



City of Fayetteville, Arkansas

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

Text File

File Number: 2019-0452

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In Control: City Council Meeting

File Type: Ordinance

Agenda Number: C. 7

ENTERTAINMENT DISTRICT BOUNDARIES:

AN ORDINANCE TO ESTABLISH BOUNDARIES FOR AN ENTERTAINMENT DISTRICT IN THE CITY OF FAYETTEVILLE AND TO PROMULGATE RULES FOR THE LIMITED OUTDOOR CONSUMPTION OF ALCOHOL IN CERTAIN PUBLIC PLACES

WHEREAS, Act 812 of 2019 grants municipalities broad authority to create “designated entertainment districts” in contiguous areas zoned for or customarily used for commercial purposes located within the municipality; and

WHEREAS, the Act also allows municipalities to create reasonable standards for the regulation of alcohol possession in outdoor public spaces within a designated entertainment district.

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 enacts § 117.07 - **Entertainment Districts** of the Fayetteville City Code as follows:

“111.07 - Entertainment Districts

(A) *Creation and establishment of districts.* Pursuant to the authority granted by Ark. Code Ann. § 14-54-1412, an entertainment district is hereby created with the areas and boundaries as set forth and designated on the map which is attached hereto as Exhibit 1 and incorporated herein.

(B) *Outdoor consumption of alcohol in public places.* The consumption of alcoholic beverages or possession of open containers of alcoholic beverages in public outdoor areas within the entertainment district is prohibited with the exception of:

(1) *Events with standing approval.* The outdoor consumption of alcohol is allowed on public streets, sidewalks, rights-of-way, parking lots, or outdoor public areas within the areas designated for the following events. The prior written authorization of the Mayor shall be required and additional conditions may be placed on the event as part of the authorization. With the exception of City maintenance or emergency vehicles, the areas designated for the outdoor

consumption of alcohol shall be closed to vehicular traffic.

- a) Fayetteville Farmer's Market - the outdoor consumption of alcohol shall be allowed on Saturdays during the Farmer's Market hours of operation in the areas designated for vendors and pedestrian traffic as described in §114.02 of the Fayetteville City Code.
 - b) First Thursday - the outdoor consumption of alcohol shall be allowed in the places and during the times authorized for First Thursday activities as described in §114.03 of the Fayetteville City Code.
 - c) Lights of the Ozarks - the outdoor consumption of alcohol shall be allowed in the places and during the times authorized for Lights of the Ozarks activities as described in §117.93 of the Fayetteville City Code.
- (2) *Special event permits with specific approval.* A special event permit may be issued by the Mayor authorizing the outdoor consumption of alcohol on public streets, sidewalks, rights-of-way, parking lots, or outdoor public areas in certain designated areas and only during the times specified in the permit. Except for City maintenance or emergency vehicles, such designated areas shall be closed to vehicular traffic.

(C) *Conditions for consumption of alcoholic beverages in public outdoor areas.* Any permittee within a designated area may allow a patron, guest or member to exit the permittee's premises during the hours designated in the special event permit with no more than one (1) open container of alcoholic beverages and consume said alcoholic beverages anywhere within the confines of the designated area in which the alcoholic beverage was obtained, subject to the following regulations:

- (1) A permittee within the designated area shall allow alcoholic beverages to be removed from the licensed premises only in a compostable or reusable cup that bears the commercially printed name and/or logo of the permittee, or in a compostable or reusable cup bearing a stamp or other mark assigned by the City of Fayetteville for such purposes, and no such alcoholic beverages shall be removed from the permitted premises in a can, bottle, or glass container.
- (2) No permittee shall allow a patron, guest or member to exit its 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.
- (3) 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 the entertainment district.
- (4) No container in which an alcoholic beverage is dispensed and removed from the licensed premises shall exceed sixteen (16) fluid ounces in size.
- (5) No person shall possess on the public streets, sidewalks, rights-of-way, parking lots, or outdoor public areas located within the designated area any open alcoholic beverage container which exceeds sixteen (16) fluid ounces in size.
- (6) No person shall possess on the streets, sidewalks public streets, sidewalks, rights-of-way, parking lots, or outdoor public areas any open alcoholic beverage container outside of the designated area.
- (7) A person may not enter any location holding a permit for the sale of alcoholic beverages with an open container or closed container of alcoholic beverages that were not acquired at that location.

- (8) A person may not enter any other private or public establishment with an open container or closed container of alcoholic beverages without the consent of the owner or manager.

- (D) *Sidewalk Cafes in the Entertainment District.* If a permittee within an entertainment district has also received a sidewalk café permit pursuant to §178.02 of the Unified Development Code:
 - (1) The permittee may serve alcoholic beverages in open containers during the hours of operation and in the areas authorized by the sidewalk café permit;
 - (2) Glass containers shall be allowed in the approved outdoor dining areas but shall not be removed from those areas; and
 - (3) No fencing or other enclosure of a permitted sidewalk café located within an entertainment district shall be required.

- (E) *Consumption of alcoholic beverages in a motor vehicle prohibited.*
 - (1) Pursuant to Ark. Code Ann. § 5-71-218, 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.
 - (2) However, it is not an offense to possess an open alcoholic beverage container by a passenger in the motor vehicle, but not the driver, as long as the open alcoholic beverage container is possessed within the living quarters of the motor vehicle or the area of the motor vehicle that is designated for passengers only, the open alcoholic beverage container is not readily accessible to the driver of the motor vehicle, and the motor vehicle is:
 - (a) Designed, maintained, or used primarily for the transportation of persons for compensation; or
 - (b) A recreational vehicle, motor home, or house trailer.

- (F) *Alcoholic beverages purchased outside the entertainment district not allowed in open containers in district.* No alcoholic beverages purchased outside of a designated area shall be allowed in open containers anywhere in the entertainment district."

City of Fayetteville Staff Review Form

2019-0452

Legistar File ID

8/20/2019

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Garner Stoll

7/24/2019

DEVELOPMENT SERVICES (620)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

2019-0452: Submitted by the Development Services Department for creation of an Entertainment District as authorized by Act 812.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? NA

Current Budget \$ -

Funds Obligated \$ -

Current Balance \$ -

Does item have a cost? No

Item Cost

Budget Adjustment Attached? NA

Budget Adjustment

Remaining Budget \$ -

V20180321

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:



MEETING OF AUGUST 20, 2019

TO: Mayor; Fayetteville City Council

THRU: Don Marr, Chief of Staff

FROM: Garner Stoll, Development Services Director
Blake Pennington, Assistant City Attorney

DATE: July 23, 2019

SUBJECT: **Creation of an Entertainment District as authorized by Act 812**

RECOMMENDATION:

Staff recommends approval of an ordinance establishing boundaries for an entertainment district and promulgating rules for outdoor consumption of alcohol in public places at: 1) events with standing approval; 2) special events with specific approval, and; 3) sidewalk cafes.

BACKGROUND:

Act 812 of 2019 grants municipalities broad authority to approve “designated entertainment districts” in contiguous areas located within a city. The Act specifically allows entertainment districts in areas zoned for or customarily used for commercial purposes and allows local jurisdictions to create reasonable standards for the regulation of alcohol possession.

This proposed district is largely derived from Fayetteville’s approved 2007 Cultural and Arts District boundaries with modifications to eliminate residentially zoned areas not allowed to be included by Act 812.

Within this extensive district, the proposed ordinance limits the consumption of alcoholic beverages in public places to events with standing approval, such as the Fayetteville Farmer’s Market, First Thursday, and the Lights of the Ozarks, and special events permit with closed streets as approved by the Mayor. It also allows consumption of alcohol in public places associated with establishments with sidewalks café permits.

The ordinance establishes specific conditions for the consumption of alcoholic beverages in public outdoor areas including types, size, and numbers of containers, prohibited containers, the prohibition of alcoholic beverages not purchased within the district, and other rules and conditions.

DISCUSSION:

After the special events process and sidewalk cafes have been successfully tested and implemented the program could be expanded to allow off-premise alcohol consumption during

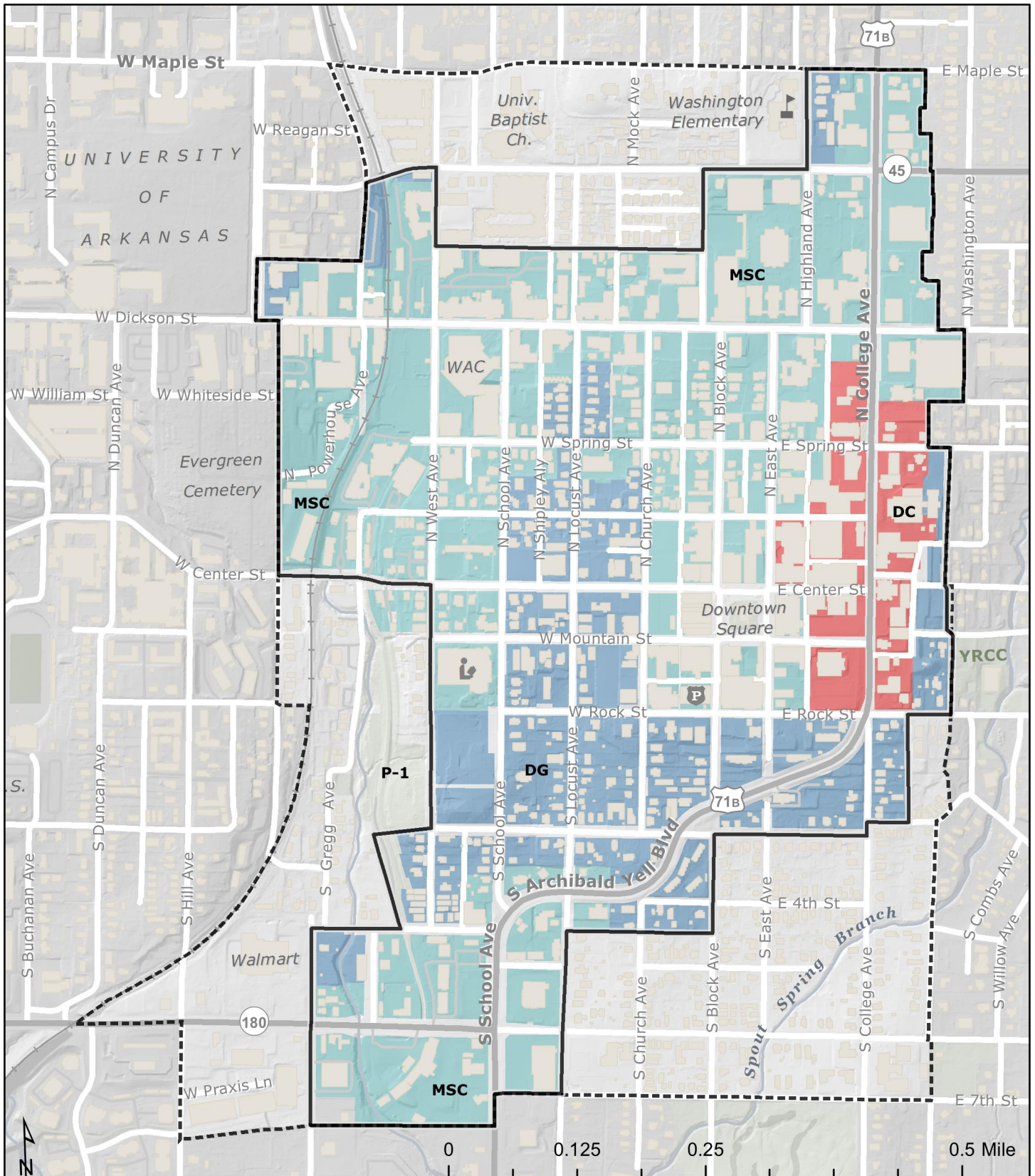
periodic hours on specified streets or other public areas. Eventually, with amendments, the entertainment district could evolve into permitting alcohol consumption, at regularly scheduled times, on specified open or closed streets, in addition to sidewalk cafes or special or standing events.

BUDGET/STAFF IMPACT:

N/A

Attachments:

- Exhibit 1: Entertainment District Boundary Map
- Exhibit 2: Act 812



Proposed Entertainment District



Adopted Cultural Arts District



Building

Exhibit 1 Entertainment District

With Zoning - Fayetteville, AR



CITY OF
FAYETTEVILLE
ARKANSAS

The data contained herein was compiled from various sources for the sole use and benefit of the City of Fayetteville Geographic Information System and the public agencies it serves. Any use of the data by anyone other than the City of Fayetteville is at the sole risk of the user; and by acceptance of this data, the user does hereby agree to indemnify the City of Fayetteville and hold the City of Fayetteville harmless from and without liability for any claims, actions, cost for damages of any nature, including the city's cost of defense, asserted by user or by another arising from the use of this data. The City of Fayetteville makes no express or implied warranties with reference to the data. No word, phrase, or clause found herein shall be construed to waive that tort immunity set forth under Arkansas law.

State of Arkansas

As Engrossed: H3/28/19

92nd General Assembly

A Bill

Regular Session, 2019

SENATE BILL 492

By: Senators T. Garner, Bond, B. Sample, G. Leding, L. Chesterfield, Elliott

By: Representatives Barker, A. Collins, McCullough, Scott

For An Act To Be Entitled

AN ACT TO PROMOTE HOSPITALITY AND TOURISM; TO
ESTABLISH AREAS OF A CITY OR TOWN THAT HIGHLIGHT
RESTAURANT, ENTERTAINMENT, AND HOSPITALITY OPTIONS;
TO ESTABLISH TEMPORARY OR *PERMANENT* DESIGNATED
ENTERTAINMENT DISTRICTS; AND FOR OTHER PURPOSES.

Subtitle

*TO PROMOTE HOSPITALITY AND TOURISM; TO
ESTABLISH AREAS OF A CITY OR TOWN THAT
HIGHLIGHT RESTAURANT, ENTERTAINMENT, AND
HOSPITALITY OPTIONS; TO ESTABLISH
TEMPORARY OR PERMANENT DESIGNATED
ENTERTAINMENT DISTRICTS.*

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 3-2-206, concerning the rulemaking authority of the Alcoholic Beverage Control Division, is amended to add an additional subsection to read as follows:

(f) A rule promulgated under this title that prohibits a person from possessing an alcoholic beverage outside of an establishment that holds a permit for on-premises consumption and from which the alcoholic beverage was purchased does not apply within a designated entertainment district as defined in § 14-54-1412.

SECTION 2. Arkansas Code § 5-71-212(e), concerning the exceptions to



1 consuming alcohol in public, is amended to read as follows:

2 (e) ~~The provisions of this~~ This section shall does not be construed to
3 prohibit or restrict the consumption of an alcoholic beverage when consumed:

4 (1) as As a part of a recognized religious ceremony or ritual; or

5 (2) Within the physical boundaries of a designated entertainment
6 district as defined in § 14-54-1412.

7
8 SECTION 3. Arkansas Code Title 14, Chapter 54, Subchapter 14, is
9 amended to add an additional section to read as follows:

10 14-54-1412. Designated entertainment districts.

11 (a) As used in this section, "designated entertainment district" means
12 a contiguous area located in a part of a city, a municipality, or an
13 incorporated town that:

14 (1) Is zoned for or customarily used for commercial purposes;

15 and

16 (2) Contains any number and any combination of restaurants,
17 taprooms, taverns, entertainment establishments, hospitality establishments,
18 music venues, theaters, bars, art galleries, art studios, tourist
19 destinations, distilleries, dance clubs, cinemas, or concert halls.

20 (b)(1) A city, a municipality, or an incorporated town collecting a
21 gross receipts tax on prepared food or hotel and motel accommodations under
22 §§ 26-75-602 – 26-75-613 and located in a county authorized to sell alcoholic
23 beverages may by ordinance create a designated entertainment district.

24 (2) A designated entertainment district may be permanent or
25 temporary.

26 (3)(A) A city, a municipality, or an incorporated town that
27 creates a designated entertainment district under this section shall set by
28 ordinance reasonable standards for the regulation of alcohol possession
29 within the boundaries of the designated entertainment district.

30 (B) An ordinance enacted under this subsection does not
31 diminish the requirements of the Alcoholic Beverage Control Division
32 concerning permits issued within the designated entertainment district.

33 (4) A city, a municipality, or an incorporated town that creates
34 a designated entertainment district under this section shall notify the
35 division within ten (10) days of the issuance or removal of a permanent or
36 temporary designation as a designated entertainment district.

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/s/T. Garner

APPROVED: 4/9/19