

**ORDINANCE NO. 2006-09-74**

**STATE OF GEORGIA**

**COUNTY FULTON**

**AN ORDINANCE 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 that seven nor more than 60 days apart; and

WHEREAS, a Resolution was approved and adopted on August 29, 2006, by the City Council while in special session to amend the Charter by Ordinance as set forth above and pursuant to O.C.G.A. §36-35-3 the required notice has been published in the Fulton County Daily Report once a week for three weeks prior to its final adoption, and a copy of the proposed amendment has been on file in the Office of the Clerk of Sandy Springs and in the Office of the Clerk of the Superior Court of Fulton County, Georgia, all as required by law; and

WHEREAS, the required notice will have been published within the statutory period of 60 days immediately preceding the final adoption of this Ordinance amending the Charter; and

WHEREAS, the title of this Ordinance shall have been read and the Ordinance duly adopted at two consecutive City Council meetings not less than 7 nor more than 60 days apart as required by Georgia law;

NOW, THEREFORE, in accordance with O.C.G.A. §36-35-3 the Mayor and City Council of the City of Sandy Springs, Georgia, pursuant to their authority, do hereby adopt this Ordinance so that the Charter of the City of Sandy Springs is hereby amended by deleting in its entirety the current Sections 4.01, 4.02, 4.03,

4.04(a) and (b), and 4.06 of Article IV of the Charter and substituting the following as Section 4.01, 4.02, 4.03, 4.04(a) and (b), and 4.06, amended, which shall henceforth 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 convened, the municipal court shall be presided over by a judge of the court.

**Section 4.02.  
Judge.**

- (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 shall 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.

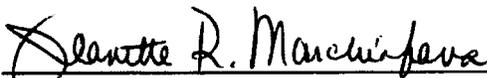
The judges, by majority vote, shall have authority to make reasonable rules and regulations necessary and proper for addressing the operations of the municipal court. The clerk of the court, as administrator of the court, shall prepare reasonable rules and regulations necessary and proper to secure the efficient and successful administration of the municipal court. All rules shall be subject to the approval of the council.”

SO ORDAINED this 19<sup>th</sup> day of September, 2006.

Approved:

  
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Eva Galambos, Mayor

Attest:

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



First Reading and Adoption on September 5, 2006.

Second Reading and Adoption on September 19, 2006.