

Department of Planning and Development

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MEMORANDUM

To: Whom It May Concern
From: Kathy S. Holland, Acting Department Director
Subject: Amendment to the Unified Development Ordinance (UDO A2015-00005),
Effective October 27, 2015.
Date: February 26, 2016

The Gwinnett County Board of Commissioners approved an amendment to the Unified Development Ordinance (UDO) effective October 27, 2015.

The Unified Development Ordinance was revised to provide consistency with the Gwinnett County Code of Ordinances for Adult Establishments.

Summary of Key Changes

- In Title 1, add definition for “Adult Establishments” (Section 110-40), to have the same meaning as set forth in Chapter 18, Article XI of the Gwinnett County Code of Ordinances.
- In Title 2, replace the term “Adult Entertainment Establishment” with “Adult Establishment” in:
 - The Table of Permitted and Special Uses (Chapter 230, Table 230.4).
 - Section 230-130.3.A., and require the “Adult Establishment” conform to Chapter 18, Article XI and Chapter 86, Article IV of the Gwinnett County Code of Ordinances.
 - Chapter 240, Table 240.1.
- Revise the Table of Permitted and Special Uses to remove “Adult Establishments” from C-2 and C-3 zoning districts and allow in M-1 and M-2 zoning districts only.
- In the Appendix, Section 5.0, Inactive Zoning Districts, Section 5-180.6.A.5.c., replace the phrase “Adult Entertainment Facilities are not permitted” with “Adult Establishments are not permitted”.

The amendment (UDO A2015-00005) may be found on our website at:
www.gwinnettcounty.com/Departments/PlanningandDevelopment/UnifiedDevelopmentOrdinance

If you have any questions concerning your project please contact a Planner at 678.518.6000.

**GWINNETT COUNTY BOARD
OF COMMISSIONERS
LAWRENCEVILLE, GEORGIA**

ORDINANCE ENTITLED: Amendment of Gwinnett County Unified Development Ordinance relative to Adult Establishments

READING AND ADOPTION: October 27, 2015

At the regular meeting of the Gwinnett County Board of Commissioners held in the Justice and Administration Center, Auditorium, 75 Langley Drive, Lawrenceville, Georgia.

Name	Present	Vote
Charlotte Nash, Chairman	Yes	Yes
Jace Brooks, District 1	Yes	Yes
Lynette Howard, District 2	Yes	Yes
Tommy Hunter, District 3	Yes	Yes
John Heard, District 4	Yes	Yes

On motion of **Commissioner Hunter**, which carried **5-0** the Code of Ordinances of Gwinnett County is hereby amended by amending portions of the Unified Development Ordinance relative to Adult Establishments.

WHEREAS, adult establishments require special supervision from the public safety agencies of the County in order to protect and preserve the health, safety, and welfare of the patrons of such businesses as well as the citizens of the County; and

WHEREAS, the Board of Commissioners finds that adult establishments, as a category of establishments, are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

WHEREAS, there is convincing documented evidence that adult establishments, as a category of establishments, have deleterious secondary effects and are often associated with crime and adverse effects on surrounding properties; and

WHEREAS, the Board of Commissioners desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from crime; preserve the quality of life; preserve the character of surrounding neighborhoods and deter the spread of urban blight; and

WHEREAS, certain sexually oriented products and services offered to the public are recognized as not inherently expressive and not protected by the First Amendment, *see, e.g.*,

Heideman v. South Salt Lake City, 348 F.3d 1182, 1195 (10th Cir. 2003) (“On its face, the Ordinance applies to all ‘sexually oriented businesses,’ which include establishments such as ‘adult motels’ and ‘adult novelty stores,’ which are not engaged in expressive activity.”); *Sewell v. Georgia*, 233 S.E.2d 187 (Ga. 1977), *dismissed for want of a substantial federal question*, 435 U.S. 982 (1978) (sexual devices); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 224 (1990) (escort services and sexual encounter services); and

WHEREAS, the County intends to regulate adult establishments through a narrowly tailored ordinance designed to serve the substantial government interest in preventing the negative secondary effects of adult establishments; and

WHEREAS, the County’s regulations shall be narrowly construed to accomplish this end; and

WHEREAS, the County recognizes its constitutional duty to interpret and construe its laws to comply with constitutional requirements as they are announced; and

WHEREAS, with the passage of any ordinance, the County and the Board of Commissioners accept as binding the applicability of general principles of criminal and civil law and procedure and the rights and obligations under the United States and Georgia Constitutions, Georgia Code, and the Georgia Rules of Civil and Criminal Procedure; and

WHEREAS, it is not the intent of this ordinance to suppress any speech activities protected by the U.S. Constitution or the Georgia Constitution, but to enact legislation to further the content-neutral governmental interests of the County, to wit, the controlling of secondary effects of adult establishments; and

NOW, THEREFORE, BE IT ORDAINED that the Gwinnett County Board of Commissioners hereby amends portions of the Unified Development Ordinance relative to Adult Establishments, which such revisions are attached hereto as Exhibit A.

NOW, THEREFORE, BE IT FURTHER RESOLVED that this ordinance shall be effective on October 27, 2015.

BE IT FURTHER RESOLVED that all ordinances, regulations or parts of the same in conflict with this Resolution are hereby rescinded to the extent of said conflict.

GWINNETT COUNTY BOARD OF COMMISSIONERS

By: Charlotte J. Nash
Charlotte J. Nash, Chairman

Date Signed: 10/27/15

ATTEST:

By: Diane Kemp
Diane Kemp, County Clerk



APPROVED AS TO FORM:

By: Van Sleet
County Attorney

EXHIBIT A

Revisions to the Unified Development Ordinance of Gwinnett County, Georgia

That Title 1, Chapter 110, Subsection 110-40 General Definitions is amended by alphabetically inserting the following defined term:

Adult Establishment: “Adult Establishment” shall have the same meaning as set forth in Chapter 18, Article XI of the Gwinnett County Code of Ordinances.

That Title 2, Chapter 230, Subsection 100.5 is amended by deleting the existing Subsection in its entirety, and inserting in lieu thereof the following:

230-100.5 Restrictions on the location and operation of adult establishments are provided in Section 230-130.

That Title 2, Chapter 230, Table 230.4 “Table of Permitted and Special Uses” is amended by deleting the existing term “Adult Entertainment Establishment” and inserting in lieu thereof the term “Adult Establishment.”

That Title 2, Chapter 230, Table 230.4 “Table of Permitted and Special Uses” is amended by amending the row labeled “Adult Establishment” (formerly labeled “Adult Entertainment Establishment”) to reflect that an “Adult Establishment” is permitted, subject to supplemental use standards, in the M-1 district and in the M-2 district, by inserting “P” in the columns labeled “M-1” and “M-2,” and deleting “P” from the columns labeled “C-2” and “C-3,” and by retaining “Y” in the column “Supl. Reg.”

That Title 2, Chapter 230, Subsection 130.3.A. is amended by deleting the existing Subsection in its entirety, and inserting in lieu thereof the following:

A. Adult Establishment.

Adult Establishments shall conform to Chapter 18, Article XI and Chapter 86, Article IV of the Gwinnett County Code of Ordinances.

That Title 2, Chapter 240, Table 240.1 “Minimum Parking Requirements” is amended by deleting the existing term “Adult entertainment establishment”, and inserting in lieu thereof the term “Adult establishment.”

That UDO Appendix Section 5.0- Inactive Zoning Districts, Section 5-180.6.A.S.c is amended by deleting the phrase "Adult Entertainment Facilities are not permitted" and inserting in lieu thereof the phrase "Adult Establishments are not permitted."