendor, any alcohol consumed within the designated outdoor refreshment area must be contained in paper, plastic, or similar disposable containers with a capacity of no more than 16 fluid ounces that clearly displays the name or logo of the ABC-licensee from which the alcoholic beverage was purchased.
- (d) No alcohol may be consumed upon privately-owned property within the designated outdoor refreshment area, unless such private property owner consents. Any private property owner, or their designee, within the designated outdoor refreshment area who wishes to prohibit the consumption of alcohol on their property should indicate his preference by signage at the public entrance of the property indicating "no alcohol permitted on premises" or other notice containing similar language. Nothing in this ordinance shall limit a private business from requiring an individual to leave their premises at any time for any lawful reason. Individuals remaining on the property of a private business after being asked to leave are trespassing and may be subject to arrest under state and City code.
- (e) No alcohol may be consumed upon or within City-owned buildings or facilities, unless such consumption has been approved by a separate license issued by ABC pursuant to state law.

Section 6. Public safety plan.

- (a) Nothing in this article shall modify any other law pertaining to trespassing or to alcohol, including but not limited to prohibitions on public intoxication, drinking while driving, driving while intoxicated, underage drinking, and illegal alcohol sales.
- (b) The police division shall coordinate with the licensee regarding the provision of adequate security for all special events within the designated outdoor refreshment area. If police officers are required for security, they shall be provided through an agreement made pursuant to an off-duty employment agreement as provided for in Sec. 2-112.
- (c) The police division shall report any suspected violation of any licensing provisions outlined in Code of Virginia § 4.1-206.3 to ABC as soon as is practicable.

(d) If deemed necessary for the protection of the public safety, the police chief or his designee, in coordination with the city manager, may close to vehicular traffic any public streets within the designated outdoor refreshment area during any licensed event.

Section 7. City manager authority.

The City manager is hereby authorized to take such actions and issue such regulations as deemed necessary to ensure that the public safety and welfare of the public is protected within the designated outdoor refreshment area, including security-related decisions, design and placement of required signage, and provisions for the enforcement of this article.

Section 8. Violations of article; penalty.

Violations of this article shall be guilty of a class 4 misdemeanor.