

ORDINANCE NO: 13- 731

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. 3-28. Providence Entertainment District.

(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.

Approved container means a purple colored, non-glass container not exceeding a volume of 16 fluid ounces, which is provided to a customer by the seller who is an entertainment district permittee, bearing the name or logo of the district or the name or logo of the entertainment district permittee.

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

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

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

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 the entertainment district that is not included within the entertainment district area as follows:

- a. a public building, facility, garage, or parking lot that is posted with signage at each entrance or in conspicuous places that no open containers of 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 open containers of 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 open containers of alcoholic beverages are allowed on the premises;

- d. an area being used for a chapter 23 special event that is licensed to sell alcoholic beverages; or
- e. the premises of a city licensee.

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

(1) 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 possessing an open container and drinking in a public place under subsection 3-22(b), regulations against removal of open containers under subsections 3-24(a) through (c), regulations against allowing an open container or consumption of alcoholic beverages on the parking area of a city licensee under subsection 3-24(d), and regulations against brown bagging on the premises of an other city business licensee under subsection 3-25(a); and

(2) to establish regulations governing the district.

(c) *Providence Entertainment District established.*

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

All that part of Township 3 South Range 2 West Section 25 particularly described as:

Beginning at a point on the South margin of Stockton Street and the East margin of Town Center Drive, thence East along the South Margin of Stockton Street 65 feet to a point; thence leaving the South Margin of Stockton Street, South 07 Degrees 47 Seconds East a distance of 92 feet to a point; thence due East 40 feet to a point; thence South 08 Degrees 26 Minutes East 108 feet to a point; thence South 22 Degrees 39 Minutes East 24 feet to a point; thence South 11 Degrees 43 Minutes West 4 feet to a point; thence South 48 Degrees 20 Minutes East 14 feet to a point; thence South 40 Degrees 34 Minutes West 22 feet to a point; thence South 46 Degrees 49 Minutes East 17 feet to a point; thence South 09 Degrees 27 Minutes East 07 feet to a point; thence due East 36 feet to a point; thence due North 02 feet to a point; thence due East 24 feet to a point; thence due South 2.7 feet to a point; thence due East 11 feet to a point; thence due North 18 feet to a point; thence due East 90 feet to a point; thence due North 18 feet to a point; thence due East 69 feet to a point further described as a corner of a parking lot;

thence North 06 Degrees 20 Minutes West 18 feet to a point; thence due East 20 feet to a point; thence South 54 Degrees 14 Minutes East 45 feet to a point described as the back wall of a building described as being 445 Providence Main Street; thence continue along the back of the building to the Northeast corner of the building; thence North 48 Degrees 40 Minutes 9 feet to a point on the South margin of a parking lot entrance; thence Southeast along the entrance South 48 Degrees 51 Minutes East 32 feet to a point; thence crossing the entrance North 38 Degrees 44 Minutes East 38 feet to a point further described as the Southwest corner of a building described as 475 Providence Main Street; thence continue along the back of the building in a Northeast direction to the Northern most point of the building; thence Southeast along the building to the Southeast corner of the building; thence continue Southeast to the northern portion of a sidewalk on the Northwest side of Providence Main Street; thence following the North side of the sidewalk in a Northeasterly direction 64 feet to a point on the South ROW of Biltmore Drive; thence crossing Biltmore Drive North 35 Degrees 52 minutes East 75 feet to a point on the North side of a sidewalk of Biltmore Drive further described as being at the intersection of Biltmore Drive and Providence Main Street; thence following the northernmost side of the sidewalk continue in a Northeasterly direction 280 feet to a point lying on the North side of Providence Main Street; thence crossing Providence Main Street South 43 Degrees 56 Minutes East 136 feet to a point; thence South 41 Degrees 28 Minutes West 25 feet to the Northeast corner of a building further described as being 500 Providence Main Street; thence following the back of the building in a Southwest and then Southeast direction to the Northeast corner of the building facing Biltmore Drive; thence South 57 Degrees 35 Minutes East 18 feet to a point; thence South 39 Degrees 50 Minutes West and crossing over Biltmore Drive 354 feet to a point further described as lying on the North ROW of Parade Street; thence South 50 Degrees 11 Minutes East along the North ROW of Parade Street 246 feet to a point at the intersection of Parade Street and Arch Street; thence South 40 Degrees 19 Minutes West 271 feet to a point at the intersection of Arch Street and the North side of Town Center Drive; thence South 40 Degrees 19 Minutes West and crossing Town Center Drive 46 feet to a point on the north side of a parking lot entrance stubbed to Arch Street; thence following the Northern Portion of the Parking lot in a general Northwest direction 438 feet to a point on the Northeast corner of a courtyard on the East side of the Springhill Suites further described as being 320 Providence Main Street; thence South 13 Degrees 32 Minutes West 188 feet to the South East corner of the Eastern most wing of Springhill Suites; thence following the South side of Springhill Suites continue to the Southwest Corner of Springhill Suites; thence due West 26 feet to the Eastern margin of Providence Main Street; thence Northeasterly along the Eastern margin

of Providence Main Street to the Northeast corner of the intersection of Providence Main Street and Town Center Drive; thence crossing Providence Main Street and following the North side of Town Center Drive generally in a Westerly then Northwesterly direction to the South margin of Stockton Street, the East margin of Town Center Drive and the point of beginning, containing 11.44 acres more or less.

(2) Notwithstanding anything in this section to the contrary, at any time and from time to time, the entertainment district 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 the entertainment district or permitting under this section.

(3) In the event the 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 the 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.

(d) *Opening of the district.*

(1) *Regular hours of district.* The regular hours for the entertainment district shall be between the hours of 4:00 p.m. to 11:00 p.m. on Wednesday, Thursday, and Friday, and between the hours of 11:00 a.m. to 11:00 p.m. on Saturday and Sunday.

(2) *Chapter 23 special event opening of district.*

a. An event organizer of a chapter 23 special event, including an organized event on private property that requires city event services in accordance with section 23-202(d) of this Code, may request, with the organizer's application for a chapter 23 special event permit and on forms provided by the city, that the entertainment district 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 entertainment district shall be governed by chapter 23, article VI of this Code.

c. The event administrator, as that term is defined in chapter 23, article VI of this Code, shall have the authority to approve, approve with conditions, or disapprove the opening 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 the entertainment district.

(e) *Conduct in the entertainment district.*

(1) The regulations of subsection 3-22(b) of this article, concerning the possession of an open container or drinking an alcoholic beverage in a public place, shall not apply in the case of the possession or consumption of alcoholic beverages in an approved container within the confines of the entertainment district area during the hours of operation of the entertainment district. Otherwise, the regulations of subsection 3-22(b) shall apply.

(2) The regulations of subsections 3-24(a) through (c) of this article, concerning removal of an open container from an authorized licensed premises, shall not apply in the case of the removal of an approved container of alcoholic beverages from the premises of the entertainment district permittee providing the same, during the hours of operation of the entertainment district. Otherwise the regulations of subsections 3-24(a) through (c) shall apply.

(3) The regulations of subsection 3-24(d) of this article, concerning allowing an open container or consumption of alcoholic beverages on the parking area of a city licensee, shall not apply in the case of the possession or consumption of alcoholic beverages in an approved container within the confines of the entertainment district area during the hours of operation of the entertainment district. Otherwise, the regulations of subsection 3-24(d) shall apply.

(4) The regulations of subsection 3-25(a) of this article, concerning brown bagging on the premises of an other city business licensee, shall not apply in the entertainment district area during the hours of operation of the district in the case of alcoholic beverages in an approved container. Otherwise the regulations of section 3-25(a) shall apply. Nothing in this subsection (4) shall be construed to allow brown bagging on city licensed premises, which includes patios or sidewalk café areas of the city licensee.

(5) It shall be unlawful for any person to re-use or to knowingly allow the re-use of an approved container for an alcoholic beverage and nothing in this section shall be construed to authorize the same.

(6) 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.

(7) Nothing in this section shall be construed to authorize any person to violate the state and city's laws against under-age drinking.

(f) *Permitting.*

(1) *Qualifications.* In order to qualify for an 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 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) *Temporary closure of district.* At any time and from time to time, the chief of police shall have the authority to temporarily close the entertainment district, which includes the authority to 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 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 a Chapter 23 special 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 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 _____ day of _____, 2013.

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

APPROVED this the _____ day of _____, 2013.

 Mayor of the City of
 Huntsville, Alabama

