

September 6, 2016

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

ORDINANCE ENTITLED: An Ordinance Amending the Gwinnett County Unified Development Ordinance

READING AND ADOPTION:

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

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<b>Name</b>	<b>Present</b>	<b>Vote</b>
Charlotte J. Nash, Chairman	Y	Yay
Jace Brooks, District 1	Y	Yay
Lynette Howard, District 2	Y	Yay
Tommy Hunter, District 3	Y	Yay
John Heard, District 4	Y	Nay

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On motion of Commissioner Brooks, which carried 4-1, the Unified Development Ordinance of Gwinnett County, Title 2: Land Use and Zoning, is hereby amended as follows:

**WHEREAS**, the Unified Development Ordinance contains regulations governing zoning and land use, development and permitting, landscape requirements and architectural guidelines, as well as procedures for the administration and application of those regulations; and

**WHEREAS**, by careful review of the rules and requirements contained therein, it has become evident that certain Chapters and Sections of the Unified Development Ordinance could be logically amended; and

**WHEREAS**, the Gwinnett County Board of Commissioners desires that the Unified Development Ordinance provide appropriate and sound regulation of land use, zoning, development and permitting; and

**WHEREAS**, the Unified Development Ordinance was adopted by the Gwinnett County Board of Commissioners on February 25, 2014; and

**WHEREAS**, the Unified Development Ordinance provides that the text, tables and drawings thereof may be amended from time to time by the Board of Commissioners following submission of certain items to the Municipal-Gwinnett County Planning Commission for review and recommendation; and

**WHEREAS**, Gwinnett County has seen a rise in collection bins being placed on parking lots and other areas in the public view over the last five years; and

**WHEREAS**, Gwinnett County attempted to regulate collection bins in the Gwinnett County Unified Development Ordinance by requiring permitting based on several factors, including but not limited to requiring the owner of the property upon which the box was to be located to consent to the placement of the box, requiring that the box be placed in a certain location on said property, verifying the 501(c)(3) status of the box owner, and requiring proper maintenance of bins; and

**WHEREAS**, this regulation was ineffective due to the difficulty of enforcement because of the continued unauthorized placement of bins by entities that were difficult to trace and failure of owners of existing collection bins to permit them with in Gwinnett County per the terms of the Ordinance; and

**WHEREAS**, despite these regulations, collection bins are still left on private property without the property owners' consent, and without a permit, which creates burdensome removal costs for those property owners; and

**WHEREAS**, Gwinnett County finds that the following problems still occur due to unattended collection bins: placement of bins on private property without permission of the property owner; illegal dumping of garbage, large furniture, and other refuse items; overflowing bins resulting from insufficient management by their respective owners; scavenging of the bins and items around them; loitering; theft; clustering of bins in areas typically reserved for parking and traffic flow; placement of bins in areas of public view creating aesthetic blight, and placement of bins in areas prohibited by Gwinnett County's ordinances; and

**WHEREAS**, staff of the Gwinnett County Department of Planning and Development studied the issues created by the unattended collection bin industry, especially as they impact and hinder the management of properties on which these collection bins are frequently placed, with or without permission of the property owners, in an attempt to resolve these issues; and

**WHEREAS**, Gwinnett County Department of Planning and Development staff met with members of the collection bin industry to discuss their business practices and collection procedures; and

**WHEREAS**, staff of the Gwinnett County Department of Planning and Development met with leaders of Gwinnett County's Community Improvement Districts to discuss these issues and receive input from Gwinnett County's stakeholders

with regard to the issues raised by the placement of unattended collection bins on property, with or without permission of the property owner; and

**WHEREAS**, members of Gwinnett County Community Improvement Districts impacted by these collection bins have provided affidavits detailing the multiple issues with these collection bins to the Gwinnett County Department of Planning and Development and the Gwinnett County Board of Commissioners, and those affidavits are hereby made a part of the record before this Board; and

**WHEREAS**, the staff of the Gwinnett County Department of Planning and Development has presented evidence to the Gwinnett County Board of Commissioners via a memorandum prepared by Kathy Holland, in her official capacity as Director of the Gwinnett County Department of Planning and Development, showing that Gwinnett County is experiencing ongoing issues with these unattended collection bins, including but not limited to a failure of box owners to apply for permitting, bins being placed on properties without permission of the property owners, property owners bearing their own costs to remove these unattended collection bins from their properties, trash accumulation and dumping taking place around the bins; and

**WHEREAS**, Ms. Holland's memorandum also addressed issues that the collection bin industry continues to have with their unattended bins, including but not limited to having the locks on the unattended bins broken, having decoy tracking items placed in bins in case of theft, having homeless or transient individuals using the unattended bins as shelter, and, in an effort to prevent dumping, marking the trash found on private properties, such as apartment complexes, to determine if it was placed on or near the unattended collection bins at a later date; and

**WHEREAS**, the Gwinnett County Zoning Board of Appeals heard an Appeal of an Administrative Decision related to the Gwinnett County Department of Planning and Development's denial of permits for several collection bins on November 12, 2015, during which evidence was presented to the Board regarding the impact the collection bins have on Gwinnett County by members of the Gwinnett County Community Improvement Districts and Gwinnett County Code Enforcement, and

**WHEREAS**, a copy of the transcript of that November 12, 2015 hearing has been provided to this Board to illustrate the many issues surrounding the collection bins; and

**WHEREAS**, collection bins are attractive nuisances which tend to invite the illegal dumping and accumulation of trash; and

**WHEREAS**, the County successfully regulates similar structures, such as commercial dumpsters and other designated, unattended receptacles which are required to be enclosed on all sides and hidden from public view and secured, per Section 240-140, et seq. of the Gwinnett County Unified Development Ordinance; and

**WHEREAS**, Gwinnett County regulates private trash receptacles that are part of a county-mandated residential curbside pick-up scheme under the Gwinnett County Solid Waste Collection and Disposal Services Ordinance, which regulates, among other issues, the placement of unattended containers and the collection hours of unattended containers; and

**WHEREAS**, the Gwinnett County Unified Development Ordinance regulates structures that are accessory structures to the principal use of buildings, both commercial and residential; and

**WHEREAS**, this ordinance applies to those types of physical receptacles in the public view, which are easily accessible and tend to invite the illegal dumping of trash and other items that in turn create negative externalities such as property maintenance costs, uncleanliness, hazards, and aesthetic blight; and

**WHEREAS**, this ordinance does not preempt or conflict with the specific requirements in UDO Section 230-120.14, which governs outside dumpsters and which may otherwise fall under the definition of “bin” under this section; and

**WHEREAS**, this ordinance does not apply to those establishments or businesses which are devoted to waste collection or recycling which operate on their own property and have set hours of operation and access and which secure or otherwise monitor those receptacles; and

**WHEREAS**, this ordinance does not affect private trash receptacles that are part of a county-mandated residential curbside garbage pick-up scheme under the Gwinnett County Solid Waste Collection and Disposal Services Ordinance; and

**WHEREAS**, this ordinance does not prohibit the solicitation of donations of salvageable items by means not inconsistent with this proposed ordinance, including but not limited to collection of donated items by vehicle pick-up from individual residences and collection of donated goods through bins placed inside commercial buildings; and

**WHEREAS**, the Board of Commissioners finds that the following amendment to the Unified Development Ordinance promotes the health, safety, morals, convenience, order, prosperity and general welfare of the present and future inhabitants of Gwinnett County;

**NOW, THEREFORE, BE IT ORDAINED** that the Gwinnett County Board of Commissioners hereby amends Title I, Section 110-40 "General Definitions" of the Gwinnett County Unified Development Ordinance, by deleting the definitions set forth in Exhibit A, attached hereto and incorporated by reference, and replacing them with the additions also set forth in Exhibit A, attached hereto and by repealing the current Title 2, Section 230-130.4(C) "Donation Collection Bins" and replacing it with new Section 230-130.4(C) "Collection Bins" as set forth in Exhibit A, attached hereto and incorporated by reference.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that this ordinance shall be effective upon adoption.

**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: 11/1/16

ATTEST:

BY: Diane Kemp  
DIANE KEMP, COUNTY CLERK



APPROVED AS TO FORM:  
BY: J. Brooke Savage  
J. BROOKE SAVAGE  
SR. ASSISTANT COUNTY ATTORNEY

September 6, 2016

**UDO A2016-00003**  
**GCID2016-0258**  
**“EXHIBIT A”**

**Title 1, Section 110-40 of the Gwinnett County Unified Development Ordinance entitled “General Definitions” is amended by deleting “Donation Collection Bin” and adding the following:**

Collection Bin

An attended or unattended enclosed receptacle, trailer, or container made of metal, steel, plastic, wood, or similar material and designed or intended for the collection of unwanted clothing, shoes, textiles, books, or other household items.

Site Host, Collection Bin

Any owner of real property within unincorporated Gwinnett County upon which a collection bin is located and maintained.

Permittee, Collection Bin

Any person, organization, or other entity issued a permit to place and maintain a collection bin in unincorporated Gwinnett County.

Lawful Occupant, Collection Bin

The occupant, or occupant’s legal representative, of real property, other than the Site Host, via a lease, rental agreement, or other instrument, who has the right to control and manage the maintenance and upkeep of the real property upon which a collection bin within unincorporated Gwinnett County is located or maintained.

**Title 2, Section 230-130.4 (C) is deleted in its entirety and replaced by the following:**

230-130.4(C).           Collection Bins

- I.     Permit required; dates of issuance, expiration.
  - a.     It shall be unlawful to erect, place, maintain, or operate any collection bin in unincorporated Gwinnett County without first obtaining a permit issued by Gwinnett County.
  - b.     A permit issued under this Section shall be valid for one year and renewable for one-year periods thereafter.



- c. Collection bins owned and/or operated by one person or entity for the benefit of permit applications for another person or entity require the contact information for both entities.

2. Fee required.

The Fee for the Initial Application and Renewal Applications shall be \$250.00. The Sticker Fee shall be \$25.00. These fees shall remain in effect unless otherwise modified by the Gwinnett County Department of Planning and Development's Fee Schedule.

3. Qualifications of Permittee and Form of Application.

In order to qualify as a Permittee under this Section, an applicant must either be (1) an organization exempt from taxes under 26 U.S.C. § 501(c)(3) of the United States Internal Revenue Code, and in good standing with the State of Georgia; (2) a business organization in good standing with the State of Georgia; or (3) a natural person. The application for a collection bin permit shall include the following information from the applicant:

- a. If the applicant claims to be a qualified nonprofit organization; (1) a copy of the determination letter issued by the Internal Revenue Service stating that the applicant is an organization exempt from taxation under Internal Revenue Code, 26 U.S.C. § 501(c)(3); and (2) a certificate of good standing issued by the Office of the Georgia Secretary of State. If the applicant is a business organization not exempt from taxation, a certificate of good standing issued by the Office of the Georgia Secretary of State. A certificate of good standing must not be older than 3 months at the time of application for a permit.
- b. Name, address, and telephone number of the contact person of the applicant who will agree in writing to be available by telephone between the hours of 8 a.m. to 5 p.m., Monday through Friday, to receive and respond to complaints or other inquiries regarding the permitted collection bin.
- c. Name, address, and telephone number of a person who is authorized by the owner or operator of the collection bin to accept service of process and to accept citations issued by the County on behalf of the applicant for violations of this Section.
- d. Written and signed consent from the Site Host or the Lawful Occupant, if applicable, to place the collection bin on the property, including name, address, and telephone number of the Site Host or Lawful Occupant and the name, address, and telephone number of the person authorized by the Site Host or Lawful Occupant to accept service of process and to accept citations issued by the County on behalf of the Site Host or Lawful Occupant. A copy of the lease, rental agreement, or other instrument between the Site Host or Lawful Occupant and the Permittee shall be

sufficient to satisfy this requirement provided that the lease, rental agreement, or instrument contains the name, address, and telephone number information required above.

- e. Permittee must provide proof to Gwinnett County of a Certificate of Liability Insurance of at least \$1 million covering the liability of the Permittee arising out of the placement and maintenance of a collection bin.
- f. Permittee must provide a closed boundary survey and a site plan drawn to scale which will indicate the zoning of the property, indicate if there are zoning or overlay conditions on the proposed Site, and show the location of any and all existing bins on the Site; show, and label the dimensions of the proposed bin; show the footprint of the principal building for the Site; show and label the front, rear, and side building setbacks on the Site; label concrete or asphalt surfaces; label landscape and planter areas; label and dimension all buffers (if applicable); show and identify adjacent public streets and rights-of-way; provide a dimension of the distance between the collection bin and the public right-of-way; and any other information deemed necessary by the Director.
- g. In addition to the information listed in this Section, the application shall be made on the form provided by the Gwinnett County Department of Planning and Development.
- h. Applications which are not complete when submitted shall be returned to the applicant with a list of items that are missing from the application.
- i. A complete Collection Bin Permit Application meeting all of the requirements set forth in Subsections (C)(2), (C)(3), and (C)(6) of this section, which is submitted to the Gwinnett County Department of Planning and Development with the required application fee, shall be approved or denied within thirty (30) days of its receipt. Any complete application not approved or denied within 30 days shall be deemed to be approved.

#### 4. Proof of Permit.

Gwinnett County shall provide the Permittee with one permit Sticker for each approved permit. The permit Sticker shall be placed in a conspicuous place on the front of the collection bin that is installed on the permitted property. Gwinnett County will provide replacement Stickers for (\$25.00) should the original Sticker become damaged, fall off, or disappear.

#### 5. Management, Maintenance; Requirements.

- a. Permittee must maintain the aesthetic presentation of each collection bin including fresh paint, readable signage, and general upkeep.
- b. Permittee must provide to the County and Site Host or Lawful Occupant a telephone number for requests to respond to collection bin maintenance complaints.

- c. Permittee must respond to complaints within 48 hours of receiving said complaint from the County by telephone during regular business hours of 8:00 a.m. through 5:00 p.m., Monday through Friday. This response may be via telephone and should include a time frame for resolving the complaint.
- d. Permittee must remove graffiti within 48 hours following receipt of notice of its existence by telephone during regular business hours of 8:00 a.m. through 5:00 p.m., Monday through Friday.
- e. If a collection bin becomes damaged or vandalized, it shall be repaired, replaced or removed within five days of receipt of notice of such condition by telephone during regular business hours of 8:00 a.m. through 5:00 p.m., Monday through Friday.
- f. Permittee shall clearly post on its collection bin that no items shall be left outside the collection bin and Permittee shall remove any materials, trash, or other debris placed outside the collection bin within 48 hours following receipt of notice of its existence by telephone during regular business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday.
- g. Collection bins shall have a receiving door that can be closed so that only an authorized representative of the owner may access the items deposited in the collection bin.

6. Location and Placement of Collection Bins.

- a. On parcels of land which constitute ten (10) acres or less, there shall be no more than two collection bins per parcel of land.
- b. On parcels of land greater than ten (10) acres, the Director shall have discretion to allow for one (1) additional collection bin per every two (2) additional acres of land, provided, however, that all bins are separated by at least 500 feet.
- c. Collection bins shall only be permitted on developed property which is zoned C-1, C-2, C-3, M-1, or M-2; or on the premises of a church or school, consistent with all applicable ordinances and policies, within any zoning district. Collection bins located on County-owned properties shall meet the requirements of subsection (C) 6.
- d. Collection bins shall not be located on property if the principal structure is vacant.
- e. Collection bins shall not be placed in a right-of-way, and shall be placed no closer to any adjacent right-of-way than 50 feet or the front or side building plane of the principal structure located on the site, whichever is greater.
- f. Collection bins shall be placed on the Site in a manner that does not impede vehicular or pedestrian traffic flow.
- g. Collection bins shall not be placed in designated parking spaces or reduce the number of parking spaces below the minimum number required by the Unified Development Ordinance, any other Gwinnett County Ordinance, or state law.

- h. Collection bins shall be placed on a concrete or asphalt surface.
- i. Collection bins shall not be placed within any landscape strip, landscaped parking lot island, any type of buffer, or within five feet (5') of a zoning buffer.
- j. Collection bins shall not be placed on sidewalks.
- k. Collection bins shall not be placed within the sight triangle, as defined in The Complete Illustrated Book of Development Definitions, Fourth Edition, and its subsequent revisions, of any intersection and shall not interfere with on-site traffic circulation.
- l. Collection bins located at public libraries shall meet the requirements of subsections a through k above.

7. Information and Label Requirement for all Bins.

Every collection bin shall display the following information in boldface letters at least two inches high located on the front of the collection bin and directly underneath the deposit door or on the deposit door:

- a. The name, address, telephone number, and the Internet Web Address of the Permittee.
- b. Each bin shall meet the requirements set forth by the State of Georgia as found in Title 43, Chapter 17 of the Official Code of Georgia Annotated.

8. Size, Appearance, and Screening of Bins.

- a. Collection bins shall not cover a ground surface area in excess of five feet by five feet, nor be more than seven feet in total height.
- b. The exterior of collection bins shall be of neutral or earth tone color schemes as found in the Architectural Design Standards, Color and Finish Chart found in the Appendix of the Gwinnett County Unified Development Ordinance. High-intensity colors, metallic colors, black, or fluorescent colors shall be prohibited; however, the use of black color for lettering and accent use is not prohibited provided, however, the majority of the bin shall not be black in color.
- c. Collection bins shall be surrounded by a three-sided opaque enclosure not less than six feet in height, with an open side facing away from any public road. Collection bin enclosures shall have a finish consistent with the finish materials of the building facade and conform substantially with the Unified Development Ordinance Design Guidelines.

9. Violations and Penalties.

- a. In addition to any other penalties or remedies prescribed for ordinance violations pursuant to the Official Code of Georgia Annotated and this Unified Development Ordinance, Sections 120-60, 120-70, and 120-80, any person, corporation, company, or entity who places a collection bin

on property prior to receiving a permit shall be subject to a penalty of \$300 for each violation.

- b. In addition to any other penalties or remedies prescribed for ordinance violations pursuant to the Official Code of Georgia Annotated and this Unified Development Ordinance, Sections 120-60, 120-70, and 120-80, if a Permittee is found to have violated any provision of this Section, after notice and opportunity to cure the alleged violation, the Permittee shall be subject to a penalty of \$250.00 for each violation, including but not limited to the following violations:
  - 1. Failure to adequately respond to maintenance request;
  - 2. Failure to maintain collection bins as set forth in Section C(5) above;
  - 3. Failure to adhere to collection bin placement and removal provisions; or as set forth in Section C(6) above;
  - 4. Failure to adhere to all permit requirements.
- c. If a Permittee is found to have violated the provisions of Section 230-130.4(C) and ignores mitigation on more than 3 occasions in a calendar year, the Permittee shall, in addition to all penalties set forth in this Section along with those allowed by the Official Code of Georgia Annotated, be deemed ineligible to place, use, or employ a collection bin, and apply for any renewal permits for collection bins, within the County for a period of one year, and the County may require removal of any or all of such Permittee's collection bins upon 30 days advance notice.

10. Liability; protections.

The Site Host or Lawful Occupant will be held harmless by the Permittee for the removal of an unauthorized collection bin or where removal is necessary to comply with zoning ordinances.