

FIRST READING April 19, 2016

PASSED _____

AN ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CODE OF BLUE RIDGE, GEORGIA; TO AMEND SECTION 96.038 REGARDING IN PART THE PRIVATE USE OF CITY PUBLIC SIDEWALKS; TO PROVIDE EXCEPTIONS; TO PROVIDE AN EXCEPTION AS TO PERSONS WHO OWN PROPERTY, OR THEIR TENANTS, LOCATED IN THE CENTRAL BUSINESS DISTRICT (CBD) AS DEFINED BY THE CITY OF BLUE RIDGE ZONING ORDINANCE, AND WHOSE BUILDING UPON SAID PROPERTY ABUTS A PUBLIC SIDEWALK, THAT THEY SHALL BE EXCLUSIVELY ALLOWED TO USE A MAXIMUM WIDTH OF THIRTY-SIX (36) INCHES OF THE PUBLIC SIDEWALK AS NEEDED FOR THE EXCLUSIVE DISPLAY OF TEMPORARY SIDEWALK SIGNAGE, DECORATIVE FEATURES AND UMBRELLA CANOPIES UPON OR OVER THE PUBLIC SIDEWALKS BY THE PROPERTY OWNERS OR THEIR TENANTS ALONG THEIR BUILDING FAÇADE, UPON CERTAIN CONDITIONS BEING MET; TO PROVIDE FOR THE MEASUREMENT OF THE DISTANCE ALLOWED FOR AREA OF USE OF SUCH DISPLAY AND TO REQUIRE AS A CONDITION OF THE DISPLAY A MINIMUM UNENCUMBERED WIDTH OF THE PUBLIC SIDEWALK; TO PROVIDE FOR PERMITTING OF SUCH DISPLAYS; TO PROVIDE AN ADDITIONAL EXCEPTION FOR VENDOR BOXES TO BE DISPLAYED ON PUBLIC SIDEWALKS WHICH DO NOT ADJOIN THE FAÇADE OF A PRIVATELY OWNED BUILDING WITHIN THE CENTRAL BUSINESS DISTRICT (CBD) AS DEFINED BY THE BLUE RIDGE ZONING ORDINANCE; TO PROVIDE FOR PERMITTING OF SUCH VENDOR BOXES; TO IMPOSE CERTAIN OTHER CONDITIONS AND LIMITATIONS IN ORDER TO BE ALLOWED TO HAVE SUCH VENDOR BOXES; AND FOR OTHER PURPOSES.

WHEREAS, the City Council of the City of Blue Ridge, Georgia, is authorized by the City Charter and general state law to provide and maintain public improvements within the rights-of-ways of the City of Blue Ridge, Georgia, and including the construction, installation, and maintenance of public sidewalks, as well as preventing the obstruction of sidewalks;

WHEREAS, the City Council of the City of Blue Ridge, Georgia, desires to modify the City of Blue Ridge Code, being Section 96.038, to provide for exceptions as to the private use of public sidewalks, and to allow within the Central Business District (CBD) as defined by the Blue Ridge Zoning Ordinance the display of temporary sidewalk signage, decorative features and umbrella canopies upon or over the public sidewalks exclusively by the property owners or their tenants, along their building façade, within said zoning district, and upon certain conditions being met in order to prevent an obstruction of the sidewalk;

WHEREAS, on public sidewalks which do not adjoin the façade of a privately owned building within the Central Business District (CBD) as defined by the Blue Ridge Zoning Ordinance, vendor boxes (real estate boxes, newspaper boxes, etc.) may be displayed within said zoning district upon the public sidewalks, and upon certain conditions being met in order to prevent an obstruction of the sidewalks;

NOW, THEREFORE, BE IT ORDAINED, by the City of Blue Ridge, Georgia, and it is hereby ordained by the authority of the City Charter and general state law as follows:

SECTION 1. AMENDMENT TO SECTION 96.038 TO ALLOW EXCEPTIONS TO THE PRIVATE USE OF PUBLIC SIDEWALKS.

Section 96.038 of the Code of Ordinances is hereby stricken in its entirety, and there is hereby substituted in lieu thereof, a new Section 96.038, to read as follows:

§ 96.038 PRIVATE USE.

- (A) Except as provided herein, it shall be unlawful for any person, firm or corporation to privately use any street, sidewalk or other public place including but not limited to as space for the display of goods or merchandise for sale or to write or make

any sign or advertisement on any such pavement.

- (B) Notwithstanding the forgoing, any person who owns property or their tenants, located in the Central Business District (CBD) as defined by the City of Blue Ridge Zoning Ordinance, and whose building façade abuts a public sidewalk, upon the conditions outlined herein, shall be allowed to exclusively use a maximum width of thirty-six (36) inches of the public sidewalk (“area of use”) as needed for the exclusive display of temporary sidewalk signage (one small sandwich board or chalk board) and decorative features including but not limited to benches (void of advertisement), flower pots, two person table and chairs, and other decorative features by the owner of the building or the owner’s tenants. The area of use allowed for the decorative features shall be measured from the property line parallel with the façade of a business and shall be located within the property lines running perpendicular to the area of use of the licensed premises. The owner or the owner’s tenants, within the area of use, may also erect an umbrella canopy which extends into the pedestrian way for the width of the area of use, and provided that a clear height of seven (7) feet is maintained. The umbrella canopy shall be void of advertisement. The decorative features as provided herein are also conditioned upon there being a minimum unencumbered width of the remaining part of the public sidewalk to allow unencumbered pedestrian use which shall measure sixty (60) inches between the allowed encroachment and the street curb (or the street pavement if there is no curb). As a further condition to being allowed to exclusively use the area of use, the owner or the owner’s tenants agree to hold harmless the City of Blue Ridge from any and

all claims of personal injury and property damage up to and including death, that may occur to owner, tenant or any third party due to the owner and tenant using said area of use. The owner and tenant further agree to indemnify the City of Blue Ridge, its council, employees and agents, from any and all claims resulting from the owner or owner's tenants using the area of use. The allowed encumbrance is also further conditioned upon the owner or the owner's tenants applying for a sidewalk permit as to said decorative features and paying an annual sidewalk permitting fee of \$50.00. So long as the decorative features being the allowed encroachment meets the conditions and limitations as provided herein, then the allowed encroachment shall not be deemed to be an impermissible encroachment of the public sidewalks and shall not be deemed to be an obstruction of the public sidewalks.

- (C) Notwithstanding the foregoing, any vendor who operates vendor boxes, including but not limited to vendor boxes containing real estate booklets or newspapers, shall be allowed the non-exclusive use up to a maximum width of thirty-six (36) inches of the public sidewalk ("area of use"), for the display and placement of said vendor boxes on or upon public sidewalks which do not adjoin the façade of a privately owned building within the Central Business District (CBD) as defined by the Blue Ridge Zoning Ordinance, and upon the further conditions as further outlined herein. The area of use allowed for the vendor boxes shall begin at the furthest point of the sidewalk from the street and have a maximum width of thirty-six (36) inches of the public sidewalk. The display of the vendor boxes as provided herein is also conditioned upon there being a minimum unencumbered

width of the remaining part of the public sidewalk to allow unencumbered pedestrian use which shall measure sixty (60) inches between the allowed encroachment and the street curb (or the street pavement if there is no curb). As a further condition to being allowed to use the area of use, the vendor agrees to hold harmless the City of Blue Ridge from any and all claims of personal injury and property damage up to and including death, that may occur to vendor or any third party due to the vendor using said area of use. The vendor further agrees to indemnify the City of Blue Ridge, its council, employees and agents, from any and all claims resulting from the vendor using the area of use. The allowed encumbrance is also further conditioned upon the vendor applying for a sidewalk permit as to said vendor boxes and paying an annual sidewalk permitting fee of \$50.00. So long as the vendor boxes being the allowed encroachment meets the conditions and limitations as provided herein, then the allowed encroachment shall not be deemed to be an impermissible encroachment of the public sidewalks and shall not be deemed to be an obstruction of the public sidewalks.

- (D) In the event that any person, firm, partnership, limited liability company, or corporation admits to a violation of this ordinance, or is found to have violated this ordinance by a court of competent jurisdiction, then as a penalty for the first violation, said violator shall receive a written warning conditioned upon the violator coming into compliance with the requirements of this ordinance and removing any obstruction from the public sidewalk. In the event that any person, firm, partnership, limited liability company or corporation is found to have committed a second violation of this ordinance by a court of competent

jurisdiction, then the violator shall be subject to a penalty and fine up to \$100.00 and conditioned upon said violator removing the obstruction from the public sidewalk. Should the violator fail to remove the obstruction either for a first offense, or a second offense, then a court of competent jurisdiction may assess of said violator the maximum penalties allowed under the City Charter, and as determined by said court. For a third offense of this ordinance, the violator must remove the obstruction from the public sidewalk, and is subject to the maximum penalties allowed by the City Charter as determined by a court of competent jurisdiction.

SECTION 2. REPEAL OF CONFLICTING ORDINANCES TO THE EXTENT OF THE CONFLICT.

All ordinances and parts of ordinances in conflict with the terms of this ordinance are hereby repealed to the extent of the conflict; but it is hereby provided that any ordinance or law which may be applicable hereto and aid in carrying out and making effective the intent, purpose and provisions hereof, is hereby adopted as a part hereof and shall be legally construed to be in favor of upholding this ordinance on behalf of the City of Blue Ridge, Georgia.

SECTION 3 . SEVERABILITY.

If any paragraph, subparagraph, sentence, clause, phrase, or any portion of this ordinance, should be declared invalid or unconstitutional by any Court of competent jurisdiction or if the provisions of any part of this ordinance as applied to any particular situation or set of circumstances should be declared invalid or unconstitutional, such invalidity shall not be construed or 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 to be the

intent of the City Council of the City of Blue Ridge to provide for separate and divisible parts, and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.

SECTION 4. EFFECTIVE DATE.

This amendment to the code of the City of Blue Ridge, Georgia is hereby adopted upon passage and shall become effective upon passage by the Blue Ridge City Council.

SO ORDAINED this _____ day of _____, 2016.

BLUE RIDGE CITY COUNCIL

By: _____
Mayor

Councilperson

Councilperson

Councilperson

Councilperson

Councilperson

Attest:

City Clerk

RDS/lc/2881/W185042