

TITLE XI:

BUSINESS

REGULATIONS

Chapter 115

Adult Entertainment Establishment Ordinance

CHAPTER 115: ADULT ENTERTAINMENT ESTABLISHMENT ORDINANCE

Sections

- 115.01 Findings - Public Purpose
- 115.02 Definitions
- 115.03 License Required
- 115.04 On-Premise Operator Required
- 115.05 Employee Permit Required
- 115.06 Admission of Minors Unlawful
- 115.07 Location – Development Standards
- 115.08 Adult Entertainment Establishment Employees
- 115.09 Application for License
- 115.10 Application Contents
- 115.11 Owner and Operator to Appear
- 115.12 Investigation
- 115.13 License Renewal
- 115.14 Licenses Non-Transferable
- 115.15 Adult Entertainment Establishments – Change of Location or Name
- 115.16 Consumption of Alcohol on Premises Prohibited
- 115.17 Revocation and Appeal
- 115.18 Criminal Penalties
- 115.19 Unlawful Operation Declared Nuisance
- 115.20 Notices, Registered Agent, Jurisdiction
- 115.21 Conditions of Adult Entertainment Establishment Approval
- 115.22 Miscellaneous

§ 115.01 FINDINGS – PUBLIC PURPOSE

Based upon the experience of other urban counties and municipalities, which experiences we believe are relevant to the problems faced by Pike County, Georgia, and based upon a review of a compilation of reports and studies summarizing the criminal activities, decrease in property value, increased law enforcement costs, and increased community blight surrounding adult entertainment facilities, we take note of the notorious and self-evident conditions attendant to the commercial exploitation of human sexuality, which do not vary greatly among generally comparable communities within our country. Moreover, it is the finding of the Pike County Board of Commissioners that public nudity (either partial or total) under certain circumstances, in so called “nude bars” or establishments offering so-called “nude entertainment” or “adult entertainment,” begets criminal behavior and tends to create undesirable community conditions. Among the undesirable community conditions identified with public nudity are depression of property values in the surrounding neighborhood, increased expenditure for the allocation of law enforcement personnel to preserve law and order, increased burden on the judicial system as a consequence of the criminal behavior herein above described, and acceleration of community blight by the concentration of such establishments in particular areas. The Board of Commissioners of Pike County finds that it is in the best interest of the health, welfare, safety and morals of the community to enact regulations to reduce the possible adverse impacts of adult entertainment establishments. However, the Board of Commissioners also finds that the outright prohibition of such establishments could improperly infringe upon protected forms of expression. Therefore, the purpose of this Ordinance is to reasonably regulate adult entertainment establishments in a manner that serves the legitimate governmental interest of reducing criminal

activity and protecting property values without unreasonably infringing upon the protected rights of adult entertainment establishments and their patrons.
(Ord. Passed 02-24-09)

§115.02 DEFINITIONS

The following terms used in this Ordinance shall have the meanings indicated below:

- (A) **ADULT ENTERTAINMENT.** Performances or other services by topless and/or bottomless dancers, strippers, similar entertainers, or other persons where such activities are characterized by the display or exposure of specified anatomical areas.
- (B) **ADULT ENTERTAINMENT ESTABLISHMENT.** A nightclub, cabaret, lounge or other establishment which features adult entertainment. Any commercial establishment, which has as its primary purpose or business the offer for sale of any book, publication, or film which depicts nudity, or sexual conduct or engages in services such as bath houses, massage parlors, wrestling parlors or like activity which features adult entertainment.
- (C) **ALCOHOLIC BEVERAGE.** Alcoholic Beverage is currently defined by Georgia State Law as any beverage that contains alcohol, distilled spirits, beer, malt beverage (beverage containing fermented barley, malt, hops, or any other similar product), wine, or fortified wine (See OCGA §3-1-2)
- (D) **CHURCH.** A building in which persons regularly assemble for religious worship intended primarily for purposes connected with such worship, or for propagating a particular form of religious belief.
- (E) **GOOD MORAL CHARACTER.** A person is of good moral character if that person has not been convicted of a drug-related or alcohol-related felony or sex-related crime in the past 5 years.
- (F) **LICENSED DAYCARE CENTER.** A day care center licensed by the State of Georgia and/or Pike County that provides care, training, education, custody, treatment or supervision for children under 14 years of age, where such children are not related by blood, marriage or adoption to an owner or operator of the facility.
- (G) **MINOR.** Any person under 18 years of age.
- (H) **OPERATOR.** The manager or other person principally in charge of an Adult Entertainment Establishment.
- (I) **OWNER(S).** If a sole proprietorship, the proprietor; if a partnership, all partners (general and limited); if a corporation, all officers, directors and persons holding at least 10% of the outstanding shares.
- (J) **RESIDENTIAL.** Pertaining to the use of land, means premises such as homes, townhomes, patio homes, mobile homes, duplexes, condominiums or apartment complexes, which contain habitable rooms for non-transient occupancy and which are designed primarily for living, sleeping, cooking, and eating therein.
- (K) **SCHOOL.** A facility where persons regularly assemble for the purpose of instruction or education including any playgrounds, stadiums, or other structures and grounds used in conjunction therewith. This shall include but not be limited to public and private schools used for primary, secondary, or post-secondary education.
- (L) **SPECIFIED ANATOMICAL AREAS.** Shall include any of the following:
 - (1) Less than completely and opaquely covered human genitals or pubic region; buttock; or female breast below a point immediately above the top of the areola.
 - (2) Human male genitalia in a discernibly turgid state, even if completely and opaquely covered.

(Ord. Passed 02-24-09)

§115.03 LICENSE REQUIRED

It shall be unlawful for any person, association, firm, partnership, or corporation to engage in, conduct or carry on, in or upon any premises within Pike County, an Adult Entertainment Establishment without a valid Adult Entertainment Establishment License to do so. The issuance of such license shall not be deemed to authorize, condone, or make legal any activity or conduct that is illegal or unlawful under the laws of the State of Georgia or the United States. The annual license fee for an Adult Entertainment Establishment shall be established from time to time by resolution of the Board of Commissioners.

(Ord. Passed 02-24-09)

§115.04 ON-PREMISE OPERATOR REQUIRED

An Adult Entertainment Establishment shall have a designated person(s) to serve as an on-premise operator. The operator(s) shall be principally in charge of the establishment and shall be located on the premises during operating hours.

(Ord. Passed 02-24-09)

§115.05 EMPLOYEE PERMIT REQUIRED

It shall be unlawful for any person to be employed by an Adult Entertainment Establishment without a permit issued under the terms of this Ordinance. For the purposes of this section, the term "employee" includes an "independent contractor".

(Ord. Passed 02-24-09)

§115.06 ADMISSION OF MINORS UNLAWFUL

- (A) It shall be unlawful to allow a person younger than 18 years of age to enter an Adult Entertainment Establishment.
- (B) It shall be the duty of the operator to ensure that an attendant is stationed at each public entrance to the establishment at all times during the establishment's operating hours. It shall be the duty of the attendants to not allow any person under the age of 18 years to enter the establishment. It shall be presumed that an attendant knew a person was under the age of 18 unless such attendant asked for and was furnished:
 - (1) A valid operator's, commercial operator's or chauffeur's driver's license; or
 - (2) A valid personal identification certificate issued by the Georgia Department of Public Safety reflecting that such person is 18 years of age or older.
- (C) Violation of this section shall be punishable as a misdemeanor of a high and aggravated nature.

(Ord. Passed 02-24-09)

§115.07 LOCATION - DEVELOPMENT STANDARDS

- (A) Adult Entertainment Establishments shall only be located and authorized as a special exception within the appropriate zoning districts of Pike County, Georgia.
- (B) No Adult Entertainment Establishment shall be located within one thousand (1,000) feet of any of the following:
 - (1) Any parcel of land which is zoned for residential uses or purposes.
 - (2) Any parcel of land upon which a church, school, licensed day care center, governmental building simultaneously owned and occupied by such government, library, civic center, neighborhood public park or neighborhood playground is located.
 - (3) Any parcel of land upon which another Adult Entertainment Establishment is located.

For purposes of this section, measurement of distances shall be from property line to property line along the shortest possible straight line, regardless of any customary or

common route or path of travel (i.e. "as the crow flies"). The term "parcel of land" shall mean any quantity of land capable of being described by location and boundary, designated and used or to be used as a unit, and duly recorded in Pike County, Georgia.

- (C) The minimum lot area for an Adult Entertainment Establishment shall be one (1) acre with a minimum 200 feet of road frontage on a public right-of-way.
 - (D) Buildings and structures established in connection with an Adult Entertainment Establishment shall be set back at least 40 feet from any property line and shall have a minimum of 20 feet planted buffer.
 - (E) A minimum of one (1) parking space shall be provided for each and every employee plus 1 space for every 3 customer seats or 1 parking space for every 100 square feet of gross building area, whichever is greater.
 - (F) Merchandise or activities of the establishment shall not be visible from any point outside the establishment.
 - (G) Any and all Signage must be authorized and/or expressly permitted in accordance with the Pike County Sign Ordinance.
- (Ord. Passed 02-24-09)

§115.08 ADULT ENTERTAINMENT ESTABLISHMENT EMPLOYEES

- (A) Employees of an Adult Entertainment Establishment shall not be less than 18 years of age. Every employee must be of good moral character as defined in this Ordinance. Any employee who is convicted of a sex-related crime, or drug-related or alcohol-related felony while employed as an Adult Entertainment Establishment employee, shall not thereafter be employed by any Adult Entertainment Establishment licensed under this Ordinance for a period of five (5) years from the date of such conviction, unless a longer time is ordered by a court of competent jurisdiction. The term convicted shall include an adjudication of guilt or a plea of guilty. The term "while employed as an Adult Entertainment Establishment employee" shall include all work done or services performed while in the scope of employment elsewhere than on the licensed premises.
- (B) Before any person may be employed by an Adult Entertainment Establishment, he or she shall file an application for an Adult Entertainment Establishment employee permit with the Director of Planning and Development or designee and receive approval for such an employee permit. An investigation fee of (\$150.00) shall accompany the application. Each applicant shall provide a signed and notarized consent, on forms prescribed by the Georgia Crime Information Center, authorizing the release of the applicant's criminal records to the Pike County Sheriff's Department. The County shall have 30 days (from the date of application) to investigate information contained in the application. Any applicant who has been convicted of a sex-related crime, drug-related or alcohol-related felony or a crime of moral turpitude shall be presumed not to be of good moral character and therefore the application should be denied. If the prospective employee is found to be of good moral character, the Director of Planning and Development or designee will approve the permit and the prospective employee may begin working on the licensed premises. If approval is denied, the prospective employee may, within 10 days of said denial, make appeal to the Board of Commissioners of Pike County.
- (C) No patron, dancer, or other employee of an Adult Entertainment Establishment shall, while on the premises of an Adult Entertainment Establishment, commit the offense of public indecency as defined in O.C.G.A. §16-6-8. For purposes of this section, the term "employee" shall include an "independent contractor."
- (D) The employee permit of any employee who violates laws and regulations of the State of Georgia or any provision of this Ordinance shall be subject to revocation.

- (E) For the purpose of this Ordinance, independent contractors shall be considered employees and shall be permitted as such, regardless of the business relationship with the owner or licensee of any Adult Entertainment Establishment.
- (Ord. Passed 02-24-09)

§115.09 APPLICATION FOR LICENSE

- (A) Any person, association, firm, partnership, or corporation desiring to obtain a license to operate, engage in, conduct or carry on any Adult Entertainment Establishment shall make application to the Director of Planning and Development. The application must be made in the name of the Adult Entertainment Establishment and include the names of the operator and each owner as defined in this Ordinance. The application shall be accompanied by a non-refundable regulatory fee, established from time to time by resolution of the Board of Commissioners of Pike County, to defray, in part, the cost of investigation and report required by this Ordinance. Payment of the regulatory fee described herein shall be in addition to payment of occupational tax.
- (B) The license application does not authorize the engaging in, operation of, conduct of or carrying on of any Adult Entertainment Establishment.
- (C) The Director of Planning and Development prior to accepting an application shall schedule two separate public meetings a minimum of 15 days apart at which time the public would be informed as to the location and nature of the desired business. All costs need to be paid by the entity applying for the AE license.
- (Ord. Passed 02-24-09)

§115.10 APPLICATION CONTENTS

Each application for an Adult Entertainment Establishment license shall contain the following information and documentation:

- (A) The proposed establishment's name, street address (and mailing address if different), and telephone number(s).
- (B) The name and street address(es) (and mailing address if different) of the owner(s). The name, street address(es) (and mailing address if different), and Georgia driver's license number of the intended operator(s).
- (C) A general description of services and entertainment to be provided.
- (D) The legal description of the parcel of land on which the establishment is to be located.
- (E) The business, occupation and employment history of each owner and operator for five (5) years immediately preceding the date of application.
- (F) If any owner or operator has had an Adult Entertainment Establishment license or similar type of license denied, revoked or suspended, then the violation(s) that led to the denial, suspension or revocation as well as the date(s) and disposition of such, including any fine or sentence imposed, and whether or not the terms of the disposition have been completed.
- (G) If any owner or operator has been convicted of any crime involving good moral character in the past 5 years, a complete description of such crime including date of violation, date of conviction, jurisdiction and any disposition, including fines or sentences imposed and whether the terms of disposition have been fully completed.
- (H) If the establishment does or proposes to do business under a trade name, then a copy of the trade name as properly recorded.
- (I) If the establishment is a Georgia corporation, then a certified copy of the articles of incorporation, together with all amendments thereto; and the most recent annual report.
- (J) If the establishment is a foreign corporation, then a certified copy of the certificate of authority to transact business in the State of Georgia, together with all amendments thereto; and the most recent annual report.

- (K) If the establishment is a limited partnership formed under the laws of Georgia, then a certified copy of the certificate of limited partnership, together with all amendments thereto, filed in the office of the County Clerk.
 - (L) If the establishment is a foreign limited partnership, a certified copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto.
 - (M) A plat by a registered engineer or surveyor, licensed by the State of Georgia, certifying that the location of the proposed premises is not inconsistent with the provisions contained in Section 7 of this Ordinance respecting location and development standards.
 - (N) The application shall contain a statement under oath that:
 - (1) The person(s) signing the application have personal knowledge of the information contained in the application and that the information contained therein is true and correct; and
 - (2) The person(s) signing the application have read the provisions of this Ordinance.
 - (O) The application shall be signed by the operator and each owner.
 - (P) The operator and each owner shall provide a signed and notarized consent, on forms prescribed by the Georgia Crime Information Center, authorizing the release of their criminal records to the Pike County Sheriff's Department.
 - (Q) The written consent of a registered agent as required by Section 19(a) of this Ordinance.
 - (R) Items (h) through (l) above shall not be required for a renewal application if the applicant states that documents previously furnished with the original application or previous renewals thereof, remain correct and current.
- (Ord. Passed 02-24-09)

§115.11 OWNER AND OPERATOR TO APPEAR

At least 1 owner as defined in this Ordinance, shall personally appear at all public hearings scheduled pursuant to Section 12 of this Ordinance.
(Ord. Passed 02-24-09)

§115.12 APPLICATION - INVESTIGATION

- (A) Within 15 working days of receipt of the application, the Director of Planning and Development or designee shall review the application and send a copy to all affected departments of Pike County to determine compliance with County laws and regulations, and to the Pike County Sheriff's Department to investigate the character and reputation of each owner and operator. Each notified department shall submit a report within 15 working days to the Zoning Administrator. If no report is received, it shall be concluded that there is no objection.
- (B) The Director of Planning and Development or designee shall prepare and cause to be published, a notice of public hearing for each pending application. Such notice shall include the date, time, and place of the public hearing; the location or street number of the proposed Adult Entertainment Establishment, and the name of each owner and operator. The applicant shall pay all publication costs. The notice shall be published in a newspaper of general circulation within the County, and shall appear once a week for 2 consecutive weeks immediately preceding the public hearing. The Director of Planning and Development or designee shall post a "notice of public hearing sign" on the subject property during this advertisement period.
- (C) The Board of Commissioners of Pike County may approve the license at the public hearing upon finding that:
 - (1) The required fee has been paid.
 - (2) The application conforms in all respects to the provisions of this Ordinance.

- (3) No owner or operator knowingly made a material misrepresentation in the application.
 - (4) Each owner and operator has fully cooperated in the investigation of his application.
 - (5) Each owner and operator is of good moral character as defined in this Ordinance.
 - (6) No owner or operator has had an Adult Entertainment Establishment license or other similar license or permit denied, suspended or revoked for cause involving moral character by this County or any other unit of government located in or out of this state prior to the date of application.
 - (7) The building, structure, equipment, or location of the proposed Adult Entertainment Establishment will comply with all applicable Pike County zoning and development standards.
 - (8) Each owner and operator is at least 21 years of age.
 - (9) No owner or operator has within 5 years of the date of application, committed or knowingly allowed another to commit the crime of public indecency, as defined in O.C.G.A. §16-6-6, upon the premises of an Adult Entertainment Establishment or similar business.
 - (10) The location of the proposed Adult Entertainment Establishment is not inconsistent with the provisions of Section 8 of this Ordinance respecting location and development standards.
 - (11) The approval of such license will not cause a violation of this or any other ordinance or regulation of Pike County, State of Georgia, or the United States.
 - (12) The registered agent's written consent has been provided.
 - (D) If the license is approved, it shall be issued jointly in the name of the establishment and each owner and operator.
 - (E) The issuance of an Adult Entertainment Establishment license shall not authorize any other conduct or activity regulated by other County ordinances, including but not limited to the provisions of the Pike County Code regarding Alcoholic Beverages.
 - (F) The licensee shall post with the Director of Planning and Development or designee a \$10,000.00 cash bond or surety bond payable to the Board of Commissioners of Pike County subject to the licensee's faithful performance of the provisions of this Ordinance. All surety bonds shall be issued by a surety licensed to do business in the State of Georgia and listed on the U.S. Treasury list as an "approved surety".
- (Ord. Passed 02-24-09)

§115.13 LICENSE RENEWAL

Licenses for Adult Entertainment Establishments may be renewed on a calendar year basis provided that licensees continue to meet the requirements set out in this Ordinance. The renewal fee for an Adult Entertainment Establishment license shall be established from time to time by resolution of the Board of Commissioners of Pike County. Renewal applications shall be submitted by November 15th of each year prior to January 1st of the year for which such permit is requested. The form for renewal applications shall be furnished by the Director of Planning and Development or designee.

(Ord. Passed 02-24-09)

§115.14 LICENSES NON-TRANSFERABLE

No Adult Entertainment Establishment license may be sold, transferred or assigned by a licensee, or by operation of law, to any other person or persons. Any such sale, transfer or assignment, or attempted sale, transfer or assignment, shall be deemed to constitute a voluntary surrender of such license and such license shall thereafter be null and void; provided and excepting however, that if the licensee is a partnership and one or more of the partners should die, one or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without effecting a surrender or termination of such license. In such case, upon notification to the County, the license shall be placed in the name of the surviving partner. An Adult Entertainment Establishment license issued to a corporation shall be deemed terminated and void when either any outstanding stock of the corporation is sold, transferred or assigned after the issuance of a license, or any stock not issued at the time of the granting of a license is thereafter issued.

(Ord. Passed 02-24-09)

§115.15 ADULT ENTERTAINMENT ESTABLISHMENTS-CHANGE OF LOCATION OR NAME

- (A) No Adult Entertainment Establishment shall move from the location specified on its license until a change of location fee, established by resolution of the Board of Commissioners of Pike County, has been deposited with the County, and approval has been obtained from the Board of Commissioners. Such approval shall not be given unless all applicable requirements and regulations have been met.
- (B) No licensee shall operate, conduct, manage, engage in, or carry on an Adult Entertainment Establishment under any name other than the name of the business, and his name as specified on the license.
- (C) Any application for an extension or expansion of a building or other place of business where an Adult Entertainment Establishment is located shall require inspection and compliance with the provisions and regulations of this Ordinance.

(Ord. Passed 02-24-09)

§115.16 CONSUMPTION OF ALCOHOL ON PREMISES PROHIBITED

No alcohol shall be consumed on the premises of any Adult Entertainment Establishment.

(Ord. Passed 02-24-09)

§115.17 REVOCATION AND APPEAL

- (A) The Director of Planning and Development or designee shall be authorized to suspend or revoke an Adult Entertainment Establishment license under the conditions set forth in this Section. In the event the Director of Planning and Development or designee seeks to suspend or revoke a license, the Director of Planning and Development or designee shall give written notification to the licensee of such action, and such notice shall contain a specification of the violation(s).
- (B) The Director of Planning and Development or designee may suspend or revoke a license in the event of any of the following:
 - (1) A licensee gave false or misleading information in the application or renewal process.
 - (2) A licensee knowingly allowed possession, use, or sale of controlled substances on the premises, the licensee knowingly allowed the consumption of alcohol on the premises, or the licensee did not make a reasonable effort to prevent such occurrence(s).

- (3) A licensee violated or knowingly allowed violation of this Adult Entertainment Establishment Ordinance, any other ordinance of the County, or any criminal law of the State of Georgia to occur on the premises; or the licensee did not make a reasonable effort to prevent such violation(s).
- (4) A licensee has been convicted of any drug-related, alcohol-related, or sex-related crime by the State of Georgia or Pike County regarding any offense which was committed on the premises, or which would otherwise violate the provisions of this Ordinance.
- (5) A licensee failed to pay any fee, license fee, fine or other amount of money due to Pike County under this Ordinance or any other ordinance of Pike County.
- (C) In the event that the Director of Planning and Development or designee determines that a license violation has occurred, such license shall be suspended for 30 days for the first violation. For a second violation, the license shall be suspended for 60 days. For a third and all subsequent violation(s), the license shall be suspended for 90 days. Any license that has been suspended 3 or more times in any consecutive 12-month period, shall be revoked. In addition, any licensee found to be in violation of Sections 6(a) and 8(c) of this Ordinance shall be subject to immediate license revocation, provided however, that the licensee shall be allowed to continue business operations until the date of the hearing scheduled in accordance with subsection (e) hereafter. No licensee or any other applicant may apply for a license for the same premises during any period of suspension or revocation.
- (D) In the event of license suspension or revocation by the Director of Planning and Development or designee, the licensee may appeal the decision of the Director of Planning and Development or designee to the Board of Commissioners by filing a written notice of appeal with the Director of Planning and Development or designee within 10 days from the effective date of written notice received by licensee in accordance with subsection (a) of this Section. The notice of appeal shall be accompanied by a memorandum or other writing, setting out fully the grounds for such appeal and all arguments in support thereof. The Director of Planning and Development or designee may submit a memorandum in response to the memorandum filed by the licensee upon appeal to the Board of Commissioners. The Director of Planning and Development or designee's decision shall be final unless an appeal is timely filed. An appeal shall stay the Director of Planning and Development or designee's decision until the appeal is heard or withdrawn. The Director of Planning and Development or designee shall place the appeal on the agenda of the next regular Board of Commissioner's meeting occurring not less than 5, nor more than 30 days after receipt of the appeal.
- (E) When an appeal is placed on the Board of Commissioner's agenda, the Commission may take either of the following actions:
 - (1) Set a hearing date before the Board of Commissioners and instruct the Director of Planning and Development or designee to give such notice of hearing as may be required by law; or
 - (2) Appoint a hearing officer and fix the time and place for hearing. The hearing officer may or may not be a County employee, and may be appointed for an extended period of time. The Director of Planning and Development or designee shall assume responsibility for such publication of notice of the hearing as may be required by law. If a hearing officer is appointed, the hearing shall be conducted in accordance with the procedures set out in this Ordinance.In either event, the hearing shall be held within 30 days of the Board of Commissioner's action, unless a continuance of such date is agreed to by the licensee and the Director of Planning and Development or designee.

- (F) At any hearing, the hearing officer (or the Board of Commissioners if a hearing officer is not appointed) shall receive oral and written testimony regarding the appeal. Hearings shall be conducted under rules issued by the hearing officer or Board of Commissioners, which shall be consistent with rules applied in administrative proceedings, and shall ensure that each party may present evidence, cross-examine witnesses, and be represented by legal counsel.
- (G) If the hearing is held before the Board of Commissioners, the Commissioners may sustain, overrule, or modify the action of the Director of Planning and Development or designee. Appeals from the decision of the Board of Commissioners shall be to the Superior Court of Pike County, and filed within 30 days of the Board of Commissioners' decision. The decision of the Board of Commissioners shall otherwise be final.
- (H) If the hearing is held before a hearing officer, the hearing officer shall, within a reasonable time not exceeding 15 days from the termination date of such hearing, submit a written report to the Board of Commissioners. Such report shall contain a brief summary of the evidence considered, and state the findings, conclusions and recommendation. The report shall recommend that the Board of Commissioners sustain, overrule, or modify the action of the Director of Planning and Development or designee. The report shall be filed with the Director of Planning and Development or designee, and shall be considered public record. A copy of such report shall be forwarded by certified mail to the appellant on the same day it is filed with the Director of Planning and Development or designee. An additional copy shall be furnished to the Pike County Sheriff's Department. The Director of Planning and Development or designee shall place the hearing officer's report on the agenda of the next regular Board of Commissioners meeting occurring not less than 10 days after the report is filed. The Director of Planning and Development or designee shall also notify the appellant of the date of such meeting at least 10 days prior to the meeting unless the appellant stipulates to a shorter notice period.
- (I) The Board of Commissioners may adopt or reject the hearing officer's decision in its entirety or may modify the proposed recommendation. The Board of Commissioners shall base its determination on the hearing officer's report and other evidence in the record. No additional evidence or arguments shall be permitted at the Board of Commissioner's meeting. If the Board of Commissioners do not adopt the hearing officer's recommendation, it may:
 - (1) Refer the matter to the same or another hearing officer for a de novo hearing, or for the taking of additional evidence on specific points, and in either of such cases the hearing officer shall proceed as provided in this Ordinance; or
 - (2) Decide the case upon a review of the entire record before the hearing officer, with or without taking additional evidence.

(Ord. Passed 02-24-09)

§115.18 CRIMINAL PENALTIES

- (A) Any person, firm or corporation operating an Adult Entertainment Establishment within Pike County without having obtained a license as provided in this Ordinance, shall be guilty of a misdemeanor as found by a court of competent jurisdiction, and upon conviction thereof, shall be fined in an amount of not less than \$500.00 nor more than \$1,000.00. If convicted of a misdemeanor of a high and aggravated nature, the penalty shall be no more than \$5,000.00. Each day the Adult Entertainment Establishment is operated without a license, it shall constitute a separate offense and shall be punishable as such.

- (B) Any person, firm or corporation who violates any provision of this Ordinance shall be guilty of a misdemeanor and upon conviction, shall be fined in an amount not less than \$500.00 nor more than \$1,000.00. If convicted of a misdemeanor of a high and aggravated nature, the penalty shall be no more than \$5,000.00. Each violation thereof shall constitute a separate offense and shall be punishable as such.

(Ord. Passed 02-24-09)

§115.19 UNLAWFUL OPERATION DECLARED NUISANCE

Any Adult Entertainment Establishment operated, conducted or maintained contrary to the provisions of this Ordinance shall be and the same is hereby declared to be unlawful and a public nuisance. The County may, in addition to, or in lieu of prosecuting a criminal action hereunder, commence action(s) or proceeding(s) for abatement, removal or injunction thereof, in a manner provided by law. The County may take such other steps and may apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such Adult Entertainment Establishment and restrain and enjoin any person from operating, conducting or maintaining an Adult Entertainment Establishment contrary to the provisions of this Ordinance.

(Ord. Passed 02-24-09)

§115.20 NOTICES, REGISTERED AGENT, JURISDICTION

(A) All licensed establishments must have and continuously maintain in Pike County a registered agent upon whom any process, notice or demand required or permitted by law or under this Ordinance to be served upon the licensee, may be served. This person shall act as registered agent for the operator and each owner collectively. This person must be a resident of Pike County. The operator may be appointed as the registered agent if he or she is a resident of Pike County. The licensee shall file the name of such agent, along with the written consent of such agent, with the Director of Planning and Development or designee as part of the license application. By appointing such registered agent, and as a condition of the issuance of a license pursuant to the terms of this Ordinance, the licensee agrees that any legal action brought by the County against the Adult Entertainment Establishment or the licensee (which includes the operator or any owner) to enforce the provisions of the Ordinance, may be filed in any court of competent jurisdiction in Pike County, Georgia.

(B) Any notice required or permitted to be given by the Director of Planning and Development or designee or any office, division, department or other agency under this Ordinance to any licensee, operator or owner of an Adult Entertainment Establishment, may be given by either:

- (1) Personal delivery; or
- (2) By certified United States mail addressed to licensee's registered agent at the most recent address specified in the agent's written consent form received by the Director of Planning and Development or designee, or any notice of address change which has been received by the Zoning Administrator. If personally delivered, the notice's effective date shall be the date of delivery. If mailed, the notice's effective date shall be two (2) days after the notice is placed in the mail.

(Ord. Passed 02-24-09)

§115.21 CONDITIONS OF ADULT ENTERTAINMENT ESTABLISHMENT APPROVAL

- (A) All Adult Entertainment Establishments shall be kept in a clean, sanitary condition, and shall be in full compliance with all applicable ordinances and regulations of Pike County, and the State of Georgia.
 - (B) The Pike County Health Department shall have the authority to regularly inspect Adult Entertainment Establishments to determine compliance with all applicable health rules and regulations and report any violation to the Zoning Administrator.
 - (C) The Inspectors of Pike County, including but not limited to building inspectors and code enforcement inspectors, shall have the authority to regularly inspect Adult Entertainment Establishments to determine compliance with all applicable fire, building and technical regulations and report any violations to the proper department including but not limited to Planning and Development and/or the Pike County Sheriff's Office.
 - (D) The Pike County Sheriff's Department shall have the authority to periodically inspect Adult Entertainment Establishments to determine compliance with all provisions of this Ordinance or other applicable laws and report any violations to the Director of Planning and Development or designee.
- (Ord. Passed 02-24-09)

§115.22 MISCELLANEOUS

- (A) Nothing contained in this Ordinance shall be deemed to permit or condone any activity whatsoever which is otherwise declared to be obscene or illegal by any applicable code, regulation, or statute which violates any jurisdictional prohibition upon nudity or sexual activity. Further, the activities and uses which are regulated and permitted by this Ordinance shall only be allowed if they are not obscene and not in violation of any other such prohibitions on nudity or sexual activity. This paragraph shall supersede and limit all other provisions of this Ordinance.
 - (B) It is hereby declared to be the intention of Pike County that the sections, paragraphs, sentences, clauses and phrases of this enactment are severable. If any phrase, clause, sentence, paragraph or section hereof shall be declared unconstitutional by a court of competent jurisdiction, such declaration shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.
 - (C) This Ordinance shall become effective immediately upon its second reading and adoption by the Pike County Board of Commissioners. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed. As provided herein, this Ordinance shall become part of the Code of Ordinances of Pike County, Georgia.
- (Ord. Passed 02-24-09)

Chapter 116 – The Code of Pike County Georgia was amended by repealing Chapter entitled “Fire District Ordinance” in its entirety

(Amd. Ord. Passed 12-29-10)

Cross-Reference Chapter 32.02)