

**AN ORDINANCE TO AMEND ARTICLE 3, DEFINITIONS, OF THE CITY OF SANDY
SPRINGS ZONING ORDINANCE**

WHEREAS, the Mayor and City Council of the City of Sandy Springs find that from time to time it is necessary to amend sections of the Zoning Ordinance to correct, clarify, and update the provisions of the Ordinance; and

WHEREAS, the Mayor and City Council desire to establish policies that provide the maximum protection of the general welfare, health, morals, and safety of the residents of the city; and

WHEREAS, the Mayor and City Council are authorized to enact ordinances which have the effect of restricting the operation of adult establishments to areas zoned for commercial or industrial purposes, pursuant to O.C.G.A. § 36-60-3; and

WHEREAS, the Mayor and City Council find it necessary to clarify definitions relating to adult establishments; and

NOW, THEREFORE, to accomplish the foregoing, the Mayor and City Council of the City of Sandy Springs, Georgia, pursuant to their authority, do hereby adopt the following Ordinance:

1.

Chapter 3, *Definitions*, Section, 3.3, *Definitions*, Section 3.3.1, *A*, of the City of Sandy Springs Zoning Ordinance is hereby amended by the deletion of Adult bookstore and the definition thereof in its entirety and the following is inserted therefor:

Adult bookstore. A commercial establishment or facility licensed to do business in the city having 25 percent or more of its display area, for any form of consideration including, but not limited to, sales or rental, any one or more of the following materials:

- (1) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, videocassettes, CDs, DVDs or other video reproductions, or slides or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, as defined herein; or
- (2) Instruments, devices, novelties, toys or other paraphernalia that are designed for use in connection with specified sexual activities as defined herein or otherwise emulate, simulate, or represent "specified anatomical areas" as defined in the Adult Entertainment Licensing Ordinance.

2.

Chapter 3, *Definitions*, Section, 3.3, *Definitions*, Section 3.3.1, *A*, of the City of Sandy Springs Zoning Ordinance is hereby amended by the insertion of Adult business and the definition thereof:

Adult business. Either: (1) Any business other than those expressly specified in this article, where employees, independent contractors or patrons expose specified anatomical areas or engage in specified sexual activities; or
(2) Any other business or establishment which offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing, discussing or relating to specified sexual activities or specified anatomical areas.

3.

Chapter 3, *Definitions*, Section, 3.3, *Definitions*, Section 3.3.1, *A*, of the City of Sandy Springs Zoning Ordinance is hereby amended by the insertion of Adult dancing establishment and the definition thereof:

Adult dancing establishment. A business that features dancers displaying or exposing specified anatomical areas.

4.

Chapter 3, *Definitions*, Section, 3.3, *Definitions*, Section 3.3.1, *A*, of the City of Sandy Springs Zoning Ordinance is hereby amended by the deletion of Adult entertainment establishment and the definition thereof in its entirety and the following is inserted therefor:

Adult entertainment establishment. Any establishment or facility licensed to do business in Sandy Springs where adult entertainment is regularly sponsored, allowed, encouraged, condoned, presented, sold, or offered to the public, including but not limited to an adult dancing establishment, encounter center or rap establishment or erotic dance establishment. This definition shall not include traditional or mainstream theater which means a theater, movie theater, concert hall, museum, educational institution or similar establishment or facility which regularly features live or other performances or showings which are not distinguished or characterized by an emphasis on the depiction, display, or description or the featuring of "specified anatomical areas" or "specified sexual activities" in that the depiction, display, description or featuring is incidental to the primary purpose of any performance. Performances and showings are regularly featured when they comprise 90% of all performances or showings.

5.

Chapter 3, *Definitions*, Section, 3.3, *Definitions*, Section 3.3.1, *A*, of the City of Sandy Springs Zoning Ordinance is hereby amended by the insertion of Adult establishment and the definition thereof:

Adult establishment. Any adult bookstore, adult dancing establishment, adult entertainment establishment, adult business, adult motion picture theater, adult mini-motion picture theatre, adult movie house, explicit media outlet, adult hotel or motel, adult motion picture arcade, erotic dance establishment, or encounter center or rap establishment, as herein defined which may be distinguished or characterized by an emphasis on matter depicting, describing, relating to specified sexual activities and/or specified anatomical areas.

6.

Chapter 3, *Definitions*, Section, 3.3, *Definitions*, Section 3.3.1, *A*, of the City of Sandy Springs Zoning Ordinance is hereby amended by the insertion of Adult hotel or motel and the definition thereof:

Adult hotel or motel. A hotel or motel wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

7.

Chapter 3, *Definitions*, Section, 3.3, *Definitions*, Section 3.3.1, *A*, of the City of Sandy Springs Zoning Ordinance is hereby amended by the insertion of Adult mini-motion picture theater and the definition thereof:

Adult mini-motion picture theater. An enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

8.

Chapter 3, *Definitions*, Section, 3.3, *Definitions*, Section 3.3.1, *A*, of the City of Sandy Springs Zoning Ordinance is hereby amended by the insertion of Adult motion picture arcade and the definition thereof:

Adult motion picture arcade. Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

9.

Chapter 3, *Definitions*, Section, 3.3, *Definitions*, Section 3.3.1, *A*, of the City of Sandy Springs Zoning Ordinance is hereby amended by the insertion of Adult motion picture theater and the definition thereof:

Adult motion picture theater. An enclosed building with a capacity of 50 or more persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

10.

Chapter 3, *Definitions*, Section, 3.3, *Definitions*, Section 3.3.1, *A*, of the City of Sandy Springs Zoning Ordinance is hereby amended by the insertion of Adult movie house and the definition thereof:

Adult movie house. Any movie theater which on regular, continuing basis shows films rated "X" by the Motion Picture Coding Association of America or any movie theater

which presents for public viewing on a regular, continuing basis so-called "adult films" depicting sexual conduct.

11.

Chapter 3, *Definitions*, Section, 3.3, *Definitions*, Section 3.3.3, *C*, of the City of Sandy Springs Zoning Ordinance is hereby amended by the insertion of Colleges and Universities and the definition thereof:

Colleges and Universities. Any educational facility operated by a private organization or local county, or state that provides training or education beyond and in addition to that training received in grades kindergarten to twelfth, including but not limited to, trade, business and vocational schools; any institution of higher learning, consisting of an assemblage of colleges united under one corporate organization or government, affording instruction in the arts and sciences and the learned professions, and conferring degrees.

12.

Chapter 3, *Definitions*, Section, 3.3, *Definitions*, Section 3.3.5, *E*, of the City of Sandy Springs Zoning Ordinance is hereby amended by the insertion of Encounter center or rap establishment and the definition thereof:

Encounter center or rap establishment. Any business, agency or person who, for any form of consideration or gratuity, provides a place where two or more persons may congregate, assemble or associate for the primary purpose of engaging in, describing or discussing specified sexual activities, or exposing specified anatomical areas.

13.

Chapter 3, *Definitions*, Section, 3.3, *Definitions*, Section 3.3.5, *E*, of the City of Sandy Springs Zoning Ordinance is hereby amended by the insertion of Erotic dance establishment and the definition thereof:

Erotic dance establishment. a nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers, go-go dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

14.

Chapter 3, *Definitions*, Section, 3.3, *Definitions*, Section 3.3.5, *E*, of the City of Sandy Springs Zoning Ordinance is hereby amended by the insertion of Explicit media outlet and the definition thereof:

Explicit media outlet. Any commercial establishment which has an inventory of goods that is composed of at least fifty percent of books, pamphlets, magazines, or other printed publications, films, or other media which depict sexually explicit nudity or sexual conduct.

15.

Chapter 3, *Definitions*, Section, 3.3, *Definitions*, Section 3.3.16, *P*, of the City of Sandy Springs Zoning Ordinance is hereby amended by the insertion of Park and the definition thereof:

Park. Any lands or facility owned, operated, controlled or managed by any county, city or federal government or any governmental entity in and upon which recreational activities or places are provided for the recreation and enjoyment of the general public.

16.

Chapter 3, *Definitions*, Section, 3.3, *Definitions*, Section 3.3.19, *S*, of the City of Sandy Springs Zoning Ordinance is hereby amended by the deletion of Schools, Colleges, and Universities and the definition thereof in its entirety.

17.

Chapter 3, *Definitions*, Section, 3.3, *Definitions*, Section 3.3.19, *S*, of the City of Sandy Springs Zoning Ordinance is hereby amended by the insertion of School and the definition thereof:

School. Any educational facility established under the laws of the state (and usually regulated in matters of detail by local authorities), in the various districts, counties, or towns, maintained at the public expense by taxation, and open, usually without charge, to all residents of the city, town or other district or private facility which has students regularly attending classes and which teach subjects commonly taught in these schools of this state.

18.

Chapter 3, *Definitions*, Section, 3.3, *Definitions*, Section 3.3.19, *S*, of the City of Sandy Springs Zoning Ordinance is hereby amended by the insertion of Sexual conduct and the definition thereof:

Sexual conduct. Acts of masturbation, homosexuality, sodomy, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, or buttocks, or, if such person is female, breast which, to the average person, applying contemporary community standards, taken as a whole, lacks serious literary, artistic, political, or scientific value and predominantly appeals to the prurient interest, that is, a shameful or morbid interest in nudity or sex.

19.

Chapter 3, *Definitions*, Section, 3.3, *Definitions*, Section 3.3.19, *S*, of the City of Sandy Springs Zoning Ordinance is hereby amended by the insertion of Sexually explicit nudity and the definition thereof:

Sexually explicit nudity. A state of undress so as to expose the human male or female genitals or pubic area with less than full opaque covering or the depiction of covered or uncovered male genitals in a discernibly turgid state which, to the average person, applying contemporary community standards, taken as a whole, lacks serious literary,

artistic, political, or scientific value and predominantly appeals to the prurient interest, that is, a shameful or morbid interest in nudity or sex.

20.

Chapter 3, *Definitions*, Section, 3.3, *Definitions*, Section 3.3.19, S, of the City of Sandy Springs Zoning Ordinance is hereby amended by the insertion of Specified sexual activities and the definition thereof:

Specified sexual activities shall include any of the following:

- (1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relations, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty;
- (2) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence;
- (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;
- (4) Fondling or touching of nude human genitals, pubic region, buttocks or female breast;
- (5) Masochism, erotic or sexually oriented torture, beating or the inflicting of pain;
- (6) Erotic or lewd touching, fondling or other sexual contact with an animal by a human being; or
- (7) Human excretion, urination, menstruation, vaginal or anal irrigation.

21.

All ordinances, parts of ordinances, or regulations in conflict herewith are repealed.

22.

Severability. Should any court of competent jurisdiction declare any section of this Ordinance invalid or unconstitutional, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof, which is not specifically declared to be invalid or unconstitutional.

23.

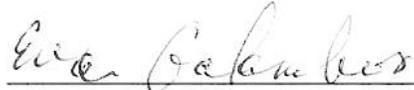
Repeal of Conflicting Provisions. It is the intention of the Mayor and Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances, City of Sandy Springs, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention.

24.

This Ordinance is effective August 19, 2008; and

ORDAINED this the 19th day of August, 2007.

Approved:



Eva Galambos, Mayor

Attest:



Christina Rowland, City Clerk
(Seal)

