

ORDINANCE NO. 79-20

(amended)

AN ORDINANCE ESTABLISHING A PERMANENT DOWNTOWN ENTERTAINMENT DISTRICT AND RULES RELATED THERETO WITHIN THE CITY OF FORT SMITH AS AUTHORIZED BY ACT 812 OF 2019; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY

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WHEREAS, the 92<sup>nd</sup> Arkansas General Assembly enacted Act 812 of 2019 authorizing the establishment of designated entertainment districts to promote hospitality and tourism and establish areas of a city or town that highlight restaurant, entertainment, and hospitality options; and

WHEREAS, such designated entertainment districts may be established in contiguous areas of the city that are customarily used for commercial purposes and contain any combination of restaurants, taprooms, taverns, entertainment establishments, hospitality establishments, music venues, theaters, bars, art galleries, art studios, tourist destinations, distilleries, dance clubs, cinemas, or concert halls; and

WHEREAS, the City adopted Ordinance No. 26-20 establishing boundaries and rules for a Temporary Entertainment District in downtown Fort Smith on March 17, 2020; and

WHEREAS, it is the intent of this ordinance to designate a specific footprint, rules and hours of operation for a Permanent Entertainment District in downtown Fort Smith; and

WHEREAS, it is the intent of this ordinance that the Permanent Entertainment District operates independently from the boundaries and rules adopted in Ordinance 26-20 for Temporary Entertainment Districts, which contains a larger defined footprint that may still be activated as part of a Special Event Permit, but no Special Event Permit shall be required to activate the defined Permanent Entertainment District.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Directors of the City of Fort Smith, Arkansas, that:

Section 1. Permanent Entertainment Districts. There is hereby designated a permanent entertainment district pursuant to A.C.A. Section 14-54-1412(b) specifically designated as The Downtown Entertainment District as depicted on Exhibit A to this ordinance, which is hereby incorporated herein, and further defined as follows:

- a. All public rights-of-way adjacent to and all of that area contained within the boundaries North 3<sup>rd</sup> Street on the west, North A Street on the north, North 13<sup>th</sup> Street on the east, and Rogers Avenue on the south in downtown Fort Smith; and
- b. All public rights-of-way adjacent to and all of that area contained within the boundaries of South 7<sup>th</sup> Street on the west, Rogers Avenue on the north, South 10<sup>th</sup> Street on the east, Carnall Avenue/South 8<sup>th</sup> Street on the south, Wheeler Avenue/South 6<sup>th</sup> Street on the southwest, and a portion of Parker Avenue in downtown Fort Smith; and

- c. All public rights-of-way adjacent to and all of that area contained within the boundaries of the alleyway between North A and North B Streets (between North 9<sup>th</sup> & North 10<sup>th</sup>), North B Street, North 10<sup>th</sup> Street, and North A Street, including all of the Brunswick Place development and its private parking area west of said alley; and
- d. All of Gateway Park.
- e. All public rights-of-way adjacent to and all of that area contained within the boundaries of the alleyway between North A and North C Streets (between North 11<sup>th</sup> & North 12<sup>th</sup>), North C Street west to Grand Avenue, Grand Avenue west to North 10<sup>th</sup> Street, North 10<sup>th</sup> Street south to North A Street, and North A Street east to the alley between North 11<sup>th</sup> & North 12<sup>th</sup> Streets.

Section 2. The following rules shall apply to the permanent entertainment district known and designated as The Downtown Entertainment District:

- a. Alcoholic beverages lawfully sold by an establishment within the designated entertainment district properly licensed for the sale of alcoholic beverages are permitted for consumption within the permanent entertainment district and adjacent public rights-of-way, subject to the rules established by this ordinance.
- b. All alcoholic beverages sold as allowable for consumption within the permanent entertainment district shall be in a paper or plastic cup, no larger than 16 fluid ounces in size, on which the names or logos of the participating establishments and/or any specific event has been commercially or professionally printed. All participating establishments shall use the same cup design, which may be redesigned or modified from time to time to reflect a date, year, event or a change in color.
- c. No alcoholic beverages in bottles, glass, or cans are permitted for consumption outside of licensed establishments in the permanent entertainment district except where such may be permitted by specific license or permit authorized by the State of Arkansas Division of Alcoholic Beverage Control.
- d. No person shall be in possession of more than one alcoholic beverage at any time.
- e. Consumption or possession of an alcoholic beverage is not permitted in or on a vehicle parked in any public right-of-way within any permanent entertainment district.
- f. The physical boundaries of the permanent entertainment district shall be clearly marked with pavement markings and/or signage. The public, including law enforcement, must be able to clearly discern when patrons are entering or exiting the entertainment district.
- g. These rules and provisions regarding a permanent entertainment district are not intended to and do not supersede, eliminate or otherwise impede the enforcement or conditional permitting of any other state or local law or regulation regarding the sale or consumption of alcohol or

alcoholic beverages. For instance, rules against public intoxication or any other related offense are applicable to permanent entertainment districts.

- h. The hours of operation for The Downtown Entertainment District shall be seven days per each week from 10:00 a.m. each day until 2:00 a.m. the following day.
- i. Participating businesses shall utilize a unique (in color or design) wristband for each day of the week. Wristbands will be issued upon verifying the patron is at least 21 years of age, and patrons must wear the wristband in order to carry the alcoholic beverage about the entertainment district.

Section 3. Temporary Entertainment District. The areas defined in Ordinance No. 26-20 that are designated as a Temporary Entertainment District, but are outside of the area defined in this Ordinance as a Permanent Entertainment District, shall continue to operate as a Temporary Entertainment District under the rules established by Ordinance No. 26-20. The Temporary Entertainment District provisions apply to the area described in Section 1 if the intent of the applicant for a Special Event permit is to extend or alter the hours of operation within the area defined as the Permanent Entertainment District.

Section 4. If any portion of this ordinance is deemed to be in conflict with a previously existing city ordinance, such previously existing ordinance is hereby repealed to the extent necessary to resolve such conflict.

Section 5. If any provision of this ordinance is determined to be invalid due to the application of law, such invalidity shall not affect the validity of other provisions of this ordinance and, to that end, the provisions of this ordinance shall be deemed severable.

Section 6. Recognizing the negative impact that the COVID19 pandemic has had on local business and the importance of this action as a way to help improve the economic situation of the businesses affected, an emergency is hereby declared and this ordinance shall take effect immediately upon its adoption and approval.

ADOPTED this 1<sup>st</sup> day of September, 2020.

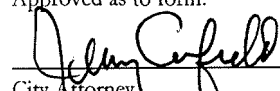
APPROVED:

  
Mayor

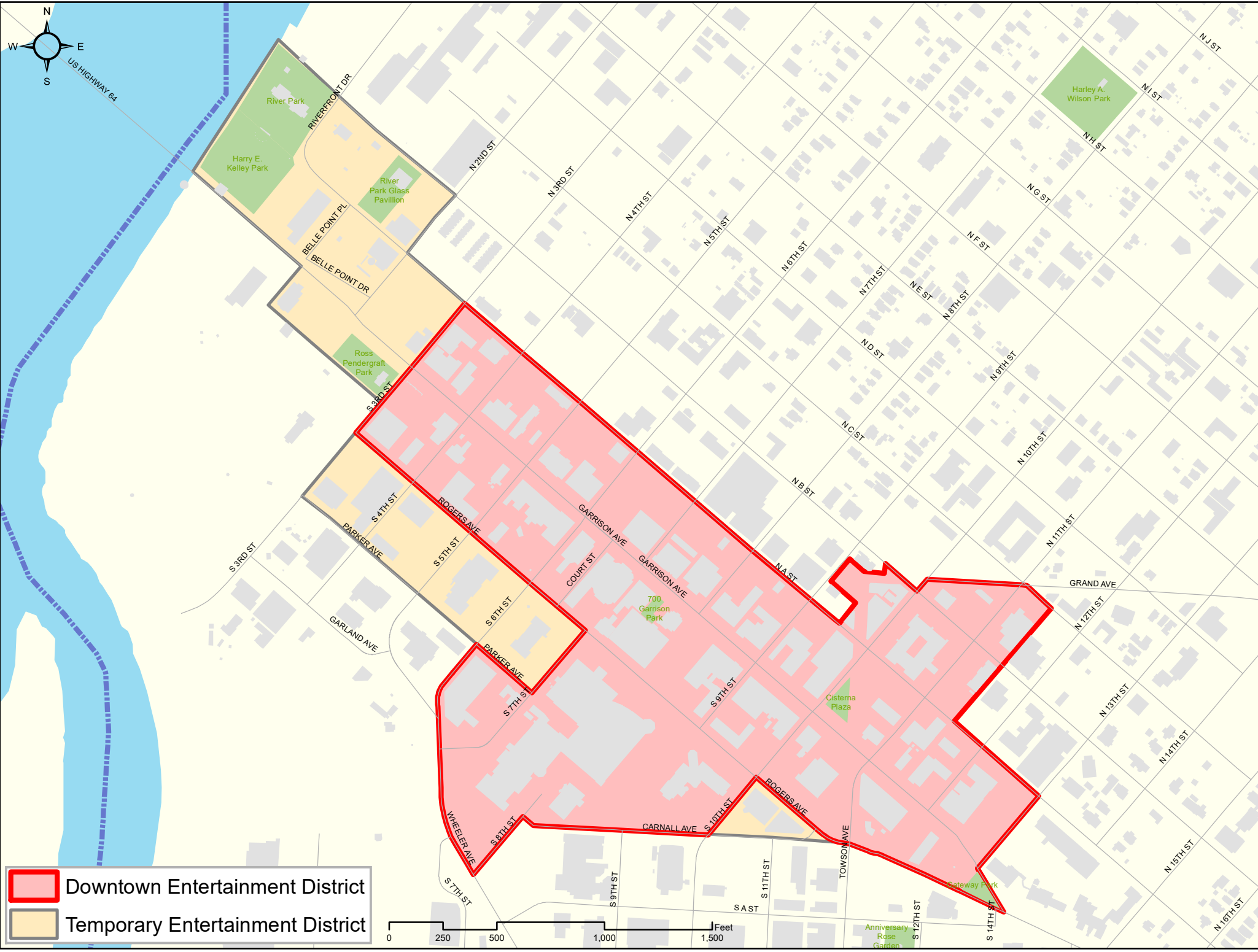
ATTEST:


  
City Clerk


Approved as to form:

  
City Attorney  
Publish One Time

# Exhibit A



 Downtown Entertainment District

 Temporary Entertainment District

