

ORDINANCE NO. O-25-19

AMENDING ORDINANCE CREATING ENTERTAINMENT DISTRICT

WHEREAS, the City of Gadsden created an Entertainment District on August 22, 2017 (O-23-17); and

WHEREAS, the City of Gadsden would like to expand the Entertainment District to include additional licensees; and

WHEREAS, the proposed area for the entertainment district in downtown Gadsden as set forth and designated on the map which is attached as Exhibit 1 meets the requirements of Code of Alabama 1975, §28-3A-17.1; and

WHEREAS, the Ordinance Creating the Entertainment District allowed a guest or member of the licensee in the district to exit the licensed premises between the hours of 4 p.m. and 10 p.m. seven (7) days a week with an alcoholic beverage not exceeding 16 ounces in size; and

WHEREAS, the City of Gadsden would like to amend the times to the hours of Noon and 10 p.m.; and

WHEREAS, the Council for the City of Gadsden believes that the expansion of the Entertainment District and the change in the hours will further provide both economic and social benefit to the City;

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

Section 1. Creation and establishment of districts.

Under the authority granted in Code of Ala. 1975, §28-3A-17.1, the city does hereby amend the current district in downtown Gadsden with the areas and boundaries as set forth and designated on the map which is attached as Exhibit 1 to the ordinance. The designation of any street or portion of a street within the entertainment district shall include sidewalks, which run parallel with and immediately adjacent to each side of that street or portion of that street within the entertainment district.

After ninety (90) days of the effective date of the ordinance from which this article was derived, the city council shall review this article to determine if changes to the entertainment district and the regulations for that district should be made.

Section 2. Outside consumption of alcoholic beverages permitted; conditions.

Any on premises retail alcohol beverage licensee located within the entertainment district, herein licensee, who satisfies all requirements of the Alabama Alcoholic Beverage Control Board shall comply with all laws, rules and regulations which govern its license type, except that a patron, guest or member of that licensee may exit the licensed premises between the hours of Noon and 10:00 p.m. seven (7) days a week, with no more than one (1) open container of alcoholic beverage and consume that alcoholic beverage anywhere within the confines of the entertainment district in which the alcoholic beverage was obtained, subject to the following regulations:

- (1) A person may not enter another premises that is licensed to sell alcohol with an open container of alcoholic beverage acquired elsewhere.
- (2) A licensee shall allow alcoholic beverages to be removed from the licensed premises only in a recyclable paper or plastic cup that bears the commercially printed name and/or logo of the designated licensee. Any alcoholic beverage removed from a licensed premises pursuant to this article must remain in the paper or plastic cup with the commercially printed name and/or logo of the licensee who sold the alcoholic beverage for consumption purposes. No such alcoholic beverages shall be removed from the licensed premises in a can, bottle or glass container except upon a licensee's outdoor sit-down dining area situated on the licensee's property or on a sidewalk or other right-of-way where the licensee has a right-of-way use agreement with the City of Gadsden.
- (3) No licensee shall allow a patron, guest, or member to exit its licensed premises with more than one (1) open container of alcoholic beverages, and it shall be unlawful for any person to exit such licensed premises with more than one (1) such open container.
- (4) It shall be unlawful for any person to drink or attempt to drink any alcoholic beverage from a can, bottle, or glass container or to possess any open can, bottle, or glass container of alcoholic beverages on the public streets, sidewalks, rights-of-way and parking lots located within an entertainment district.
- (5) No container in which an alcoholic beverage is dispensed and removed from the licensed premises shall exceed sixteen (16) fluid ounces in size.

- (6) No person shall possess on the streets, sidewalks, rights-of-way, parking lots, or any other public area located within the entertainment district any open alcoholic beverage container which exceeds sixteen (16) fluid ounces in size.
- (7) No person shall possess on the streets, sidewalks, rights-of-way, parking lots, or any other public area located within the entertainment district any open alcoholic beverage which was not purchased from an on premises retail alcohol beverage licensee lawfully doing business within the entertainment district who has met all requirements of the Alabama Alcoholic Beverage Control Board and the City of Gadsden.
- (8) The city shall have the right to extend or reduce the days and the hours during which a patron, guest or member of a licensee may exit the licensed premises, which extension or reduction shall be determined by resolution for a specific event or date.

Section 3. Consumption of alcoholic beverages in a motor vehicle prohibited.

It shall be unlawful for any person to consume any alcoholic beverages while in the confines of a motor vehicle while the motor vehicle is located upon any public street, parking lot or other place to which the public has or is permitted to have access within an entertainment district.

(1) Exceptions.

- a. A passenger in a motor vehicle in which the driver is operating the vehicle pursuant to a contract to provide transportation for passengers and such driver holds a valid license for the operation of a vehicle for hire;
- b. A passenger of a bus in which the driver holds a valid operator's license.

Section 4. Alcoholic beverages purchased outside the entertainment district are not allowed in open containers in district.

No alcoholic beverages purchased at any location other than a licensee in the entertainment district who has met the requirements of the Alabama Alcoholic Beverage Control Board and the city, which allows a person to exit the licensed premises with an open container of alcoholic beverages, shall be allowed in open containers in the entertainment district.

Section 5. Drinking in public places.

To the extent this article conflicts with prior ordinances of the City of Gadsden prohibiting drinking in public places, the authority allowing conduct as prescribed by this article shall supersede any prior city ordinances.

Section 6. Modification or elimination of article.

Notwithstanding anything in this article to the contrary, at any time and from time to time, any entertainment district established by this article may be enlarged, reduced, modified or eliminated, in whole or part, and the regulations set forth in this article are subject to amendment or elimination at any time and from time to time. No vested rights shall be acquired by or be conferred upon any person or business entity as a result of the establishment of an entertainment district or permitting under this section or by the State of Alabama.

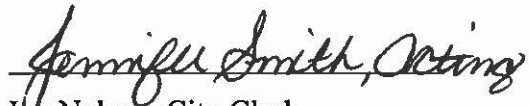
Section 7. Possession and consumption of alcohol in excluded places.

The consumption and possession of open containers of alcoholic beverages shall not be allowed in any public building, facility, garage or parking lot within an entertainment district that is posted with signage at each entrance or in conspicuous places that no alcoholic beverages are allowed on the premises. No open containers shall be allowed on property privately owned or controlled that is posted with signage at each entrance or in conspicuous places that no alcoholic beverages are allowed on the premises.

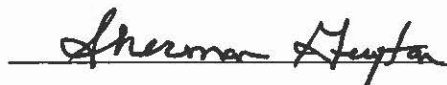
Section 8. The provisions of this Ordinance are severable. If any section, subsection or provision shall be declared to be invalid or unconstitutional by judgment or decree of a court of competent jurisdiction, such judgment or decree shall not affect any other section, subsection or provision of this Ordinance.

Section 9. This Ordinance shall take effect upon its approval by the City Council, or upon it otherwise becoming law, but shall nevertheless be published as required by law.

I certify that this ordinance was duly adopted by the City Council of the City of Gadsden, Alabama, at an open public meeting held on August 13, 2019.


Iva Nelson, City Clerk

APPROVED on August 13, 2019


Sherman Guyton, Mayor