A SUBSTITUTE ORDINANCE BY COUNCILMEMBERS H. LAMAR WILLIS AND DEBI STARNES

03-O-0954

AN ORDINANCE TO AMEND CHAPTER 10, ARTICLE II, DIVISION 5, SECTION 10-211 OF THE CITY OF ATLANTA CODE OF ORDINANCES TO ALLOW FOR THE CONSUMPTION OF ALCOHOLIC BEVERAGES IN KENNEY'S ALLEY AND ON CERTAIN DESIGNATED PORTIONS OF UPPER ALABAMA STREET WITHIN UNDERGROUND ATLANTA; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta has an interest in regulating the sale of alcoholic beverages within its city limits;

WHEREAS, the City of Atlanta currently has in place certain regulations which prohibit the removal of alcoholic beverages beyond a selling establishment's licensed premises; and

WHEREAS, the City of Atlanta currently has in place regulations which prohibit the consumption of alcoholic beverages in the areas within Underground Atlanta known as the "mall facilities," including the area within Underground Atlanta commonly known as "Kenney's Alley" and on the street within Underground Atlanta commonly known as "Upper Alabama Street;" and

WHEREAS, Underground Atlanta has been designated a "special entertainment district" pursuant to state law; and

WHEREAS, state law defines a "special entertainment district" as "contiguous properties upon which is located a festival marketplace and entertainment project which is financed in whole or in part by public funds and which contains a minimum of 200,000 square feet of gross leasable space for retail sales and entertainment purposes and which is located in the central business district; provided however, that more than 50 percent of such contiguous properties must be owned or controlled by the city or some other governmental or quasi governmental entity;"

WHEREAS, the City of Atlanta recognizes that Underground Atlanta is going through the process of revitalization and desires to attract a variety of restaurant and nightclub tenants and to attract a larger number of visitors to Underground Atlanta; and

WHEREAS, the general prohibition regarding the consumption of alcoholic beverages within controlled and secure areas such as Kenney's Alley and certain portions of Upper Alabama Street within Underground Atlanta has hindered Underground Atlanta's ability to attract a variety of restaurant and nightclub tenants; and

WHEREAS, the City of Atlanta desires for Underground Atlanta to be an appealing venue for visitors to the down town area of Atlanta and for potential tenants of Underground

Atlanta; and

WHEREAS, pursuant to its lawfully delegated authority to regulate the sale of alcoholic beverages within its borders, including within special entertainment districts, the City of Atlanta has provided an exception from regulations prohibiting the consumption of alcoholic beverages in certain areas of Underground Atlanta and allowing the removal of alcoholic beverages beyond a selling establishment's licensed premises when special events are held in Underground Atlanta; and

WHEREAS, the City of Atlanta desires to allow the consumption of alcoholic beverages within the area of Underground Atlanta commonly known as "Kenney's Alley" on a daily basis when such alcoholic beverages are purchased in an establishment which is licensed to sell alcoholic beverages and which is adjacent to and has an entrance or exit into Kenney's Alley; and

WHEREAS, the City of Atlanta desires to allow the consumption of alcoholic beverages within the area of Underground Atlanta on the portions of Upper Alabama Street within Underground Atlanta, which lie between Central Avenue and Pryor Street and between Pryor Street and Peachtree Street, on a daily basis when such alcoholic beverages are purchased in a "restaurant" as such term is defined in Section 10-1 of the City of Atlanta Alcohol Code, which is licensed to sell alcoholic beverages and which is adjacent to and has an entrance or exit onto the above-referenced portions of Upper Alabama Street; and

WHEREAS, the City of Atlanta recognizes that the above-referenced areas are controlled and secure areas within Underground Atlanta and that such areas provide excellent venues for special events and

WHEREAS, Underground Atlanta has provided the City of Atlanta with a security plan which establishes specific locations for security officers and provides controlled access into and out of the above-referenced areas; and

WHEREAS, the City of Atlanta and Underground Atlanta recognize that the security plan for Underground Atlanta must be fluid and capable of flexibility in order that security can be heightened on an as needed basis depending on the activities scheduled for Underground Atlanta and the number of estimated visitors to Underground Atlanta for any given period of time; and

WHEREAS, the City of Atlanta, in accordance with the Amended and Restated Commercial Facilities Sublease By and Among Downtown Development Authority of The City of Atlanta, Georgia, The City of Atlanta, Georgia, Underground Festival, Inc. and CV Underground, LLC, will provide necessary municipal services, including visible and effective police services in accordance with standard professional practices; and

WHEREAS, the exemptions provided herein will enhance the ability of Underground Atlanta to provide entertainment and to attract a larger number of visitors throughout the year and will have a positive economic impact on Underground Atlanta and the down town area of the

City of Atlanta; and

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

Section 1. That Chapter 10, Article II, Division 5, Section 10-211(c)(2), of the City of Atlanta Code of Ordinances be amended by deleting the current language of said provision and inserting in lieu thereof new language which shall read as follows:

i. The sale and consumption of alcoholic beverages in a special entertainment district shall only be permitted in or on the commercial facilities and shall not be permitted in or on the public facilities, including the mall facilities, except as provided herein. The term "commercial facilities" as used in this subsection means the retail food and beverage service facilities, including any common area seating facilities specifically provided for the consumption of food and beverages, which common area seating facilities are not required to be owned or leased by any particular alcoholic beverage licensee. The term "public facilities" as used in this subsection means the parking facilities, plazas, streets and sidewalks. The term "mall facilities" as used in this subsection, as such term pertains to Underground Atlanta, means those areas within Underground Atlanta commonly known as Upper Alabama Street, Lower Alabama Street, Lower Pryor Street and Kenney's Alley, including any adjacent enclosed entrance structures, escalators and elevators, service areas and loading docks.

ii. Notwithstanding the prohibition stated herein in Section 10-211(c)(2)(i) above and in Section 10-212 of the City of Atlanta Code of Ordinances, those establishments licensed to sell alcoholic beverages which are adjacent to and which have an entrance or exit into the area within Underground Atlanta commonly known as "Kenney's Alley" are not prohibited from allowing the removal and consumption of alcoholic beverages beyond their licensed premises as long as any such alcoholic beverages which are removed or consumed beyond the premises of the licensed establishment are consumed within Kenney's Alley. Furthermore, "restaurants," as such term is defined in Section 10-1 of the City of Atlanta Alcohol Code, which are licensed to sell alcoholic beverages and which are adjacent to and which have an entrance or exit onto the portions of Upper Alabama Street which lie between Central Avenue and Pryor Street or between Pryor Street and Peachtree Street are not prohibited from allowing the removal and consumption of alcoholic beverages beyond their licensed premises as long as any such alcoholic beverages which are removed or consumed beyond the premises of the licensed establishment are only consumed within the above-described portions of Upper Alabama Street and while patrons of such licensed restaurants are seated at tables owned by the restaurant.

iii. Any alcoholic beverages which are consumed in either Kenney's Alley or on the above-described portions of Upper Alabama Street shall be dispensed and transported only in plastic containers bearing the name of the respective licensed establishment from which the alcoholic beverage was dispensed.

i. Notwithstanding the definition of "premises" contained in the City of Atlanta Alcohol Code Section 10-1, alcoholic beverage licensees are required to adequately supervise and monitor the areas within which their patrons are lawfully allowed to consume alcoholic beverages and the failure to do so may be grounds to deny, revoke, suspend, or refuse to renew a license, or assess a fine against any licensee in accordance with the provisions of City of Atlanta Alcohol Code Section10-109 if such violations are found to be attributable to the liscensee.

Section 2. Should any ordinance or any part thereof be found to conflict with this ordinance or the provisions thereof, then those sections contained herein shall be deemed controlling.