

ORDINANCE NO. 2014-9

**AN ORDINANCE TO ESTABLISH AN ENTERTAINMENT DISTRICT IN
DOWNTOWN EUFAULA**

WHEREAS, the State of Alabama has passed into law Act. No. 2012-438, hereinafter referred to as "the Act," to create and establish entertainment district designations for retail alcoholic beverage licenses.

WHEREAS, the Act allows the City Council to establish not more than two entertainment districts within the corporate limits of the City of Eufaula, each of which must have not fewer than four retail alcoholic beverage licensees and each of which may not exceed one-half mile by one-half mile in area.

WHEREAS, the City Council has considered the merits of establishing such a district and believes it will benefit the downtown area.

WHEREAS, the City Council finds that other cities in the State of Alabama have had success with such districts, and believes that it is in the best interest of the City of Eufaula to provide for the creation of such a district as provided in this Ordinance.

WHEREAS, nothing herein is intended to confer any rights or entitlement. Selling alcohol within an area designated as an entertainment district is a privilege, not a right, and is subject at all times to reasonable regulation. The City Council reserves the right to modify or repeal this Ordinance, and any district designation created hereunder, at any time.

WHEREAS, subject to the terms and limitations of the Act and this Ordinance, the City of Eufaula wishes to establish an Entertainment District in the downtown area.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF EUFAULA, ALABAMA,
as follows:

Section 1. That Chapter 10, Alcoholic Beverages, of the Code of Ordinances of the City of Eufaula is hereby amended by adding Chapter 10A, Entertainment District which shall read as follows:

Chapter 10A

ENTERTAINMENT DISTRICT

Section 10A-1. Definitions.

The following words, terms, and phrases when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic Beverages means any alcoholic, spirituous, vinous, fermented or other alcoholic beverage, or combination of liquors and mixed liquor, a part of which is spirituous, vinous, fermented or otherwise alcoholic, and all drinks or drinkable liquids, preparations or mixtures intended for beverage purposes, which contain one-half of one percent or more of alcohol by volume, and shall include liquor, beer and wine, both fortified and table wine.

Approved Container means a paper or plastic container not exceeding a volume of 16 fluid ounces, which is provided by a designated licensee that bears the commercially printed name and/or logo of the designated licensee, or in a paper or plastic container bearing a District logo obtained from Main Street Eufaula, Inc.

Board means the Alcoholic Beverage Control Board.

City means the City of Eufaula.

Container means any bottle, can, glass or other receptacle suitable for or used to hold any liquid.

District means the Downtown Entertainment District established by this Chapter.

Licensee means any person or business within the District which holds a license issued by the Board and the City.

License means any retail license authorized by Chapter 3A of Title 28, Code of Alabama, which allows the Licensee to sell alcoholic beverages for consumption on the licensed premises.

Outdoor Dining Area, unless otherwise defined in a licensee's use agreement with the City, means a licensee's outdoor dining area that is situated on the sidewalk between the licensee's storefront and the street where it fronts. With respect to licensed premises located on a corner, any exterior wall that fronts a public street is considered a storefront.

Public place shall mean and include any street, sidewalk, rights-of-way, parking lots, or outdoor public areas located within the District.

Section 10A-2. District Description.

An entertainment district as provided in Act No. 2012-438 of the Legislature of the State of Alabama is hereby established in downtown Eufaula with the areas and boundaries as set forth and designated on the Map which is attached hereto as Exhibit I and incorporated herein.

Section 10A-3. Rules and Regulations.

The following regulations shall be in effect in the District:

(1) Outside Consumption of Alcoholic Beverages Permitted; Conditions:

Within the District, the Alabama Alcoholic Beverage Control Board may issue an entertainment district designation for any on-premise retail alcohol beverage license which allows the licensee to sell alcohol beverages for consumption on the licensed premises. Patrons may not exit licensed premises with more than one open container of alcoholic beverages. All alcoholic beverages sold for consumption outside the licensed premises shall be contained in a paper or plastic container that bears the commercially printed name and/or logo of the designated licensee, or in a paper or plastic container bearing the District logo obtained from Main Street Eufaula, Inc.

No licensee shall allow a person to exit such licensed premises with more than one such open approved container and, and it shall be unlawful for any person to exit such licensed premises with more than one such open approved container.

During Special Events: During special events the District or a portion thereof shall be open for public possession and consumption of alcoholic beverages anywhere within the confines of the District or a portion of the District as provided in the permit. Public possession and consumption of alcoholic beverages shall be allowed as provided herein on dates specified on an assembly permit lawfully issued by the City for events approved by Main Street Eufaula, Inc. A request for an assembly permit for events where public possession and consumption of alcohol within the District is to be considered must include all the information required by Section 82-73 of the Eufaula Code of Ordinances and be submitted to Eufaula Main Street, Inc. for approval prior to consideration by the City. Eufaula Main Street, Inc. may establish a fee for review and processing applications for permits. Events that include such activities as the sale of alcoholic beverages outside of licensed premises, street closures, entertainment using amplified sound, or other regulated activities must comply with all laws, ordinances or regulations governing such activities. Applications for such assemblies or special events shall be forwarded by the city clerk to the chief of police, the fire chief, city planner or their respective designees for review prior to final approval by the City.

Outdoor Dining Areas: The District shall be open for public possession and consumption of alcoholic beverages between the hours of 11:00 a.m. to 11:00 p.m. Monday through Saturday only in a licensee's outdoor dining areas that are situated on a sidewalk or other right-of-way where the licensee has a right-of-way use agreement with the City of Eufaula.

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 District.

(2) Right to Enter Restricted:

During any such special event, patrons or guests of a licensee with an entertainment district designation may exit that licensee's licensed premises with one open container of alcoholic beverage in an approved container and consume such alcoholic beverage anywhere within the confines of the District, but may not enter another licensed premises with an open container of alcoholic beverages acquired elsewhere.

(3) All applicable laws in effect:

A licensee who is within the District shall comply with all laws, rules and regulations which govern its license type.

(4) Size limited to 16 ounces:

No container in which an alcoholic beverage is dispensed and removed from the licensed premise shall exceed 16 fluid ounces in size. No person shall be in possession of any above prescribed alcoholic beverage container which exceeds 16 fluid ounces in size on the streets and sidewalks, in parks, or in other public places within the defined District.

(5) Drinking from can, bottle, or glass is prohibited:

It shall be unlawful for any person within the confines of the District to drink or attempt to drink any alcoholic beverage from a can, bottle, or glass or to possess in an open can, bottle, or glass any alcoholic beverage on the streets, sidewalks, rights-of-way, and parking lots, whether public or private; other than as duly licensed by the State of Alabama and the City. It shall also be unlawful for any person within the confines of the District to drink or attempt to drink any alcoholic beverage on the streets, sidewalks, rights-of-way, and parking lots, whether public or private from a container other than an approved container.

(6) Open Container Laws applicable:

Open Container Laws of the State of Alabama and the City of Eufaula still govern to the extent that the respective provisions are not strictly modified by either Section 28-3A-17.1 of the Code of Alabama 1975, Section 28-3A-20.1 of the Code of Alabama 1975 or the provisions of this Chapter.

(7) Hours for Special Events:

Special events permitted within the District shall only be allowed between the hours of 11:00 a.m. to 11:00 p.m. Monday through Saturday.

(8) Consumption of Alcoholic Beverages in a Motor Vehicle Prohibited:

It shall be unlawful for any person to consume any alcoholic beverages in a motor vehicle parked or in motion within the District, with the exception of a common carrier vehicle licensed by the Board to serve alcoholic beverages.

(9) Refill Prohibited:

It shall be unlawful for any person to refill a container from a licensed premise with alcoholic beverages not purchased at a licensed premise within the District. 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 Chapter shall be construed to authorize the same.

(10) Alcoholic Beverage from Another Licensed Premise Prohibited:

It shall be unlawful for any person to enter a licensed premise with alcoholic beverages acquired at another licensed premise or outside the District.

(11) Under-Age Drinking Prohibited:

Nothing in this Chapter shall be construed to authorize any person to violate the state and City's laws against under-age drinking.

(12) Churches and Excluded Areas:

No church shall be considered part of the District. Any 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 shall be excluded from the District. 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 shall also be excluded.

Section 10A-4. Violations.

Any violation of any provision of Chapter shall be a misdemeanor punishable by a fine of not less than one hundred (\$100) nor more than one thousand dollars (\$1000) per violation, to which, at the discretion of the court or judge trying the case, may add imprisonment or a sentence to hard labor for not more than three months or may be punished by both such fine and imprisonment. The City Council may also consider suspension or revocation of the business license of any licensee who violates any provision of this Chapter.

Section 10A-5. Signage.

Boundary Maps of the District with the hours of operation of the District shall be clearly marked with fixed signage at all entrances/exits of licensed premises within the District. Signs shall indicate the prohibition of removing beverages from the District. The boundary of the District

shall be clearly marked with signs for pedestrians entering the District during special events displaying the hours of operation and indicating the prohibition on removing alcoholic beverages from the area.

Section 10A-6. Temporary closure of the District.

At any time and from time to time, the Chief of Police or his designee shall have the authority to temporarily close the District, or portions of the District, which includes authority to require individuals 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 District shall remain closed until the Chief of Police or his designee allows the District to be re-opened. The City shall not be responsible for any costs incurred by any person or business as a result of the closing.

Section 10A-7. Amendments.

The City Council may amend, modify or revoke the designation of any area as an Entertainment District upon finding that the operation of the district has become a nuisance or is otherwise not being operated in the best public interest, including lack of adequate security. The City Council may also require that the licensees located within the District provide additional security at their own expense. Nothing in this ordinance shall be construed to create any right or entitlement to entertainment district designation.

Section 10A-7. Severability.

The provisions of this Chapter are severable. If any part of this Chapter is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 10-3 of the Eufaula Code of Ordinances is hereby amended so that it now reads in its entirety as follows:

Section 10-3. Drinking in public.

Except as may be allowed in an entertainment district created and designated by the city pursuant to the authority of Act No. 2012-438 as it now exists or may hereafter be amended, it shall be unlawful for any person to drink or have in open or unconcealed possession or custody for drinking any liquor, wine, malt beverage or brewed beverage at or in any public place in the city, other than a licensed liquor place or licensed beer place.


This Ordinance shall be in full force and effect from the date of its adoption and publication as required by law.

ADOPTED AND APPROVED this 11th day of August, 2014.

CITY OF EUFAULA, ALABAMA
A MUNICIPAL CORPORATION


Robert D. Powers, Council President

ATTEST:


Joy White
City Clerk/Treasurer