

A RESOLUTION OF THE CITY OF CUMMING TO SEEK THE CALL OF A SPECIAL ELECTION FOR THE PURPOSE OF A REFERENDUM ON WHETHER TO AMEND THE ALCOHOL CODE SECTION 4-131 TO ALLOW SUNDAY SALES BY THE DRINK BETWEEN 11:00 A.M. AND 12:30 P.M. AND FOR OTHER PURPOSES.

WHEREAS, the City Council of the City of Cumming, Georgia is authorized and empowered pursuant to O.C.G.A. § 3-3-2, et. seq., to regulate the sale of malt beverages, wine and distilled spirits within the geographical confines of said municipality; and,

WHEREAS, the City of Cumming, Georgia currently has an Ordinance as part of the Code of the City of Cumming, Georgia which regulates the sale, licensing, control, taxation and regulation of distilled spirits, malt beverages and wine; and

WHEREAS, the City of Cumming passed, on August 20, 2019, an Ordinance which would allow sales of alcoholic beverages from 11:00 A.M. until 12:30 P.M. in any licensed establishment that derives at least 50 percent of its total annual gross sales from the sale of prepared meals or food in all of the combined retail outlets of the individual establishment where food is served and in any licensed establishment that derives at least 50 percent of its total annual gross income from the rental of rooms for overnight lodging, if approved by a referendum election; and

WHEREAS, pursuant to State Law, this change to allow sales of alcoholic beverages on Sundays starting at 11:00 AM can only go into effect if the change is approved by the voters of the City of Cumming; and

WHEREAS, pursuant to O.C.G.A. § 21-2-540(c)(2) special elections to present a question to the voters in odd numbered years shall be held on the Tuesday after the first Monday in November with the call for the election being issued at least 29 days prior thereto; and

WHEREAS, there is a general municipal election scheduled for November 5, 2019; and

WHEREAS, it is necessary to call a special election to occur in conjunction with the November 5, 2019 election, for the purpose of deciding this alcohol referendum issue; and

WHEREAS, pursuant to O.C.G.A. § 3-3-7(j.1), the call must be issued no sooner than ten days nor later than sixty days from the passage of the ordinance conditionally approving sales between 11:00 AM and 12:30 PM; and

WHEREAS, pursuant to O.C.G.A. § 3-3-7(j.1) the special election is to be held between thirty and sixty days from the issuance of the call for the special election; and

WHEREAS, pursuant to an Intergovernmental Agreement between the City of Cumming and Forsyth County, Georgia, dated July 14, 2011, which Agreement is supported by consideration and remains in effect, the Forsyth County Board of Registrations and Elections performs the duties of superintendent of elections with the exception of the qualification of candidates for municipal office in and for the City of Cumming;

AND WHEREAS, among the functions of an election superintendent is the issuance of the call for a special election.

NOW, THEREFORE, be it resolved by the Governing Authority of the City of Cumming Georgia, and it is hereby **RESOLVED** by the authority of the same:

SECTION 1. CALL OF ELECTION

That the City of Cumming desires and requests that the Forsyth County Board of Registrations and Elections issue a call for a special election to occur on the Tuesday after the first Monday in November, 2019 for the purpose of considering whether alcohol sales shall be regulated in the City of Cumming between the hours of 11:00 AM and 12:30 PM on Sundays; that the call for the election be issued no earlier than ten nor later than sixty days from the passage of this resolution; and that the call be issued such that the election occurs at least thirty but no more than sixty days from the date of the call itself.

SECTION 2. REFERENDUM QUESTION

That the question to be placed before the voters of the City of Cumming shall be as follows in accordance with O.C.G.A. § 3-3-7(j.1):

- () YES Shall the governing authority of the City of Cumming, Georgia be authorized to permit and regulate Sunday sales of distilled spirits or alcoholic beverages for beverage purposes by the drink from 11:00 A.M. to 12:30 P.M.?
- () NO

With all persons desiring to vote for approval of such Sunday sales voting “Yes” and all persons desiring to vote for the rejection of such Sunday sales voting “No.”

SECTION 3. VOTERS AND VOTING PERIOD

That all persons eligible to vote in City of Cumming elections who have registered to vote by October 7, 2019, be permitted to vote in said special election. Voters shall be eligible to cast their votes by such methods as may be determined by the Forsyth County Board of Registrations and Elections, including:

- a) On the day of the election, being November 5, 2019, from 7:00 A.M. to 7:00 P.M., at the City of Cumming Precinct, being located Cumming City Hall.
- b) During the period of Advance Voting, which shall commence on the fourth Monday immediately prior to the day of the election and which shall end on the Friday immediately prior to the election as provided by law.
- c) Via absentee ballot as permitted by law.

SECTION 4. REPEALER AND SEVERABILITY

All resolutions and parts thereof in conflict herewith are repealed.

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

SECTION 5. EFFECTIVE DATE

This Resolution shall take effect upon its passage by the governing authority of the City of Cumming, Georgia.

Adopted and Resolved this 20th day of August, 2019.

CITY OF CUMMING, GEORGIA


Troy Brumbalow, Mayor, City of Cumming


Lewis Ledbetter, Councilman


Linda Ledbetter, Councilwoman


Christopher Light, Councilman


Chad Crane, Councilman


Jason Evans, Councilman

Attest:


Jeff Honea, Clerk, City of Cumming, Georgia



A RESOLUTION OF THE FORSYTH COUNTY BOARD OF REGISTRATIONS AND ELECTIONS TO CALL AND CONDUCT A SPECIAL ELECTION TO DETERMINE WHETHER THE CITY OF CUMMING MAY PERMIT THE SALE OF ALCOHOLIC BEVERAGES BY THE DRINK ON SUNDAYS BETWEEN 11:00 A.M. AND 12:30 P.M.

WHEREAS, pursuant to an intergovernmental agreement between the City of Cumming, Georgia, and Forsyth County, Georgia, the Forsyth County Board of Registrations and Elections (“Elections Board”) is to perform all duties of the City’s Election Superintendent;

WHEREAS, Senate Bill 17 became law on May 8, 2018, amending Title 3, Chapter 3, Article 1 of the Official Code of Georgia Annotated and authorizing counties and cities to allow the sale of alcoholic beverages for consumption on the premises on Sundays from 11:00 A.M. until 12:30 P.M. in any licensed establishment that derives at least 50 percent of its total annual gross sales from the sale of prepared meals or food in all of the combined retail outlets of the individual establishment where food is served and in any licensed establishment that derives at least 50 percent of its total annual gross income from the rental of rooms for overnight lodging, if approved by a referendum election; and

WHEREAS, by resolution dated the 20th day of August, 2019, the City of Cumming approved a resolution authorizing such a special referendum election;

WHEREAS, the referendum procedure, governed by O.C.G.A. § 3-3-7(j.1), mandates that the Election Superintendent issue the call for the referendum election not less than ten nor more than 60 days after the date of approval of the City’s resolution, and not less than 30 nor more than 60 days before the date of the election;

WHEREAS, the referendum procedure, governed by O.C.G.A. § 3-3-7(j.1), further mandates that the Election Superintendent publish notice of the date and purpose of the election in the official organ of Forsyth County once a week for two weeks immediately preceding the date thereof; and

NOW, THEREFORE, BE IT RESOLVED by the Elections Board that there is hereby called an election to be held in the precinct for the City of Cumming, on the 5th day of November, 2019, for the purpose of submitting to the qualified voters of the City of Cumming the question of whether or not to expand the hours for Sunday sales for on-premises alcohol consumption.

BE IT FURTHER RESOLVED that the Elections Board publish a notice of this call of the election in the newspaper in which sheriff’s advertisements for the County are published no earlier than September 6, 2019, and no later than October 6, 2019, and that the notice of call shall be in the form set forth in Exhibit A hereto; and

BE IT FURTHER RESOLVED that the Elections Board shall cause notice of the date and purpose of the election, substantially in the form attached as Exhibit B hereto, to be published in the newspaper in which sheriff’s advertisements for the County are published once a week for two weeks immediately preceding the date of the election; and

BE IT FURTHER RESOLVED that the ballot to be used in the election shall have written or printed thereon the following question to be determined by the voters:

- “() Yes Shall the governing authority of the City of Cumming, Georgia be authorized to permit and regulate Sunday sales of distilled spirits or alcoholic beverages for beverage purposes by the drink from 11:00 A.M. to 12:30 P.M.?”
- () No

BE IT FURTHER RESOLVED that the election shall be held in accordance and in conformity with the Constitution and statutes of the United States of America and of the State of Georgia.

PASSED, ADOPTED, SIGNED, APPROVED, AND EFFECTIVE this 3rd Septemb day of September, 2019.

FORSYTH COUNTY BOARD OF REGISTRATIONS AND ELECTIONS

By: Barbara L. Luth
Barbara Luth, Chairperson

Matthew Blender
Matthew Blender, Vice Chairman

Joel Natt
Joel Natt, Secretary

Randy Ingram
Randy Ingram, Member

Carla Radzikin
Carla Radzikin, Assistant Secretary

EXHIBIT A

NOTICE AND CALL OF ELECTION REGARDING THE SALE OF ALCOHOL ON SUNDAY

WHEREAS, the Official code of Georgia Annotated, 3-3-7(j.1) provides:

(1) Notwithstanding any other provisions of law, all counties or municipalities in which the governing authority prior to May 8, 2018, has been authorized pursuant to a referendum to permit the sale of alcoholic beverages for consumption on the premises on Sundays from 12:30 P.M. until 12:00 Midnight in any licensed establishment which derives at least 50 percent of its total annual gross sales from the sale of prepared meals or food in all of the combined retail outlets of the individual establishment where food is served and in any licensed establishment which derives at least 50 percent of its total annual gross income from the rental of rooms for overnight lodging may, by resolution or ordinance conditioned on approval in a referendum, authorize the sale of alcoholic beverages for consumption on the premises of any such establishments on Sundays for an additional hour and a half during the time period of 11:00 A.M. until 12:30 P.M.

WHEREAS, the Mayor and City Council of the City of Cumming, Georgia, have issued a resolution requesting that a question be submitted to the qualified voters of the City of Cumming on the November 5, 2019 ballot for the purpose of determining whether the governing authority of the City of Cumming may authorize the sale of distilled spirits or alcoholic beverages by the drink on Sundays between 11:00 A.M. and 12:30 P.M.

BE IT THEREFORE RESOLVED pursuant to O.C.G.A. 3-3-7(j.1), and other applicable laws, that the Forsyth County Board of Registrations and Elections hereby calls for an election to be held in the City of Cumming on Tuesday, November 5, 2019 for the purpose of voting on the following question:

- “() Yes Shall the governing authority of the City of Cumming, Georgia be authorized to permit and regulate Sunday sales of distilled spirits or alcoholic beverages for
() No beverage purposes by the drink from 11:00 A.M. to 12:30 P.M.?”

October 7, 2019 is the deadline to register and be eligible to vote in the November Election.

This 3rd day of September, 2019.



Barbara Luth
Chairperson, Forsyth County Board of Registrations
and Elections

EXHIBIT B

NOTICE OF SPECIAL ELECTION TO CONSIDER WHETHER SALES OF DISTILLED SPIRITS OR ALCOHOLIC BEVERAGES BY THE DRINK SHOULD BE ALLOWED ON SUNDAYS BETWEEN 11:00 A.M. AND 12:30 P.M.

TO THE QUALIFIED VOTERS OF THE CITY OF CUMMING:

NOTICE IS HEREBY GIVEN that on the 5th day of November, 2019, an election will be held at the regular polling place in the election district of the City of Cumming, Georgia, at which time there will be submitted to the qualified voters of the City of Cumming for their determination the question of whether sales of distilled spirits or alcoholic beverages for beverage purposes by the drink should be allowed on Sundays between 11:00 A.M. and 12:30 P.M., as provided in Section j.1 of Article 1 of Chapter 3 of Title 3 of the Official Code of Georgia Annotated.

Voters desiring to vote in favor of the question shall do so by voting "Yes" and voters desiring to vote against the question shall do so by voting "No" as to the question propounded:

- Yes Shall the governing authority of the City of Cumming, Georgia be authorized to permit and regulate Sunday sales of distilled spirits or alcoholic beverages for beverage purposes by the drink from 11:00 A.M. to 12:30 P.M.?"
- No

If more than one-half of the votes cast are in favor of the proposition stated above, the governing authority may, by appropriate resolution or ordinance, permit and regulate Sunday sales by licensees from 11:00 A.M. to 12:30 P.M. Otherwise, such Sunday sales during this time period shall not be permitted.

The place for holding said election shall be at the regular and established voting place for the City of Cumming precinct (Cumming City Hall) and the polls will be open from 7:00 a.m. to 7:00 p.m. on the date fixed for the election. Advance (absentee in-person) voting will take place at Cumming City Hall, and run from October 14, 2019 to November 1, 2019. Absentee ballots will be mailed out upon written request from October 14, 2019 through November 1, 2019, and must be received back by Election Day.

This notice is given by the Superintendent of Elections of Forsyth County.

FORSYTH COUNTY BOARD OF
REGISTRATIONS AND ELECTIONS

By: 
Barbara Luth, Chairperson