

COUNTY OF FULTON

**A RESOLUTION TO AMEND ARTICLE IV OF THE CHARTER OF THE CITY OF SANDY SPRINGS RELATING TO THE MUNICIPAL COURT SO AS TO INCREASE THE AGE FOR SERVING AS A JUDGE, CLARIFY THE POSITION AND DUTIES OF A JUDGE, ESTABLISH THE POSITION OF CLERK OF THE COURT, SPECIFY THE CLERK'S DUTIES, ESTABLISH A PROCEDURE FOR ADOPTING RULES AND REGULATIONS FOR THE COURT, AND AUTHORIZE THE COUNCIL TO DEFRAY THE COST OF OPERATION WITH REASONABLE FEES**

**WHEREAS**, Article IV of the Charter of the City of Sandy Springs provides for the creation of a municipal court, a judge of the court, convening of the court, the jurisdiction and powers of the court, certiorari, and rules for the court; and

**WHEREAS**, the Mayor and the City Council have determined that some of the criterion for and duties of a judge need clarifying and that it is in the interests of the court, the city, and its residents that the position of Clerk of the Court be established and that duties be assigned the clerk in order to facilitate the operations of the court; and

**WHEREAS**, Article IX, Section II, Paragraph II of the Constitution of the State of Georgia, entitled Home Rule for Municipalities, allows the General Assembly of the State of Georgia to provide by law for the self-government of municipalities, which the General Assembly has done with The Municipal Home Rule Act of 1965, O.C.G.A. §36-35-1 et seq.; and

**WHEREAS**, O.C.G.A. §36-35-3 allows municipal charters to be amended by ordinances duly adopted at two regular consecutive meetings of the municipal governing authority, not less than seven nor more than 60 days apart; and

**WHEREAS**, a notice containing a synopsis of the proposed amendment to the charter is required to be published in the official organ of the county of the legal situs of the municipal corporation once a week for three weeks within a period of 60 days immediately preceding its final adoption, and to be available for examination and inspection by the public in the office of the Clerk of the City of Sandy Springs, Georgia and in the office of the Clerk of the Superior Court of Fulton County, Georgia; and

**WHEREAS**, the recording officer of the municipal governing authority is required to furnish anyone, upon written request, a copy of the proposed amendment;

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Sandy Springs, GA while in special session on August 29, 2006 at 6:00 p.m as follows:

**Section 1.** That the Charter of the City of Sandy Springs be amended in accordance with the above so that upon proper passage Sections 4.01, 4.02, 4.03, 4.04(a) and (b), and 4.06 of Article IV of the Charter shall read as follows:

**“Article IV  
Municipal Court**

**Section 4.01.  
Creation.**

There is established a court to be known as the Municipal Court of the City of Sandy Springs which shall have jurisdiction and authority to try offenses against the laws and ordinances of said city and to punish for a violation of the same. Such court shall have the power to enforce its judgments by the imposition of such penalties as may be provided by law, including ordinances of the city; to punish witnesses for nonattendance and to punish also any person who may counsel or advise, aid, encourage, or persuade another whose testimony is desired or material in

any proceeding before said court to go or move beyond the reach of the process of the court; to try all offenses within the territorial limits of the city constituting traffic cases which, under the laws of Georgia, are placed within the jurisdiction of municipal courts to the extent of, and in accordance with, the provisions of such laws and all laws subsequently enacted amendatory thereof. When in session, the municipal court shall be presided over by the Chief Judge of the court and in the absence or disqualification of the Chief Judge by such other judges as may be appointed by the council.

#### Section 4.02.

##### Judges.

- (a) No person shall be qualified or eligible to serve as judge unless he or she shall have attained the age of 25 years and shall have been a member of the State Bar of Georgia for a minimum of three years.
- (b) All judges shall be appointed by resolution by the council and shall serve for a term of four (4) years. The position of judge may or may not be a full-time position, and the person serving in this position may engage in the practice of law; provided, however, a judge may not appear and represent a client before the court. The compensation of all judges shall be fixed by the council by resolution.
- (c) Before entering on duties of his or her office, the appointed judges shall take an oath before an officer duly authorized to administer oaths in this state declaring that he or she will truly, honestly, and faithfully discharge the duties of his or her office to the best of his or her ability without fear, favor, or partiality. The oath shall be entered upon the minutes of the council.
- (d) A judge of the municipal court shall serve for the designated term, but may be removed from the position by a two-thirds vote of the entire membership of the city council or upon action taken by the State Judicial Qualifications Commission for:
  - (1) Willful misconduct in office;
  - (2) Willful and persistent failure to perform duties;
  - (3) Habitual intemperance;
  - (4) Conduct prejudicial to the administration of justice which brings the judicial office into disrepute; or
  - (5) Disability seriously interfering with the performance of duties, which is, or is likely to become, of a permanent character.

#### Section 4.03.

##### Administration.

- (a) The position of Clerk of the Court is created. The clerk shall be appointed by the City Manager and shall serve at the pleasure of the City Manager.
- (b) The clerk of the court shall be responsible for all record keeping of the court and the bill keeping and collection of all fines received by the court.
- (c) In addition, the clerk of the court shall serve as administrator of the court, supervising all personnel of the court, setting times and dates for convening of the court, preparing the court docket, scheduling of judges to preside over the court sessions, and for such other services as may be assigned by resolution or ordinance of the council.

#### Section 4.04:.

##### Jurisdiction; Powers.

- (a) The municipal court shall try and punish for crimes against the City of Sandy Springs and for violation of its ordinances. The municipal court shall have authority to punish those in its presence for contempt, provided that such punishment shall not exceed \$200.00 or imprisonment for 15 days. The municipal court may impose punishment for offenses within its jurisdiction to the full extent allowed by state law.
- (b) The council shall have authority to establish a schedule of reasonable fees to defray the cost of operation.

#### Section 4.06.

##### Rules for Court.

The clerk of the court, taking into consideration recommendations and suggestions made by the judges, and with the approval of the council, shall have the authority to make reasonable rules and regulations necessary and proper to secure the efficient and successful administration of the municipal court."

**Section 2.** That a notice be published in the Fulton County Daily Report once a week for three weeks which shall read as follows:

**"NOTICE OF PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF SANDY SPRINGS, GEORGIA:**

"Pursuant to O.C.G.A. §36-35-3, notice is hereby given that a Resolution has been passed by the City Council of Sandy Springs, Georgia to approve the introduction of an Ordinance to amend Article IV of the Charter so as to increase the age for serving as a judge, clarify the position and duties of a judge, establish the position of Clerk of the Court, specify the Clerk's duties, establish a procedure for adopting rules and regulations for the court, and authorize the council to defray the cost of operation with reasonable fees. A copy of this proposed amendment is on file in the office of the Clerk of Sandy Springs, Georgia and in the office of the Clerk of the Superior Court of Fulton County, Georgia for the purpose of examination and inspection by the public."

**Section 3.** That the Clerk of the City of Sandy Springs shall see that a copy of the proposed Amendment to the Charter is kept on file both in the City Clerk's office and in the Office of the Clerk of the Superior Court of Fulton County, Georgia for inspection and examination by the public.

**Section 4.** That the office of the Clerk of the City of Sandy Springs shall see that a copy of the proposed amendment be provided to anyone requesting same in writing.

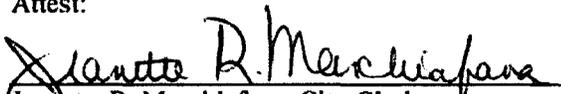
**Section 5.** That the Title of the proposed Ordinance be read at two consecutive meetings of the City Council of the City of Sandy Springs not less than seven nor more than 60 days apart and the publication and other requirements set forth above shall be effected immediately, the Title of the proposed Ordinance shall be read at the next regularly scheduled meeting of the City Council and if adopted shall be read for the required second time at a subsequent regularly scheduled meeting of the City Council which shall be consecutive and within 60 days, and after publishing of the required notice, all as required by Georgia law.

APPROVED AND ADOPTED this 29<sup>th</sup> day of August, 2006.

Approved:

  
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Eva Galambos, Mayor

Attest:

  
\_\_\_\_\_  
Jeanette R. Marchiafava, City Clerk  
(Seal)

