

CITY OF CORNELIA

ORDINANCE NO. 9-20-1

AN ORDINANCE OF CITY OF CORNELIA, GEORGIA AMENDING CHAPTER 6, ARTICLE V, SECTION 6-140 "OPEN AREA AND PATIO SALES", SECTION 6-144 "PROHIBITED NOISE FROM ESTABLISHMENTS", AND SECTION 6-149 "SIDEWALK CAFES" SO AS TO ALLOW EXCEPTIONS TO THE GENERAL PROVISIONS OF SUCH SECTIONS FOR LICENSED CONSUMPTION ON PREMISE ESTABLISHMENTS IN CENTRAL BUSINESS DISTRICT (CBD) ZONES WITHIN AN ENTERTAINMENT DISTRICT; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, the duly elected governing authority of the City of Cornelia, Georgia is authorized under Article IX, Section II, Paragraph III of the Constitution of the State of Georgia to adopt reasonable ordinances to protect the public health, safety, and welfare of the citizens of the City Of Cornelia, Georgia; and

WHEREAS, the duly elected governing authority of the City of Cornelia, Georgia is the Mayor and City Commission therefore; and

WHEREAS, the City Commission recognizes that the Cornelia Downtown Development Authority is actively pursuing its legitimate purposes in encouraging and taking appropriate action to enhance the livability and viability of Downtown Cornelia; and

WHEREAS, businesses in the Downtown area have requested amendments to the ordinances of the city to allow sales of alcohol by licensed consumption on premise establishments at outdoor patio locations in Central Business District Zones ("CBD") located in the Downtown Entertainment District; and

WHEREAS the City Commission has determined that it is in the best interests of the City to enact such legislation.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF CITY OF CORNELIA, GEORGIA, AND IT IS ESTABLISHED AS FOLLOWS:

Section 1. That Chapter 6, Article V, Section 6-140 (b) is amended so that licensed consumption on premise establishments zoned Central Business District and located in a downtown entertainment district shall not be required to limit ingress and egress to a patio or open space only through the main licensed premises, and said section shall now read as follows:

"(b) The requirement for approval is that the patio or open area be enclosed by some structure providing for public ingress and egress only through the main licensed premises. The purpose of this requirement is to prevent a customer from leaving the outside sales area with an open drink without the licensee's knowledge. Notwithstanding the foregoing, a licensed premises located within the bounds of a designated entertainment district and which is zoned as "CBD" shall not be required to limit ingress and egress to the patio or open space only through the main licensed premises."

Except as amended above, Section 6-140 shall otherwise remain in full force and effect and as previously enacted.

Section 2. That Chapter 6, Article V, Section 6-144 is amended so that licensed consumption on premise establishments zoned Central Business District and located in a downtown entertainment district may provide musical entertainment or live performances so long as such do not violate any applicable noise ordinances of the city, and said section shall now read as follows:

“Sec. 6-144. - Prohibited noise from establishments.

It shall be unlawful for any establishment licensed under this chapter to make or cause to be made any loud, unnecessary or unusual sound or noise that unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, or safety of others in the city and that is audible to a person of normal hearing ability from the nearest property line of the business in question. Notwithstanding the foregoing, an establishment licensed under this chapter, where said premises is located on real property within the City of Cornelia which is zoned as “CBD”, as defined within the City of Cornelia Zoning Ordinance, may provide or permit on its premises musical entertainment or live musical performances, so long as said entertainment or performances do not violate any applicable noise ordinances enacted by the city. In no event, however, shall any such loud, unnecessary or unusual sound or noise be made by an establishment licensed under this chapter after the hours of 11:00 p.m.”

Section 3. That Chapter 6, Article V, Section 6-149 is amended so that licensed consumption on premise establishments that operate a Sidewalk Café pursuant to the terms of said section shall be allowed to extend the area of the sidewalk café to include areas adjacent to any private or public parklet approved by the city and to allow the storage of alcoholic beverages outside the principal building under certain circumstances so that Section 6-149 shall henceforth read in its entirety as follows:

“Sec. 6-149. - Sidewalk cafes.

- (a) Sidewalk cafes shall be allowed in Central Business District zones in the downtown area of the City of Cornelia, subject to the provisions of this chapter.
- (b) No person shall operate a sidewalk cafe without first obtaining a license from the city manager or designee.
- (c) All applications for a license shall be submitted to the city manager or designee and shall contain the following information:
 - (1) The name, location, description and mailing address of the business applying for the license; and
 - (2) A drawing depicting the location, size and number of tables and chairs at the proposed location of the sidewalk cafe.
- (d) The applicant shall procure and shall maintain comprehensive general liability and broad form property damage insurance as shall protect applicant from claims for damages for bodily injury, including accidental death, as well as from claims for property damages, which may arise from operation of a sidewalk cafe by the applicant, whether such operations are by the applicant or by any subcontractor or by anyone directly or indirectly employed by either of them. The amount of insurance shall not be less than \$1,000,000.00.

- (e) The applicant shall provide a certificate of insurance acceptable to the city which shall be attached to each signed application when transmitted for final approval. The city shall be named as an additional insured on all coverages. The certificates of insurance, and any subsequent renewals, shall reference the license.
- (f) The certificate of insurance shall contain a statement that coverages afforded under the policies will not be canceled unless at least 30 days prior to cancellation written notice has been given to the city.
- (g) Each sidewalk cafe shall maintain a minimum of 48 inches, clear and unobstructed sidewalk space for pedestrian traffic at all times subject to the following:
 - (1) The tables and chairs must be placed in the area nearest the building or within the area of a private or public parklet approved and designated by the city and allow a clear and unobstructed 48 inch-wide path for pedestrian traffic at all times.
 - (2) If a sidewalk has less than 60 inches clear width, then passing spaces at least 60 inches by 60 inches shall be located at reasonable intervals not to exceed 200 feet along the sidewalk in order to ensure compliance with the Americans with Disabilities Act.
- (h) The area in which a sidewalk cafe is located shall not extend (1) parallel in either direction beyond the outside walls of the building in which the restaurant is located or, if applicable, (2) beyond the borders of the approved parklet where the outdoor seating is located.
- (i) The number of patrons occupying the sidewalk cafe shall not be greater than the total number of chairs located at the tables within the sidewalk cafe.
- (j) Permit holders shall maintain sidewalk cafe areas and all equipment and furnishings in such conditions as to be clean, sanitary and safe at all times.
- (k) All trash generated from the sidewalk cafe shall be disposed of inside the restaurant and not in public trash receptacles provided and maintained by the city. Use of the city trash receptacles is cause for revocation of the sidewalk cafe; license.
- (l) Receptacles for disposal of cigarettes shall be provided for the use of customers of the sidewalk cafe.
- (m) Those businesses holding alcoholic beverage licenses shall store all alcoholic beverages inside their principal building, unless the licensed premises is located within the bounds of a designated entertainment district and on real property within the City of Cornelia which is zoned as "CBD", as defined within the City of Cornelia Zoning Ordinance.
- (n) It shall be unlawful for the license holder or employees thereof to permit any person to leave the sidewalk cafe with an alcoholic beverage, except as otherwise permitted by city ordinance, including but not limited to pursuant to any such ordinances enacted to permit open consumption of alcoholic beverages within a designated entertainment district established by the city.
- (o) Any violation of this chapter that may warrant revocation of a sidewalk cafe license shall be reported by any person to the city manager or designee who shall have the power, in his discretion, to suspend the license for a period not to exceed ten days pending a hearing before the administrative hearing officer on the question of whether or not the license shall be revoked for cause.
- (p) Upon a charge that there has been a violation of this chapter, the city manager or designee may order the use of the sidewalk cafe suspended, pending a hearing on the charge.
- (q) Before the denial of any application for a license or for the revocation of any existing sidewalk cafe license subject to the provisions of this chapter, the applicant or licensee, as the case may be, shall be given notice in writing from the city manager or designee to show cause before the administrative hearing officer at a time and place specified therein not less than three days nor more than ten days from the date of service of the notice, why such application for a license should not be denied, or why such license should not be revoked, as the case may be, stating the grounds therefor, and at the appointed time and place the applicant or licensee shall have an opportunity to show cause, if any exist, why such application should not be denied or such license revoked, after which the administrative hearing officer shall take such actions as he or she in his or her judgment and

discretion, shall deem warranted under the facts. All decisions of the administrative hearing officer shall be in writing with reasons therefore stated and mailed or delivered to the applicant, licensee, or the person in charge of the place of business if the license holder cannot be located. In addition, at any hearing as provided herein, the party afforded the hearing shall have the opportunity to present evidence and cross-examine opposing witnesses.

- (r) Any person aggrieved by the action or decision of the administrative hearing officer to deny an application for a license applied for under the provisions of this chapter or the revocation or suspension of a license, shall have the right of appeal by certiorari to the Superior Court of Habersham County from the decision of the administrative hearing officer, as provided by law.
- (s) Any person violating any of the provisions of this chapter shall be punished as provided in section 1-12 of this code. "

Section 4. Conflicting Laws and Regulations. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 5. Severability. If any of the provisions of this resolution or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the resolution which can be given effect without the invalid provision or application, and to this end, the provisions of this resolution are declared to be severable.

Section 6. Effectivity. This ordinance will become effective upon its adoption.

Posted: _____

Adopted: _____

John Borrow, Mayor
City of Cornelia

Attest: _____
Janie Henderson, City Clerk

(SEAL)