

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TEMPORARILY AMENDING THE GEOGRAPHIC AREA AND BOUNDARIES OF THE LEISURE AND RECREATION DISTRICTS WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF HATTIESBURG, MISSISSIPPI; AND FOR RELATED PURPOSES**

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HATTIESBURG, MISSISSIPPI:**

**WHEREAS**, the City of Hattiesburg, Mississippi, is a duly organized and incorporated municipality pursuant to Section 21-8-1, et seq., of the Mississippi Code of 1972 (as amended); and,

**WHEREAS**, during the 2016 Legislative Session, the Legislature of the State of Mississippi enacted House Bill 1223, which permits and authorizes certain municipalities in the State of Mississippi to establish Leisure and Recreation Districts and to designate the geographic areas included within and the boundaries of said districts; and,

**WHEREAS**, the Governor signed House Bill 1223 into law, and the same became effective on and after July 1, 2016; and,

**WHEREAS**, House Bill 1223 requires that an Ordinance establishing a Leisure and Recreation District shall describe the area or areas within the district and its boundaries in detail, and shall contain a georeferenced map of the district as well as the municipality's plan for providing adequate law enforcement and other public safety measures and services within the district; and,

**WHEREAS**, municipalities with leisure and recreation districts authorize business entities that hold alcoholic beverage permits issued by the Department of Revenue and that are located within the boundaries of the designated Leisure and Recreation District to allow patrons to leave the licensed premises with an open container of alcohol and to carry and consume alcoholic beverages within said district; and,

**WHEREAS**, the Coronavirus outbreak and the necessary measures taken by local, state and federal government to curb the spread of the virus have shuttered the dining rooms of all restaurants, crippling all and closing many; and

**WHEREAS**, the Alcohol Beverage Commission ("ABC") has relaxed its regulations on both package retailer permittees (Liquor Stores) and on-premise retail alcoholic beverage permittees (Restaurants) in order to maintain sustainability in these business sectors during the Coronavirus outbreak, including phone-in transactions, curbside delivery and "doggie bag" unopened bottles of wine at restaurants with the carry out/drive-through/curbside pick-up of a meal; and

**WHEREAS**, the ABC now allows mixed drink liquor and wine to be sold with carry out/curbside/drive-through pick-up meals in established Leisure and Recreation Districts of this State; and

**WHEREAS**, the City's restaurants holding an on-premise retail alcoholic beverage permits are located throughout the city, not just in the existing Leisure Districts in Downtown and Midtown; and

**WHEREAS**, the expansion of the existing leisure and recreation district constitutes and emergency measure and is reasonable and necessary for the sustainability and future viability of the restaurant business sector, and the expansion of same is in the best interest of the public peace, health and safety of the city's citizens; and

**WHEREAS**, the Mayor and City Council of the City of Hattiesburg have found that the manner of current law enforcement is adequate and sufficient for the areas to be designated as leisure and recreation districts, and the Mayor therefore has agreed to direct that the Hattiesburg Police Department continue to provide adequate and sufficient law enforcement and other public safety measures and services as stated herein in the city's Leisure and Recreation districts; and,

**WHEREAS**, nothing herein is intended to confer any rights or entitlement, as the sale of alcohol within an area designated as a Leisure and Recreation District is a privilege and not a right and is subject at all times to reasonable regulation; and,

**WHEREAS**, subject to the terms and limitations of House Bill 1223 (2016 Legislative Session) and this Ordinance, the City of Hattiesburg hereby establishes a temporary Leisure and Recreation District to include not only the Downtown Social District and the Midtown Social District but to also include the entire city limits until such time as the Governor removes the State of Emergency or for the next ninety (90) days whichever is longer, at which time such boundary lines will revert to previous boundary lines as established in Ordinance 3254. Operational guidelines for the temporary district shall also follow emergency orders as issued by local and state authorities. This Ordinance does not allow for any driving with an open container. It is illegal to have an open container inside a vehicle.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and City Council of the City of Hattiesburg, Mississippi, that this Ordinance shall be named the HATTIESBURG LEISURE AND RECREATION DISTRICTS ORDINANCE and is as follows:

**SECTION 1. TITLE :** This ordinance shall be known as **HATTIESBURG LEISURE AND RECREATION DISTRICTS ORDINANCE.**

**SECTION 2. CREATION AND ESTABLISHMENT OF DISTRICTS:** Under the authority granted in Section 1 of House Bill 1223 (2016 Legislative Session), the City of Hattiesburg does hereby establish Leisure and Recreation District(s) within the City of Hattiesburg, hereafter known as the DISTRICT(s).

- a. Downtown Social District (District 1) description is attached as Exhibit 1;
  1. A map of the Downtown Social District (District 1) is attached as Exhibit 2;
- b. Midtown Social District (District 2) description is attached as Exhibit 3;
  1. A map of the Midtown Social District (District 2) is attached as Exhibit 4;
- c. Temporary City-Wide Leisure and Recreation District description is attached as Exhibit 5;
  1. A map of the Temporary City-Wide Leisure District is attached as Exhibit 6;
- d. Additional districts may be created in the future as deemed beneficial by the Mayor and City Council for the City of Hattiesburg.

**SECTION 3. AUTHORITY:** The areas designated as the DISTRICT(s), pursuant to House Bill 1223, are hereby granted such authority as stated therein. Further, in addition to any other authority granted by law, the holder of a permit issued by the State of Mississippi to sell or otherwise provide alcoholic beverages, beer and /or wine to a patron of the permit holder in the manner authorized in the permit, may allow a patron to remove an open cup or other non-glass container (as stated in section 4 (3) below) of alcoholic beverages, beer and/or wine from the permitted premise located within the DISTRICT as stated above, and the patron remains within the boundaries of the DISTRICT while in possession of and/or while consuming such alcoholic beverages, beer or wine.

**SECTION 4. OUTSIDE CONSUMPTION OF ALCOHOLIC BEVERAGES**

**PERMITTED; CONDITIONS.** Any on-premise retail alcoholic beverage permittee (hereinafter, "permittee") located within each DISTRICT shall comply with all laws, rules and regulations which govern its license type, except that a patron, guest or member of that licensee may exit the permitted premises during any times said permitted retail establishment is open, with no more than one open container of alcoholic beverage, beer and/or wine, and may possess and continue to consume said alcoholic beverage, beer and/or wine outside of the licensed premises anywhere within the boundaries of the DISTRICT(s), subject to the following regulations:

1. Nothing in this Ordinance permits a patron to possess or consume an alcoholic beverage, beer or wine that was not purchased from an on-premise retail alcohol beverage permittee located within each DISTRICT.
2. A person may not enter a licensed premise with an open container or closed container of alcoholic beverage, beer or wine acquired elsewhere.

3. A permittee located in each DISTRICT shall allow alcoholic beverages to be removed from the licensed premises only in a can, paper, plastic, styrofoam, or other non-glass container.
4. No permittee shall allow a patron, guest or member to exit its licensed premises with more than one open container of an alcoholic beverage, and it shall be unlawful for any person to exit such licensed premises with more than one such open container.
5. Permittees located in each DISTRICT may allow alcoholic beverages to be removed from the licensed premises during any times said permitted retail establishment is open, so long as it is consistent with City Ordinance 3148, Sect 3.5, which specifies hours of consumption as: Monday thru Saturday 8 a.m. - 2 a.m.; and Sunday 10:30 a.m.- midnight.
6. Nothing in this ordinance shall be construed to require a permittee located in the District to allow its patrons to remove alcoholic beverages and/or wine, in open containers, from the licensed premises.
7. Each permittee shall be required to place a trash receptacle, consistent with the specified design approved for each DISTRICT, at the exit door of the premises.
8. Permittees located in each DISTRICT shall post, at all points of egress from the licensed premises, a map of the boundaries of the DISTRICT in which it is located. The map shall be provided by the City, either in electronic or paper form, to those permittees upon their request.
9. The purpose of this ordinance being primarily to allow pedestrians to carry open containers as described in this ordinance within a Leisure and Recreation District, nothing in this ordinance shall be construed to allow patrons, guests, or members of a licensee to drive a motor vehicle or non- motor vehicle while carrying an open container of alcoholic beverage on to or into a motor vehicle or pedestrian-driven vehicle, and it shall be a violation of this ordinance for any person to drive a motor vehicle or non-motor vehicle while carrying an open container as described in this ordinance containing an alcoholic beverage within the District in which it was purchased. This sub-paragraph "9" does not apply to non-driving passengers of vehicles. Nothing in this ordinance shall be construed to allow patrons, guests or members of a licensee to leave a District as a pedestrian or in a motor vehicle or non- motor vehicle of any kind while carrying an open contain or alcoholic beverage.
10. Nothing in this ordinance shall be construed to allow patrons, guests or members of a licensee to impede traffic on a public street or within private or public parking lots.

**SECTION 5. DRINKING IN PUBLIC PLACES; AMENDMENTS TO ORDINANCE NUMBERS 3148 AND 2103 AND 3216 AND TO THE CODE OF ORDINANCES;**

Section 2 of Ordinance Number 3148, adopted 12-16-14 and amended 2-21-17; Section 1 of Ordinance Number 2103, adopted 2-8-83; Section 2 A.1 and Section 2 B.1 of Ordinance Number 3216, adopted 8-22-17; and Chapter 3.7 of the Code of Ordinances are hereby amended to read as follows:

"It shall be unlawful for any person, group association, or any and all legal entities recognized by law to possess or consume alcoholic beverages, beer or light wine, as defined by any statute of this state, in the city hall, municipal school buildings, stadiums, any public playgrounds, or public parks, or clubhouses situated therein, or any fire station, or on any and all other public grounds, buildings, parks, and places owned, maintained or operated by the city; except, that this section shall not apply to any individuals, groups or associations utilizing any municipally owned building under a written lease or rental agreement granted by the city; and it shall be unlawful for any person to consume any alcoholic beverage, beer, or light wine on any public street, sidewalk or alley owned, maintained or operated by the city, except that is shall not be unlawful for any person to consume an alcoholic beverage, beer or light wine on streets in an established LEISURE AND RECREATION DISTRICT; and it shall not be unlawful for any person to consume beer or light wine on streets in the downtown area that have been closed to vehicular traffic for special events that are sponsored or approved by the City of Hattiesburg; during said City-sponsored or approved events in the downtown area, no beer or light wine may be possessed or consumed from glass containers.

**SECTION 6. PUBLIC SAFETY MEASURES:** The City of Hattiesburg by and through its Police and Fire Departments, shall provide for adequate law enforcement and other public safety measures and services within each DISTRICT as required by State Law. In addition, the Police and Fire Departments shall provide public safety services within the District in the same manner it provides those services in the remainder of the City. Nothing in this ordinance shall be

construed to amend or change any other ordinance pertaining to amplified music, noise, litter, or loitering.

**SECTION 7. DEFINITION OF ALCOHOLIC BEVERAGES.** For the purposes of this Ordinance, the term “alcoholic beverages” shall mean any alcoholic liquid, including wines of more than five percent (5%) of alcohol by weight, capable of being consumed as a beverage by a human being, but shall not include light wine and beer, as defined in Section 67-3-3, Mississippi Code of 1972, but shall include native wines.

**SECTION 8. BEER AND LIGHT WINE.** Within the boundaries of each DISTRICT, a permittee may allow beer and light wine to be removed from the licensed premises as permittee in Sec 4.

**SECTION 9 RESERVATION OF RIGHTS:** The City reserves the right to modify or repeal this ordinance, and any district designation created hereunder, at any time, with or without notice.

**SECTION 10. REPEAL AND CONFLICTS.** All ordinances or parts thereof that address alcohol consumption in conflict with this ordinance are hereby repealed within the geographic boundaries of the DISTRICT created herein.

**SECTION 11 EFFECTIVE DATE:** This ordinance shall be effective upon approval as required by law, execution and publication.

**SECTION 12. PARTIAL REPEAL DATE:** When the Governor removes the State of Emergency or for the next ninety (90) days, whichever is longer, the portion of this Ordinance creating the Temporary City-Wide Leisure District shall stand repealed. This repeal shall not affect the remaining portions of this Ordinance, including, but not limited to, the creation of District One and District Two.

The above and foregoing Ordinance, having been first reduced to writing, was introduced by Council member \_\_\_\_\_, seconded by Council member \_\_\_\_\_, and adopted by the following roll call vote:

**AYES**

**NAYS**

**ABSENT**

The President thereby declared the motion carried and the Resolution adopted, this the 14<sup>th</sup> day of May, A.D., 2020.

(SEAL)

**ATTEST:**

**ADOPTED:**

\_\_\_\_\_  
**CLERK OF THE COUNCIL**

\_\_\_\_\_  
**PRESIDENT**

The above and foregoing Ordinance was submitted to and approved by the Mayor, this the 14<sup>th</sup> day of May, A.D., 2020.

**ATTEST:**

**APPROVED:**

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**CITY CLERK**

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**MAYOR**