

ORDINANCE NO. 2017-4

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF SOCIAL CIRCLE, GEORGIA, BY AMENDING AND ADDING THE "SIDEWALK CAFES ORDINANCE" WHICH WILL ALLOW LIMITED USE OF THE SIDEWALKS OF THE CITY FOR SIDEWALK CAFÉS, TO REGULATE SAID CAFÉS, AND FOR OTHER PURPOSES.

WHEREAS, the Mayor and Council find further that a vibrant, attractive downtown area is of great benefit to all the citizens of the City, providing a focal point for the community and making the City more attractive to tourists, potential residents, business and industry; and

WHEREAS, the Mayor and City Council of the City of Social Circle, Georgia, find that sidewalk Cafés will add to the ambiance and attractiveness of the City, especially downtown;

NOW THEREFORE, BE IT ORDAINED and established by the Mayor and City Council of the City of Social Circle, Georgia, as follows:

SECTION 1. The Code of the city of Social Circle, Georgia is hereby amended by adding a new code section entitled, "Sidewalk Cafés", as follows:

1. Purpose.

The purpose of this division is to provide for regulation of sidewalk cafés operated by qualified restaurants on public sidewalks, and to more fully promote the public interest by contributing to a viable and attractive commercial and pedestrian environment. In recognition thereof, reasonable regulation of sidewalk cafés is necessary to protect the public health, safety, and welfare, and the interest of the City and the primary use of the public streets and sidewalks by vehicular and pedestrian traffic.

2. Definitions.

As used in this Article, the words below shall have the following meaning:

- (A) City Manager – shall mean the City Manager of the City of Social Circle and those to whom he delegates or assigns duties under this section, including but not limited to the Social Circle Downtown Development Authority.
- (B) Operator or Permittee – shall mean the person operating the restaurant with its associated sidewalk café, and shall include, but not be limited to, an owner, lessor, renter or manager.
- (C) Person – shall mean both natural persons and legal persons such as corporations, partnerships or LLC's.

3. Qualifications.

The use of sidewalks for restaurant tables shall only be permitted incidental to the operation of a "restaurant" or "convenience store" as defined in the City of Social Circle Code of Ordinances Article III, Section 86 of the Zoning Code of the City of Social Circle, Georgia. No permit is required unless the Operator desires to sell alcohol on the sidewalk area. However, the use of the sidewalk to operate a sidewalk café is a privilege, not a right, and any person who violates the conditions of this Article may be forbidden to operate a sidewalk café after notice and a hearing. A permit is required to sell alcohol on the sidewalk as set forth below.

4. Temporary Closing of Sidewalk Cafés.

- (A) Sidewalk Cafés may be ordered closed temporarily by the City of Social Circle whenever deemed necessary in the sole discretion of the City, whenever the area may be needed for a public purpose, including but not limited to construction, maintenance, public health, safety or welfare, emergencies, and public events such as parades or street parties.
- (B) The City may order the immediate removal or relocation of all, or parts of, a sidewalk café in emergency situations or for safety considerations, without notice. The City and its officers and employees shall not be responsible for sidewalk café fixtures relocated during emergencies.

5. Restrictions on Use of Sidewalks.

- (A) In no event shall the uses permitted by this division reduce that portion of any sidewalk customarily used by pedestrians to less than five (5) feet in width. Additionally, contiguous pedestrian flow must be maintained between two (2) or more adjacent sidewalk cafés. The City may designate portions of the sidewalk which must not be obstructed under any circumstances, and may restrict usage in any manner deemed necessary by the City.
- (B) Nothing will be placed within five (5) feet of a fire hydrant, pedestrian crosswalk or handicapped corner curb cut.
- (C) The City reserves the right of access to all portions of the sidewalk included in areas permitted for the purposes of sidewalk repair or other necessary purposes.
- (D) Sidewalk café operator shall maintain the sidewalk and the curb and gutter immediately adjacent to it in a clean and safe condition. Full daily cleaning is required. Refuse shall not be disposed of in the City's sidewalk trash receptacles. The area shall be kept clear of all debris. The operator shall also be responsible for cleaning the ground or floor surface on which the sidewalk café is located and the gutter area immediately adjacent to the sidewalk café. Such cleaning may include pressure cleaning. If the area is not maintained in a neat and orderly appearance after notice, the City may then take steps necessary to place the property in a neat and clean order and charge the operator with the reasonable cost of cleaning or repairs. Such action by the City does not create a continuing obligation on the part of the City to make further repairs or to maintain the property and does not

create any liability against the City for any damages to the property if such cleaning or repairs were completed in good faith.

- (E) No tables, chairs, or any other parts of sidewalk cafés shall be attached, chained or in any manner affixed to any tree, post, sign or other fixture, curb, or sidewalk in or near the permitted area.
- (F) Only the area in front of a restaurant, as defined by projecting its interior width outward perpendicular to the street to a point at which it intersects the roadway (or within the sidewalk frontage of the building where the validly licensed restaurant is located provided that written approval is supplied by the building owner) can be used by the restaurant. Placement of tables and chairs will be permitted in areas more than ten (10) feet from the front of the building only when the City Manager determines it is in the best interest of the public to permit such placement. All tables and chairs must be of a design, material, and specification suitable for outside dining.

6. Insurance Prerequisite.

- (A) The operator of a sidewalk café agrees to, and does by its operation of a sidewalk café, indemnify, defend, save and hold harmless the City, its officers and employees from any and all claims, liability, lawsuits, damages and causes of action which may arise out of operator's activity on the demised premises. The operator shall provide indemnification to the City in writing on a form provided by the City Manager.
- (B) It shall be unlawful to operate a sidewalk café unless the applicant shall furnish in a form acceptable to the City Manager evidence of commercial general liability insurance, and alcohol license liability insurance if serving alcohol, naming the City as a co-insured party and insuring the City against any liability resulting from the uses permitted pursuant to this section. This coverage shall not be less than five hundred thousand dollars (\$500,000.00) per occurrence.
- (C) It shall not be lawful to operate a sidewalk café at any time the insurance required by this section is not maintained and evidence of its continuance filed with the City.

7. Revocation.

The privilege of an operator to use the sidewalk of the City of Social Circle may be revoked at any time by written notice to be served on the operator; such service to be by certified mail or personal service. Upon receipt of such revocation notice, the permittee shall have ten (10) days to appeal such revocation to the mayor and council, whose decision after notice and hearing as required by the governing mayor and council section of this Code shall be final.

8. Sale of Alcoholic Beverages at Sidewalk Café.

Only a properly permitted restaurant with a sidewalk café, which holds a valid alcohol license for consumption on the premises, may serve alcohol to customers in the sidewalk café, subject to the following restrictions:

- (A) Alcohol may not be served in its original container, but must be served in clear plastic cups. No bottles or cans are allowed.
- (B) Only a single serving of alcohol may be in possession of any patron.
- (C) Patrons must be seated while consuming an alcoholic beverage.
- (D) Patrons may not remove any alcohol from the premises of the restaurant where the alcoholic beverage was purchased.

9. Combination Permits.

Beginning with the alcohol permit renewals of 2017, each party seeking to use the sidewalks for the purposes allowed under this code section shall seek a sidewalk café permit and a separate alcohol serving permit in one application pursuant to the requirements of the alcohol ordinance. In addition to the normal alcohol permit requirements, this includes a requirement of a scale drawing of the exact area that may be used for serving alcohol on the public sidewalk as an exception to the open container laws of the State of Georgia.

10. Right to Limit or Deny Admission or Service.

Within the designated area of a café, the operator holding a permit under this Article shall have the right to limit access and occupancy to only bona fide paying customers of that operator's restaurant who are behaving in a lawful manner.

11. Penalties.

In addition to losing the privilege of operating a sidewalk café, any person, firm, corporation or agent, servant, employee, officer or contractor for any person, firm or corporation who shall violate any provision, requirement, term, or condition of this Ordinance shall be guilty of a misdemeanor and each day of such violation shall constitute a separate offense. The performance of any act prohibited by any section or provision of this chapter, or the failure to perform any act required thereby, shall constitute a violation and an offense hereunder and any person found guilty of a violation of any section or provision of this chapter shall be punished as provided under the jurisdiction of the Municipal Court of the City of Social Circle and may be punished with a fine up to \$1000.00 and as set forth in other provision of this Code.

SECTION 2. Unless otherwise provides herein, the penalties provided for violations of this Ordinance are set out in the general penalties sections of the Code of Ordinances of the City of

Social Circle, are under the authority of the Municipal Court as established by the Code and are hereby incorporated herein as as if fully set out.

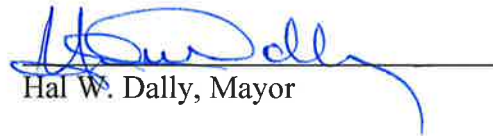
SECTION 3. Except as provided otherwise herein, all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 4. Pursuant to the Section 2.25 of the City Charter, authority is hereby delegated to the City Clerk to cause this Ordinance to be numbered and codified in the City Code of Social Circle, Georgia, in such a way as to place this Ordinance in the Code in an organized and orderly sequence to maximize the organization of the Code. The City Clerk is authorized to designate to the City Attorney or to such other Mayor and Council approved contractors to assist in the effort to codify this provision provided the decision of the City Clerk is final as to the placement of this Ordinance within the City Code of Social Circle, Georgia. The goal of this authorization is to codify and number this Ordinance in the Code in such a way as to be clear and orderly.

SECTION 5. This ordinance shall become effective immediately upon its adoption by the Mayor and Council of the City of Social Circle, Georgia.

SECTION 6. It is hereby declared that if any phrase, sentence, or paragraph hereof shall be found or declared unconstitutional or invalid by a court of competent jurisdiction, the remaining phrases, sentences and paragraphs hereof shall remain in full force and effect as if enacted without the phrase, sentence, or paragraph declared unconstitutional or invalid.

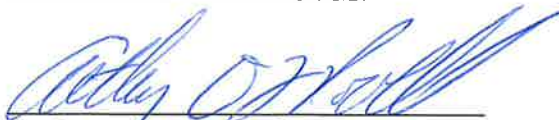
SO ORDAINED this 18th day of April, 2017.


Hal W. Dally, Mayor

ATTEST:


Susan M. Roper, City Clerk

APPROVED AS TO FORM:


Anthony O. L. Powell, City Attorney
Webb, Tanner & Powell P.C.

Adopted by the City Council at a regular meeting on April 18, 2017.

 4 Council members voting in favor

 0 Council members voting against

 0 Council members abstaining