

ORDINANCE AMENDING SECTIONS 3-57 AND 3-58 OF THE CODE OF THE CITY OF AUBURN PROVIDING FOR THE SERVING AND CONSUMPTION OF ALCOHOLIC BEVERAGES AT UP TO EIGHT (8) SPECIAL EVENTS ANNUALLY AT THE JAN DEMPSEY COMMUNITY ARTS CENTER; ESTABLISHING AN ENTERTAINMENT DISTRICT AS PROVIDED BY ACT NO. 2012-438 OF THE LEGISLATURE OF THE STATE OF ALABAMA IN A PORTION OF DOWNTOWN AUBURN; AND, ESTABLISHING RULES AND PROCEDURES FOR THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN THE BOUNDARIES OF SAID ENTERTAINMENT DISTRICT

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

Section 1. That Section 3-57 of The Code of the City of Auburn is amended to read as follows:

Sec. 3-57. Public possession or consumption of alcohol.

(a) Except as provided in subsection (c) below and in section 3-58, no person shall possess or drink malt, vinous, spirituous or other intoxicating liquors within the confines or parking area of any stadium, basketball court or other places in the city in which athletic events are in progress or during or near to the playing of public school or other athletic contests or events; and no person shall drink any such liquors in any other public place except in places where such liquors are sold at retail for consumption on the premises pursuant to a license issued by the city and the Alabama Alcoholic Beverage Control Board.

(b) For the purpose of this section, a "public place" shall be defined and shall be held as including the following:

(1) Any street, alley, sidewalk, public park, public building, such as but not limited to the city hall, library, school building, auditorium, recreation center and any other public building open to the public;

(2) Any theater, show, movie house, skating rink, dance hall or other place of amusement;

(3) Any parking lot of any public building, apartment house, theater, movie house, skating rink, dance hall or other place of amusement, restaurant, store or other place where merchandise of any kind is offered for sale;

(4) Any restaurant, dining room, lobby or other public or quasipublic room of a hotel or other similar place;

(5) Any store or place where merchandise of any kind is offered for sale;

(6) Any other place not included in the foregoing which is generally accessible to the public, such as but not limited to common areas of apartment houses; however, such place shall not include a private residence and its surrounding premises.

(c) Notwithstanding the provisions of this section, alcoholic beverages may be served and consumed:

(1) In outdoor cafes approved in accordance with the provisions of article XII of chapter 12 of the Code of the City of Auburn provided the adjacent host eating establishment holds both a valid State of Alabama Alcoholic Beverage Control Board license and a City of Auburn alcoholic beverage license and a valid city business license.

(2) During special community events as may be specifically approved for individual events upon application to the city council provided the required city and state alcoholic beverage licenses are obtained.

(3) During public or private events in the following public buildings and facilities provided the required city and state alcoholic beverage licenses are obtained:

(a) Jan Dempsey Community Arts Center up to a maximum of eight (8) such events each calendar year.

(b) Other public buildings and facilities, except the Boykin Community Center, as may be specifically approved for individual events upon application to the city council.

(d) The applicant for a special community event per subsection 3-57(c)(2) or for a public or private event per section 3-57(c)(3) shall arrange with the city public safety department to review the need for security services for the event. The cost of any such security services shall be paid by the applicant unless otherwise approved. The public safety department shall detail the number of security officers deemed appropriate to maintain public safety at the event based on factors including but not limited to the type of event, number of attendees, and event venue.

(e) The applicant for a special community event per Section 3-57(c)(2) or for a public or private event per Section 3-57(c)(3) shall file with the City Manager a statement agreeing to indemnify and hold harmless the City, its officials, representatives, agents, servants, and employees from any and all claims, damages, judgments, cost, or expenses, including attorney's fees, which they may incur or be required to pay because of any bodily injury, including death, or property damage suffered by any person as a result of or related in any way to the event on city property that involves the furnishing, serving, or sale of alcohol.

(f) The applicant for a special community event per subsection 3-57(c)(2) or for a public or private event per subsection 3-57(c)(3) shall file with the city manager a certificate of insurance showing that the person carries comprehensive general liability insurance or event insurance and liquor liability insurance (if required) issued by an insurance company licensed to do business in the state. Limits of liability for general liability insurance or event insurance shall be at a minimum, \$500,000.00 per occurrence, \$500,000.00 personal and advertising injury, \$1,000,000.00 general aggregate and \$1,000,000.00 products/completed operations aggregate. The general liability insurance or event insurance will provide coverage for the serving or furnishing of alcoholic beverages. If the event involves the sale of alcoholic beverages or is catered by a person in the business of selling, serving or furnishing alcoholic beverages, a certificate of liquor liability insurance will be required. Limits of liability for liquor liability shall be at a minimum, \$500,000.00 per occurrence and \$1,000,000.00 aggregate. The city will be named as an additional insured under the general liability insurance, event insurance and liquor liability insurance (if required). The certificate of insurance shall provide the city with thirty (30) days written notice of cancellation or material change in the general liability insurance, event insurance, and liquor liability insurance (if required). The cancellation of any such coverage shall have the effect of suspending the permit for the event(s) covered thereby until a new certificate of insurance complying with the provisions of this section is filed with the city manager.

Section 2. That Section 3-58 is added to The Code of the City of Auburn and shall read as follows:

Sec. 3-58 Entertainment Districts

(a) An entertainment district as provided by Act No. 2012-438 of the Legislature of the State of Alabama is hereby established for the portion of downtown auburn bounded by:

the centerline of Glenn Avenue between Wright Street and Gay Street;

the centerline of Gay Street between Glenn Avenue and Thach Avenue;

the northern right-of-way line of Thach Avenue between Gay Street and College Street;

the western right-of-way line of College Street between Thach Avenue and Magnolia Avenue;

the southern right-of-way line of Magnolia Avenue between College Street and Wright Street;

the centerline of Wright Street between Magnolia Avenue and Glenn Avenue,

(b) Within the entertainment district as herein defined, the Alabama Alcoholic Beverage Control Board may issue an entertainment district designation for any on-premises retail alcohol license which allows the licensee to sell alcoholic beverages for consumption on the licensed premises.

(c) The city council may designate special community events in all or part of the entertainment district allowing patrons of establishments with an on-premises retail alcohol license having the entertainment district designation to exit the licensed premises with open containers of alcoholic beverages and consume alcoholic beverages anywhere within the confines of the entertainment district.

(d) Public possession and consumption of alcoholic beverages in the entertainment district shall be subject to the rules established in this subsection and will be permitted only during the specified hours established for the special community events designated by the city council.

(1) Patrons shall not be permitted to enter a licensed premises with open or closed containers of alcoholic beverages acquired elsewhere.

(2) Patrons shall not be permitted to possess or consume alcoholic beverages within the confines of the entertainment district as herein defined that are acquired outside the confines of the entertainment districts.

(3) Patrons may not exit licensed premises with open glass containers of alcoholic beverages. All alcoholic beverages sold for consumption outside the licensed premises shall be contained in an original aluminum container or other shatter resistant container such as a plastic cup.

(e) A licensee who receives an entertainment district designation shall comply with all laws, rules, and regulations which govern its license type except as specifically provided in this Section. Nothing in this subsection shall be construed to allow the sale and consumption of alcohol in the entertainment district beyond the hours established in Sections 3-51 and 3-52 or the sale of alcohol to minors as specified in Section 3-54.

Secs. 3-59--3-69. Reserved.

Section 3. Should any provision or section of this Ordinance be declared invalid, such declaration shall not affect any other provisions or sections of this Ordinance, which provisions or sections shall remain in full force and effect.

Section 4. This Ordinance shall become effective upon its passage or upon its publication as required by law, whichever shall last occur.

Adopted and approved by the City Council of the City of Auburn, Alabama, on this the 7th day of August, 2012.

/s/ Bill Ham, Jr., Mayor

ATTEST:

/s/ Charles M. Duggan, Jr., City Manager