



113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Ordinance: 6716

File Number: 2024-1671

OUTDOOR REFRESHMENT AREA (AMENDMENTS):

AN ORDINANCE TO AMEND §111.07 OUTDOOR REFRESHMENT AREA TO AMEND THE EVELYN HILLS OUTDOOR REFRESHMENT AREA PROVISIONS, AND TO CREATE PROVISIONS FOR SUSPENDING OR REVOKING A BUSINESS'S ABILITY TO PARTICIPATE IN AN OUTDOOR REFRESHMENT AREA

WHEREAS, pursuant to Ark. Code Ann. § 14-54-1412, the City has established both temporary and permanent entertainment districts, called Outdoor Refreshment Areas (ORAs) permitting alcohol possession in outdoor public spaces; and

WHEREAS, the Evelyn Hills ORA was created in part so that patrons of Mockingbird Kitchen could possess and consume alcoholic beverages on an outdoor patio and, after three years of operation, Mockingbird Kitchen has requested an amendment to the ordinance, which City staff supports, to permit a customer to carry up to four alcoholic beverages from the restaurant to their table for other members of their party (who have been verified to be of legal drinking age) with an employee present; and

WHEREAS, City staff also recommends adopting provisions for suspending or revoking a business's ability to participate in an ORA to ensure businesses are being good neighbors and adhering to all other federal or state law or city ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals subsection (E) of § **111.07 - Outdoor Refreshment Area** of the Fayetteville City Code and enacts a new subsection (E) as follows:

“(E) Conditions for Consumption of Alcoholic Beverages in the Evelyn Hills Outdoor Refreshment Area. Any owner within the Evelyn Hills Outdoor Refreshment Area may allow customers to exit the owner's premises during regular hours of operation with alcoholic beverages and consume said alcoholic beverages anywhere within the confines of the Outdoor Refreshment Area in which the alcoholic beverage was obtained, subject to the following regulations:

(1) It shall be unlawful for a customer to enter any business regulated by the Arkansas Alcoholic Beverage Control Division with any alcoholic beverage that was not acquired at that location. A customer may not enter any other establishment with an open or closed container of alcoholic beverage without the consent of the owner or manager of the establishment.

(2) A customer may purchase and exit the owner's premises and travel to an approved outdoor dining area with up to four alcoholic beverages as long as the beverages are for the customer and other individuals of legal drinking age in the

same party and sitting at the same table as the customer. It shall be unlawful for a customer to distribute alcohol to any person under the age of 21.

(3) No person shall publicly consume within the Outdoor Refreshment Area any alcoholic beverage purchased outside of the Outdoor Refreshment Area.

(4) Beverages may be in containers made of glass, aluminum, plastic, or other materials; however, no container shall exceed sixteen (16) fluid ounces in size.”

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby enacts a new subsection (J) in § 111.07 – **Outdoor Refreshment Area** of the Fayetteville City Code as follows:

“(J) Suspending or Revoking a Business’s Ability to Participate in an Outdoor Refreshment Area

(1) Grounds for Suspension or Revocation

(a) Valid complaints that the business is operating in a dangerously unsanitary or unhealthy manner, or in such manner as to unreasonably and adversely affect the peace, health or safety of neighbors or other Fayetteville residents.

(b) The business is delinquent in submitting Hotel, Motel and Restaurant or city alcohol tax forms or in payment of the city's Hotel, Motel and Restaurant taxes or any other city or state taxes or required fees.

(c) The business is being operated in violation of any federal or state law or city ordinance or has had a necessary state or city license suspended or revoked.

(2) Suspension or Revocation. Upon finding sufficient grounds, the Mayor or the Mayor’s designee may do one of the following depending upon the seriousness of the grounds and any previous actions against the business under this subsection:

(a) Probation. A business may be placed on probation status for not more than ninety (90) days on condition that the grounds causing the problems will be remedied by the owner and not be allowed to reoccur. If the owner complies with the probation, the probation status may be lifted with no further action taken. If the Mayor or the Mayor’s designee determines that the owner has failed to correct the problems or new grounds for suspension or revocation have occurred, the business shall be subject to an extended probationary period, suspension, or revocation.

(b) Suspension. A business may be suspended from participating in the ORA program for a period of up to ninety (90) days.

(c) Revocation. A business’s ability to participate in the ORA program may be revoked. Upon revocation, a business shall not be eligible to participate in the ORA program for a period of at least one year, after which time it may submit a request to the City to return as a program participant.

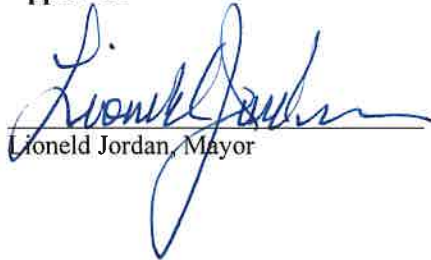
(3) Notice. The Mayor or the Mayor’s designee shall mail a letter to the business mailing address shown in its business license application by first class mail notifying the business owner of the suspension or revocation. The Mayor or the Mayor’s designee shall also telephone the business owner using the business phone number provided in the business license application (as well as the emergency phone number if the owner cannot be reached on the business phone number) and provide the same information as is within the letter.

(4) Appeal to City Council. Any person or entity may appeal such suspension or revocation to the City Council by providing the City Clerk's Office with a written request for City Council review within ten (10) business days of the issuance of the suspension or revocation. The City Council may then determine, after a public hearing in which the business license owner may present evidence and explanations, whether the business’s ability to participate in the ORA program should be suspended for not more than ninety (90) days, revoked because of the grounds presented, or that no suspension or revocation is warranted.

(5) Additional Conditions After Suspension or Revocation. The Mayor or Mayor’s designee or, if appealed, the City Council, may place additional conditions on any business that has been subjected to suspension or revocation before the business is allowed to return as an ORA program participant.”

PASSED and APPROVED on February 6, 2024

Approved:


Lionel Jordan, Mayor

Attest:


Kara Paxton, City Clerk Treasurer



This publication was paid for by the City Clerk-Treasurer of the City of Fayetteville, Arkansas.

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