

ORDINANCE 4314

AN ORDINANCE AMENDING AND RESTATING CERTAIN PROVISIONS OF CHAPTER 58, ARTICLE IV OF THE CODE OF ORDINANCES OF THE CITY OF HARTSVILLE, SOUTH CAROLINA TO PERMIT THE CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC SPACES WITHIN A DEFINED AREA; AND OTHER MATTERS RELATED THERETO.

The City Council of the City of Hartsville (the “*Council*”), the governing body of the City of Hartsville, South Carolina (the “*City*”), makes the following findings of fact:

(A) The City has enacted certain ordinances prohibiting the possession of open containers of alcoholic beverages, and the consumption thereof, on public streets and other public areas.

(B) Except for a business with an approved sidewalk dining permit or certain special events, the City’s Code of Ordinances (the “*Code*”), particularly Sections 58-92 and 58-95 (together, the “*Alcohol Regulations*”) currently prohibit the consumption of alcoholic beverages in the public domain.

(C) In order to promote and induce a more vibrant downtown district within the City, the Council has determined to permit the possession and consumption of alcoholic beverages within a defined portion of the City, as further described herein, subject to appropriate regulations and controls.

(D) In order to provide for the purposes set forth above, and in order to clarify certain definitions, the Council has determined to amend, restate and consolidate the provisions of the Alcohol Regulations as set forth below.

NOW, THEREFORE BE IT ORDAINED, by the Council as follows:

Section 1. For the purposes set forth above, Section 58-92 of the Code shall be deleted from the Code and the provisions thereof consolidated into Section 58-95 of the Code, which shall be amended and restated to read, in its entirety, as set forth in Section 2 of this Ordinance.

Section 2. Section 58-95 of the Code, as amended and restated, shall be codified and shall read, in its entirety, as follows:

Sec. 58-95. – Possession of open alcohol container in public.

(a) The following definitions apply to this Section.

(1) *Alcoholic Beverage.* Any spirituous malt, vinous, fermented, brewed (whether lager or rice beer), or other liquors or a compound or mixture of them, including, but not limited to, a powdered or crystalline alcohol, by whatever name

called or known, which contains alcohol and is used as a beverage for human consumption.

(2) *Open Container.* All containers that are capable of containing and have recently contained an Alcoholic Beverage; including containers where the original manufacturer's seal has been broken. An Open Container includes, but is not limited to, the following:

(i) Labeled/unlabeled beer bottles and cans.

(ii) Labeled/unlabeled liquor bottles.

(iii) Paper, plastic, styrofoam, or glass cups; pitchers; or jars.

(3) *Person.* Any individual, firm, partnership, joint venture, syndicate or other group or combination acting as a unit, association, corporation or other legal entity and shall include the plural, as well as the singular.

(4) *Special Events.* All events that require a special event permit sponsored by any Person, as herein defined, wherein Alcoholic Beverages are promoted, served, possessed, and/or consumed which are on or near public streets, sidewalks, rights of way or parking areas. All Special Events must be permitted by the City.

(5) *Public Area.* Any public street, sidewalk, alley, publicly owned parking lot, or other public area within the City.

(b) Except as otherwise provided for in this Section, it shall be unlawful for any Person to possess an Open Container of, or consume, any Alcoholic Beverage in any Public Area.

(c) Except as otherwise provided for in this Section, it shall be unlawful for any establishment licensed to sell Alcoholic Beverages to dispense any Alcoholic Beverage in an Open Container to any Person for removal from the premises.

(d) The following constitute exceptions to the prohibitions set forth in subsections (b) and (c) hereof:

(1) Where such Alcoholic Beverage is dispensed and consumed at or within a business that has an approved sidewalk dining permit pursuant to Section 14-112 of the Code, subject to the limitations of such permit.

(2) Where such Alcoholic Beverage is dispensed and consumed at a Special Event approved by the City, subject to the limitations in the permit for such Special Event.

(3) Subject to the limitations in this Section (d)(3)(i-iii) below, beer and wine may be consumed in Public Areas within the area bounded by the following streets (the “Open Consumption Area”): Home Avenue beginning at its intersection with North 6th Street and extending therefrom to its intersection with South 4th Street; College Avenue beginning at its intersection with North 6th Street and extending therefrom to its intersection with South 4th Street; Carolina Avenue beginning at its intersection with 6th Street and extending therefrom to its intersection with Campus Drive; Cargill Way beginning at its intersection with South 5th Street and extending through South 4th Street onto Railroad Avenue to its intersection with Chinaberry Drive; East Laurens Avenue beginning at its intersection with South 5th Street and extending therefrom to its intersection with South 4th Street; 6th Street beginning with its intersection with Marlboro Avenue and extending therefrom to its intersection with West Home Avenue; 5th Street beginning at its intersection with Laurens Avenue and extending therefrom to its intersection with Home Avenue; and 4th Street beginning with its intersection with East Laurens Avenue and extending therefrom to its intersection with East Home Avenue. A map of the Open Consumption Area is attached as Exhibit A hereto.

(i) Between the hours of 10:00 a.m. and 12:00 a.m., any establishment that (1) is licensed to sell beer or wine, and (2) that borders or is contiguous to any street in the Open Consumption Area may dispense one serving of beer or wine, not to exceed 16 fluid ounces, to a Person for removal from the premises, and any Person may possess and consume such beer or wine dispensed by any such establishment while such Person is located within the Open Consumption Area; provided, however, that the drink must be served in a paper, plastic, or styrofoam cup, and may not be served in a can, bottle or any glass container, and the beer or wine may only be possessed in the container in which it was initially served. Any such establishment shall serve no more than one drink of beer or wine per Person at a time, and no Person shall remove more than one drink of beer or wine at a time from the premises, but, for clarification, an establishment may serve more than one drink of beer or wine to the same Person at separate times throughout the duration of a day.

(ii) Any drink of beer or wine dispensed pursuant to this subsection shall not exceed 16 fluid ounces in size and no Person shall possess an Open Container of beer or wine in excess of 16 fluid ounces.

(iii) Unless specifically provided for by ordinance, the regulations provided by this subsection shall remain in full force and effect during any Special Event held within the area described herein.

(e) The provisions of this Section shall not be construed as an exception or waiver of any ordinance or South Carolina law regarding public intoxication or operating an automobile while impaired, and should not be construed as affecting dram shop liability or other liability that any such establishment may be subject to under law.

Section 3. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held or determined to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 4. Nothing in this Ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired or liability incurred, or any cause of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

Section 5. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this ordinance are hereby repealed to the extent of the conflict or inconsistency. This Ordinance shall take effect immediately upon its enactment by the Council.

DONE AND ORDAINED IN COUNCIL ASSEMBLED, this __th day of _____, 2017.

CITY OF HARTSVILLE, SOUTH
CAROLINA

(SEAL)

By: _____
Carl M. (Mel) Pennington IV, Mayor

ATTEST:

By: _____
Sherron L. Skipper, City Clerk
City of Hartsville, South Carolina

First Reading: November 14, 2017
Public Hearing: _____, 2017
Final Reading: _____, 2017

Exhibit A

MAP OF OPEN CONSUMPTION AREA (INSIDE HIGHLIGHTED AREA)

