

**AN ORDINANCE TO AMEND ARTICLE 19, ADMINISTRATIVE PERMITS AND USE PERMITS, 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 regulations 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 19, *Administrative Permits and Use Permits*, Section, 19.3, *Administrative Permits*, Section 19.3.20, *Adult Bookstore*, of the City of Sandy Springs Zoning Ordinance is hereby amended as follows:

19.3.20. ADULT BOOK STORE.

INTENT AND FINDINGS

It is the intent of this article to regulate the place of operation of adult book stores as defined in this Zoning ordinance. The City Council finds, based upon an October, 1980, study by the Minnesota Crime Prevention Center, Inc., Minneapolis, Minnesota, entitled "An Analysis of the Relationship Between Adult Entertainment Establishments, Crime, and Housing Values", that adult book stores are significantly related to diminishing market values of neighboring residential areas, that adult book stores should not be located in residential areas, and that adult book stores should be permitted only in locations that are at least 1/10 mile, or approximately 500 feet, from residential areas.

The City Council further finds, based upon a June, 1978, study by the Division of Planning of the St. Paul, Minnesota, Department of Planning and Economic Development and the Community Crime Prevention Project of the Minnesota Crime Control Planning Board entitled "Effects on

Surrounding Area of Adult Entertainment Businesses in Saint Paul", that the presence of adult book stores correlates with a decreasing market value of neighboring residential areas, that adult book stores tend to locate in areas of poorer residential condition, tend to be followed by a relative worsening of the residential condition, and that more than two adult entertainment businesses in an immediate area is associated with a statistically significant decrease in residential property market value, and that such a concentration of adult entertainment businesses in a given area should be discouraged. The board also finds that such worsening of residential conditions will adversely affect uses found in residential areas or in the proximity of residential areas, such as public recreational facilities, public or private institutional uses, churches, schools, universities, colleges, trade-schools, libraries, and day care centers.

The City Council further finds, based upon a May 19, 1986, land use study conducted in Austin, Texas, that an adult book store within one block of a residential area decreases the market value of homes, that adult book stores are considered a sign of decline by lenders, making underwriters hesitant to approve the 90-95 percent financing many home buyers require, and that patrons of adult book stores tend to be from outside the immediate neighborhood in which the adult book store is located.

The City Council further finds, based upon a March 3, 1986, study conducted by the Oklahoma City, Oklahoma, Community Development Department entitled "Adult Entertainment Businesses in Oklahoma City - A Survey of Real Estate Appraisers", that an adult bookstore will have a negative effect on residential property market values if it is located closer than one block to residential uses.

The City Council further finds that this portion of this zoning ordinance regarding regulation of adult book stores was carefully considered by a work group of Fulton County staff drawn from the areas of law enforcement, land use, land planning, and law; by the planning commission at public meetings open to the citizens of Sandy Springs where public comment was available; and by a committee of citizens with expertise in law, real estate, land use, and other disciplines, who have reviewed this portion of the zoning ordinance particularly with respect to its provisions relating to the effects of adult book stores on market values of residential and other property, and that the information gathered and results of this informal study support the need for these development standards.

This portion of the zoning ordinance is intended to be a carefully tailored regulation to minimize the adverse land use impacts caused by the undesirable secondary effects of adult bookstores, and the City Council finds that restricting adult book stores to industrially zoned areas and imposing development standards can legitimately regulate adult book stores by establishing zones where adult book stores are most compatible

with other uses or the surrounding neighborhood, and by requiring minimum distances to be maintained between adult bookstore uses and other uses so as to afford the most protection to residential uses.

It is not the intent of the City Council, in enacting this portion to the zoning ordinance, to deny to any person rights to speech protected by the United States or Georgia Constitutions, nor is it the intent to impose any additional limitations or restrictions on the contents of any communicative materials, including sexually-oriented films, videotapes, books, or other materials; further, in the adoption of this amendment to the zoning ordinance, the City Council does not intend to deny or restrict the rights of any adult to obtain or view any sexually oriented materials protected by the United States or Georgia Constitutions, nor does it intend to restrict or deny any constitutionally protected rights that distributors or exhibitors of such sexually-oriented materials may have to sell, distribute, or exhibit such constitutionally protected materials; finally, in the enactment of this portion of the zoning ordinance, the City Council intends to adopt a content neutral measure to address the secondary effects of adult bookstores in continuation of practices that previously applied to the citizens of the now incorporated City of Sandy Springs as when they were formerly citizens residing in unincorporated Fulton County.

The city council hereby re-adopts and incorporates these pre-enactment findings and evidence into the adoption of the following code amendments, such amendments being made to clarify and shorten distance requirements.

- 19.3.20. A. Required Districts: C-1, C-2, M-1 and M-2
- 19.3.20. B. Standards:
  - 1. All boundary lines of the property included within the administrative permit as filed must be located at least 300 feet from the properties listed below:
    - a. The property line of Suburban A, Suburban B, Suburban C, R-1, R-2, R-2A, R-3, R-3A, R-4A, R-4, R-5, R-5A, R-6, NUP, CUP, TR, A, A-L, AG-1 zoned property or property conditioned for residential purposes.
    - b. The property line of any public park, public recreational fields, public recreational courts, public golf course, public playground, public playing field, government building owned and occupied by such government, library, civic center, public or private school, commercial day care facility or church.

2. No premises for an adult establishment shall be located any closer than 400 feet from any other premises for an adult establishment. For the measurement required by this subsection, distance shall be measured from the nearest entrance to the public of the structure or tenant space in which the applicant is located to the nearest entrance to the public of the structure or tenant space in which the other licensed premises for an adult establishments is located.
3. Submit with the application for an administrative Permit, a certified boundary survey by a licensed surveyor of the site and the property lines of surrounding properties identifying the use of properties at or within 1,000 feet of the boundary lines of the subject property.
4. If the adult book store is to be located in an existing structure where a land disturbance permit is not required, an existing building permit review application must be filed and determined by the Department of Community Development to be in compliance with the terms of this zoning ordinance prior to any occupancy. An action on any permits sought hereunder shall be acted upon by the Department of Community Development no later than fourteen (14) days from the submission of a request for an administrative permit. In the event the Department of Community Development fails to act within the fourteen (14) day period the premises shall be deemed approved and permitted.
5. Permitted curb cut access shall be from a major thoroughfare.
6. No depiction of anatomical areas or sexual activities specified in the definition of "adult entertainment" shall be visible from outside the structure or on signage outside the structure.

19.3.20 C. Permit Request:

Notwithstanding any other provision herein, any material omission or untrue or misleading information contained in or left out of a request for an administrative permit shall be grounds for denial of said permit.

19.3.20 D. Permit Processing:

The City shall have 14 days (unless the request is suspended by failure of the applicant to provide data, information or records as reasonably requested by the City and required by this code, to complete the investigation) from receipt of a request for an administrative permit to make a decision in which to grant or deny an administrative permit. An action on any permits sought hereunder shall be acted upon by the Department of Community Development no later than fourteen (14) days from the submission of a complete request for an administrative permit.

In the event the Department of Community Development fails to act within the fourteen (14) day period the premises shall be deemed approved and permitted.

19.3.20 E. Denial of Administrative Permit:

In the event a request for an administrative permit is denied, the applicant shall be notified in writing of such denial with 5 business days by U.S. Mail. The applicant may appeal the denial decision by filing an appeal with the Mayor and City Council within 10 days of the date of notification. The Mayor and City Council shall place the appeal down for a hearing at its next regularly scheduled meeting at which time the Mayor and City Council shall determine whether the permit should be granted or denied. In the event the Mayor and City Council fail to make a decision at said meeting the permit shall be deemed approved and granted. A denial by the Mayor and City Council may be appealed within 30 days to the Superior Court by writ of Certiorari.

19.3.20 F. Permit Application:

Nothing in this section shall allow for the conducting or zoning of any business or entity which would otherwise be illegal.

2.

Chapter 19, *Administrative Permits and Use Permits*, Section, 19.3, *Administrative Permits*, Section 19.3.21, *Adult Entertainment Establishments*, of the City of Sandy Springs Zoning Ordinance is hereby amended as follows:

19.3.21 ADULT ENTERTAINMENT ESTABLISHMENTS.

INTENT

It is the intent of this Section to regulate the place and manner of the operation of businesses or facilities that offer Adult Entertainment as defined in this ordinance. It is well established and has been the experience of other communities in Georgia and throughout the United States that adult entertainment, which includes public nudity, has been associated with and may encourage disorderly conduct, prostitution and sexual assault. This Section advances the substantial government interest in promoting and protecting public health, safety, and general welfare, maintaining law and order and prohibiting public nudity. The Section is narrowly constructed to protect the First Amendment rights of citizens of Sandy Springs while furthering the substantial governmental interest of combating the secondary effects of public nudity and adult entertainment from areas and uses of the community which are incompatible. Areas and uses which are to be protected from adult entertainment include but are not limited to residential, churches, day care centers, libraries, recreational facilities, and schools. The city council hereby re-adopts and incorporates these pre-enactment findings

and evidence into the adoption of the following code amendments, such amendments being made to clarify and shorten distance requirements.

19.3.21. A. Required Districts: C-1, C-2, M-1 and M-2

19.3.21. B. Standards:

1. All boundary lines of the property included within the administrative permit must be located at least 300 feet from the properties listed below:
  - a. The property line of Suburban A, Suburban B, Suburban C, R-1, R-2, R-2A, R-3, R-3A, R-4A, R-4, R-5, R-5A, R-6, NUP, CUP, TR, A, A-L, AG-1 zoned property or property conditioned for residential purposes.
  - b. The property line of any public park, public recreational fields, public recreational courts, public golf course, public playground, public playing field, government building owned and occupied by such government, library, civic center, public or private school, commercial day care facility or church.
2. No premises for an adult establishment shall be located any closer than 400 feet from any other premises for an adult establishment. For the measurement required by this subsection, distance shall be measured from the nearest entrance to the public of the structure or tenant space in which the applicant is located to the nearest entrance to the public of the structure or tenant space in which the other licensed premises for an adult establishments is located.
3. No licensed premises for an adult establishment that features adult entertainment shall be located any closer than 50 feet from any premises authorized and licensed to sell alcoholic beverages or malt beverages or wine for consumption on the premises. For the measurement required by this subsection, distance shall be measured from the nearest entrance to the public of the structure or tenant space in which the applicant is located to the nearest entrance to the public of the structure or tenant space in which the premises authorized and licensed to sell alcoholic beverages or malt beverages or wine for consumption on the premises is located.

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4. Submit with the application for an Administrative Permit, a certified boundary survey of the site and the property lines of surrounding properties identifying the use of properties at or within 1,000 feet of the boundary lines of the subject property.
5. No final land disturbance permit, building permit, certificate of occupancy, or building permit review certificate may be issued until the approved City of Sandy Springs Adult Entertainment Business License is filed with the Director of the Department of Community Development. An action on any permit or certificate sought hereunder shall be acted upon by the Department of Community Development no later than fourteen (14) days from the submission of an application or request. In the event the Department of Community Development fails to act within the fourteen (14) day period the premises shall be deemed approved, permitted and having a certificate of occupancy.
6. If the adult entertainment business is to be located in an existing structure where a Land Disturbance Permit is not required, an existing building permit review application must be filed and approved in the Department of Community Development prior to any occupancy. An action on any permit sought hereunder shall be acted upon by the Department of Community Development no later than fourteen (14) days from the submission of an application for an existing building permit review. In the event the Department of Community Development fails to act within the fourteen (14) day period the premises shall be deemed approved and permitted.
7. Parking spaces at a ratio of 10 per 1000 gross square feet of floor space shall be provided.
8. Permitted curb cut access shall be directly from a major thoroughfare.
9. On-premise signs shall not display lewd or graphic depictions of body parts or acts which are defined in Article and Subsection 3.3.1.
10. No adult entertainment shall be visible from outside the structure.

19.3.21 C. Permit Applications:

Notwithstanding any other provision herein, any material omission or untrue or misleading information contained in or left out of an application for an administrative permit shall be grounds for denial of said permit.

19.3.21 D. Permit Processing:

The City shall have 14 days (unless the request is suspended by failure of the applicant to provide data, information or records as reasonably requested by the City and required by this code, to complete the investigation) from receipt of a complete request for an administrative permit to make a decision in which to grant or deny an administrative permit. An action on any permits sought hereunder shall be acted upon by the Department of Community Development no later than fourteen (14) days from the submission of a complete request for an administrative permit. In the event the Department of Community Development fails to act within the fourteen (14) day period the premises shall be deemed approved and permitted.

19.3.21 E. Denial of Administrative Permit:

In the event a request for an administrative permit is denied, the applicant shall be notified in writing of such denial with 5 business days by U.S. Mail. The applicant may appeal the denial decision by filing an appeal with the Mayor and City Council within 10 days of the date of notification. The Mayor and City Council shall place the appeal down for a hearing at its next regularly scheduled meeting at which time the Mayor and City Council shall determine whether the permit should be granted or denied. In the event the Mayor and City Council fail to make a decision at said meeting the permit shall be deemed approved and granted. A denial by the Mayor and City Council may be appealed within 30 days to the Superior Court by writ of Certiorari.

19.3.21 F. Permit Application:

Nothing in this section shall allow for the conducting or zoning of any business or entity which would otherwise be illegal.

3.

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

4.

*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.

5.

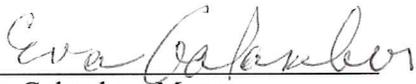
*Repeal of Conflicting Provisions.* It is the intention of the Mayor and Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances, City of Sandy Springs, Georgia and the sections of this Ordinance may be renumbered to accomplish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

6.

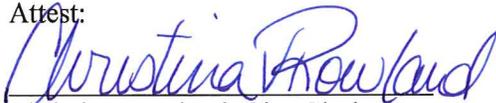
This Ordinance is effective August 19, 2008; and

**ORDAINED** this the 19<sup>th</sup> day of August, **2008**

Approved:

  
Eva Galambos, Mayor

Attest:

  
Christina Rowland, City Clerk  
(Seal)

