Introduced 5/9/13
Adopted 5/23/13

ORDINANCE NO: 13- 354

BE IT ORDAINED by the City Council of the City of Huntsville, Alabama as follows:

Section 1. Chapter 3, Article II of the Code of Ordinances of the City of Huntsville, Alabama is hereby amended by adding the following section:

Sec. 3-27. Arts and Entertainment Districts.

(a) *Definitions.* The following words, terms, phrases, when used in this section, shall have the meanings ascribed to them in this subsection (a), except where the context clearly indicates a different meaning.

Chapter 23 special event means a special event governed by chapter 23, article VI of this Code.

Arts and entertainment district or *district* means the districts established hereinafter in subsection (b) of this section, as such districts may be from time to time amended.

Arts and entertainment district area or *area* means public places within the art and entertainment district, except for an excluded public place.

Arts and entertainment district event means a chapter 23 special event that meets each of the following criteria:

(1) The event is open to the general public and may or may not include an admission fee for entrance into the event.

(2) The purpose of the event is to promote local arts, culture, or entertainment, through a venue that is consistent with the purpose of the arts and entertainment district.

Arts and entertainment district permittee or *permittee* means an on-premise retail city licensee permitted by the city in accordance with subsection (f) of this section.

Excluded public place means a public place within an arts and entertainment district that is not included within an arts and entertainment district area as follows:

a. a public building, facility, garage, or parking lot within an arts and entertainment district that is posted with signage at each entrance or in conspicuous places that no alcoholic beverages are allowed on the premises;

b. property privately owned or controlled that is posted with signage at each entrance or in conspicuous places that no alcoholic beverages are allowed on the premises;

c. an area being used for a chapter 23 special event that is posted with signage at each entrance or in conspicuous places occupied by the event that no alcoholic beverages are allowed on the premises; or

d. an area being used for a chapter 23 special event that is licensed to sell alcoholic beverages or that holds a bottle permit issued under section 3-23; or

e. the premises of a city licensee.

Permitted conduct means the removal of alcoholic beverages in an approved open container from the premises of an arts and entertainment district permittee by a person of legal drinking age and the possession and consumption thereof by that person within the confines of the arts and entertainment district area during the hours of operation of the arts and entertainment district.

(b) *Purpose.*

(1) *Purpose of section.* The purpose of this section is:

a. to establish districts authorized by section 28-3A-17.1, Code of Ala. 1975, within which certain conduct that is otherwise prohibited by this article is permitted, specifically, regulations against drinking in a public place under section 3-22(b), regulations against removal of open containers under section 3-24, and regulations against brown bagging on the premises of an other city business licensee; and

b. to establish regulations governing the district.

(2) *Purpose of arts and entertainment districts.* In addition to the foregoing, the purpose of establishing an arts and entertainment district is to enhance the public enjoyment of the district and to promote local arts, culture, and entertainment, while, at the same time, protecting existing uses and preserving the unique character of each district.

(c) *Arts and entertainment districts established.*

(1) Subject to subsections (2) and (3) of this subsection (c), there is hereby established the following two named and generally described districts, the Quigley District and the Meridian District, which are also shown on the appended map incorporated herein by reference, which districts shall constitute entertainment districts pursuant to section 28-3A-17.1, Code of Ala. 1975:

a. *Quigley District.* Beginning at the intersection of the East bank of Broglan Branch and the North right of way(ROW) line for Clinton Ave NW; thence from the point of beginning Northeast along the North ROW of Clinton Ave. NW to a point on the North ROW of Clinton Ave. and the East ROW of Monroe Street; thence South along the East ROW of Monroe Street to the North margin of Big Spring Park, said point further described as lying at the Southwest corner of the parking garage "M"; thence Northeast along the north margin of Big Spring Park to the intersection of said boundary with the West ROW of Spragins Street; thence North along the west ROW of Spragins to the intersection of the West ROW of Spragins with the North ROW of Spring Street extended; thence along the North ROW of Spring Street to the center of the block and an unnamed alley; thence Northwest along the unnamed alley crossing Clinton Ave. to a point on the North ROW of Holmes Ave.; thence along the North ROW of Holmes Ave. to a point on the East ROW of Greene Street; thence Southeast along the East ROW of Greene Street to the Southwest corner of Parking Lot "D"; thence Southwest crossing over Greene Street to a point on the West ROW of Greene Street; thence continuing Southwest along the property line to the center of the block being bounded by Homes Ave. to the North, Clinton Ave. to the South, Greene Street to the East and Washington Street to the West; thence Southeast along the property lines crossing over Clinton Ave. to a point on the South ROW of Randolph Ave.; thence Southwest along the South ROW of Randolph Ave. to the western most property line of the Church of Christ; thence Southeast along said property line and through Parking Lot "E" to a point on the North ROW of Eustis Ave.; thence along the North ROW of Eustis Ave. for 400 feet to a point; thence Southeast crossing over Eustis Ave. and following the Western most property line of 306 Eustis Ave., 230 feet to a point; thence Southwest to a point on the West ROW of Greene Street; thence continuing Southwest along a line South of the Church of Nativity to a point on the Eastern ROW of Franklin Street; thence Southeast along the Eastern ROW of Franklin Street to the intersection of the Eastern ROW of Franklin Street and the South ROW of Gates Ave., thence Southwest along the South ROW of Gates Ave. to the intersection of the South ROW of Gates Ave. and the West ROW of Madison Street; thence Northwest along the West ROW of Madison Street to the intersection of the West ROW of Madison Street and the South ROW of Fountain Circle; thence Southwest along the South ROW of Fountain Circle and the South boundary of Big Spring Park East to a point on the East ROW of Church Street; thence Southeast along the East ROW of Church Street to the intersection of the East ROW of Church Street and the South ROW of Williams Ave.; thence Southwest along the South ROW of Williams Ave. to the intersection of the South ROW of Williams Ave. and the East ROW of Lowe Ave.; thence South and East

along the East ROW of Lowe Ave. 740 feet to a point; thence due South crossing Lowe Ave. to a point on the North margin of Peter Fagan Creek; thence following the Northern margin of Peter Fagan Creek West for 714 feet to a point; thence crossing Peter Fagan Creek Southwest 150 feet to a point further described as being the Northeast Corner of the Williams Aquatic Center property; thence Northwest along the North boundary of the Aquatic Center for 300 feet to a point of the East ROW of Monroe Street; thence South along the East ROW of Monroe 420 feet to a point just East of the center of the traffic circle at the intersection of Monroe Street and Heart of Huntsville Drive; thence leaving the East ROW of Monroe Street Northwest along the centerline of Heart of Huntsville Drive 450 feet to a point; thence leaving the centerline of Heart of Huntsville Drive Northwest along the East margin of Broglan Branch to a point on the North ROW of Clinton Ave. NW and the point of beginning; said tract being 96.32 acres more or less.

b. *Meridian District.* Beginning at the intersection of the West ROW of Dallas Street and the South ROW of Howe Ave.; thence North 32 Degrees 48 Minutes 16 Seconds West 52.1 feet to a point on the North Side of Howe Ave.; thence North 79 Degrees 51 Minutes West a distance of 139.5 feet to a point; thence North 32 Degrees 53 Minutes West a distance of 91.35 feet; thence North 03 Degrees 43 Minutes West a distance of 23.11 feet to a point; thence North 24 Degrees 37 Minutes East a distance of 139.48 feet to a point; thence North 04 Degrees 35 Minutes West a distance of 106.5 feet to a point on the South ROW of Pratt Ave.; thence West along the South ROW line of Pratt Ave a distance of 362.2 feet to a point on the Eastern ROW of the Norfolk Southern Railroad; thence Southwest along the Eastern ROW of the Norfolk Southern Railroad to the intersection of said railroad ROW and the South ROW of Cleveland Ave.; thence East along the South ROW of Cleveland Ave. to the intersection of the South ROW of Cleveland Ave. and the Western ROW of Meridian Street; thence South along the West ROW of Meridian Street a distance of 184.3 feet to a point; thence North 86 Degrees 01 Minutes East a distance of 150.6 feet to a point on the South ROW of Howe Ave.; thence Northeast along the South ROW line of Howe Ave 697 feet to the point of beginning; a tract of land 10.4 acres more or less.

(2) Notwithstanding anything in this section to the contrary, at any time and from time to time, the arts and entertainment districts established in this section may be enlarged, reduced, modified, or eliminated, in whole or part, and the regulations set forth in this section are subject to amendment at any time and from time to time. No vested rights shall be acquired by or be conferred upon any person as a

result of the establishment of an arts and entertainment district or permitting under this section.

(3) In the event an arts and entertainment district established by this section falls below the number of retail liquor licensees required for the establishment of the district according to section 28-3A-17.1(d), Code of Ala. 1975, then the city may amend this section to either eliminate that particular arts and entertainment district or modify the district so as to remain in compliance with section 28-3A-17.1, unless applicable state alcoholic beverage control laws allow for continuance of a once-established district regardless of the number of retail liquor licensees remaining.

(4) Where this section provides for the opening of a portion of an arts and entertainments district, that portion that is opened shall have not fewer than four retail liquor licensees.

(5) Within 90 days after the establishment of the arts and entertainment districts, the planning division shall make recommendations to the city council concerning changes to the districts and the regulations set forth in this section.

(d) *Opening of the district.*

(1) *Regular hours of district.* Starting on June 20, 2013, the regular hours of operation for an arts and entertainment district shall be Thursday and Friday between the hours of 5:00 p.m. to 10:00 p.m.

(2) *Arts and entertainment district event.*

a. An event organizer of a chapter 23 special event that is an arts and entertainment district event may, with the organizer's application for a chapter 23 special event permit, request, on forms provided by the city, that an arts and entertainment district, or a portion thereof specified in the request, be opened during the chapter 23 special event.

b. The request shall be processed with the application for a chapter 23 special event permit and the event organizer, as that term is defined in chapter 23, article VI of this Code, shall be responsible for all costs incurred by the city as a result of the opening of the district during the chapter 23 special event, including safety, traffic and crowd control; clean-up costs; and the use of city equipment. City services necessitated by the conduct of the chapter 23 special event independent of the opening of the arts and entertainment district shall be governed by chapter 23, article VI of this Code.

c. The event organizer that requests that only a portion of the district be opened shall be responsible for the costs associated with delineating the partial opening of the district. A partial opening of the district and the manner of delineating the opening shall be subject to the approval of the event administrator.

d. The event administrator, as that term is defined in chapter 23, article VI of this Code, shall have the authority to determine whether the proposed event meets the definition of an arts and entertainments district event, based on recommendations that he may elect to obtain from the city's planning division, and to approve, approve with conditions, or disapprove the opening of all or a portion of the district during the special event based on the grounds for denying a special event permit or other public health, safety, or general welfare concerns. No appeal or other right of review shall be available to an event organizer who has had its request to open the district denied.

(3) *City-sponsored opening of the district.* At any time and from time to time the city may elect to sponsor the opening of all or a portion of an arts and entertainment district.

(e) *Arts and entertainment district regulations.* The following regulations shall govern the conduct in arts and entertainment districts and are subject to amendment at any time of from time to time:

(1) *Drinking in a public place.* Subject to compliance with the requirements of this subsection (d), the provisions of section 3-22(b) of this article related to drinking in a public place shall not apply in an arts and entertainment district area for permitted conduct, except that it shall be a violation of this section for any person to possess an open container inside a motor vehicle that is located on a public place within the arts and entertainment district. Nothing in this section shall be construed to authorize any person to violate the state's open container law found at section 32-5A-330, Code of Ala. 1975.

(2) *Removal of open containers.* Subject to compliance with the requirements of this subsection (d), the provisions of section 3-24 of this article related to removal of open containers from an authorized licensed premises shall not apply in an arts and entertainment district area for permitted conduct.

(3) *Brown bagging.* Subject to compliance with the requirements of this subsection (d), the provisions of section 3-25 of this article related to brown bagging on the premises of an other city business licensee shall not apply in an arts and entertainment district area for permitted conduct.

(4) *Approved containers.* Each arts and entertainment district permittee shall serve alcoholic beverages for consumption within the arts and entertainment district area in approved, non-glass containers. It shall be unlawful for a permittee, its owner, manager, agent, servant, or employee to knowingly allow alcoholic beverages in open containers to be removed from the licensed premises in anything but an approved container.

(5) *Entry into other city licensed premises.* It shall be unlawful for any person to enter or for a city licensee, its owner, manager, agent, servant, or employee, to knowingly allow a person to enter city licensed premises with an open container or closed container of alcoholic beverages acquired elsewhere. The licensed premises shall include patios or sidewalk café areas of the licensee.

(f) *Permitting.*

(1) *Qualifications.* In order to qualify for an arts and entertainment district permit an applicant shall meet each of the following;

a. The applicant shall be a city licensee that is authorized by the city to sell alcoholic beverages at retail for on-premises consumption; and

b. No adverse criminal, quasi-criminal, or administrative action shall be pending or shall have been taken in the immediately preceding 12-month period against the city licensee or its owner related to the retail license or the operation of the city licensed premises.

(2) *Application process; permit duration.* A city licensee that meets the qualification of subsection (1) above may apply with the city-clerk's office to become an arts and entertainment district permittee by filling out a form provided by the city. The city clerk treasurer may deny a permit if the applicant does not meet the qualifications stated in subsection (1) above. The applicant may appeal the denial of the application for a permit to the liquor license review committee by filing a written notice of appeal with the city clerk-treasurer within 15 days after the denial. A permit shall be valid for a license year, at the end of which a renewal application must be made.

(3) *Action against permit.* A permit may be revoked, suspended, or not renewed by the city clerk-treasurer if the permittee or applicant for renewal no longer meets the qualifications stated in subsection (1) above. The permittee or applicant for renewal may appeal the adverse decision of the city clerk-treasurer to the liquor license review committee by filing a written notice of appeal with the city clerk-treasurer within 15 days after the adverse action.

(g) *Security.*

(1) *Closure of district.* At any time and from time to time, the chief of police shall have the authority to close an arts and entertainment district, or portions of the district, and require persons to disperse from the area should he, in his sole discretion, determine it is appropriate to do so in order to protect the public health, safety, or general welfare. The arts and entertainment district shall remain closed until the chief of police allows the district to be re-opened. The city shall not be responsible for any costs incurred by any person as a result of the closing and the city shall still be entitled to a reimbursement for city services provided in connection with the opening of the district for an arts and entertainment district event.

(2) *Number of permits.* The chief of police shall have the authority at any time and from time to time to limit the number of arts and entertainment district permits issued in a given license year should he, in his discretion, determine that it is in the interest of public, health, safety, or general welfare to do so. In such event, permits shall be issued on a first come, first serve basis based on the time a completed application is submitted to the office of the city clerk-treasurer. If there is a question as to first in time, the city clerk-treasurer is authorized to conduct a random drawing to decide the issue.

Section 2. The severability provisions of section 1-8 of the Code of Ordinances of the City of Huntsville, Alabama are specifically included herein by reference as if fully set forth.

Section 3. This Ordinance shall become effective upon its adoption and approval.

ADOPTED this the 23rd day of May, 2013.

President of the City Council
Of the City of Huntsville, Alabama

APPROVED this the 23rd day of May, 2013.

Mayor of the City of
Huntsville, Alabama