

RECOMMENDED BY: THE PUBLIC SAFETY COMMITTEE

SUBMITTED BY: THE CITY ATTORNEY

ORDINANCE NO. 19-1

AN ORDINANCE TO AMEND TITLE 12, “LICENSING AND REGULATION”, CHAPTER 10, “INTOXICATING LIQUORS”, OF THE GENERAL CODE OF THE CITY OF BIRMINGHAM, 1980, TO DESIGNATE THE PEPPER PLACE ENTERTAINMENT DISTRICT.

WHEREAS, Ala. Act No. 2012-438, as amended and codified at Ala. Code, 1975, Sec. 27-3A-17.1, authorizes the governing body of a Class 1 municipality to establish up to five entertainment districts within the corporate limits of the municipality, each of which must have at least four licensees holding a restaurant retail liquor license, an on-premises alcoholic beverage license, or other retail liquor license in that area and each district may not exceed one-half mile by one-half mile in area, but may be irregularly shaped; and,

WHEREAS, the City of Birmingham is a Class 1 municipality, according to Ala. Code, 1975, Sec. 11-40-12 and Ala. Const., Sec.110, as amended by Amendment 375 and Amendment 397; and,

WHEREAS, the Council of the City of Birmingham adopted Ordinance No. 13-118 to provide for the designation of up to five entertainment districts within the City of Birmingham; and,

WHEREAS, the Lakeview Business Association has made application for the designation of an entertainment district that shall include the area of restaurants, bars and businesses known as “Pepper Place”; and,

WHEREAS, the Lakeview Business Association is an Alabama corporation formed to improve the business climate and quality of life, preserve the cultural and historic significance of the Lakeview Business District, and to develop and market the Lakeview Business District for quality living, working and business conditions; and,

WHEREAS, the area to be designated as an entertainment district is less than one-half mile by one-half mile in area and lies within the Lakeview Business District; and,

WHEREAS, the area to be designated as an entertainment district currently has more than four licensees holding a restaurant retail liquor license, an on-premises alcoholic beverage license, or other retail liquor license, which currently include, but are not limited to, Ovenbird, Bettola and Blueprint on 3rd restaurants and Hop City Craft Beer and Wine,; and,

WHEREAS, the Council finds that the application by the Lakeview Business Association for the designation of an entertainment district complies with the requirements of Ordinance No. 13-118 and Act No. 2012, 438, as amended; and,

WHEREAS, the Council finds that the proposed entertainment district will complement the city's economic development goals, comprehensive plan, the planning neighborhood district in which it is located and the surrounding area by creating an atmosphere of community and social interaction for Birmingham citizens and other Pepper Place visitors and enhancing the experience at the established weekend Farmers' Market and other events held in the district.

SECTION 1.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Birmingham that an entertainment district is hereby designated pursuant to Ala. Act No. 2012-438 and City of Birmingham Ordinance No. 13-118 as follows and that the General Code of the City of Birmingham, 1980, Title 12, Chapter 10, "Intoxicating Liquors", as amended by Ordinance No. 13-118, is hereby amended to add the following:

"a. Pepper Place Entertainment District

"Subject to the provisions of Ala. Act No. 2012-438 and Ordinance No. 13-118, there is hereby established an entertainment district that shall be known as the 'Pepper Place Entertainment District', as generally described below and which is also shown on a map on file in the office of the City Clerk and incorporated herein by reference.

"b. District Boundaries. The Pepper Place Entertainment District shall generally consist of facilities and property located in that area of the Lakeview Business District known as "Pepper Place". The boundaries of the district are designated as follows:

SOUTHEAST CORNER OF THE INTERSECTION OF 27TH
STREET SOUTH AND 2ND AVENUE SOUTH; THENCE RUN EAST

ALONG THE SOUTH ROW LINE OF 2ND AVENUE SOUTH TO THE SOUTHWEST CORNER OF THE INTERSECTION OF 31ST STREET SOUTH AND 2ND AVENUE SOUTH; THENCE ANGLE RIGHT AND RUN SOUTH ALONG THE WEST ROW LINE OF 31ST STREET SOUTH TO THE NORTHWEST CORNER OF THE INTERSECTION OF 31ST STREET SOUTH AND 3RD AVENUE SOUTH; THENCE ANGLE RIGHT AND RUN WEST ALONG THE NORTH ROW LINE OF 3RD AVENUE SOUTH TO THE NORTHEAST CORNER OF THE INTERSECTION OF 27TH STREET SOUTH AND 3RD AVENUE SOUTH; THENCE ANGLE RIGHT AND RUN NORTH ALONG THE EAST ROW LINE OF 27TH STREET SOUTH.”

“In the event there is a conflict in the district boundary lines as set forth above and the map on file in the office of the City Clerk, the boundary lines depicted on the map on file in the office of the City Clerk and as designated by signage and markers in the district shall govern.

“c. Parking Lots. Parking lots within the block of the district located between 27th and 28th Streets South and 2nd and 3rd Avenues South shall be excluded from the district. Signs shall indicate that consuming alcoholic beverages is not allowed in these lots. Parking lots located in the portion of the district between 28th and 31st Streets South and 2nd and 3rd Avenues South shall not be specifically excluded but signs shall be posted with provisions limiting the consumption of alcoholic beverages within those parking lots as set forth in this ordinance.

“d. Effective Dates for the District: This designation of the district shall be effective on February 1st, 2019 and when published as required by law. The designation shall continue until modified, suspended or revoked by the city council.

“d. Operating Hours. The regular operating hours for the district shall be:

Monday through Friday – 4:30 PM to 11:00 PM

Saturday & Sunday – 10:00 AM to 11:00 PM

“The Lakeview Business Association may vest the chairman of the Association with authority to reduce or restrict the regular hours of operation when necessary for protection of the health, safety and welfare for businesses and visitors to the district.

“Any event to be held within the district boundaries at any time in which outside vendors of alcoholic will participate must be licensed in accordance with Alabama Alcoholic Beverage Control Board rules and regulations.

“The Lakeview Business Association may designate ‘special district events’ at times other than the regular operating hours authorized by this ordinance. Special district events shall be conducted in accordance with all laws and regulations authorizing and establishing the entertainment district. No outside vendors of alcoholic beverages shall be allowed to participate in a special district event. The Lakeview Business Association shall notify the chief of police or his or her designee no later than two weeks prior to the special district event.

“Notwithstanding any provision of this ordinance to the contrary, any permanent change to the regular operating hours of the district shall be by amendment of this ordinance.

“e. Signage. District signs and markers shall conform to the plan submitted by Lakeview Business Association and approved by the Design Review Committee and which is on file in the Office of the City Clerk. Notwithstanding any provision of Ordinance No. 13-118 to the contrary, the regular operating hours of the district shall not be required to be posted on the district signs and markers at the perimeter and entrances to the district. The regular hours shall be posted on signs at the licensed premises of the retail licensees in the district. The Lakeview Business Association shall be responsible for communicating the hours for special district events to its tenant licensees participating in the district and to the public.

“f. Containers. Cups for consumption of alcoholic beverages in the outdoor portions of the district shall comply with Ordinance No. 13-118. After a patron exits a licensed premises with a carry-out cup, the cup shall not be carried back into the premises where purchased or into any other licensed premises within the district.

“g. Minors. Each vendor within the district shall ensure that all of its employees comply with and adhere to Ala. Admin. Code r. 20-X-6-.09, ‘Minors’, and that each employee is trained on the acceptable identification required to purchase alcoholic beverages.

“h. Parking Lots. The parking lots located in the district within the blocks between 28th and 31st Streets South are not specifically excluded from the district. During the Farmers Market and other events where those lots are used as event space rather than parking, consumption of alcoholic beverages purchased from district participating licensees may be consumed in those lots by event participants. When the parking lots are in use for vehicle parking, district visitors may pass through the lots with alcoholic beverages but must not refill district cups with beverages stored in vehicles

or sit in vehicles to consume beverages. The inclusion of these lots in the district is to facilitate pedestrian traffic but shall not authorize congregating or loitering to consume alcoholic beverages in the parking lots.”

SECTION 2. This ordinance shall be effective upon publication as required by law.

SECTION 3. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by declaration of any court of competent jurisdiction, such declaration shall not affect the validity of the remaining portions of this ordinance.

