

ORDINANCE NUMBER: _____

AMENDING CHAPTERS 14 and 15

AN ORDINANCE AMENDING CERTAIN ARTICLES AND CHAPTERS OF THE CHARLOTTE CITY CODE TO REMOVE CRIMINAL ENFORCEMENT WHERE PROHIBITED AND TO RESTORE CRIMINAL ENFORCEMENT WHERE SPECIFIED AS REQUIRED BY SESSION LAW 2021-138.

BE IT ORDAINED by the City Council of the City of Charlotte, North Carolina, that:

Section 1. Article VII of Chapter 14 of the Charlotte City Code is amended as follows:

“Sec. 14-282. Soliciting from street or Standing, sitting, or lying on streets or median strip.

- (a) It shall be unlawful for any person to stand, sit, lie, or loiter in a roadway or median strip for the any purpose of soliciting a ride, employment or business from the occupant of any vehicle other than crossing the roadway.
- ~~(b) It shall be unlawful for any person to stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway or parking lot.~~
- (b) It shall be unlawful for any person to stand, sit, lie, or loiter in any street or highway, including the shoulders or median strip, but excluding sidewalks, ~~and to stop or attempt to stop any vehicle for the any purpose of soliciting or accepting contributions from the occupants of any vehicle or for the purpose of distributing merchandise or services to the occupants of any vehicle.~~ It also shall be unlawful for any person to stand, sit or loiter in any street or highway, including the shoulders or median strip, but excluding sidewalks, and to solicit or accept contributions from the occupants of any stopped vehicle or to distribute merchandise or services to the occupants of any stopped vehicle other than crossing the roadway.
- (c) A violation of this section may be punishable as a Class 3 misdemeanor and be subject to a maximum fine not to exceed \$500.00 pursuant to G.S. 160A-175 and G.S. 14-4.”

Section 2. Articles I, IV, and VI of Chapter 15 of the Charlotte City Code are amended as follows:

“Sec. 15-3. Beer and wine consumption; possession of open container; disposal of containers.

- (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:

Beer means the same as the term "malt beverage," as defined by G.S. ch. 18B.

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

Public street means 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.

Rapid transit rail platform has the meaning set forth in section 15-270.

Wine means the same as the term "unfortified wine," as defined by G.S. ch. 18B.

- (b) *Consumption in public.* Except as permitted in chapter 19 article IX, chapter 15 article XV, and subsection (f) of this section, no person shall consume any beer or wine upon or within the limits of any public street or sidewalk in the city or upon any rapid transit rail platform.
- (c) *Consumption on private premises.* It shall be unlawful for any person to consume any wine or beer 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.* Except as permitted in chapter 19 article IX, chapter 15 article XV, and subsection (f) of this section, it shall be unlawful for any person to possess an open container of beer or wine upon or within the limits of any public street or sidewalk in the city or upon any rapid transit rail platform.
- (e) *Container disposal.* It shall be unlawful for any person to drop, throw, cast or deposit any used wine or beer container 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 is permitted during any community-sponsored public function, festival or celebration being conducted within a public street, sidewalk or other publicly owned area pursuant to a written permit issued by the city manager or his duly authorized designee. This permit, when issued, will also allow the sale, service and distribution of beer and wine on designated streets, sidewalks and areas reserved for the event, subject to all applicable ABC regulations. However, before such permit is issued under this section, the city manager or his duly authorized designee shall designate the boundaries of the event and temporarily close those streets within the boundaries for general public use.

- (g) *Application for permit.* Application forms for the permit referred to in subsection (f) of this section are available from the department of transportation or the risk management division and must be filed at least 21 days prior to the opening day of the event.
- (h) *Violations.* A violation of this section may be punishable as a Class 3 misdemeanor and be subject to a maximum fine not to exceed \$500.00 pursuant to G.S. 160A-175 and G.S. 14-4."

"Sec. 15-7. Unauthorized persons on parking lots.

It shall be unlawful for any person to remain on any property which is used primarily as a parking lot for vehicles where a fee for use is charged unless such person has a vehicle parked on the property, is employed by the owner or manager of the property, or has other lawful business on such property, provided such property is prominently marked by a posted notice which is easily seen from a distance of 50 feet which states substantially as follows: "No person shall remain on any property which is used primarily as a parking lot for vehicles where a fee for use is charged unless such person has a vehicle parked on the property, or is employed by the owner or manager of the property, or has lawful business on said property. Charlotte Code § 15-7."

A violation of this section may be punishable as a Class 3 misdemeanor and be subject to a maximum fine not to exceed \$500.00 pursuant to G.S. 160A-175 and G.S. 14-4."

"Sec. 15-8. Trespassing on motor vehicles.

- (a) It shall be unlawful for any person to enter into or upon the vehicle of another by use of force or by threatened use of force.
- (b) It shall be unlawful for any person to enter into or upon the vehicle of another after having been forbidden to do so or to remain in or upon such vehicle after having been requested to leave by the owner or any other person in lawful possession thereof.

A violation of this section may be punishable as a Class 3 misdemeanor and be subject to a maximum fine not to exceed \$500.00 pursuant to G.S. 160A-175 and G.S. 14-4."

"Sec. 15-23. Loitering for the purpose of engaging in drug-related activity.

- (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:

Known unlawful drug user, possessor or seller means a person who has been convicted in any court within this state of any crime involving the use, possession or sale of any substance referred to in the North Carolina Controlled Substances Act, G.S. 90-86

et seq., or who has been convicted of any violation of any substantially similar law of any other state or of the United States.

Public place means:

- (1) Any public street, public highway, public sidewalk, public vehicular area as defined in G.S. 20-4.01, public park and/or plaza, other publicly owned or leased property, public transportation facility, school and school grounds or property;
- (2) Common areas of apartment and condominium communities;
- (3) Common areas of public housing projects;
- (4) Any place of business or amusement which is open to the public;
- (5) Any private property which adjoins any of the areas described in subsections (1) through (4) of this definition and to which the public has ready access;
- (6) Any other property which is open to the public, whether publicly or privately owned; and
- (7) Any motor vehicle in or on the areas described in this definition.

Repeatedly means three or more times.

(b) *Prohibited; violation determination.* It shall be unlawful for a person to remain or wander about in a public place for the purpose of engaging in a violation of any provision of the North Carolina Controlled Substances Act, G.S. 90-86 et seq. The following conduct or factors can be considered in determining whether a person is remaining or wandering in a public place for the purpose of violating any provision of G.S. 90-86 et seq.:

- (1) Repeatedly beckoning to, stopping or attempting to stop passersby or attempting to engage passersby in conversation;
- (2) Repeatedly stopping or attempting to stop motor vehicles;
- (3) Repeatedly interfering with the free passage of other persons;
- (4) Being a known unlawful drug user, possessor or seller;
- (5) Repeatedly passing to or receiving from passersby, whether on foot or in a vehicle, money or objects;
- (6) Attempting to flee or evade a police officer;
- (7) Being at a location frequented by persons who use, possess or sell controlled substances;
- (8) Occupying a vehicle which is registered to a known unlawful drug user, possessor or seller or which has been recently involved in illegal drug-related activity; or
- (9) Stopping, conversing with the occupant of, handing money or any object to the occupant of or receiving money or any object from the occupant of a vehicle which is registered to a known unlawful drug user, possessor or seller or which has been recently involved in illegal drug-related activity.

- (c) *Possible arrest; penalty.* No arrest or charge is permitted under this section unless the circumstances establish probable cause to believe that the person intended to violate one or more of the provisions of G.S. 90-86 et seq.

A violation of this section may be punishable as a Class 3 misdemeanor and be subject to a maximum fine not to exceed \$500.00 pursuant to G.S. 160A-175 and G.S. 14-4."

"Sec. 15-82. Masturbation in public.

It shall be unlawful for any person to willfully masturbate in any public place, including, but not limited to, any public restroom facility, in the presence of any other person.

A violation of this section may be punishable as a Class 3 misdemeanor and be subject to a maximum fine not to exceed \$500.00 pursuant to G.S. 160A-175 and G.S. 14-4."

"Sec. 15-83. Urination and defecation on certain property prohibited.

It shall be unlawful for any person to urinate or defecate on any public place, sidewalk, street, alleyway or right-of-way, or in any public building, except in toilet facilities, or on any private property. Having the written permission of the owner or person in lawful possession shall constitute an affirmative defense to the charge of urinating or defecating on private property.

A violation of this section may be punishable as a Class 3 misdemeanor and be subject to a maximum fine not to exceed \$500.00 pursuant to G.S. 160A-175 and G.S. 14-4."

"Sec. 15-136. Behavior.

No person in a park shall:

- (1) a. Consume any malt beverage or unfortified wine, as defined in G.S. ch. 18B, except pursuant to a permit issued by the director or his designee in accordance with policies established by the director.
- b. Possess or consume any fortified wine or spirituous liquor, as defined in G.S. ch. 18B, except where such possession and consumption is specifically authorized by G.S. ch. 18B and by a permit issued by the director or his designee in accordance with policies established by the director.
- (2) Possess, use or consume any illegal drugs or be under the influence of any illegal drugs while in a park.
- (3) Build or attempt to build a fire, or throw or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other flammable material, within any park area.

- (4) Enter an area posted as "closed to the public," nor shall any person use or abet the use of any area in violation of posted notices.
- (5) Lie or sleep in a prone position on seats, tables or benches.
- (6) Disturb or interfere with the activities of any other person occupying an area of a park with the intent to disrupt the activities of the other person.

A violation of this section may be punishable as a Class 3 misdemeanor and be subject to a maximum fine not to exceed \$500.00 pursuant to G.S. 160A-175 and G.S. 14-4."

Section 3. Severability Clause

If any provision of this ordinance or its application to any person or circumstance is held invalid or unconstitutional by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this ordinance, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this ordinance are declared to be severable.

Section 4. All laws and provisions of laws in conflict herewith are hereby repealed to the extent of said conflict.

Section 5. This ordinance shall become effective immediately upon adoption.

Approved as to form

City Attorney