

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF CUMMING, GEORGIA, TO REGULATE USES IN THE CENTRAL BUSINESS DISTRICT (CBD); TO REGULATE AND FURTHER DEFINE SITUATIONS CREATING LEGAL NON-CONFORMING USES; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS the Constitution of the State of Georgia provides in Article IX, Section II, Paragraph IV thereof, that the governing body may adopt plans and exercise the power of zoning; and

WHEREAS, the Georgia General Assembly has enacted the Georgia Planning Act of 1989, (Georgia Laws, 1989 pp. 1317-1391, Act 634) which among other things provides for local governments to adopt plans and regulations to implement plans for coordinated and comprehensive planning; and

WHEREAS, The City finds that the regulations contained in this Ordinance are necessary for the purposes of implementing its comprehensive plan adopted pursuant to the requirements of the Georgia Planning Act of 1989; and

WHEREAS, this Ordinance has been prepared and considered in accordance with the Zoning Procedures Act, O.C.G.A. § 36-66-1 et. seq., and

WHEREAS, this Ordinance is necessary for the purposes of promoting the health, safety, morals, convenience, order, prosperity and the general welfare of the City of Cumming; and encouraging the most appropriate use and development of land and buildings throughout the City of Cumming in accordance with its duly adopted comprehensive plan;

NOW THEREFORE, the governing body of the City of Cumming, Georgia, does hereby ordain, enact and thereby incorporate into the City Code of Cumming, Georgia, this ordinance and all of its sections as set forth below:

SECTION ONE:

Chapter 113, "Zoning," of the City of Cumming Code of Ordinances, Article IV, "Zoning Districts", Section 113-181, "Table of Conditional Uses;" Table 5.1, is amended by deleting the row marked "Dwellings, located within a building containing another principal use" and replacing it with the following row:

	R-1	R-1A	R2	R3	OP	INST	CBD	NS	HB	PSC	OCMS	MU	M-1
Dwellings, located within a building containing another principal use (dwelling must be located above other principal use, e.g. walk up apartment over retail)	X	X	X	X	X	X	P	X	X	X	X	P	X

SECTION TWO:

Chapter 113 "Zoning" of the City of Cumming Code of Ordinances, Article IV, Zoning Districts, is amended by renumbering Sec. 113-182 – Table of dimensional requirements, as 113-182(a) and adding a new Section 113-182(b) as follows:

113-182(b) Donation of land to the City, nonconforming remainder.

No lot shall be reduced, divided or changed so that the size of lot, width of lot, street frontage, size of setbacks, density, lot coverage, open space requirement or any other dimensional requirement of this Code, including, without limitation, the dimensional requirements set forth in Section 113-182(a), is not maintained, except to the extent a portion of such lot is acquired for a public purpose. In the event a portion of a lot is acquired for a public purpose which results in the reduction, division or change in a dimensional requirement of this Code, such lot shall not be deemed a nonconforming lot under Division 3 of Article II of this Chapter. Land is only "acquired for a public purpose" pursuant to this section when that land is deeded to the City, and the City of Cumming accepts the land for a public purpose, which acceptance is recorded on its minutes.

SECTION THREE: Severability.

If any section, provision or clause of any part of this ordinance shall be declared invalid or unconstitutional, or if the provisions of any part of this ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this ordinance not so held to be invalid, or the application of this ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent that this ordinance would have been adopted had such invalid portion not been included herein.

SECTION FOUR: Incorporation and Repealer.

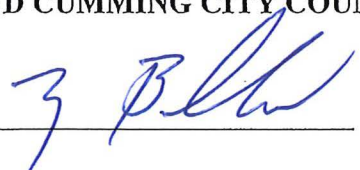
Except as modified herein, the remainder of the ordinance regulating zoning is affirmed and incorporated herein. All laws and parts of laws in conflict with this enactment are hereby repealed.

SECTION FIVE: Effective Date.

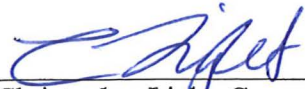
This ordinance shall be effective the day following its passage by the Council of the City of Cumming.

SO ADOPTED AND ORDAINED by the City Council of Cumming, Georgia, this 4th day of August, 2020.

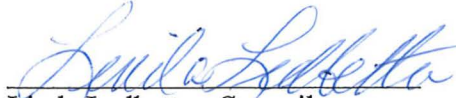
MAYOR AND CUMMING CITY COUNCIL



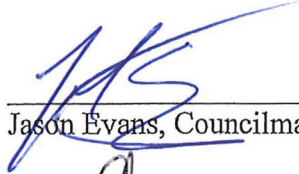
Troy Brumbalow
Mayor, City of Cumming



Christopher Light, Councilman



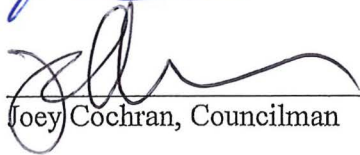
Linda Ledbetter, Councilman



Jason Evans, Councilman



Chad Crane, Councilman



Joey Cochran, Councilman

