

RECOMMENDED BY: THE PUBLIC SAFETY COMMITTEE

SUBMITTED BY: THE CITY ATTORNEY

ORDINANCE NO. 19-199

AN ORDINANCE TO AMEND TITLE 12, “LICENSING AND REGULATION,” CHAPTER 10, “INTOXICATING LIQUORS”, OF THE GENERAL CODE OF THE CITY OF BIRMINGHAM, 1980, TO DESIGNATE THE FIVE POINTS SOUTH ENTERTAINMENT DISTRICT.

WHEREAS, Ala. Act No. 2012-438, as amended and codified at Ala. Code, 1975, Sec. 27-3A-17.1, authorizes the governing body of a Class 1 municipality to establish up to five entertainment districts within the corporate limits of the municipality, each of which must have at least four licensees holding a manufacturer's license that conducts tastings or samplings on the licensed premises, a restaurant retail liquor license, an on-premises alcoholic beverage license, or other retail liquor license in that area and each district may not exceed one-half mile by one-half mile in area, but may be irregularly shaped; and,

WHEREAS, the City of Birmingham is a Class 1 municipality, according to Ala. Code, 1975, Sec. 11-40-12 and Ala. Const., Sec.110, as amended by Amendment 375 and Amendment 397; and,

WHEREAS, the Council of the City of Birmingham adopted Ordinance No. 13-118 to provide for the designation of up to five entertainment districts within the City of Birmingham; and,

WHEREAS, the Five Points Alliance has made application for the designation of an entertainment district that shall include the area of restaurants, bars and businesses known as “Five Points South”; and,

WHEREAS, the Five Points Alliance is an Alabama corporation formed to stimulate neighborhood business district revitalization in the Five Points South neighborhood of Birmingham, Alabama through encouraging cooperation and building leadership in the business community, creating a positive image for the neighborhood by promoting it as an exciting place to live, shop and invest, ; and design (improving the appearance of the neighborhood); and,

WHEREAS, the area to be designated as an entertainment district is less than one-half mile by one-half mile in area; and,

WHEREAS, the area to be designated as an entertainment district currently has more than four licensees holding a restaurant retail liquor license, an on-premises alcoholic beverage license, or

other retail liquor license, which currently include, but are not limited to, The Woolworth, Bayleaf Southside, Little Italy's Pies and Pints, Surin West, Jim 'n Nick's BBQ, Sleek Sports Bar, Upside Down Plaza, RX Bar, Pho Pho, Black Market Bar & Grill, Iron City Pizza, Hush Lounge, Ikko Ramen and Sushi, 3000 Bar, Brennan's Irish Pub, Dave's Pub, Highland Bar & Grill, Chez Fon Fon, The Preservery, Mellow Mushroom, Five Point Public House, Ocean, Ranelli's Deli and Café, Filter Coffee Parlor; and,

WHEREAS, the Council finds that the application by the Five Points Alliance for the designation of an entertainment district complies with the requirements of Ordinance No. 13-118 and Act No. 2012-438, as amended; and,

WHEREAS, the Council finds that the proposed entertainment district will complement the city's economic development goals, comprehensive plan, the planning neighborhood district in which it is located and the surrounding area by creating an atmosphere of community and social interaction for Birmingham citizens and other Five Points South visitors.

SECTION 1.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Birmingham that an entertainment district is hereby designated pursuant to Ala. Act No. 2012-438, as amended, and City of Birmingham Ordinance No. 13-118 as follows and that the General Code of the City of Birmingham, 1980, Title 12, Chapter 10, "Intoxicating Liquors", as amended by Ordinance No. 13-118, is hereby amended to add the following:

"a. Five Points South Entertainment District

"Subject to the provisions of Ala. Act No. 2012-438, as amended, and Ordinance No. 13-118, there is hereby established an entertainment district that shall be known as the 'Five Points South Entertainment District', as generally described below and which is also shown on a map on file in the office of the City Clerk and incorporated herein by reference.

"b. District Boundaries. The Five Points South Entertainment District shall generally consist of facilities and property located in that area of the City of Birmingham known as "Five Points South". The boundaries of the district are designated as follows, which shall generally consist of the 20th Street corridor stretching from 10th Ave South to 13th Ave South, with short boundary extensions down 11th Ave S/Magnolia Ave and 12th Ave S/Highland Ave:

The boundaries shall:

BEGIN AT THE SOUTHEAST CORNER OF THE INTERSECTION OF 10TH AVENUE SOUTH AND 19TH STREET, ALLEY, SOUTH; THENCE RUN SOUTHERLY ALONG THE EASTERLY RIGHT OF WAY LINE OF 19TH STREET ALLEY, SOUTH FOR A DISTANCE OF 240 FEET, MORE OR LESS; THENCE ANGLE LEFT AND RUN EASTERLY ALONG THE NORTHERLY RIGHT OF WAY LINE OF 10TH AVENUE ALLEY, SOUTH FOR A DISTANCE OF 197.5, FEET, MORE OR LESS, TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF 20TH STREET SOUTH; THENCE ANGLE RIGHT AND RUN SOUTHERLY FOR 20 FEET ALONG THE WESTERLY RIGHT OF WAY LINE OF 20TH STREET SOUTH, THENCE

ANGLE RIGHT AND RUN WESTERLY ALONG THE SOUTHERLY RIGHT OF WAY LINE OF 10TH AVENUE ALLEY, SOUTH FOR 151 FEET, MORE OF LESS, THENCE ANGLE LEFT AND RUN SOUTHERLY FOR 85 FEET, MORE OR LESS; THENCE ANGLE RIGHT AND RUN WESTERLY FOR 125 FEET, MORE OR LESS, TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF 19TH STREET ALLEY, SOUTH; THENCE ANGLE LEFT AND RUN SOUTHERLY FOR 15 FEET, MORE OR LESS, THENCE ANGLE RIGHT AND RUN WESTERLY FOR 140 FEET, MORE OR LESS, TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF 19TH STREET SOUTH; THENCE ANGLE LEFT AND RUN SOUTHERLY ALONG THE EASTERLY RIGHT OF WAY LINE OF 19TH STREET SOUTH FOR 347.3 FEET, MORE OR LESS; THENCE ANGLE LEFT AND RUN EASTERLY FOR 115 FEET, MORE OR LESS; THENCE ANGLE LEFT AND RUN NORTHERLY FOR 147.3 FEET, MORE OR LESS, TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF 11TH AVENUE SOUTH; THENCE ANGLE RIGHT AND RUN EASTERLY ALONG THE SOUTHERLY RIGHT OF WAY LINE OF 11TH AVENUE SOUTH FOR 85 FEET, MORE OR LESS; THENCE ANGLE RIGHT AND RUN SOUTHERLY FOR 50 FEET, MORE OR LESS; THENCE ANGLE LEFT AND RUN EASTERLY FOR 93.5 FEET, MORE OR LESS; THENCE ANGLE RIGHT AND RUN SOUTHERLY FOR 171.6 FEET, MORE OR LESS; THENCE ANGLE RIGHT AND RUN WESTERLY FOR 57 FEET, MORE OR LESS; THENCE ANGLE LEFT AND RUN SOUTHERLY FOR 99.2 FEET, MORE OR LESS; TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF 12TH AVENUE SOUTH; THENCE ANGLE LEFT AND RUN EASTERLY ALONG THE NORTHERLY RIGHT OF WAY LINE OF 12TH AVENUE SOUTH FOR 37.2 FEET, MORE OR LESS; THENCE ANGLE RIGHT AND RUN SOUTHERLY FOR 160 FEET, MORE OR LESS; THENCE ANGLE RIGHT AND RUN WESTERLY FOR 20 FEET, MORE OR LESS, THENCE ANGLE LEFT AND RUN SOUTHERLY FOR 92.5 FEET, MORE OR LESS; THENCE ANGLE RIGHT AND RUN WESTERLY FOR 14.5 FEET, MORE OR LESS; THENCE ANGLE LEFT AND RUN SOUTHERLY FOR 140 FEET , MORE OR LESS; TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF 13TH AVENUE SOUTH; THENCE ANGLE LEFT AND RUN EASTERLY ALONG THE NORTHERLY RIGHT OF WAY LINE OF 13TH AVENUE SOUTH FOR 53 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF THE INTERSECTION OF 13TH AVENUE SOUTH AND 20TH STREET SOUTH; THENCE ANGLE RIGHT AND CONTINUE EASTERLY FOR 82.5 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF THE INTERSECTION OF 13TH AVENUE SOUTH AND 20TH STREET SOUTH; THENCE ANGLE RIGHT CONTINUE EASTERLY ALONG THE NORTHERLY RIGHT OF WAY LINE OF 13TH AVENUE SOUTH FOR 75 FEET, MORE OR LESS; THENCE ANGLE LEFT AND RUN NORTHERLY FOR 103.5 FEET , MORE OR LESS; THENCE ANGLE LEFT AND RUN WESTERLY FOR 75 FEET , MORE OR LESS; TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF 20TH STREET, SOUTH; THENCE ANGLE RIGHT AND RUN NORTHERLY ALONG THE EASTERLY RIGHT OF WAY LINE OF 20TH STREET SOUTH FOR 61.5 FEET, MORE OR LESS; THENCE ANGLE RIGHT AND RUN EASTERLY FOR 192.4 FEET , MORE OR LESS; THENCE ANGLE LEFT AND RUN NORTHERLY FOR 164.2 FEET, MORE OR LESS, TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF HIGHLAND AVENUE SOUTH; THENCE ANGLE RIGHT AND RUN NORTHEASTERLY FOR 100.2 FEET, MORE OR LESS, TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF HIGHLAND AVENUE SOUTH; THENCE ANGLE

LEFT AND RUN WESTERLY ALONG THE NORTHERLY RIGHT OF WAY LINE OF HIGHLAND AVENUE SOUTH FOR 126.58 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT; THENCE RUN WESTERLY, NORTHWESTERLY AND NORTHERLY ALONG THE ARC OF SAID CURVE FOR 135.55 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE RUN NORTHERLY ALONG A LINE TANGENT TO SAID CURVE, SAID TANGENT LINE ALSO BEING THE EASTERLY RIGHT OF WAY LINE OF 20TH STREET SOUTH, FOR 138.4 FEET, MORE OR LESS; THENCE ANGLE RIGHT AND RUN EASTERLY FOR 192 FEET, MORE OR LESS, THENCE ANGLE LEFT AND RUN NORTHERLY FOR 95.8 FEET, MORE OR LESS, TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF 11TH AVENUE SOUTH; THENCE ANGLE RIGHT AND RUN EASTERLY FOR 214.4 FEET, MORE OR LESS, TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF RICHARD ARRINGTON JR. BLVD SOUTH; THENCE ANGLE LEFT AND RUN NORTHERLY ALONG THE WESTERLY RIGHT OF WAY LINE OF RICHARD ARRINGTON JR. BLVD SOUTH FOR 130.7 FEET, MORE OR LESS; THENCE ANGLE LEFT AND RUN WESTERLY FOR 91.9 FEET, MORE OR LESS, THENCE ANGLE RIGHT AND RUN NORTHERLY FOR 24.1 FEET, MORE OR LESS; THENCE ANGLE LEFT AND RUN SOUTHWESTERLY FOR 60.1 FEET, MORE OR LESS; THENCE ANGLE LEFT AND RUN SOUTHERLY FOR 43.5 FEET, MORE OR LESS, TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF 11TH AVENUE SOUTH; THENCE ANGLE RIGHT AND RUN WESTERLY ALONG THE NORTHERLY RIGHT OF WAY LINE OF 11TH AVENUE SOUTH FOR 186.7 FEET; THENCE ANGLE RIGHT AND RUN NORTHERLY ALONG EASTERLY RIGHT OF WAY LINE OF 20TH STREET SOUTH FOR 47.9 FEET; THENCE ANGLE RIGHT AND RUN NORTHEASTERLY ALONG THE SOUTHEASTERLY RIGHT OF WAY LINE OF MAGNOLIA AVENUE SOUTH FOR 169.3 FEET, MORE OR LESS; THENCE ANGLE LEFT AND RUN NORTHERLY FOR 406.0 FEET, MORE OR LESS, TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF 10TH AVENUE SOUTH; THENCE ANGLE LEFT AND RUN WESTERLY ALONG THE SOUTHERLY RIGHT OF WAY LINE OF 10TH AVENUE SOUTH FOR 492.2 FEET, MORE OR LESS TO THE POINT OF BEGINNING.

“In the event there is a conflict in the district boundary lines as set forth above and the map on file in the office of the City Clerk, the boundary lines depicted on the map on file in the office of the City Clerk and as designated by signage and markers in the district shall govern.

“c. Parking Deck. Entertainment district drink containers containing alcoholic beverages shall not be allowed in the public parking deck at 2012 Magnolia Avenue. Signs shall be posted at the entrances to inform the public that open containers and drinking are not allowed within the parking deck.

“d. Effective Dates for the District: This designation of the district shall be effective on _____, 2019 and when published as required by law. The designation shall continue until modified, suspended or revoked by the city council.

“d. Operating Hours. The regular operating hours for the district shall be:
Thursday – 5:00 PM to 11:00 PM

Friday – 5:00 PM to Midnight (12:00 a.m.)
Saturday & Sunday – 10:00 AM to Midnight (12:00 a.m.)

“The Five Points Alliance may vest the chairman of the Association with authority to reduce or restrict the regular hours of operation when necessary for protection of the health, safety and welfare for businesses and visitors to the district.

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

“The Five Points Alliance may designate ‘special district events’ at times other than the regular operating hours authorized by this ordinance. Special district events shall be conducted in accordance with all laws and regulations authorizing and establishing the entertainment district. No outside vendors of alcoholic beverages shall be allowed to participate in a special district event. The Five Points Alliance shall notify the chief of police or his or her designee no later than two weeks prior to the special district event.

“Notwithstanding any provision of this ordinance to the contrary, any permanent change to the regular operating hours of the district shall be by amendment of this ordinance.

“e. Signage. District signs and markers shall conform to the plan submitted by the Five Points Alliance and approved by the Design Review Committee and which is on file in the Office of the City Clerk. Notwithstanding any provision of Ordinance No. 13-118 to the contrary, the regular operating hours of the district shall not be required to be posted on the district signs and markers at the perimeter and entrances to the district. The regular hours shall be posted on signs at the licensed premises of the retail licensees in the district. The Five Points Alliance shall be responsible for communicating the hours for special district events to its tenant licensees participating in the district and to the public.

“f. Containers. Cups for consumption of alcoholic beverages in the outdoor portions of the district shall comply with Ordinance No. 13-118. After a patron exits a licensed premises with a carry-out cup, the cup shall not be carried back into the premises where purchased or into any other licensed premises within the district.

“g. Minors. Each vendor within the district shall ensure that all of its employees comply with and adhere to Ala. Admin. Code r. 20-X-6-.09, ‘Minors’, and that each employee is trained on the acceptable identification required to purchase alcoholic beverages.”

SECTION 2. This ordinance shall be effective upon publication as required by law.

SECTION 3. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by declaration of any court of competent jurisdiction, such declaration shall not affect the validity of the remaining portions of this ordinance.

