

RECOMMENDED BY: THE PUBLIC SAFETY COMMITTEE

SUBMITTED BY: THE CITY ATTORNEY

ORDINANCE NO. 20-107

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 AVONDALE 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 entertainment districts within the corporate limits of the municipality, each of which must have at least four licensees holding a manufacturer's license that conducts tastings or samplings on the licensed premises, 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 Forest Park-South Avondale Merchants Association, hereinafter referred to as “Avondale Merchants Association”, has made application for the designation of an entertainment district that shall include the area of restaurants, bars and businesses known as “Avondale”; and,

WHEREAS, the Avondale Merchants Association is an Alabama corporation formed to stimulate neighborhood business district revitalization in the Avondale neighborhood of Birmingham, Alabama through encouraging cooperation and building leadership in the business community, creating a positive image for the neighborhood by promoting it as an exciting place to live, shop and invest; and,

WHEREAS, the area to be designated as an entertainment district is less than one-half mile by one-half mile in area; 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, or a manufacturer licensee with a tasting room, which currently include,

but are not limited to, Avondale Common House, 41st Street Pub & Aircraft Sales, Saturn, Post Office Pies, Saw's Soul Kitchen, Melt, Fancy's on 5th, Marble Ring, Avondale Brewing Company, Luna Latin Cuisine, and Parkside; and,

WHEREAS, the Council finds that the application by the Avondale Merchants 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 Avondale visitors.

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, as amended, 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. Avondale Entertainment District

"Subject to the provisions of Ala. Act No. 2012-438, as amended, and Ordinance No. 13-118, there is hereby established an entertainment district that shall be known as the 'Avondale 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 Avondale Entertainment District shall generally consist of facilities and property located in that area of the City of Birmingham known as "Avondale". The boundaries of the district are designated as follows:

"The boundaries shall:

"BEGIN AT THE NORTHWEST CORNER OF THE INTERSECTION OF THE NORTH RIGHT OF WAY LINE OF 2ND AVENUE SOUTH WITH THE WEST RIGHT OF WAY LINE OF 40TH STREET SOUTH; THENCE RUN EAST ALONG THE NORTH RIGHT OF WAY LINE OF 2ND AVENUE SOUTH FOR A DISTANCE OF 355.0 FEET; THENCE ANGLE LEFT AND RUN NORTH FOR 140.0 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF 1ST AVENUE ALLEY SOUTH; THENCE ANGLE RIGHT AND RUN EAST ALONG THE SOUTH LINE OF 1ST AVENUE ALLEY SOUTH AND THE EXTENSION THEREOF FOR 195.0 FEET TO THE SOUTHEAST CORNER OF THE INTERSECTION OF THE SOUTH LINE OF 1ST AVENUE ALLEY SOUTH WITH THE EAST LINE OF 41ST STREET SOUTH; THENCE ANGLE RIGHT AND RUN SOUTH ALONG THE EAST LINE OF 41ST STREET SOUTH FOR 140.0 FEET TO THE NORTHEAST CORNER OF THE INTERSECTION OF THE EAST

LINE OF 41ST STREET SOUTH WITH THE NORTH LINE OF 2ND AVENUE SOUTH; THENCE ANGLE LEFT AND RUN EAST ALONG THE NORTH LINE OF 2ND AVENUE SOUTH FOR 150.0 FEET; THENCE ANGLE LEFT AND RUN NORTH FOR 140.0 FEET; THENCE ANGLE RIGHT AND RUN EAST FOR 100.00 FEET; THENCE ANGLE RIGHT AND RUN SOUTH FOR 140.0 FEET TO A POINT ON THE NORTH LINE OF 2ND AVENUE SOUTH; THENCE ANGLE LEFT AND RUN EAST ALONG THE NORTH LINE OF 2ND AVENUE SOUTH FOR 230.0 FEET TO A POINT ON THE EAST LINE OF 42ND STREET SOUTH; THENCE ANGLE RIGHT AND RUN SOUTH ALONG THE EAST LINE OF 42ND STREET SOUTH FOR 380.0 FEET TO A POINT ON THE NORTH LINE OF 3RD AVENUE SOUTH; THENCE ANGLE RIGHT AND RUN WEST ALONG THE NORTH LINE OF 3RD AVENUE SOUTH FOR 480.0 FEET TO A POINT ON THE EAST LINE OF 41ST STREET SOUTH; THENCE ANGLE LEFT AND RUN SOUTH ALONG THE EAST LINE OR 41ST STREET SOUTH FOR 330.0 FEET; THENCE ANGLE LEFT AND RUN EAST FOR 100.0 FEET; THENCE ANGLE RIGHT AND RUN SOUTH FOR 225.0 FEET; THENCE ANGLE RIGHT AND RUN WEST FOR 100.0 FEET TO A POINT ON THE EAST LINE OF 41ST STREET SOUTH; THENCE ANGLE LEFT AND RUN SOUTH ALONG THE EAST LINE OF 41ST STREET SOUTH FOR 205.0 FEET TO THE NORTHEAST CORNER OF THE INTERSECTION OF THE EAST LINE OF 41ST STREET SOUTH WITH THE NORTH LINE OF 5TH AVENUE SOUTH; THENCE ANGLE RIGHT AND RUN WEST ALONG THE NORTH LINE OF 5TH AVE SOUTH FOR 240.0 FEET; THENCE ANGLE RIGHT AND RUN NORTH FOR 140.0 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF 4TH AVENUE ALLEY SOUTH; THENCE ANGLE RIGHT AND RUN EAST ALONG THE SOUTH LINE OF 4TH AVENUE ALLEY SOUTH FOR 150.0 FEET TO A POINT ON THE WEST LINE OF 41ST STREET SOUTH; THENCE ANGLE LEFT AND RUN NORTH ALONG THE WEST LINE OF 41ST STREET SOUTH FOR 780.0 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF 2ND AVENUE ALLEY SOUTH; THENCE ANGLE LEFT AND RUN WEST ALONG THE NORTH LINE OF 2ND AVENUE ALLEY SOUTH FOR 100.0 FEET; THENCE ANGLE RIGHT AND RUN NORTH FOR 140.0 FEET TO A POINT ON THE SOUTH LINE OF 2ND AVENUE SOUTH; THENCE ANGLE LEFT AND RUN WEST ALONG THE SOUTH LINE OF 2ND AVENUE SOUTH FOR 360.0 FEET; THENCE ANGLE RIGHT AND RUN NORTH FOR 80.0 FEET, MORE OF LESS, TO THE POINT OF BEGINNING.

“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. The parking lot located in the portion of the district on 3rd Avenue South between 41st Street South and 42nd Street South shall not be specifically excluded from the district, but signs shall be posted with provisions specifically restricting the consumption of alcoholic beverages within that parking lot. Parking lots located at restaurants and other establishments are not specifically excluded from the district, but the district and the businesses responsible for those lots shall ensure that patrons comply with the regulations set out in Sections 12-10-66 and 12-10-67 of the General Code of the City of Birmingham. This shall not prohibit the use of parking areas to extent service premises for

ABC-licensed establishments pursuant to a special event license or emergency regulation of the Alabama ABC Board.

“d. Effective Dates for the District: This designation of the district shall be effective on July 1, 2020 and when published as required by law. The designation shall continue until modified, suspended or revoked by the city council.

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

Thursday – 5:00 p.m. – 1:00 a.m.

Friday – 5:00 p.m. – 2:00 a.m.

Saturday – 11:00 a.m. – 2:00 a.m.

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

“The Avondale Merchants 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 Avondale Merchants 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.

“f. Signage. District signs and markers shall conform to the plan submitted by the Avondale Merchants 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 Avondale Merchants Association shall be responsible for communicating the hours for special district events to its tenant licensees participating in the district and to the public.

“g. 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.

“h. 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.”

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.

