ORDINANCE NO. 2023-____

AN ORDINANCE TO ESTABLISH THE STANDARDS FOR THE CREATION OF PERMANENT OR TEMPORARY ENTERTAINMENT DISTRICTS PURSUANT TO ARKANSAS CODE SECTION 14-54-1412; AND FOR OTHER PURPOSES

WHEREAS, the City of Bryant, Arkansas, is in a county authorized to sell alcoholic beverages;

WHEREAS, the City of Bryant, Arkansas, is authorized by Ark. Code Ann. § 14-54-1412 (the "Act") to create Designated Entertainment Districts, of both a temporary and permanent nature, and to set reasonable standards for the regulation of alcohol possession within the boundaries of any such districts;

WHEREAS, under the Act, a Designated Entertainment District means a contiguous area located in a part of a city that is zoned for or customarily used for commercial purposes and contains any number and 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 Act and this ordinance are intended to promote hospitality and tourism within the City, to highlight restaurant, nightlife entertainment and hospitality options to tourists, and to create standards for the regulation of alcohol possession within the boundaries of Designated Entertainment Districts.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF BRYANT, ARKANSAS:

SECTION 1: ***Purpose and Intent.***

The purpose of an Entertainment District is to promote hospitality and tourism within the City and to highlight restaurant, nightlife entertainment, and hospitality options for tourists.

SECTION 2: ***Definitions.***

The following words, terms, and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic Beverage means:

(a) Beer, ale, porter, stout, sake, or other similar fermented beverage of any name or description containing 0.5% or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any malt substitute;

(b) Wine, port, sherry wine, or vermouth wine of not less than 0.5% of alcohol by volume;

(c) A distilled spirit known as "ethyl alcohol," "ethanol," or "spirits of wine" in any form, including all dilutions and mixtures of a distilled spirit, from whatever source or by whatever process produced; or

(d) Hard cider brewed from the fermented juices of fruit and containing more than 3% and not more than 21% alcohol by weight.

Open Alcoholic Beverage Container means a bottle, can, or other receptacle that:

(a) Contains any amount of Alcoholic Beverage; and

(b) Is either:

(1) Open or has a broken seal; or

(2) Not open or having a broken seal but with its contents already partially removed.

Public Places mean places in which the public as a class is invited, allowed or permitted to enter, and includes streets, alleys, highways, government-owned or operated buildings or grounds, sidewalks and thoroughfares.

SECTION 3: ***General Standards for Establishment of Entertainment Districts.***

Any Entertainment Districts authorized to be created pursuant to this ordinance and Arkansas State Law shall be:

(a) Subject to the requirements of this ordinance;

(b) Designated with a unique name in the ordinance or implementing resolution that creates the District;

(c) Designated by type as either permanent or, as temporary - if not to exist for longer than five (5) consecutive calendar days; and

(d) Comprised of a contiguous area of public places that is described by objective, physical attributes and located in a part of the City that 1) is zoned for or customarily used for commercial purposes; and 2) is immediately adjoining the requisite number of business establishments required for its type.

SECTION 4: ***Regulation of Possession of Alcohol within Boundaries of Designated Entertainment Districts.***

Any Entertainment Districts established under this ordinance shall have operational rules addressing the following subjects, all of which are designed to regulate a person's possession of an Alcoholic Beverage within a District's boundaries:

(a) Established days and hours for when a person is permitted to possess or consume from an Open Alcoholic Beverage Container;

(b) The source or sources of an Open Alcoholic Beverage Container permitted to be in one's possession; and

(c) Usage of identification wristbands or usage of uniform beverage containers or both for those persons who wish to possess or consume from an Open Alcoholic Beverage Container within the District, or enter the District from an Alcoholic Beverage Control Division permitted establishment while in possession of an Open Alcoholic Beverage Container.

SECTION 5: ***Creation of Entertainment Districts.***

(a) A permanent Entertainment District shall be created only by a City Ordinance in compliance with the terms and conditions of this ordinance.

(b) A permanent Entertainment District shall be limited to a designated, contiguous area of public places including:

(1) Two (2) or more private properties permitted for on-premises consumption by the Alcohol Beverage Control Division.

(c) A Temporary Entertainment District shall be created only by a City Resolution implementing and in compliance with the terms and conditions of this ordinance.

SECTION 6: ***Creation of Temporary Entertainment Districts.***

(a) Upon application, and after review by the Community Development Department, with input from the Bryant Police Department, the Community Development Department may recommend adoption of a resolution for the creation of a Temporary Entertainment District having an existence of not more than five (5) consecutive calendar days or ten (10) non-consecutive calendar days.

(b) An approved Temporary Entertainment District may encompass all or a portion of the geographic boundaries of an existing Permanent Entertainment District; provided, that any inconsistencies between the operational rules of such a Temporary Entertainment District and those of an existing Permanent

Entertainment District will controlled by the operational rules of the Temporary Entertainment District.

(c) A person seeking creation of a Temporary Entertainment District shall file an application with the Community Development Director on forms provided by the City and the application shall be signed by the applicant and accompanied by a nonrefundable fee of Twenty-Five Dollars ($25.00).

(d) An application for creation of a Temporary Entertainment District shall be filed with the Community Development Director at least thirty (30) and not more than one-hundred and eighty (180) days before the Temporary Entertainment District is proposed to commence.

(e) The application for a Temporary Entertainment District shall set forth the following minimum information:

(1) The name, address, telephone number, and email address of the person or entity seeking creation of a Temporary Entertainment District;

(2) A description, by objective, physical attributes, of the proposed Temporary Entertainment District;

(3) The requested dates and hours when a person will be permitted to possess or consume from an Open Alcoholic Beverage Container within the proposed Temporary Entertainment District;

(4) The name, address, telephone number, and email address of establishments permitted for on-premises consumption by the Arkansas Alcoholic Beverage Control Division that are immediately adjoining the proposed Temporary Entertainment District;

(5) The name and physical address of all Arkansas Alcoholic Beverage Control Division permittees who will receive and utilize District-approved containers or identification wristbands, or both, during the existence of the proposed Temporary Entertainment District, if so required by the Community Development Director;

(6) Drawings or exemplars depicting the proposed District-approved containers or identification wristbands to be used by all Arkansas Alcoholic Beverage Control Division permittees during the existence of the proposed Temporary Entertainment District, if so required by the Community Development Director, and the total number of each item that will be made available for their collective use; or

(7) Any additional information that the applicant reasonably believes would be helpful to the Community Development Director in order to plan for any City services that may be required and to evaluate the application.

(f) Any Temporary Entertainment District recommended by the Community Development Director and all persons located within its boundaries shall observe the following operational rules, and any violation of them by persons shall be subject to a fine in accordance with City and State law.

(1) No person shall possess or consume from an Open Alcoholic Beverage Container in any designated Temporary Entertainment District except during the days and times described in the resolution approving the District;

(2) The boundaries of the Temporary Entertainment District shall be posted continuously in at least four (4) distinct locations within the geographical boundaries of the District, from twenty-four (24) hours prior to and through the period of its existence;

(3) No person shall possess or consume from an Open Alcoholic Beverage Container within the Temporary Entertainment District unless he or she is wearing a district approved identification wristband or the Open Alcoholic Beverage Container is within a district-approved container; and

(4) The applicant for the Temporary Entertainment District fails to provide exemplars of approved containers or identification wristbands to the Chief of Police of the Bryant Police Department prior to the beginning date of the District.

SECTION 7: ***Standards for Creation of Temporary Entertainment District.***

(a) The Community Development Director shall recommend an implementing resolution for the creation of a Temporary Entertainment District as requested by the applicant if, after consideration of the information contained in the application, and such other information as may be otherwise be obtained, it is determined that:

(1) The Temporary Entertainment District will not substantially interrupt the safe and orderly movement of other pedestrian or vehicular traffic contiguous to its location;

(2) The concentration of persons within the Temporary Entertainment District will not unduly interfere with proper Fire and Police protection of, or ambulance service to, areas contiguous to its location;

(3) Adequate sanitation and other required health facilities are or will be made available in or adjacent to its location;

(4) There is sufficient parking available in or near its location to accommodate the number of vehicles reasonably expected during the time of the District's existence;

(5) No temporary entertainment district application for any of the same dates and locations has already been approved or, was previously received and will be approved;

(6) No Temporary Entertainment District application for the same date, or within a time frame within twenty-four (24) hours of the same date, has been previously received and will be granted, which will require the use and deployment of public resources in such a manner that when combined with the subsequent application, it is reasonably determined that there would be an adverse effect upon the City's ability to provide such resources and to protect the welfare and safety of persons and property, provided that the mere expenditure of public funds for overtime payments for public employees shall not be deemed an adverse effect upon the City's ability to provide public services; and

(7) No event is scheduled elsewhere in the City where the public resources required for that event are so great that the deployment of public services associated with the Temporary Entertainment District would be adversely affected in a way detrimental to the welfare and safety of persons and property.

(b) No application for the creation of a Temporary Entertainment District shall be denied because of the basis of race, creed, color, national origin, political viewpoint, disability, or gender of the applicant.

SECTION 8: ***Notice of Denial of Application for Creation of Temporary Entertainment District.***

(a) The Community Development Director shall act promptly upon a timely filed application for the creation of a Temporary Entertainment District but in no event shall recommend that grant or denial of an application less than forty-eight
(48) hours prior to the last meeting of the City Council at which the resolution to create the Temporary Entertainment District may be adopted prior to the first date and hour requested by the applicant.

(b) If the Community Development Director disapproves the application, the applicant shall be notified in writing as soon as possible, but in no event not less than forty-eight (48) hours prior to the last meeting of the City Council at which the resolution to create Temporary Entertainment District may be adopted prior to the first date and hour requested by the applicant.

(c) Notification in writing shall be deemed to have occurred when a letter is delivered in person, by telefacsimile with verification of delivery, by mail with some form of return receipt, or by e-mail with some indication that the message has been read.

SECTION 9: ***Appeal Procedure for Denial of Application for Creation of Temporary Entertainment District.***

(a) Any applicant shall have the right to appeal the denial of an application for creation of Temporary Entertainment District to the City Council. The denied applicant shall make the appeal preferably within five (5) days after receipt of the denial, but in no event later than the date of the last meeting of the City Council at which the resolution to create the Temporary Entertainment District may be adopted prior to the first date and hour requested by the applicant.

(b) An appeal must be in writing and filed with the City Clerk. If there are less than five (5) days prior to the requested first date and hour when a person will be permitted to possess or consume from an Open Alcoholic Beverage Container within the proposed Temporary Entertainment District, the applicant shall make the appeal by filing as soon as possible before the said date a written notice with the City Clerk.

(c) The City Council shall act upon the appeal at the next scheduled regular or recessed meeting following receipt of the notice of appeal.

(d) The issue on appeal shall be whether the recommendation of the Community Development Director that the application failed to meet the criteria set forth in this ordinance was arbitrary and capricious based upon the information provided in the application.

SECTION 10: ***Notice to Other Officials of Creation of Temporary Entertainment District.***

Immediately upon the creation of a Temporary Entertainment District by resolution, the Community Development Director shall send notice about its creation and dates and hours to the following:

(1) The Mayor;

(2) The City Attorney;

(3) The heads of the City's respective Emergency Services Departments, including Police and Fire; and

(4) The Directors of other Governmental Entities, or Law Enforcement Agencies, whose Departments may be affected by the attendance of persons within the District, including the Arkansas Alcoholic Beverage Control Division.

SECTION 11: ***Other offenses.***

(a) It shall be unlawful for any person to possess or consume from an Open Alcoholic Beverage Container in any Entertainment District unless he or she is wearing a district approved identification wristband or the Open Alcoholic Beverage Container is within a district-approved container it is a District-approved container and its contents came from a permittee of the Alcohol Beverage Control Division located within or an immediately adjoining the Entertainment District.

(b) It shall be unlawful for any person to bring into or remove an Open Alcoholic Beverage Container from any Entertainment District.

SECTION 12: ***Authority of the Chief of Police.***

Nothing in this ordinance prevents the Chief of Police of the Bryant Police Department, or the Chief of the Bryant Fire Department, to suspend the operation hours of any Entertainment District if necessary to comply with local, State or Federal Laws, or Fire Codes, or is necessary to protect the public health, safety and welfare.

SECTION 13: ***Severability.***

In the event any title, section, paragraph, item, sentence, clause, phrase, or word of this ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of this ordinance, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this ordinance.

SECTION 14: ***Repealer.***

All laws, ordinances, or resolutions, or parts of the same that are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

PASSED AND APPROVED this day of 2023.

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Rhonda Sanders, Mayor Mark Smith, City Clerk