

ORDINANCE NUMBER ____-20__

AN ORDINANCE AMENDING CHAPTER VII (ZONING PERFORMANCE STANDARDS), ARTICLE V, SECTION 7.502 CONDITIONAL USE PERMIT, ARTICLE VIII, ADMINISTRATION, ENFORCEMENT, APPEALS OF THE LAND DEVELOPMENT CODE FOR THE CITY OF WOODSTOCK, GEORGIA.

Whereas, the City of Woodstock, Georgia (hereinafter sometimes referred to as the “City”) is a municipality duly formed and existing pursuant to Georgia law; and

Whereas, the 1983 Constitution of the State of Georgia provides for the self-government of municipalities without the necessity of action by the General Assembly¹; and

Whereas, the City of Woodstock, Georgia, has the legislative power to adopt clearly reasonable ordinances, resolutions or regulations relating to its property, affairs and local government for which no provision has been made by general laws or which are expressly allowed by general laws, and which are not inconsistent with the Constitution or any charter provision applicable thereto²; and

Whereas, the governing body of the City has determined that it is in the best interest of the City and its citizens to adopt the following; and

NOW THEREFORE BE IT RESOLVED, THE MAYOR AND COUNCIL OF THE CITY OF WOODSTOCK, GEORGIA HEREBY ORDAINS:

That the Section 7.502 of Article VII of the Land Development Code of the City of Woodstock, Georgia is hereby amended to add a new paragraph to read as follows:

“Upon issuing a conditional use permit, City Council may choose to attach the conditional use permit to a tax parcel, individual commercial suite or unit, or corporate entity, with or without successors. A conditional use permit is nontransferable to another location.”

See Article VIII for Non-Conforming Use Regulations for Conditional Uses.”

¹ Ga. Const., 1983, Article IX, Section II, Paragraph II provides in pertinent part as follows:

“The General Assembly may provide by law for the self-government of municipalities and to that end is expressly given the authority to delegate its power so that matters pertaining to the municipalities may be dealt with without the necessity of action by the General Assembly. “

²O.C.G.A. § 36-35-3 (a) provides as follows:

“(a) The governing authority of each municipal corporation shall have legislative power to adopt clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs, and local government for which no provision has been made by general law and which are not inconsistent with the Constitution or any charter provision applicable thereto. Any such charter provision shall remain in force and effect until amended or repealed as provided in subsection (b) of this Code section. This Code section, however, shall not restrict the authority of the General Assembly, by general law, to define this home rule power further or to broaden, limit, or otherwise regulate the exercise thereof. The General Assembly shall not pass any local law to repeal, modify or supersede any action taken by a municipal governing authority under this Code section, except as authorized under Code Section 36-35-6.”

That Article VII of the Land Development Code of the City of Woodstock, Georgia is hereby amended to add new sections as follows:

“Section 7.830. Non-Conforming Use Regulations for Conditional Uses.

Section 7.831. Purpose.

The purpose of this section is to apply certain protections to property owners whose property is properly zoned and used by a business operating with a valid conditional use permit or is classified as a legally nonconforming conditional use establishment. Without this section, when a business requiring a conditional use permit ceases to operate, the property owner is required to have any new business obtain a conditional use permit before operating a business with the same conditional use on said property or suite.

Section 7.832. For purposes of this section, the following definitions apply:

- 1.) The term “legally nonconforming” means legitimately operating in the City while noncompliant with the current code due to predating the code(s).
- 2.) The term “property owner” means persons, companies, corporations, partnerships or other business entities that own property within a zone designated as commercial by the City.
- 3.) The term “business operating with a valid conditional use permit” means any company, corporation, partnership or other business entity located in a commercial zone of the City with meets all of the following conditions:
 - (a) The business, if of a type commonly registered with the -Office of the Secretary of State of the State of Georgia must be currently registered and in good standing, or the business, if not of a type commonly registered with the Office of the Secretary of State of the State of Georgia must maintain on file with the City evidence of the type of business entity they are operating; and
 - (b) The business must have a valid and current occupational tax license issued by the City; and
 - (c) The business must have a valid and current conditional use permit issued by the City or fall under the exception granted by this section.
- 4.) The term “ceases to operate” shall mean a business that meets one or more of the following conditions:
 - (~~a~~) Where the interior area of the business structure is designated as patron or retail space meant for public use and more than 70 percent of that area has not been continuously occupied by said use for a period of 30 days or more; or
 - (b) Where the exterior areas and grounds of the business structure constitute necessary and customary use in the conduct of the business, and more than 70 percent of that area has not been continuously occupied by said use for a period of 30 days or more; or

- (c) The City Council declares the business to be non-existing, deemed abandoned or out of business and notifies the property owner; or
 - (d) The occupational tax license for the business has expired; or
 - (e) The conditional use permit for the business has expired.
- (5) The term “same conditional use” means a business that operates in such a manner as to require a conditional use permit from the City that is identical to the type of conditional use permit required by the previous business that is deemed to have ceased to operate.

Section 7.833. Conditional Use Permit Expiration

All property owners whose property is zoned for and used by a business operating with a valid and current conditional use permit, or a conditional use business classified as legally nonconforming shall have a maximum of sixty (60) days from the date that business ceases to operate to use said property for a new business with the same conditional use without the new business having to obtain a conditional use permit from the City. After the 60-day period expires, any nonconforming property and/or business must come in full conformance with all relevant zoning.”

Effective Date. This Ordinance shall take effect immediately upon its adoption.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF WOODSTOCK, GEORGIA, THIS 22 DAY OF February, 2016.

1st Reading: 2/22/16 2nd Reading: N/A Charter Sec. 2.35 (b)

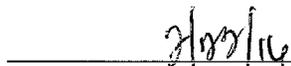


 DONNIE HENRIQUES, MAYOR



 RHONDA L. PEZZELLO, CLERK

Approved as to form:



 ELDON L. BASHAM, CITY ATTORNEY