

ORDINANCE NO. 03-2024 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON AMENDING, SUPPLEMENTING, AND REVISING CHAPTER 76 OF THE CODE OF THE CITY OF BURLINGTON ENTITLED, “OPEN CONTAINERS”

WHEREAS, the City of Burlington (the “City”) is a Faulkner Act municipality with a Mayor-Council form of government pursuant to N.J.S.A. 40:69A-31, *et seq.*, with its organization, positions, powers and duties outlined within the Code of the City of Burlington as set forth pursuant to the Faulkner Act; and

WHEREAS, the New Jersey State Legislature recently adopted legislation amending N.J.S.A. 33:1-24.4 to permit municipalities to establish “open container areas” within the municipality where persons are permitted to carry and consume open containers of alcoholic beverages outdoors; and

WHEREAS, the City previously established an open container area within the City located at the Burlington City Promenade, subject to restrictions; and

WHEREAS, the City seeks to renew the provisions of Chapter 76 to allow the open container area to operate in the year 2024; and

WHEREAS, pursuant to N.J.S.A. 40:48-2, the Common Council is authorized to enact and amend ordinances as deemed necessary for the preservation of the public health, safety and welfare and as may be necessary to carry into effect the powers and duties conferred and imposed upon the City by law.

NOW, THEREFORE BE IT ORDAINED by the Common Council for the City of Burlington, in the County of Burlington, State of New Jersey that the Code of the City of Burlington is hereby amended, revised and/or supplemented as follows:

SECTION 1: Chapter 76, Article II, “Open Containers” is hereby amended, supplemented, and revised as follows:

§ 76-8 Consumption in public places.

No person shall consume or carry open containers of alcoholic beverages:

- A. While in or on a public street, lane, sidewalk, public parking lot, public or quasi-public place or in any public conveyance;
- B. In a private motor vehicle while it is in motion or parked in any public street, lane, or public parking lot;
- C. While upon any private property not his/her own without the express permission of the owner or other person having authority to grant such permission.

§ 76-8.1 Open container areas established.

Notwithstanding the provisions of § 76-8, an open container area is hereby established on a portion of the Burlington City Promenade as set forth in Map A attached hereto and made a part hereof (“BCP Area”) pursuant to the following provisions:

- A. The BCP Area shall only be considered an “open container area” subject to N.J.S.A. 33:1-24.4.
- B. The BCP Area will be limited to operate as an open container area between the hours of 4:00 P.M. and 9:00 P.M. on Tuesdays only commencing May 7, 2024 through September 24, 2024.
- C. The carrying and consumption of alcoholic beverages within the open container area created and established herein is subject to the following conditions:
 - 1. This Section only authorizes the consumption of alcoholic beverages within the open container area by persons who are at least 21 years of age.
 - 2. The container from which the alcoholic beverage is to be consumed must be a clear plastic cup that displays a visible logo, name or other identifying symbol from the licensed establishment selling the alcoholic beverage.
- D. The sale of alcoholic beverages for consumption in the Burlington City open container area is expressly subject to the provisions of Title 33 of the Revised Statutes, the rules and regulations promulgated by the Director of the Division of Alcoholic Beverages and all municipal ordinances.
- E. The provisions of this Section shall begin on May 7, 2024 and expire on September 24, 2024 at 9:00 P.M.

§ 76-8.2 **Violations and penalties.**

Any person convicted of a first offense under this section shall be subject to a minimum fine of \$224 payable through the City Violations Bureau.

SECTION 2: Except as set forth in Section 1, the balance of the Code of the City of Burlington shall not be affected by this Ordinance.

SECTION 3: All Ordinances contrary to the provisions of this Ordinance are hereby repealed to the extent they are inconsistent herewith.

SECTION 4: If the provisions of any section, subsection, paragraph, subdivision or clause of this Ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph or subdivision, or clause of this Ordinance.

SECTION 5: This Ordinance shall take effect twenty (20) days after final passage by Council and signature by the Mayor.

ORDINANCE NO. 03-2024

Passed Common Council,

George Chachis, President
Common Council

Approved,

Barry W. Conaway, Mayor

ATTEST:

Cindy A. Crivaro, RMC
Municipal Clerk

Introduction: 02/06/24
Publication: 02/11/24
2nd & Final: 02/20/24
Publication: 02/26/24
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