

City of Fayetteville Staff Review Form

2020-0418

Legistar File ID

6/2/2020

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

Devin Howland

5/15/2020

ECONOMIC DEVELOPMENT (050)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

APPROVAL OF AN ORDINANCE TO DESIGNATE AN "ENTERTAINMENT DISTRICT" PURSUANT TO ACT 812 AND ESTABLISH THE RULES FOR FAYETTEVILLE'S FIRST OUTDOOR REFRESHMENT AREA.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? NA

Current Budget \$ -

Funds Obligated \$ -

Current Balance \$ -

Does item have a cost? NA

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 JUNE 2, 2020

TO: Mayor and City Council

THRU: Susan Norton, Chief of Staff
Garner Stoll, Development Services Director

FROM: Devin Howland, Director of Economic Vitality
Blake Pennington, Assistant City Attorney

DATE: May 15, 2020

**SUBJECT: AN ORDINANCE TO DESIGNATE AN “ENTERTAINMENT DISTRICT”
PURSUANT TO ACT 812 AND ESTABLISH THE RULES FOR FAYETTEVILLE’S FIRST
OUTDOOR REFRESHMENT AREA**

RECOMMENDATION:

Staff is recommending approval of an ordinance that designates an “entertainment district” pursuant to Act 812, establishes the rules for Fayetteville’s first O.R.A. (Outdoor Refreshment Area) and establishes a phasing plan.

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 primarily residential zoned areas pursuant to Act 812.

On August 20, 2019, an Entertainment District Ordinance was introduced to the Fayetteville City Council. Following concerns from businesses, staff ultimately requested that the ordinance be tabled indefinitely to allow for unpressured time to work with Downtown stakeholders on revisions. The Fayetteville City Council voted to table the ordinance indefinitely on October 15, 2019. The original intent and goals outlined in the original ordinance are present within this new proposal.

In the months since, staff has conducted expanded research on the topic of public alcohol consumption—exploring best practices from communities across the country. Staff has also engaged the business community, downtown stakeholders such as employers, and anchor institutions such as the Fayetteville Public Library, Theatre Squared, and the Walton Arts Center to explore their concerns and address them through possible mitigation strategies. Multiple

focus group sessions were held, and the outcomes are included in the attachments of this packet. Staff also attended numerous Dickson Street Merchant meetings to maintain a bright line of communication with the stakeholders along the road and will continue to do so in the future. City staff also coordinated a great deal with the Fayetteville Police Department throughout the entire process, and their attendance, involvement, and expertise helped not only shape the ordinance included in this packet, but also helped mitigate many of the concerns held by local businesses. A key tenant of this ordinance is the understanding that there is a major difference between a rule and a law.

Following the draft of the ordinance and phasing plan being completed, staff presented the ordinance at the Dickson Street Merchants meeting on March 9, 2020. However, four days later our work on the issue came to an abrupt halt given the public health emergency from COVID-19 pandemic. In May, after weeks of work on the economic response to COVID-19, staff began to finalize the details of the ordinance and reengage partners. Given the pandemic, the phasing plan had to be altered. On May 11, 2020 City staff was able to present to the Dickson Street Merchants Association. The presentation was recorded and distributed to the organization's membership.

On May 12, 2020 at the request of the Chairman, City staff presented the proposed ordinance to the Transportation Committee for their comments and review. A copy of the presentation can be found in this packet (Exhibit G) and the presentation can be seen on the City's website. The committee recommended approval of the attached ordinance to the City Council with three amendments:

1. *Amendment 1: Loosening of any restrictions to the limited open container consumption days of the week rather than only Sunday-Wednesday.*
2. *Amendment 2: Allowing parking lots, private parking lots, and right of way components such as parallel parking and travel lanes to be used as sidewalk café space or auxiliary parking when vehicular traffic patterns have been amended temporarily or otherwise.*
3. *Amendment 3: Include an emergency clause which would enable the ordinance to become law immediately after City Council passage.*

DISCUSSION:

WHY CREATE AN OUTDOOR REFRESHMENT AREA:

Originally, the intent behind the creation of an Outdoor Refreshment Area was the recognition it could positively contribute to the activity and economic vitality of Downtown Fayetteville (see Exhibit 1 Outdoor Refreshment Area Map attached to the Ordinance). We want to enable organizers the choice to allow patrons to consume alcohol outside of a beer garden and give businesses an opportunity to make sales to attendees for events that did not want to utilize an

ABC Temporary Picnic Permit to source alcohol. We also want to test a regularly scheduled open consumption district and expansion of sidewalk cafés to explore ways to bring unique offerings to both residents and tourists. Municipalities across the state have successfully implemented these districts. While these positive attributes still hold true, the coronavirus pandemic has changed staff's "why" behind the need to utilize this tool.

WHAT DOES THIS ORDINANCE BROADLY ENABLE?

The Outdoor Refreshment Area has three primary components which are explained throughout this memo and the attached ordinance.

1. Sidewalk Cafés: Bars, restaurants, and performance venues can apply through Development Services for use of City sidewalks without a barrier and serve alcohol in regular glasses.
2. Special Events: Event Organizers may ask the City to approve an event without an enclosed beer garden if their event area is on a closed street or on a City-owned parking lot. Event organizers will have the ability to choose if they want to source alcohol through the normal process with the ABC Temporary Picnic Permit, or enable surrounding businesses within the closed area to serve to-go drinks to event attendees, who could then consume the alcoholic beverage within the event area. We want to ensure event organizers can manage all aspects of their events, so the choice should be given to the event organizer regarding open consumption and allowing surrounding businesses to sell drinks to go that could be consumed in the event area.
3. Limited (Regularly Scheduled) Open Consumption District Pilot Program: This can be defined as allowing visitors or patrons to purchase alcohol from a participating business and consume their beverage while walking down the sidewalks in a smaller defined area within the Outdoor Refreshment Area. Streets would not be required to be closed. This program would be piloted by City staff who have a series of requirements to meet in order to begin such a program (those requirements are outlined in a subsequent section of this memo). The pilot program also has a proposed sunset date of January 30, 2021.

COVID-19 AND UTILIZING ACT 812 AS A TOOL TO HELP RESTAURANTS, BARS, AND ENTERTAINMENT VENUES DURING PROLONGED SOCIAL DISTANCING MEASURES

The pandemic has disproportionately impacted certain industry sectors, restaurants, bars, and performance venues are included in that category. Through the various necessary public health directives, private clubs were not given a chance to pivot or adapt through to-go sales in Arkansas. Given the prolonged impact to sales the pandemic has had and will continue to have due to reduced occupancy and consumer concerns, Act 812 can be a tool to help these businesses increase sales during this time.

The expansion of sidewalk cafés can increase occupancy for these businesses. Research is continuing to show that open-air dining can be safer as well. Currently, Arkansas state law

prohibits alcohol being served outdoors without a fencing around the tables. This ordinance can eliminate that requirement for some businesses.

The regularly scheduled open consumption district can enable an increase in sales for these establishments. To-go sales will not only provide an additional revenue source for businesses, but also enable more social distancing by giving patrons the ability to consume alcohol while walking down sidewalks in a smaller area within the Outdoor Refreshment Area Boundary.

A great deal of uncertainty also exists for events. Traditional beer gardens do the very thing people cannot do right now - congregate in a small area. As events look to adapt and overcome these challenges, Act 812 can provide a new tool for them during a time of social distancing.

AMENDMENTS FROM THE TRANSPORTATION COMMITTEE AND STAFF COMMENTS

On May 12, 2020 the Transportation Committee discussed how to make our City Streets more comfortable for pedestrian and bikes as well as enabling businesses to expand into a street or parking lot for potentially safer dining during the pandemic. The Outdoor Refreshment Area was discussed in how the City might integrate these two ideas. The Transportation Committee recommended the City Council adopt the Outdoor Refreshment Area ordinance with three amendments:

Amendment 1: Loosening of any restrictions to the limited open container consumption days of the week rather than only Sunday-Wednesday.

- Staff Comments: While staff sees no issue in allowing the ability for the pilot program to operate seven days a week in the future, businesses have raised concerns with piloting the program on Thursdays-Saturday. This is why staff is recommending Sunday-Wednesday to start the pilot program. Also, concerns have been raised by the Fayetteville Police Department on policing during these times with a new program. The ordinance does not govern the phasing plan days of the week. A *Resolution to Adopt A Phasing Plan for Fayetteville's First Outdoor Refreshment Area* following this item accomplishes that. Staff's plan is to maintain consistency with communications to businesses, including the Dickson Street Merchants Association on May 11, 2020, to begin the pilot program Sunday-Wednesday. Strong communication, coordination, and agreement from businesses and anchor institutions within the area would need to be done before expanding beyond the previously discussed dates.

Amendment 2: Allowing parking lots, private parking lots, and right of way components such as parallel parking and travel lanes to be used as sidewalk café space or auxiliary parking when vehicular traffic patterns have been amended temporarily or otherwise.

- City Attorney's Office Comments: Nothing in this ordinance would prevent businesses from using parking lots (public or private), parking spaces, or travel lanes for those potential stated purposes if such a policy is adopted. State laws and ABC regulations

may limit a business's ability to serve alcohol to customers in those areas, but the city clearly has the authority to allow customers to drink there.

This kind of street or parking lot closure policy might require amendments to § 178.02 governing sidewalk cafes and other parts of the City Code. We feel that the closure of streets is best addressed by a separate administrative or City Council policy enactment that has been fully fleshed out, including input from business owners and the Police Department. We can easily extend some or all of the privileges and regulations governing sidewalk cafes at that time.

- Staff Comments: From a staff perspective, we feel the closure of specific streets for expanded dining is not a component of this ordinance, but rather a separate item. As mentioned above in the City Attorney's Office comments, the ordinance would in fact allow patrons to consume alcohol at tables in parking lots or streets if such closures were approved. Staff recommends that any closure must be proposed by a specific restaurant who wishes to serve in such an outdoor space and that restaurant must seek approval from businesses within the impacted area. We should ensure that whatever practice is adopted does not interrupt businesses who have pivoted recently to drive-thru, curbside pickup, and delivery services, as this will continue to be a key component of their operations through the pandemic. This item has not been discussed with businesses or stakeholders during the development of this ordinance.

Amendment 3: Include an emergency clause which would enable the ordinance to become law immediately after City Council passage.

Staff generally felt that an emergency clause was not necessary because of the time it will take to draft the administrative regulations, order cups and install signs, and educate the businesses within the outdoor refreshment area about these regulations. Furthermore, the ability of the Police Department to enforce this ordinance will be limited because Ark. Code Ann. § 14-55-203 states that "an emergency clause shall not be effective to impose any fine, penalty, forfeiture, or deprivation of liberty or property until after the ordinance has been published or posted as is otherwise required by law." According to the City Clerk's office, publication may not occur until as much as two weeks after the passage of an ordinance.

However, if the City Council believes the ordinance should go into effect immediately for the preservation of the public peace, health, and safety, then the facts constituting the emergency must be clearly stated within the ordinance itself. If enacted immediately, there will be a period of time in which the Police Department's authority to enforce the provisions of the ordinance will be substantially diminished.

SYNOPSIS OF STAFF RESEARCH FINDINGS:

On October 8, 2019, staff presented their research on public alcohol consumption at the Fayetteville City Council Agenda Session. While 43 communities were identified, many more communities exist that allow for alcohol to be consumed outside of designated establishments. Of the 43 communities, 30 allow for alcohol to be consumed in areas where traffic flows or their ordinances do not explicitly prevent it.

Many of the concerns that were heard in Fayetteville throughout this process were expressed in nearly every community who enacted similar ordinances. Findings did indicate that communities with colleges are typically more conservative with their ordinances. Three college communities located within the Southeastern Conference (SEC) have public consumption ordinances, many centered around gameday events.

Public alcohol consumption is also not confined to municipalities with an ordinance. In some states, the absence of a law prohibiting public alcohol consumption is the determining factor. In states such as Illinois, it is a social norm to be able to consume alcohol while attending events and festivals. The key point to note is that no two ordinances are the same. Each was crafted specifically for the respective community. For a more comprehensive review of staff's research, please see Exhibit E in the attachments section.

SUMMARY OF FOCUS GROUP SESSIONS:

Following several public meetings held in the Fall of 2019, staff planned two facilitated focus group sessions in November. The first session was held on November 20 and was a cross section of restaurants, bars, retailers, the Fayetteville Public Library, Fayetteville Chamber of Commerce, and employers. The second session was held on November 21 and included representation from retailers, restaurants, property owners, the Advertising and Promotion Commission, the Walton Arts Center, and Theatre Squared.

While the conversations between the two groups were different—there were commonalities between the discussions. Advantages identified by both groups were sidewalk cafés, positive consumer perception, and increased revenue. Disadvantages discussed by both groups included a perceived increase in liability, a concern for underage drinking, and the negative impacts road closures can have on a business's revenue. Ideas in common were rolling out the sidewalk café component first and tailoring a roll-out/pilot to gain proof of concept. Another idea was scheduling open consumption times during slow days to increase sales and bring more people downtown, i.e. Sunday-Wednesday as an example. For a more comprehensive review of the facilitated focus group discussions, please see Exhibit F in the attachments section.

REVISIONS FROM PREVIOUS ORDINANCE:

The changes from the original ordinance that was proposed in 2019 were derived primarily from multiple sources: the business community/other stakeholders, the Fayetteville Police Department, and staff research.

- **Phasing Plan:** At the recommendation of numerous businesses and stakeholders, a phasing plan has been developed to prove concept and explore various aspects of what Act 812 allows Fayetteville to do as it relates to public consumption. Following the outbreak of COVID-19, and the need for pro-longed social distancing for the health of our community, and restaurant and accommodation professionals, the phasing plan was altered significantly in May of 2020 to adapt to the pandemic. A copy of the proposed phasing plan can be found in this packet (Exhibit D).

- **Enhanced Notification System:** Event sponsors who wish to host a special event with specific approval for public consumption outside of a beer garden will have to complete the Notice of Proposed Closure for an Outdoor Refreshment Area event form. This new system will be developed by City staff and list the specific names of businesses within the closed area. The form will also ask if businesses plan on participating in the event by selling alcohol to attendees (if applicable- event organizers will have the choice to request) and collect other information that will be needed by both the event organizer and the Fayetteville Police Department. This new process will ensure each business is contacted in the closed area. City staff will also keep an updated contact list of businesses within the Outdoor Refreshment Area for use by event attendees. Work to begin collecting businesses preferred contact information will begin if the City Council chooses to adopt the ordinance.

- **Regularly Scheduled Open Consumption Pilot Program:** A regularly scheduled open consumption district pilot program can be defined as allowing visitors or patrons to be able to purchase alcohol from a participating business and consume their beverage while walking down the sidewalks in a smaller defined area within the Outdoor Refreshment Area. Streets would not be required to be closed. This program would be piloted by City staff who have a series of requirements to meet in order to begin such a program:
 - The pilot program could take place until the sunset provision of January 30, 2021 *(the sunset date will likely need to be extended. No long-term decisions pertaining to public consumption should be made until an assessment can be done to review the pilot program under conditions of “full capacity” with anchor institutions and downtown activity.)*
 - Social distancing guidelines would be adhered to for the health of the public and businesses.
 - Before such a program would be activated, robust collaboration with businesses of all types within the chosen area, as well as anchor institutions such as the Walton Arts Center, Theatre Squared, the Fayetteville Public Library, and others shall be done.

- City staff will collaborate with the Fayetteville Police Department, businesses of all types, as well as anchor institutions to define an area for the pilot program.
- Businesses within the chosen area shall be notified at least 21 days before the pilot program begins, City staff will also collect signatures from entities within the area of the pilot program.
- City Council Members will be given advanced notice of the pilot program and have the ability to appeal it.
- Rules of the pilot program will be developed and distributed.
- Designated cups and visible identifiers shall be used.
- Boundary signage, informational materials will be in place.
- Recycling/composting receptacles will be installed and utilized. The City will conduct ongoing assessments of the need for these receptacles. It is the Administration's intent to be proactive as well as responsive to ensure the beauty of downtown is not negatively impacted nor are property owners impacted in a negative manner.
- Public education will begin in advance of the pilot program to ensure awareness of the rules and public safety measures.

Staff's research found that most public consumption districts throughout the country operate without street closures. The pilot program will enable the City to explore if this can be a long-term contributor to downtown vibrancy. The idea for a pilot program stemmed from the focus group sessions in November of 2019, with focus group conversation primarily revolving around utilizing this tool to attract patrons into downtown during slow business times such as Sunday-Wednesday. Recognizing that bars, restaurants, and performance venues have been severely impacted by necessary measures taken to protect public health, staff feels the Outdoor Refreshment Area can serve as a tool to help these impacted industries increase sales during a time of limited occupancy while allowing for pro-longed social distancing by enabling attendees to spread out within the area.

- **Additional business protections against consumers who violate the laws of the ordinance:** Participating businesses do have a great deal of responsibility when it comes to all aspects of the Outdoor Refreshment Area. While those responsibilities have not changed, language was added in section (D) *Conditions for consumption of alcoholic beverages in public outdoor areas* which reiterates and outlines the responsibilities and duties of customers and patrons of the district.

The premise of these additions allows for the Fayetteville Police Department to enforce customer violations of the rules of the district, which are in place to protect and increase safety of all businesses, their staff, and attendees. As examples: it would be a violation of City law for a customer to enter a bar with an open container of alcohol, give their beverage to another event attendee (regardless of age), create or distribute fraudulent visible identifiers, or remove alcohol from an establishment that is not participating in open consumption.

- **Branded Cups and Visible Identifiers:** Rather than designate that cups be branded with the specific business logo, staff is recommending they be branded with a logo of the Outdoor Refreshment Area. The cups may also include a list of rules on them for attendees. The City, or in the future the designated entity assigned with the management of the district, will order the cups and visible identifiers. They will also work with the Fayetteville Police Department to establish a safe flow of these products to the businesses in order to reduce risk of duplication or fraudulent activity. Staff is also recommending that businesses be permitted to charge attendees for the designated cup to assist with covering the increased cost of participating in the program.

BUDGET/STAFF IMPACT:

Until a management plan is developed, and a managing entity identified, and compensated to manage the program, the program will have a large impact on staff time. Successful implementation of all aspects of the ordinance will require strong collaboration across various departments. The success of these programs, specifically the regularly scheduled open consumption district pilot program, will be dependent upon many of the logistical aspects the public will not see.

If the City Council decides the continuation of a regularly scheduled open consumption district beyond the sunset date is right for Fayetteville, an RFP should be developed to solicit proposals for an entity to manage the district.

Attachments:

Exhibit A: Outdoor Refreshment Area Ordinance Text
Exhibit B: Fayetteville's Designated Outdoor Refreshment Area Map Boundary
Exhibit C: Act 812
Exhibit D: Phasing Plan for reference
Exhibit E: Public Consumption Comparative Presentation
Exhibit F: Facilitated Focus Group Session Notes from November of 2019
Exhibit G: Transportation Committee Presentation from May 12, 2020
Exhibit H: Letters of Support

ORDINANCE NO. _____

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 **§ 111.07 - Outdoor Refreshment Area** of the Fayetteville City Code as follows:

“111.07 - Outdoor Refreshment Area

(A) Definitions

- (1) *Customer* shall include a patron, guest, or member.
- (2) *Owner* shall include the owner, manager, or operator of an establishment permitted to sell alcoholic beverages.
- (3) *Permittee* shall mean the person or entity who has received an event permit from the City of Fayetteville allowing the outdoor consumption of alcoholic beverages within an established entertainment district.
- (4) *Limited open consumption district pilot program* shall mean a series of specific dates and times which occur on a limited basis in which a person or customer may purchase alcohol from participating businesses and consume said alcohol within a defined area with open streets within the Outdoor Refreshment Area. The dates and times, as well as any rules applicable to such a pilot program, shall be established by the Mayor.

(B) 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. The district shall be known as the Outdoor Refreshment Area on the map attached as Exhibit 1.

(C) 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 Outdoor Refreshment Area is prohibited with the exception of:

- (1) *Events with standing approval.* The outdoor consumption of alcohol may be allowed on public streets, sidewalks, rights-of-way, parking lots, or outdoor public areas within the areas designated for events with standing approval pursuant to the Fayetteville City Code. The prior written authorization of the Mayor shall be required, and additional conditions may be placed on the permittee, the event, and any owner who wishes to allow the owner's customers to participate in the event as part of the authorization. The areas designated for the outdoor consumption of alcohol at standing events shall be closed to vehicular traffic unless those areas fall within a limited consumption district pilot program in which case the rules for the open consumption district shall apply.
- (2) *Special event permits with specific approval.* A special event permit issued by the Mayor pursuant to § 72.58(M) may authorize the outdoor consumption of alcohol on public streets, sidewalks, rights-of-way, parking lots, or outdoor public areas in certain areas and only during the times specified in the permit. Additional conditions may be placed on the permittee, the event, and any owner who wishes to allow the owner's customers to participate in the event as part of the authorization. Such areas may be closed to vehicular traffic.
 - (a) Organizers of events who wish to apply for the special event permit to allow open consumption of alcohol within the entire event area, rather than confining alcohol consumption to a limited area, shall complete the appropriate Notice of Proposed Closure for a Outdoor Refreshment Area Event Form as well as the standard Notice of Proposed Closure form.
 - (b) A business located adjacent to or within the event area may sell alcohol for open consumption in the event area only with the approval of the event organizer. If an event occurs during a time and within the area of a limited consumption district pilot program, business sales of alcohol for open consumption shall be permitted.
- (3) *Limited open consumption district pilot programs.* The Mayor may identify specific dates and times to authorize the implementation of a limited open consumption district pilot program within the Outdoor Refreshment Area. Such pilot program areas will not require street closures. Rules established by the Mayor applying to pilot program areas shall be distributed to business owners and signs shall posted in conspicuous locations within the pilot program area.
 - (a) At least 21 days prior to the beginning of an open consumption pilot program, City staff will notify nearby businesses and identify participating businesses.
 - (b) The Mayor, by and through staff, shall notify the City Council Members by email or otherwise of the decision to implement a limited open consumption district pilot program. If at least two (2) City Council Members notify the City Clerk's Office in writing within seven (7) days of the Mayor's notification of his or her decision that

they wish to appeal such decision, then the issue will be presented on the next City Council meeting in which the Mayor's decision could reasonably be considered. The City Council would then be able to decide by Resolution whether to reverse the Mayor's decision or upon what conditions (if any) the permit would be granted.

- (c) The provisions of subsection 111.07(C)(3) shall expire on January 30, 2021.

(D) *Conditions for consumption of alcoholic beverages in public outdoor areas.* Any owner within a designated area may allow a customer to exit the owner's premises during the hours designated in the special event permit or in an area defined in a limited consumption district pilot program 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) An owner within the designated event area or in an area defined in a limited consumption district pilot program may allow alcoholic beverages to be removed from the licensed premises during special events with specific approval who have requested businesses be able to sell to attendees and/or during the times of the limited consumption district pilot program and only in a compostable or reusable cup that bears the proper city approved logo, and no such alcoholic beverages shall be removed from the permitted premises in a can, bottle, or glass container.
- (2) No owner shall allow a customer to exit its premises with an open container of alcoholic beverage until the owner has placed a designated physical identifier on the customer, and it shall be unlawful for any person to exit such licensed premises with an open container without the required physical identifier.
- (3) 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.
- (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 the Outdoor Refreshment Area.
- (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 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.
- (7) No person shall possess on the sidewalks, public streets, rights-of-way, parking lots, or outdoor public areas any open alcoholic beverage container outside of the approved area of an event or the district.
- (8) It shall be unlawful for a customer to distribute alcohol for open consumption obtained from a business participating in the Outdoor Refreshment Area to any other individual.
- (9) It shall be unlawful to create, possess, or distribute fraudulent or unauthorized visible identifiers or cups within the Outdoor Refreshment Area.
- (10) No person shall publicly consume within the Outdoor Refreshment Area any alcoholic beverage purchased outside of the Outdoor Refreshment Area.

(E) *Sidewalk Cafes in the Outdoor Refreshment Area.* If an owner within the Outdoor Refreshment Area has also received a sidewalk café permit pursuant to §178.02 of the Unified Development Code:

- (1) The owner 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 a designated outdoor refreshment area shall be required.

(F) *State laws applicable to the Outdoor Refreshment Area.* All other Arkansas laws including, but not limited to, Ark. Code Ann. § 3-3-201, *et seq* (prohibited practices regarding alcoholic beverages), Ark. Code Ann. § 5-71-207 (disorderly conduct), Ark. Code Ann. § 5-71-212 (public intoxication), Ark. Code Ann. § 5-71-218 (consumption of alcohol in a motor vehicle) remain in effect and will be enforced within the Outdoor Refreshment Area.

(G) *Littering Prohibited.* No person shall violate the littering prohibition set forth in § 98.07 of the Fayetteville City Code.

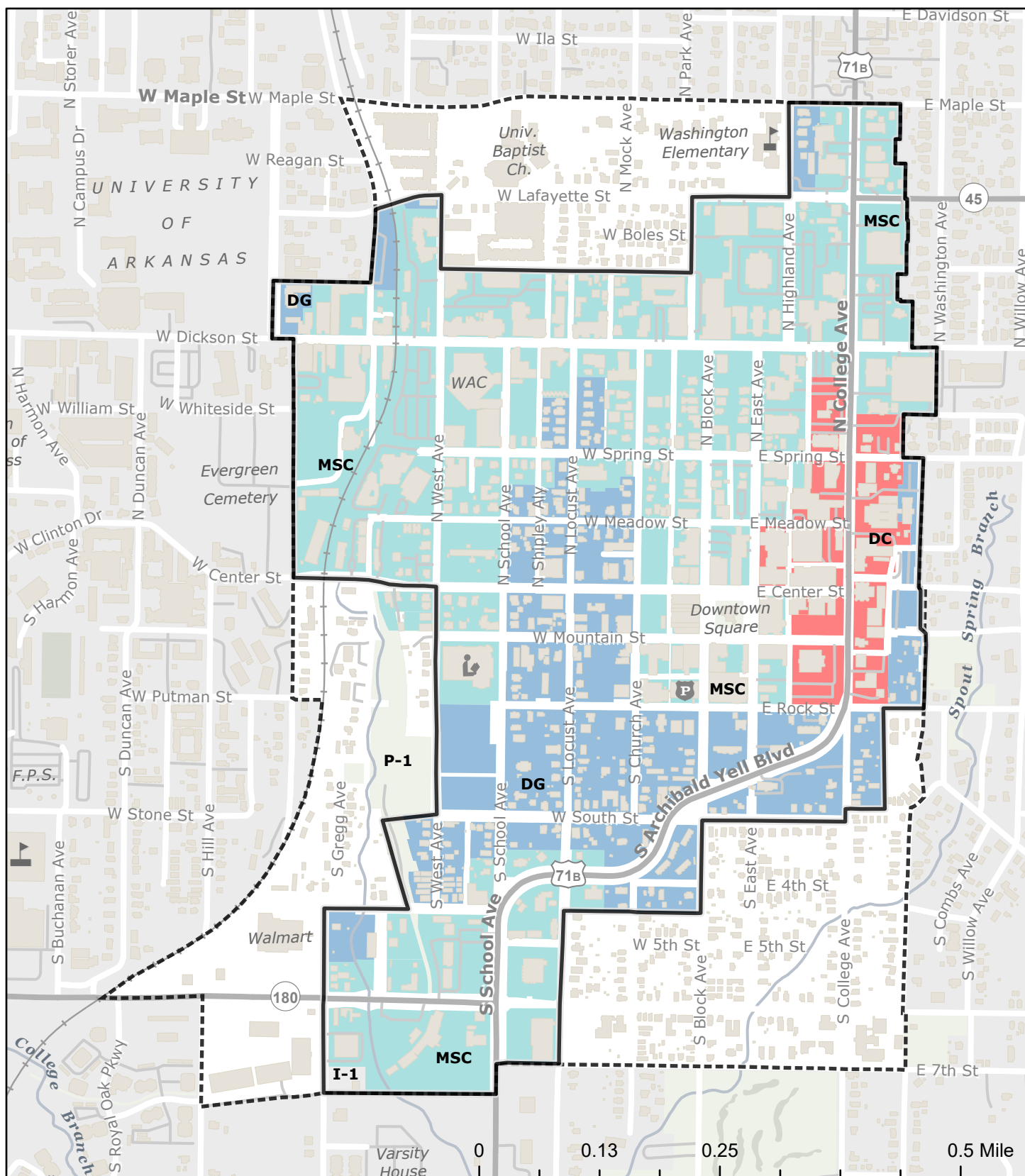
PASSED and APPROVED this .

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
KARA PAXTON, City Clerk/Treasurer



Proposed ORA



Adopted Cultural Arts District

Building



Exhibit 1

Fayetteville Outdoor Refreshment Area (ORA)

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 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.

Map Date: 05/13/2020

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.

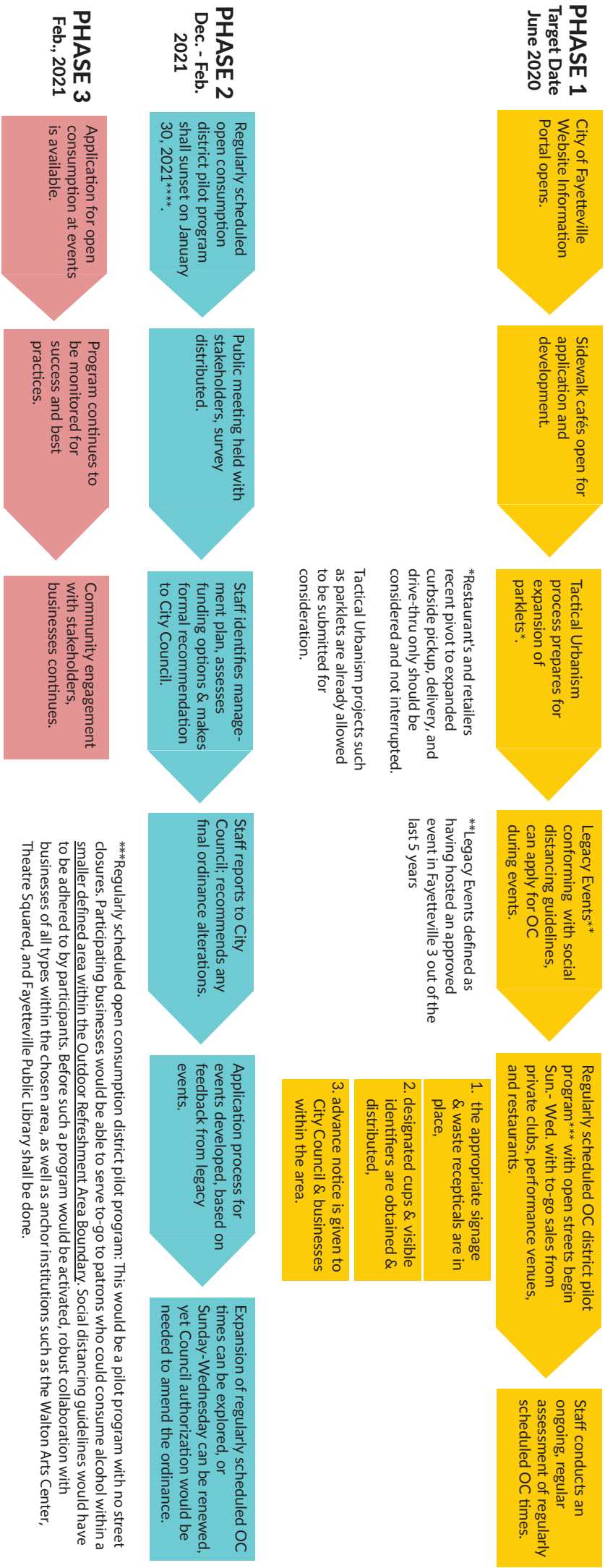
33 (4) A city, a municipality, or an incorporated town that creates
34 a designated entertainment district under this section shall notify the
35 division within ten (10) days of the issuance or removal of a permanent or
36 temporary designation as a designated entertainment district.

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/s/T. Garner

APPROVED: 4/9/19

ENTERTAINMENT DISTRICT OUTDOOR REFRESHMENT AREA PHASING PLAN



***Regularly scheduled open consumption district pilot program: This would be a pilot program with no street closures. Participating businesses would be able to serve to-go to patrons who could consume alcohol within a smaller defined area within the Outdoor Refreshment Area Boundary. Social distancing guidelines would have to be adhered to by participants. Before such a program would be activated, robust collaboration with businesses of all types within the chosen area, as well as anchor institutions such as the Walton Arts Center, Theatre Squared, and Fayetteville Public Library shall be done.

****The sunset date will likely need to be extended. No long-term decisions pertaining to public consumption should be made until an assessment can be done to review the pilot program under conditions of "full capacity" of anchor institutions and downtown activity.

Public Alcohol Consumption Comparative

Devin Howland, Economic Vitality

City Council

October 8, 2019



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ARKANSAS

Review Process and Findings:

- Staff identified 43 communities who allow some form of public alcohol consumption.
- 30 out of 43 allow for alcohol to be consumed in areas where traffic flows or their ordinance doesn't explicitly prevent it.
- Identified one community who cancelled their entertainment district.
- Concerns being heard in Fayetteville and across Arkansas were expressed by residents across the country.
- College communities are typically more conservative with their ordinances.
- Three SEC Cities have "Entertainment Districts or Go-Cup Districts" and two, not including Fayetteville, are considering them.

Findings (Continued):

- This uniqueness of municipalities that allow public alcohol consumption is one of the reasons why this has major tourism benefits.
- No two municipalities are the same. Every ordinance is unique to the specific community.

Large Municipalities

Major Cities	Population	Student Population	Require Streets to be closed?	Events based Process Only	Open Streets	Weekend Only	Seven Days a Week
Indianapolis	872,680	34,100	No	No (but allowed)	Yes	No	Yes
Chicago	2,716,000	124,705	Yes	Yes	No	N/A	N/A
New Orleans	393,292	39,008	No	No (but allowed)	Yes	No	Yes
Memphis	652,236	34,327	Yes	No (but allowed)	No	No	Yes
Las Vegas	641,676	55,442	No	No	Yes	No	Yes
Tampa, FL	385,430	63,864	N/A	No	No		
Austin, TX	950,715	81,421	No	Yes	Yes	No	Yes
Kansas City, MO	488,943	34,073	Yes	No (but allowed)	No	No	Yes
Arlington, TX	393,394	32,725					
Louisville, KY	602,011	39,000	Yes	N/A	No	No	Yes
Lincoln, NE	284,736	30,650	Yes	No (but allowed)	No	No	Yes
Fort Worth, TX	874,168	51,195	No	No (but allowed)	Yes	No	Yes

Student Population based on enrollment at Colleges within the City. No (but allowed) means the City does not explicitly name events in an ordinance, yet events with alcohol being consumed outside of beer gardens is allowed through an events process.



SEC Cities

SEC Cities	Population	Student Population	Require Streets to be closed?	Events based Process Only	Open Streets	Weekend Only	Seven Days a Week
			Currently Considering Ordinance				
Athens, GA	127,064	37,606					
Nashville, TN	691,243	26,636	No	No (but allowed)	Yes	No	N/A
Tuscaloosa, AL	100,287	36,727	No	No (but allowed)	Yes	Yes	No
Oxford, MS	26,639	18,975					
Baton Rouge, LA	225,374	38,209					
Auburn, AL	63,973	22,095	No	Yes	Yes	N/A	N/A
Starkville, MS	25,352	17,371	Considering Ordinance in 2018				
Gainesville, FL	132,249	47,501					
Columbia, MO	121,717	41,058					

Student Population based on enrollment at Colleges within the City. No (but allowed) means the City does not explicitly name events in an ordinance, yet events with alcohol being consumed outside of beer gardens is allowed through an events process.



DOWNTOWN T'TOWN ENTERTAINMENT DISTRICT APPROVED BOUNDARIES AND CUP



The Downtown TTown Entertainment District will be hosted on every **Friday and Saturday** in **October, November, December (2017)** and **January (2018)** from **9 a.m. to 10 p.m.**



You may exit with an alcoholic beverage contained in the approved plastic cup from any **participating** establishment **within or located on the boundary line.**

Arkansas Municipalities

ARKANSAS CITIES	Population	Student Population	Require Streets to be closed?	Events based Process Only	Open Streets	Weekend Only	Seven Days a Week
El Dorado	18,030	1,481	No	No	Yes	Th/Fri/Sat/Holidays	
Little Rock	198,606	9,665	No	No but also have events	Yes	Fri-Sun	No
Texarkana	37,333	3,994	No	No (but allowed)	Yes	No	Yes
Mountain Home	14,224	1,125	No	No	Yes	No	Yes.
Fort Smith	88,037	5,511	Currently Considering Ordinance				

Student Population based on enrollment at Colleges within the City. No (but allowed) means the City does not explicitly name events in an ordinance, yet events with alcohol being consumed outside of beer gardens is allowed through an events process.

Other Cities

City	Population	Student Population	Require Streets to be closed?	Events based Process Only	Open Streets	Weekend Only	Seven Days a Week
Savannah, GA	146,444	21365	No	No (but allowed)	Yes	No	Yes
Iowa City, IA	75,798	33,000	Yes	Yes	No	N/A	N/A
Hamilton, OH	62,092	20,000	No	No (but allowed)	Yes	No	Yes
Mobile, AL	190,265	17,247	No	No (but allowed)	Yes	No	Yes
Canton, GA	28,000	<1000	No	No (but allowed)	Yes	Yes	No
Greeley, CO	97,074	13,000	Yes	Yes (Friday Fest)	No	Friday	No
Huntsville, AL	194,585	25,000	No	No (but allowed)	Yes	Yes	No
Chatanoooga, TN	179,139	18,000	No	No (but allowed)	Yes	No	Yes
Owensboro, KY	59,404	6,000	No	Yes	Yes	Friday	No
Montgomery, AL	199,518	15,000	No	No (but allowed)	Yes	Yes	No
Dalton, GA	33,748	5,164	No	No (but allowed)	Yes	No	Yes
Fredericksburg, TX	11,369	<1000	No	No (but allowed)	Yes	No	Yes
Hood River, OR	7,686	0	No	No (but allowed)	Yes	No	Yes

Student Population based on enrollment at Colleges within the City. No (but allowed) means the City does not explicitly name events in an ordinance, yet events with alcohol being consumed outside of beer gardens is allowed through an events process.

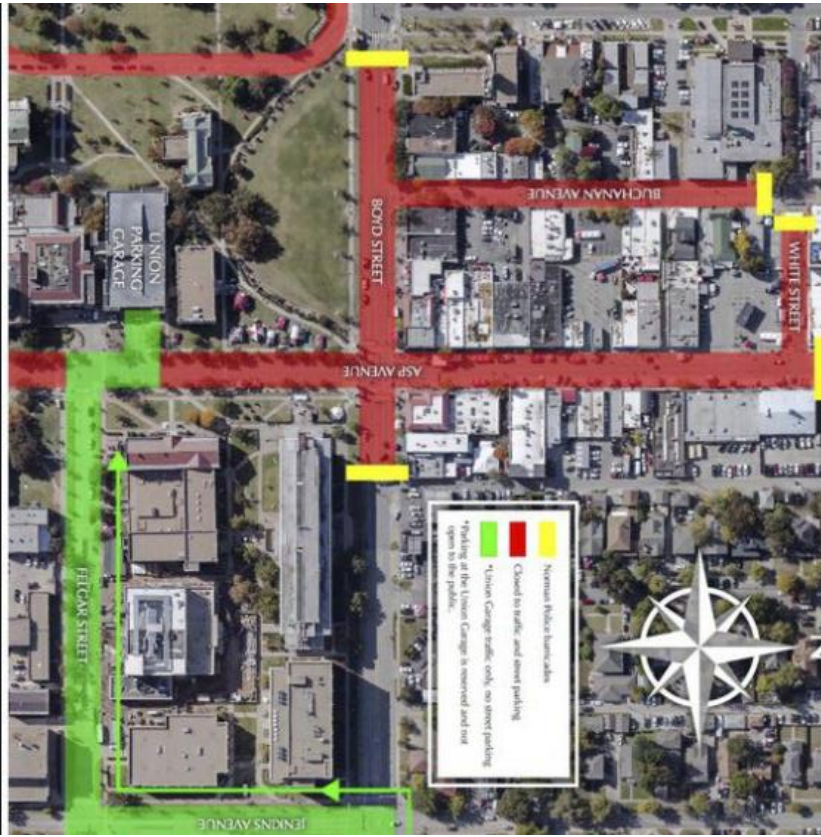




Other Cities (Cont.)

City	Population	Student Population	Require Streets to be closed?	Events based Process Only	Open Streets	Weekend Only	Seven Days a Week
Butte, MT	34,602	2,665	No	No (but allowed)	Yes	No	Yes
Carbondale, CO	6,820		Yes	Yes	No	Friday	No
Glendale, CO	5,158	16,518	Yes	Yes	No	[PPP]	PPP
Erie, PA	97,369	13,224	No	No (but allowed)	Yes	No	Yes
Norman, OK	122,843	21,082	Yes	Yes	No	Specific Days	No
Fort Collins, CO	165,080	23,967	N/A	N/A	No	No	Yes
Roswell, GA	78,162	0	No	No (but allowed)	Yes	No	Yes
Denton, TX	136,268	40,815	No	No	Yes	N/A	N/A
Tupelo, MS	38,114	23,780	Yes	Yes	No	No	N/A
Opelika, AL	30,240	Borders Auburn	No	Yes	Yes	N/A	N/A
Sonoma, CA	11,248	0	No	No (but allowed)	Yes	No	Yes

Student Population based on enrollment at Colleges within the City. No (but allowed) means the City does not explicitly name events in an ordinance, yet events with alcohol being consumed outside of beer gardens is allowed through an events process.



Next Steps:

- Multiple Facilitated Focus Group Sessions with Downtown businesses, residents, retailers, employers, restaurants, and our police department.
- Facilitated Public Meeting (s).
- Return Ordinance back to City Council.

Thank you!



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City of Fayetteville, AR: Economic Vitality
Creation of an Entertainment District as authorized by Act 812
Summary of Focus Group Sessions

ADVANTAGES IN COMMON	DISCUSSION
Sidewalk Café component viewed as a positive	<ul style="list-style-type: none"> • Roll-out sidewalk café component separately • Appreciate reduced compliance and ease of implementation • Recognized a positive visible impact for the entertainment district • Recognized positive impact from increased revenue
Positive consumer perception	<ul style="list-style-type: none"> • May pre-empt Rogers/Bentonville competition • Draw for hard to find skills, i.e. tech • <i>Cool</i> factor • Put Fayetteville on par with <i>like</i> cities
Increases revenue	<ul style="list-style-type: none"> • Allows businesses to participate in events • Drives new patrons • Increases tourism • Prompt more events • Increases the open-air events on Dickson St.

DISADVANTAGES IN COMMON	MITIGATION DISCUSSION
Perceived increase in liability	<ul style="list-style-type: none"> • Investigations relative to overserving go deep and utilize cameras, interviews, etc. • Current compliance practices are still effective • ABC input is provided to support ongoing compliance • Merchants not responsible for patrons serving underage persons AFTER leaving their establishment
Concern for underage drinking	<ul style="list-style-type: none"> • Drinking in cars, apartments, etc. is an ongoing issue currently being policed • Visible identifiers such as compostable cups and wrist bands will be utilized
Road closures lead to reduced revenue	<ul style="list-style-type: none"> • Agreed disadvantage to merchants, especially those not in close proximity to the event • Increases parking issues currently experienced • Overall dislike of closing roads

IDEAS IN COMMON
<ul style="list-style-type: none"> • Roll out with sidewalk café component first • Scheduled open consumption times that boost sales on slow days, i.e. Sun. – Wed. • Tailored roll-out / Pilot to gain proof of concept

City of Fayetteville, AR: Economic Vitality
Creation of an Entertainment District as authorized by Act 812
Notes from November 20th Focus Group Session

Advantages

1. Internet draw – enhance outside tourism
2. Puts Fayetteville, AR on par with other *like* cities
3. Create a template for planning events
4. Lower cost for event planners
5. Increase sales for merchants
6. Prompt more events
7. Sidewalk café component creates additional seating w/out the expense of build-out
8. Code compliance for sidewalk café is lessened
9. Attract skilled (tech) labor; updated place to live and work
10. Draw new business
11. Creates flexibility to the state law
12. Can sell alcohol without having to add barriers on the sidewalk
13. Overall agreement that impact on sidewalk café is positive

Disadvantages

1. Liability for sending alcohol out of restaurant
2. Merchants left on an island of accountability
3. Lose control of point of service relative to *overserving*
4. Liability doesn't end at the door
5. Decreased revenue from bootlegged alcohol (purse/trunk)
6. Consumption laws are misaligned w/operationalization of ordinance; *where is the line?*
7. Cost of cups and wrist bands
8. NWA is less than 100K people; events tend to draw crowds to a venue leaving merchants with decreased sales
9. Can't regulate price-gouging
10. Favors establishments with proprietary alcohol; they can sell for less
11. Event proximity provides advantages for some merchants
12. Entertainment district is huge; cannot police the perimeter easily
13. Road closures lead to reduced revenue
14. Increase underage drinking
15. Increase police call volume from residential population
16. Allows transfer of alcohol to minors
17. Visible identification is good BUT...who's responsible for bad behavior and/or damage
18. Parking will be an issue for some merchants
19. Scheduling open consumption times; not sure events will bring in traffic from Rogers/Bentonville
20. Partial week scheduling; confusing for out-of-towners and tourists
21. Overall opposition to shutting off streets; disadvantage for merchants not in close proximity to event and drives revenue reduction

Mitigation

1. Pilot – proof of concept; Sun. – Wed. and/or First Thursday
2. Liability
 - a. Generalized cups and wrist bands
 - b. ABC – Responsibility unchanged, but accountability more difficult to prove; investigations drill down
 - c. Require wrist bands only if drinks are taken *to-go (during scheduled open consumption times)*
3. Safety plan
4. Define smaller *feasible* geography
5. Slow day roll-out
6. Sidewalk café roll-out first and go from there
7. Police presence to deter bad behavior
8. Pre-empt competition in Bentonville and Rogers
9. Start with already schedule events for a greater positive impact
10. Create a name (DORA) to establish scheduled open consumption times
11. Start-up crawl (example of impromptu)
12. City buys wrist bands and cups and sells to Merchants at a discount
13. Flexible state law
14. Event organizer provides visible identifier
15. Investigation (overserving) goes deep
16. Film Festival is example...precedent is set for perimeter tape
17. If not on weekend – drive increased revenue and will have easier security
18. Tailored implementation
19. Scheduled times – drives new norm and people have more calm reaction

City of Fayetteville, AR: Economic Vitality
Creation of an Entertainment District as authorized by Act 812
Notes from November 21st Focus Group Session

Advantages/General Discussion

1. Increases the open-air events on Dickson St.
2. Increased business
3. Increased traffic = increased sales
4. Sidewalk Café is big advantage (*can it be separate from the ordinance?*)
5. Positive consumer perception, i.e. cool idea
6. Already working in Eureka Springs with open streets, traffic flowing, and no increased bad behavior
7. ABC rules still apply
8. Planned (special) events take everything into account
9. Events set their own boundaries
10. Allows for different rules in different areas in the Entertainment District
11. Accommodates legal consumption impromptu, i.e. date night
12. Event organizer bears additional cost
13. Tailored open container area vs event area
14. Reduced parking is not required by ordinance
15. Overall agreement that Sidewalk Café is positive
16. Can craft ordinance for future growth
17. Slow roll-out; Pilot/Test Run
18. Idea – Eureka Springs; Ben E. Keith provides kick-back on cups
19. Needs to define hours
20. Allows businesses to participant more in events
21. ABC/Liability is better once explained
22. Walton Art Center doesn't support scheduled open consumption as it changes the behavior of the crowd; anticipate clash with family programming

Disadvantages/General Discussion

1. Liability
2. BYOB vs Purchasing from merchants
3. Cups reused
4. Gateway for continued open consumption
5. Prompt a desire for continued open consumption
6. Overall agreement that requirement to shut down streets stops retail
7. Sidewalk café is tied to broader ordinance
8. Increase in staffing cost for merchants
9. Impact on park; open beverages, trash, bad behavior
10. Increases security needs
11. 100% compliance is not possible
12. Cuts out businesses just outside the event perimeter
13. May limit patronage to certain establishments
14. Pop-up parklets
15. Sidewalk café isn't defined, i.e. shots vs dinner
16. Cost in process; cups, information, etc.
17. City needs to help restaurants with additional process and requirements, i.e. "compost"
18. Events revenue reduced by local merchants selling alcohol

Ideas/General Discussion

1. Expand boundaries (Spring Fest)
2. Two events are already saying no; BBB and Spring Fest
3. Encourage passing ordinance for sidewalk café
4. Note: Compliance issues will not increase for current events
5. Test alternative scenarios (tailored roll-out)
6. Dickson Street, Walton Art Center, Theatre² overall positive on sidewalk café impact
7. Suggestion: Talk to Roots Festival; *reported that Roots Festival will want open consumption*

Outdoor Refreshment Area

Devin Howland, Director of Economic Vitality

Transportation Committee

May 12, 2020



CITY OF
FAYETTEVILLE
ARKANSAS

Timeline

- August 20, 2019- Ordinance 1 introduced to City Council
- October 15, 2019- Ordinance 1 tabled indefinitely by City Council
- November 20 and 21, 2019- Facilitated focus group sessions held
- December 2019- February 2020- One on One meetings continued and new ordinance drafted.
- March 9, 2020- DSM Ordinance Presentation and edit session
- ~~March 20, 2020- Final Ordinance Submitted into Legistar~~
- ~~April 7, 2020- Ordinance first heard by City Council.~~
- May 11, 2020- DSM Ordinance Presentation and edit session (New Phasing Plan)
- May 12, 2020- Transportation Committee Presentation
- May 15, 2020- Ordinance submitted into Legistar for City Council review and consideration (Staff goal).

ADVANTAGES IN COMMON	DISCUSSION
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DISADVANTAGES IN COMMON	MITIGATION DISCUSSION
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IDEAS IN COMMON
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Revisions

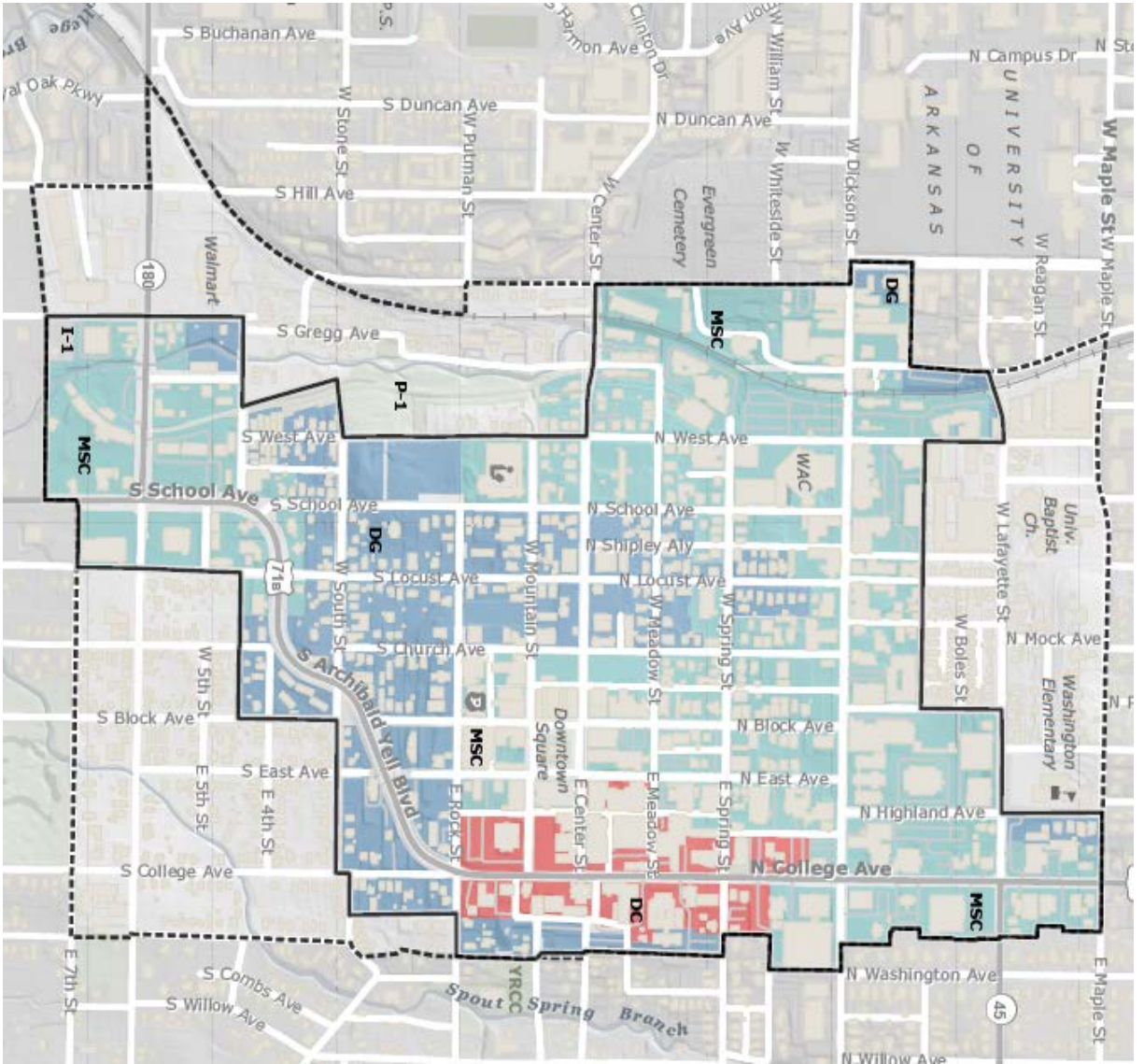
- **Name of “District”, “Entertainment District” is problematic: Proposing DORA or ORA [Designated Outdoor Refreshment Area or Outdoor Refreshment Area]**
- **Business and Stakeholder Notification: New System to ensure communication and to give businesses/stake holders a voice (more on next slide).**
- **Phasing Plan: Continue to slow roll the process (guarantees it) explores various aspects, with a sunset provision for a major component to force revisiting on the law later this year (more on subsequent slide). [MAJOR ALTERATIONS DUE TO COVID-19]**
- **Cups and Visible Identifiers: Removed individual business branded cups. Will be generalized to City unless a preset event.**

Revisions (cont.)

- **Attendee behavior and business protection laws rather than rules:** *Big difference between a rule and a law. Major increase of laws for behavior on event attendees and customers (more on subsequent slide).*
- ~~**Dickson Street Overlay:** *Recognizing Dickson is unique given number of establishments and proximity to University.*~~
 - *Deleted at the request of DSM on 3/9*
- **Limited Open Consumption District Pilot Program:** *Smaller defined area within this district, would not take place on Thursday, Friday, or Saturday. Sunsets at January 30, 2021. Business and City Council Checks and Balances.*

Broadly, what does this ordinance do?

- **Sidewalk Café's:** Bars and restaurants can apply through Development Services for use of City sidewalks without a barrier, and serve alcohol in regular glasses.
- **Special Events can apply for no beer garden and for businesses to sell to-go to attendees:** Gives event organizer the option to apply for no beer garden in their event area if it is on a street.
 - We know event organizers will be exploring for creative ways to improvise, adapt, and overcome the challenges this pandemic has brought. This ordinance provides an additional tool for flexibility they can consider.
- **Regularly Scheduled Open Consumption District Pilot Program:** No street closures, businesses would be able to serve to go to patrons, who could consume alcohol within a smaller defined area. Staffs proposal suggests Sunday-Wednesday.
 - Enables patrons to spread out, conform to social distancing guidelines, increase sales during a time of reduced occupancy, and maintain social distancing. Ability to utilize sunsets January 30, 2021. (discussed more in phasing plan).



New Notification System

- **Example of Current Notice of Proposed Closure:**

NOTICE OF PROPOSED CLOSURE

The City of Fayetteville requires Special Event Permit applicants to complete this Notice of Proposed Closure and provide Written Notification to all property owners/managers and/or occupants along and within 300-feet of a City street or City parking lot that is proposed to be closed for more than eight (8) hours. The applicant should attempt to make personal contact with occupants - seeking their signature and checking whether each address agrees with, disagrees with, or was notified of the closure. Should the applicant be unable to make personal contact at an address, a written notification flyer of the proposed closure must be left at the property in a conspicuous location. The completed Notice of Proposed Closure form and a copy of the Written Notification flyer must accompany the event permit application. Questions should be directed to the City's Parking Management Division by phone 479-575-8280 or email parking@fayetteville-ar.gov.

Event Name:		Event Time/Date:	
Event Contact:			
Check one box below:		Property Owner/Manager or Occupant	
Agree	Disagree	Notified	Printed Name and Business Name
			Signature
			Street Address
			340 N CAMPBELL AVE
			325 W DICKSON ST
			412 W DICKSON ST
			401 W WATSON ST
			313 N ROLLSTON AVE
			322 N ROLLSTON AVE
			522 W DICKSON ST
			227 W DICKSON ST
			217 N LOCUST AVE
			313 W DICKSON ST
			226 N LOCUST AVE
			430 W DICKSON ST
			406 W DICKSON ST
			420 W DICKSON ST
			311 W DICKSON ST
			228 N LOCUST AVE
			303 W DICKSON ST

New Notification System

- Example of new additional notice form if event wishes to ask for open consumption in a closed street:

NOTICE OF PROPOSED CLOSURE FOR AN OUTDOOR REFRESHMENT AREA EVENT

The City of Fayetteville requires Special Event Permit applicants who wish to allow open consumption of alcohol outside of a beer garden to complete this Notice of Proposed Closure for an Entertainment District Event Form and provide Written Notification to all businesses within the area of the closure. The regular Notice of Proposed Closure Form must also be completed. The applicant should attempt to make personal contact with each business - seeking their signature and checking whether each address or business agrees with, disagrees with, or was notified of the closure and if they plan to participate in the serving of alcohol for consumption outside of their establishment. Should the applicant be unable to make personal contact at an address, a written notification flyer of the proposed closure must be left at the property in a conspicuous location. The completed Notice of Proposed Closure for an Entertainment District Event form and a copy of the Written Notification flyer must accompany the event permit application along with the standard Notice of Proposed Closure Form. Questions should be directed to the City's Parking Management Division by phone 479-575-8280 or email parking@fayetteville-ar.gov

CHECK ONE			Property Owner/Occupant		Participating in Serving of Alcohol for Outdoor Consumption?			
Agree	Disagree	Notified	Name/Business Name	Signature	Address	Yes	No	If Yes- Email and Number
			Bordinos					
			Doe's Eat Place					
			JJ's Grill					
			Farrell's Lounge					
			Wasabi					
			Dickson Street Book Shop					
			Sideways					
			Dickson Street Pub					
			Dickson Street Inn					
			Ryleighs					
			King Fish					
			The Piano Bar					

CERTIFICATION	
PRINT NAME:	SIGNATURE:

Preset list for various road closures which list specific bar and restaurant names, developed by internal staff.

Responsibilities of Attendees and new laws in ordinance

- No owner shall allow a customer to exit its premises with an open container of alcoholic beverage until the owner has placed a designated physical identifier on the customer, and it shall be unlawful for any person to exit such licensed premises with an open container without the required physical identifier.
- It shall be unlawful for a customer to enter any business with any alcoholic beverage that was not acquired at that location.
- It shall be unlawful for a customer to distribute alcohol for open consumption obtained from a business participating in the Designated Outdoor Refreshment Area **to any other individual.**
- It shall be unlawful to create, possess, or distribute fraudulent or unauthorized visible identifiers or cups within the Designated Outdoor Refreshment Area.
- A customer may not enter any private or public establishment with an open or closed container of alcoholic beverage without the consent of the staff of the establishment.
- No person shall publicly consume within the Designated Outdoor Refreshment Area any alcoholic beverage purchased outside of the Designated Outdoor Refreshment Area.

Responsibilities of attendees and new laws in ordinance (cont.)

- *State laws applicable to the Designated Outdoor Refreshment Area.* All other Arkansas laws including, but not limited to, Ark. Code Ann. § 3-3-201, *et seq* (prohibited practices regarding alcoholic beverages), Ark. Code Ann. § 5-71-207 (disorderly conduct), Ark. Code Ann. § 5-71-212 (public intoxication), Ark. Code Ann. § 5-71-218 (consumption of alcohol in a motor vehicle) remain in effect and will be enforced within the Designated Outdoor Refreshment Area.
- *Littering Prohibited.* No person shall violate the littering prohibition set forth in § 98.07 of the Fayetteville City Code.

COVID-19 and Act 812 as a tool for prolonged social distancing measures

- COVID-19 has disproportionately impacted restaurants, bars, and performance venues.
 - Private clubs were not given a chance to adapt to the health directives through to-go sales or delivery.
- May 18th the Governor will make an announcement pertaining to when and under what guidelines the bars can open.
- Reduced capacity will greatly continue to impact sales, indoor dining can have negative impacts on staff, patrons, etc and is likely to be limited for many more months.
- Research has shown that outdoor dining is safer for staff and patrons.
- Currently, Arkansas State law would prohibits alcohol being served outdoors if not under the liquor license boundary (fencing needed).

COVID-19 and Act 812 as a tool for prolonged social distancing measures

- Cities are getting creative to help restaurants and bars space out on public property, while creative dining can occur, restaurants would be prohibited from serving alcohol without utilizing Act 812.
- To-go sales for consumption in the Outdoor Refreshment Area can help increase sales for restaurants, private clubs, and performance venues while allowing patrons to adhere to social distancing guidelines and spread out throughout the area.
- While a great deal of uncertainty exists for events, we know traditional beer gardens cannot allow for social distancing. As events look to improvise and adapt to these changes- this tool can help provide additional options.
- The future provides little certainty, additional spikes could happen, ADH restrictions put back in place, normal is likely along way away.
- Staff feels Act 812 can help not only increase sales, but also safety.

Post COVID-19 Phasing Plan: Draft

ENTERTAINMENT DISTRICT OUTDOOR REFRESHMENT AREA PHASING PLAN

PHASE 1 Target Date June 2020

City of Fayetteville
Website Information
Portal opens.

Sidewalk cafés open for
application and
development.

Tactical Urbanism
process prepares for
expansion of parklets.

Legacy Events*
conforming with social
distancing guidelines,
can apply for OC
during events.

*Legacy Events defined as
having hosted an approved
event in Fayetteville 3 out of the
last 5 years

Regularly scheduled OC district pilot
program with open streets begin Sun.-
Wed. with to-go sales from private
clubs, performance venues, and
restaurants.

Staff conducts an
ongoing, regular
assessment of regularly
scheduled OC times.

PHASE 2 Dec. - Feb. 2021

Regularly scheduled
open consumption
district pilot program
shall sunset on January
30, 2021.

Public meeting held with
stakeholders, survey
distributed.

Staff identifies manage-
ment plan, assesses
funding options & makes
formal recommendation
to City Council.

Staff reports to City
Council; recommends any
final ordinance alterations.

Application process for
events developed, based on
feedback from legacy
events.

Expansion of regularly scheduled OC
times can be explored, or
Sunday-Wednesday can be renewed,
yet Council authorization would be
needed to amend the ordinance.

PHASE 3 Feb., 2021

Application for open
consumption at events
is available.

Program continues to
be monitored for
success and best
practices.

Community engagement
with stakeholders.
businesses continues.

1. the appropriate signage
& waste recepticals are in
place,
2. designated cups & visible
identifiers are obtained &
distributed,
3. advance notice is given to
City Council & businesses
within the area.

Thank you

Devin Howland

Economic Vitality, CITY OF FAYETTEVILLE



CITY OF
FAYETTEVILLE
ARKANSAS



May 15, 2020

Mayor Lioneld Jordan
Fayetteville City Council
113 W. Mountain St.
Fayetteville, AR 72701

Dear Mayor Jordan and Council Aldermen,

I write to express my full support for the ordinance to designate an "Entertainment District" in the Dickson Street area. Establishing an entertainment district will create a more energetic feel to our downtown area. This will drive interests and therefore business to our merchants in the area. An added benefit is this will be a strong recruitment tool for business to come to the area.

The entertainment district will increase the use and visitation of our historic downtown, driving an increase in local commerce. As people continue to move to the area, we must ensure that our city remains competitive in terms of entertainment. A diverse mix of businesses, services, and entertainment venues is vital to building a downtown area that can compete with other cities for the entertainment crowd. We need all the tools available and the entertainment district is a tool that other cities in the region currently do not have.

Entertainment districts are being planned or are operating throughout Arkansas. The goal is to revitalize downtown areas and generate much-needed tax revenues. These districts also increase a cities' work-life balance. The Chamber believes that now is the time to create an entertainment district. If there are any questions about the impact this will have on the area, please feel free to reach out.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read "Steve Clark", followed by a horizontal line.

Steve Clark
President and Chief Exectutive Officer
Fayetteville Chamber of Commerce
21 W. Mountain St., Ste. 300 72701



May 13, 2020

City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Purpose: Letter of Support for Fayetteville's Outdoor Refreshment Area

Startup Junkie is a key economic development catalyst in the City of Fayetteville, and has proven to be an important leader in the advancement of the innovation and entrepreneurial ecosystem in the City. Through our work with local entrepreneurs, innovators, and business leaders, it has become clear that the approval of the Outdoor Refreshment Area is a critical economic catalyst for the City. We are excited for the increased vibrance and quality of life improvement that the Outdoor Refreshment Area will have on the City over the long term. Furthermore, restaurants, bars, private clubs, and performance venues have been severely impacted by COVID-19. Based on research, outdoor dining and recreation can help ensure patron safety in addition to supporting social distancing, and because of this we believe that the approval of the Outdoor Refreshment Area is even more vital.

Let this letter of support make it absolutely clear that we support the approval of the Outdoor Refreshment Area for Fayetteville.

Regards,

A handwritten signature in black ink, appearing to read 'Brett Amerine', with a stylized flourish at the end.

Brett Amerine
Startup Junkie
Managing Director



TheatreSquared

P.O. Box 4188
Fayetteville, AR 72702

Admin: (479) 445-6333
Box Office: (479) 777-7477
theatre2.org | ournextstage.org

Robert Ford
Artistic Director

Martin Miller
Executive Director

May 14, 2020

Devin Howland
Director of Economic Vitality
City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

Dear Devin,

We are excited by the City's plans for establishing an Outdoor Refreshment Area for the City of Fayetteville, and write to express our support for the sidewalk café measures currently being evaluated by the Fayetteville City Council.

As we look towards the possibility of reopening the Commons, our first priority will be guest, staff, and artist safety. Creating additional outdoor dining areas will go a long way toward helping us balance those needs while also taking small steps towards a return to normal operations.

In the longer term, establishing a sidewalk café area will be helpful in blending the border of TheatreSquared's Commons with the street, and with the future cultural corridor improvements. The large concrete plinths at the corner of West & Spring were designed for patron seating, but are underutilized because beverage service is restricted to a smaller patio area.

Please feel free to reach out to us with any questions, and best of luck on the measure.

Sincerely,

Martin Miller
Executive Director



112 W Center St
6th Floor
Fayetteville, AR 72701

479-200-1379

www.metova.com

May 15, 2020

City of Fayetteville

To Whom It May Concern,

I am writing to strongly support the Outdoor Refreshment Area plan for many reasons including personal preference as well as economic development and fostering an environment that attracts IT talent to the area for workforce development.

Note - This first paragraph is my personal view and does not represent an official position from my employer. From a general point of view our laws and societies ideals on alcohol are overly influenced by prohibition tactics over 100-years ago. If you take something away, you create desire for the illicit, create costs around enforcement, and create room for judgement and shaming. If my history is correct, monks invented beer and Jesus turned water to wine, so I see no basis for moral judgement around a safe amount consumption of alcohol. Unfortunately, our laws and viewpoints are largely influenced by a minority claiming morality on alcohol.

End personal view.

I strongly encourage the city to consider opening up opportunities for consumption of alcohol by legal aged people in a responsible manner, especially in light of COVID-19. As restaurants re-open, I doubt I will go inside even with PPE and 33% occupancy. However, I would love to go grab take-out, and walk around the square, or over to Wilson park, and enjoy local food and a beer or glass of wine. Or sit on a café table with distance from other people vs. confined inside. My understanding is that wind blows the COVID particles around making it harder to contract outside.

I would love to see events such as festivals and concerts open back up with social distancing factored into the set up. This would require eliminating beer gardens which are silly anyway. I have lived in Fayetteville my entire life and I think I have had 1 beer in 1 beer garden at 1 event, simply because I don't want to sit in a fenced in area – I want to walk around. I think it is silly to cage in the “drinkers” and keeping people in one location with a bar encourages over consumption.

I would love to see Fayetteville take a leadership position in NWA in this subject and catch up to other cities like Austin. I believe through educating the public on appropriate public drinking and penalties of violation would only help everyone understand the rules and would open up responsible citizens to report irresponsible behavior at events, making enforcement viable. I welcome a friendly discussion of any counter points of views to see if there is an amicable approach.

Sincerely,

Kent Watson
Kent Watson

Vice President of Technology Strategy



February 29, 2020

Leap year is a rare occasion but rare doesn't mean never, impossible or even wrong.

On the subject of an Entertainment District for Fayetteville; it almost is perplexing isn't it? The decision has weighed on all of our minds; I am sure. The question still lingers... Is this a good fit for our little college town? A hometown feeling with a big vision for the future. A town full of students from near and far; young graduates and business professionals; every aspect of every social group lumped into what we call home.

I envision brunch cocktails on a patio, strolling through the farmers market or a beer on the walk to the game. It would be nice to see that vision without orange fences but there are some things to think about like liability. The most important piece of information here is that ABC laws still apply. ALL laws still apply. This is an extremely valuable piece of information for any license holder and the city. For example: you cannot carry your beverage into another licensed establishment, and you can't drink while in a vehicle. Logistics is another area of concern but seems easy enough to have a sunset time. Set times that really work with what businesses you currently have and what potentially could be opening.

This is an opportunity to enjoy Fayetteville.
Or are we JUST a college town?
Thank you for your time

A handwritten signature in black ink that reads 'Autumn Slane'.

Autumn Slane
Sauced BBQ • Fayetteville
Grotto Wood Fired Grill • Eureka Springs

EXHIBIT A

“111.07 - Outdoor Refreshment Area

(A) *Definitions*

- (1) *Customer* shall include a patron, guest, or member.
- (2) *Owner* shall include the owner, manager, or operator of an establishment permitted to sell alcoholic beverages.
- (3) *Permittee* shall mean the person or entity who has received an event permit from the City of Fayetteville allowing the outdoor consumption of alcoholic beverages within an established entertainment district.
- (4) *Limited open consumption district pilot program* shall mean a series of specific dates and times which occur on a limited basis in which a person or customer may purchase alcohol from participating businesses and consume said alcohol within a defined area with open streets within the Outdoor Refreshment Area. The dates and times, as well as any rules applicable to such a pilot program, shall be established by the Mayor.

(B) *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. The district shall be known as the Outdoor Refreshment Area on the map attached as Exhibit 1.

(C) *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 Outdoor Refreshment Area is prohibited with the exception of:

- (1) *Events with standing approval.* The outdoor consumption of alcohol may be allowed on public streets, sidewalks, rights-of-way, parking lots, or outdoor public areas within the areas designated for events with standing approval pursuant to the Fayetteville City Code. The prior written authorization of the Mayor shall be required, and additional conditions may be placed on the permittee, the event, and any owner who wishes to allow the owner's customers to participate in the event as part of the authorization. The areas designated for the outdoor consumption of alcohol at standing events shall be closed to vehicular traffic unless those areas fall within a limited consumption district pilot program in which case the rules for the open consumption district shall apply.
- (2) *Special event permits with specific approval.* A special event permit issued by the Mayor pursuant to § 72.58(M) may authorize the outdoor consumption of alcohol on public streets, sidewalks, rights-of-way, parking lots, or outdoor public areas in certain areas and only during the times specified in the permit. Additional conditions may be placed on the permittee, the event, and any owner who wishes to allow the owner's customers to participate in the event as part of the authorization. Such areas may be closed to vehicular traffic.

- (a) Organizers of events who wish to apply for the special event permit to allow open consumption of alcohol within the entire event area, rather than confining alcohol consumption to a limited area, shall complete the appropriate Notice of Proposed Closure for a Outdoor Refreshment Area Event Form as well as the standard Notice of Proposed Closure form.
- (b) A business located adjacent to or within the event area may sell alcohol for open consumption in the event area only with the approval of the event organizer. If an event occurs during a time and within the area of a limited consumption district pilot program, business sales of alcohol for open consumption shall be permitted.

(3) *Limited open consumption district pilot programs.* The Mayor may identify specific dates and times to authorize the implementation of a limited open consumption district pilot program within the Outdoor Refreshment Area. Such pilot program areas will not require street closures. Rules established by the Mayor applying to pilot program areas shall be distributed to business owners and signs shall posted in conspicuous locations within the pilot program area.

- (a) At least 21 days prior to the beginning of an open consumption pilot program, City staff will notify nearby businesses and identify participating businesses.
- (b) The Mayor, by and through staff, shall notify the City Council Members by email or otherwise of the decision to implement a limited open consumption district pilot program. If at least two (2) City Council Members notify the City Clerk's Office in writing within seven (7) days of the Mayor's notification of his or her decision that they wish to appeal such decision, then the issue will be presented on the next City Council meeting in which the Mayor's decision could reasonably be considered. The City Council would then be able to decide by Resolution whether to reverse the Mayor's decision or upon what conditions (if any) the permit would be granted.
- (c) The provisions of subsection 111.07(C)(3) shall expire on January 30, 2021.

(D) *Conditions for consumption of alcoholic beverages in public outdoor areas.* Any owner within a designated area may allow a customer to exit the owner's premises during the hours designated in the special event permit or in an area defined in a limited consumption district pilot program 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) An owner within the designated event area or in an area defined in a limited consumption district pilot program may allow alcoholic beverages to be removed from the licensed premises during special events with specific

approval who have requested businesses be able to sell to attendees and/or during the times of the limited consumption district pilot program and only in a compostable or reusable cup that bears the proper city approved logo, and no such alcoholic beverages shall be removed from the permitted premises in a can, bottle, or glass container.

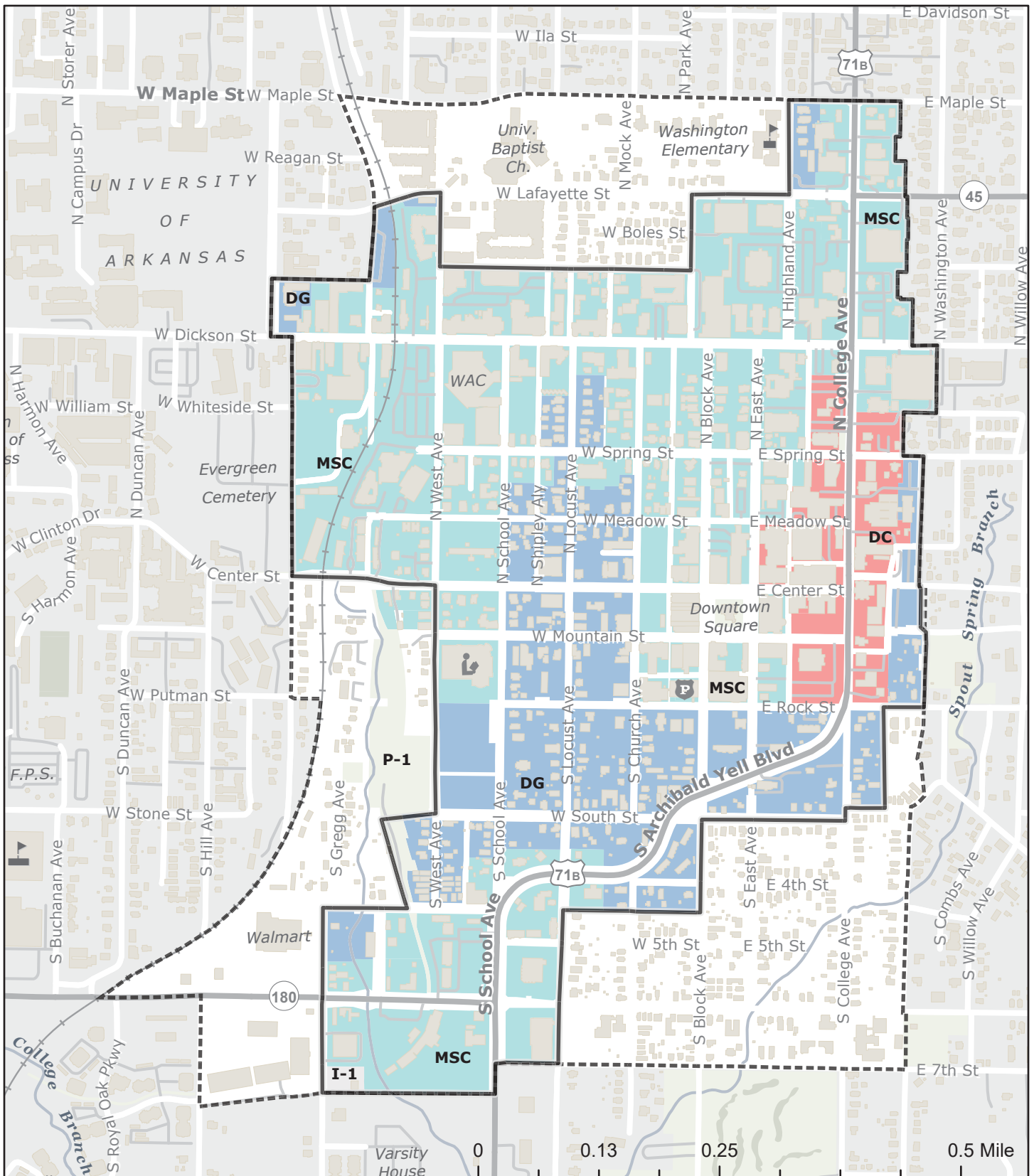
- (2) No owner shall allow a customer to exit its premises with an open container of alcoholic beverage until the owner has placed a designated physical identifier on the customer, and it shall be unlawful for any person to exit such licensed premises with an open container without the required physical identifier.
- (3) 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.
- (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 the Outdoor Refreshment Area.
- (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 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.
- (7) No person shall possess on the sidewalks, public streets, rights-of-way, parking lots, or outdoor public areas any open alcoholic beverage container outside of the approved area of an event or the district.
- (8) It shall be unlawful for a customer to distribute alcohol for open consumption obtained from a business participating in the Outdoor Refreshment Area to any other individual.
- (9) It shall be unlawful to create, possess, or distribute fraudulent or unauthorized visible identifiers or cups within the Outdoor Refreshment Area.
- (10) No person shall publicly consume within the Outdoor Refreshment Area any alcoholic beverage purchased outside of the Outdoor Refreshment Area.

(E) *Sidewalk Cafes in the Outdoor Refreshment Area.* If an owner within the Outdoor Refreshment Area has also received a sidewalk café permit pursuant to §178.02 of the Unified Development Code:

- (1) The owner 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 a designated outdoor refreshment area shall be required.

(F) *State laws applicable to the Outdoor Refreshment Area.* All other Arkansas laws including, but not limited to, Ark. Code Ann. § 3-3-201, *et seq* (prohibited practices regarding alcoholic beverages), Ark. Code Ann. § 5-71-207 (disorderly conduct), Ark. Code Ann. § 5-71-212 (public intoxication), Ark. Code Ann. § 5-71-218 (consumption of alcohol in a motor vehicle) remain in effect and will be enforced within the Outdoor Refreshment Area.

(G) *Littering Prohibited.* No person shall violate the littering prohibition set forth in § 98.07 of the Fayetteville City Code.



Proposed ORA



Adopted Cultural Arts District



Building



Exhibit 1

Fayetteville Outdoor Refreshment Area (ORA)

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.

Map Date: 05/13/2020

Branson, Lisa

From: CityClerk
Sent: Tuesday, May 26, 2020 2:00 PM
To: Bolinger, Bonnie; Pennington, Blake; CityClerk; citycouncil@matthewpetty.org; Eads, Gail; Roberts, Gina; Batker, Jodi; Johnson, Kimberly; Rogers, Kristin; Williams, Kit; Branson, Lisa; Jordan, Lioneld; Paxton, Kara; Mulford, Patti; Norton, Susan; Thurber, Lisa; Gutierrez, Sonia; Marsh, Sarah; Kinion, Mark; Scroggin, Sloan; Bunch, Sarah; Turk, Teresa; Smith, Kyle
Cc: ptt@prodigy.net; pete012639@yahoo.com
Subject: FW: City Council Agenda Session, May 26, 2020

Kara,

Please distribute these comments on the draft Agenda for the City Council Meeting next Tuesday, June 2, 2020, to the Mayor, City Attorney and City Council Members:

1. Unfinished Business Item B.1 (Regulation of Single Use Disposable Bags) should be deferred until normal public comment and discussion are possible. More importantly, given the present COVID-19 contagion, single-use bags may be cleaner and safer than re-useable bags brought in from cars and homes. Again, ultimately I support strong restrictions on all plastic waste that is not readily biodegradable, but this is not the time to implement a broad-ranging policy with minimal public comment, particularly one which may be less safe for the public.
2. Unfinished Business Item B.2 (Amend Rules of Order and Procedure) should also be deferred until normal public comment and discussion are possible. This is COMPLETELY unnecessary at this time. I watch the City's meetings on Zoom and I have heard no more than two comments on any one item, and NO comments on the vast majority of items. Zoom is enough of a disincentive/obstacle to public involvement during the COVID-19 contagion. On the one occasion where I wanted to comment I was not able to do so. More importantly, public comment is a fundamental and critical issue in the public interest, one which should be addressed only after normal procedures are in place allowing in-person public involvement.
3. New Business Item C.10 (Boundaries for an Entertainment District) and Item C.11 (First Outdoor Refreshment Area) -- These are issues which are hardly critical at this time, but which by their nature will affect the public generally. These can wait until normal City Council procedures are in use.
4. New Business Item C.12 (Professional Fund-Raising Company for City Parks). This smells like hiring another consultant, as though we need to spend even more tax dollars on yet another "Beltway Bandit", especially when City revenues are no doubt already depressed. Parks are a core City function. Public parks should be funded under the general budget from general revenues. They no doubt could be if so much money were not being squandered on artsy-fartsy extravagances, which should be funded by charitable donations from patrons of the arts and user fees. The City government has this backwards, contrary to the public interest. Acknowledge the current crisis: Defund the froofroo, and pay for parks without wasting tax money on another middle-man.

Thank you.

Pete Tonnessen
3500 Hearthstone Drive
Fayetteville, AR 72764
Cell 719-338-7329