

ORDINANCE NO. 2307

ORDINANCE TO ESTABLISH LEISURE AND RECREATION DISTRICTS
WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF BILOXI, MISSISSIPPI,
AND DESIGNATE THE GEOGRAPHIC AREAS INCLUDED WITHIN AND BOUNDARIES
OF SAID DISTRICTS; AND FOR RELATED PURPOSES

WHEREAS, the City of Biloxi, Mississippi, is a duly organized and incorporated municipality pursuant to Section 21-8-1, et seq., of the Mississippi Code of 1972 (as amended); and

WHEREAS, during the 2016 Legislative Session, the Legislature of the State of Mississippi enacted House Bill 1223 which permits and authorizes certain municipalities in the State of Mississippi to establish “Leisure and Recreation Districts” within the boundaries of those municipalities and to designate the geographic areas included within and the boundaries of said districts; and

WHEREAS, the Governor signed House Bill 1223 into law, and the same shall be effective on and after July 1, 2016; and

WHEREAS, House Bill 1223 requires that an Ordinance which establishes a “Leisure and Recreation District” shall “include a detailed description of the area or areas within the district, the boundaries of the district and a georeferenced map of the district” as well as a description of the “manner in which the municipality will provide for adequate law enforcement and other public safety measures and services within the district”; and

WHEREAS, municipalities which create “Leisure and Recreation Districts” authorize business entities that hold alcoholic beverage permits issued by the Department of Revenue and that are located within the boundaries of the “Leisure and Recreation District” to allow patrons to leave the licensed premises with an open container of alcohol and allow those patrons to carry and consume alcoholic beverages within a designated “Leisure and Recreation District”; and

WHEREAS, the Mayor and City Council of the City of Biloxi, Mississippi, have determined and hereby find that the City of Biloxi, Mississippi, would benefit from the establishment of certain districts to each be a “Leisure and Recreation District” within the City of Biloxi, by enhancing pedestrian-oriented areas; and

WHEREAS, the Mayor and City Council of the City of Biloxi, Mississippi, have further determined that establishment of certain districts to each be a “Leisure and Recreation District” would be in the best interests of the City of Biloxi; and

WHEREAS, nothing herein is intended to confer any rights or entitlement, as the sale of alcohol within an area designated as a “Leisure and Recreation District” is a privilege and not a right and is subject at all times to reasonable regulation; and

WHEREAS, subject to the terms and limitations of House Bill 1223 (2016 Legislative Session) and this Ordinance, the City of Biloxi hereby establishes certain districts to each be a “Leisure and Recreation District” in the areas as more fully set forth herein; and

WHEREAS, the Mayor and City Council find that this ordinance should be in full force and effect from and after July 1, 2016, in order to serve the public peace, health and safety of the citizens of Biloxi and to incent enhancement of, and complete recovery of, the economy of the tourism industry in the City of Biloxi, which has been damaged by Hurricane Katrina, the Great Recession, and the Deepwater Horizon Oil Spill.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILOXI, MISSISSIPPI, AS FOLLOWS:

SECTION 1. *Creation and establishment of districts.* Under the authority granted in Section 1 of House Bill 1223 (2016 Legislative Session), there are hereby established certain districts with each to be a “Leisure and Recreation District” in the City of Biloxi within the geographic areas and within such boundaries as are set forth and designated herein and as represented on the geo-referenced Maps which are attached hereto as Exhibit 1 and fully incorporated herein.

SECTION 2. *Name and boundaries of districts.* Each of the districts named in this Section 2 shall be a “Leisure and Recreation District” established herein, and the names of the separate districts shall be known, respectively, as the “Biloxi Historic Waterfront Leisure & Recreation District”, the “West Biloxi Waterfront Leisure & Recreation District”, and the “Lorraine Road Leisure & Recreation District” (hereinafter for purposes of this ordinance, the word, “District”, shall apply separately to each district named in this Section 2 and shall not apply collectively) and shall have as their respective boundaries the boundaries of each separate district described on Exhibit 2 which is attached hereto and fully incorporated herein.

SECTION 3. *Outside Consumption of Alcoholic Beverages Permitted; Conditions.* Any on premise retail alcoholic beverage permittee located within the District shall comply with all laws, rules and regulations which govern its license type, except that a patron, guest or member of that licensee may remove an open container of alcoholic beverage and/or wine from the licensed premises and may possess and consume the alcoholic beverage and/or wine outside of the licensed premises anywhere within the boundaries of the District, subject to the following regulations:

- A. A person may not enter licensed premises with an open container of alcoholic beverages acquired at that licensed premises or elsewhere.
- B. A permittee located in the District shall allow alcoholic beverages to be removed from the licensed premises only in a paper or plastic cup, not larger than 16 fluid ounces in size, and no such alcoholic beverages shall be removed from the licensed premises in a can, bottle, glass container or other container, except as otherwise allowed by law.
- C. No permittee shall allow a patron, guest or member to exit its licensed premises with more than one open container of alcoholic beverages, and it shall be unlawful for any person to exit such licensed premises with more than one such open container.
- D. Permittees located in the District shall post, at all points of egress from the licensed premises, a map of the boundaries of the District in which it is located. The map shall be provided, either in electronic or paper form, to those permittees by the City.
- E. Nothing in this ordinance shall be construed to require a permittee located in the District to allow its patrons to remove alcoholic beverages and/or wine, in open containers, from the licensed premises.
- F. Nothing in this ordinance shall be construed to allow patrons, guests or members of a licensee to remove an open container of alcoholic beverage and/or wine from the boundaries of the District in which it was purchased, and it shall be a violation of this ordinance for any person to remove an open container of alcoholic beverage and/or wine from the boundaries of the District in which it was purchased.

G. The purpose of this ordinance being primarily to allow pedestrians to carry open containers within a Leisure and Recreation District, nothing in this ordinance shall be construed to allow patrons, guests or members of a licensee to drive a motor vehicle or non-motor vehicle while carrying an open container of alcoholic beverage and/or wine and/or beer or light wine onto or into a motor vehicle or pedestrian-driven vehicle, and it shall be a violation of this ordinance for any person to drive a motor vehicle or non-motor vehicle while carrying an open container of alcoholic beverage and/or wine and/or beer or light wine within the District in which it was purchased. This sub-paragraph "G" does not apply to non-driving passengers of vehicles. Nothing in this ordinance shall be construed to allow patrons, guests or members of a licensee to leave a District in a motor vehicle or non-motor vehicle or a boat of any kind while carrying an open container of alcoholic beverage and/or wine and/or beer or light wine, and it shall be a violation of this ordinance for patrons, guests or members of a licensee to leave a District as a pedestrian or in a motor vehicle or non-motor vehicle or a boat of any kind while carrying an open container of alcoholic beverage and/or wine and/or beer or light wine.

SECTION 4. *Beer and Light Wine.* Within the boundaries of the District, a permittee may only allow beer and light wine to be removed from the licensed premises in a paper or plastic cup, not larger than 16 fluid ounces in size.

SECTION 5. *Public safety measures.* Enforcement of the boundaries of the District shall be the responsibility of the Police Department. In addition, the Police and Fire Departments shall provide public safety services within the District in the same manner it provides those services in the remainder of the City.

SECTION 6. *Definition of alcoholic beverages.* For the purposes of this Ordinance, the term "alcoholic beverages" shall mean any alcoholic liquid, including wines of more than five percent (5%) of alcohol by weight and distilled spirits of more than four percent (4%) of alcohol by weight, capable of being consumed as a beverage by a human being, but shall not include light wine and beer, as defined in Section 67-3-3, Mississippi Code of 1972, but shall include native wines.

SECTION 7. The City reserves the right to modify or repeal this Ordinance, and any district designation created hereunder, at any time, with or without notice.

SECTION 8. All ordinances or parts thereof in conflict with this ordinance are hereby declared to be inapplicable within the geographic boundaries of each "Leisure and Recreation District" created herein; in particular, this ordinance supersedes Section 13-1-48 of the Code of Ordinances, City of Biloxi, Mississippi, of 1992, which shall not apply to the Leisure and Recreation Districts created herein but shall continue to apply outside the boundaries of the Leisure and Recreation Districts created herein.

SECTION 9. Upon receiving unanimous vote of the members of the City Council, this ordinance shall be in full force and effect on July 1, 2016, because it serves the public peace, health and safety of the citizens of Biloxi and will immediately incent enhancement of, and complete recovery of, the economy of the tourism industry in the City of Biloxi, which has been damaged by Hurricane Katrina, the Great Recession, and the Deepwater Horizon Oil Spill. It shall be published according to law, spread on the minutes of the Biloxi City Council, and the Council Clerk shall provide a certified copy of this Ordinance to the Mississippi Department of Revenue upon its enactment.

The foregoing Ordinance having first been reduced to writing, was read by the Clerk and moved by Councilmember Lawrence, seconded by Councilmember Newman, and was adopted by the following vote:

YEAS:	Lawrence	Tisdale	NAYS:	None
	Gines	Glavan		
	Newman	Fayard		
	Deming			

The President then declared the Ordinance adopted this the 21st day of June, 2016.

ATTEST:
/s/ Karen Brashier
CLERK OF THE COUNCIL

APPROVED:
/s/ Robert L. Deming III
PRESIDENT OF THE COUNCIL

Submitted to and approved by the Mayor, this the 23rd day of June, 2016.

APPROVED:
Andrew "FoFo" Gilich
MAYOR

