STATE OF GEORGIA
COUNTY OF FULTON

AN ORDINANCE AMENDING SECTION 3.3.1, SECTION 3.3.5, SECTION 3.3.18, SECTION 3.3.19, SECTION 4.3.1, AND SECTION 19.3.20, AND REPEALING SECTION 19.3.21, OF THE ZONING ORDINANCE OF THE CITY OF SANDY SPRINGS

WHEREAS, the Mayor and City Council of the City of Sandy Springs are charged with the protection of the public health, safety, and welfare of the citizens of Sandy Springs; and

WHEREAS, the State of Georgia authorizes the City of Sandy Springs to exercise regulations where it sees fit to maintain the safety and welfare of the citizens; and

NOW, THEREFORE, to accomplish the foregoing, the Mayor and City Council of the City of Sandy Springs, Georgia while in regular session on April 21, 2009 at 6:00 p.m., pursuant to their authority, do hereby ordain that sections within the Zoning Ordinance of the City of Sandy Springs are hereby amended as follows.

Section 1. Section 3.3.1 of the Zoning Ordinance of the City of Sandy Springs, Georgia is hereby amended to read as follows:

3.3.1. A

Accessory Site Feature. Mechanical, electrical and ancillary equipment, cooling towers, mechanical penthouses, heating and air conditioning units and/or pads, exterior ladders, storage tanks, processing equipment, service yards, storage yards, exterior work areas, loading docks, maintenance areas, dumpsters, recycling bins, and any other equipment, structure or storage area located on a roof, ground or building.

Adjoin. To have a common border with. Adjoin may also mean coterminous, contiguous, abutting and adjacent.

Administrative Minor Variance. A variance to the minimum district yard requirements of not more than 1 foot, granted administratively by the Director of Community Development.

Administrative Modification. A change to an approved condition of zoning that constitutes only a technical change and does not involve significant public interest as determined by the Director of Community Development.

Administrative Variance. A request for relief from: 1) the standards contained in Article 34, Development Regulations, 2) a request to reduce the 10 foot improvement setback adjacent to buffers or 3) a request for 10% reduction of parking spaces as required in Article 18.2.4.

Adult Bookstore. A commercial establishment or facility in the city that maintains 25 percent or more of its floor area for the display, sale, and/or rental of the following items (aisles and walkways used to access these items shall be included in "floor area" maintained for the display, sale, and/or rental of the items):

(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 their emphasis upon the display 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 herein.

Adult Entertainment. Live conduct characterized by the display of specified anatomical areas. None of the definitions contained in this section shall be construed to permit any act that is in violation of any city, county or state law.

Adult entertainment establishment. Any establishment or facility in Sandy Springs where adult entertainment is regularly sponsored, allowed, presented, sold, or offered to the public.

Adult establishment. Any adult bookstore, adult entertainment establishment, adult motion picture theater, or adult motion picture arcade.

Adult motion picture arcade. A commercial establishment 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 regularly 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 upon matter displaying specified sexual activities or specified anatomical areas.

Adult motion picture theater. A commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas are regularly shown to more than five persons for any form of consideration.

Alternative Antenna Support Structure. Clock towers, campaniles, free standing steeples, light structures and other alternative designed support structures that camouflage or conceal antennas as an architectural or natural feature (not to include man made trees).

Amateur Radio Antenna. Radio communication facility that is an accessory structure to a single family residential dwelling operated for non-commercial purposes by a Federal Communication Commission licensed amateur radio operator. The term antenna shall include both the electronic system and any structures it is affixed to for primary support.

Antenna. Any exterior apparatus designed for telephone, radio, or television communications through the sending and/or receiving of electromagnetic waves.

Apartment. A building which contains three or more dwelling units either attached to the side, above or below another unit. Apartment may also refer to a dwelling unit attached to a non-residential building. (See Dwelling, Multi-Family)

Appeal. A request for relief from a decision made by the Director of Community Development, other department directors, the Board of Appeals, and/or the City of Council.

Applicable Wall Area. The wall on which a wall sign is attached including all walls and windows that have the same street or pedestrian orientation. All open air spaces shall be excluded from the applicable wall area.

Attic. An unheated storage area located immediately below the roof.

Automotive Garage. A use primarily for the repair, replacement, modification, adjustment, or servicing of the power plant or drive-train or major components of automobiles and motorized vehicles. The repair of heavy trucks, equipment and automobile body work shall not be included in this use. The outside storage of unlicensed and unregistered vehicle is prohibited as part of this use. (See Auto Specialty Shop and Service Station)

Automotive Specialty Shop. A use which provides one or more specialized repair sales and/or maintenance functions such as the sale, replacement, installation or repair of tires, mufflers, batteries, brakes and master cylinders, shock absorbers, instruments (such as speedometers and tachometers), radios and sound systems or upholstery for passenger cars, vans, and light trucks only. No use authorized herein shall permit any private or commercial activity which involves auto/truck leasing, painting, repair or alteration of the auto body, nor shall any repair, replacement, modification, adjustment, or servicing of the power plant or drive-train or cooling system be permitted, except that minor tune-up involving the changing of spark plugs, points or condenser, including engine block oil changes, are permitted. (See Repair 3.3.18 and Service Station 3.3.19)

Section 2. Section 3.3.5 of the Zoning Ordinance of the City of Sandy Springs, Georgia is hereby amended to read as follows:

3.3.5 E

Environmentally Adverse. Any use or activity which poses a potential or immediate threat to the environment and/or is physically harmful or destructive to living beings as described in the Executive Order 12898 regarding Environmental Justice.

Environmentally Stressed Community. A community exposed to a minimum of two environmentally adverse conditions resulting from public and private municipal (e.g., solid waste and wastewater treatment facilities, utilities, airports, and railroads) and industrial (e.g., landfills, quarries and manufacturing facilities) uses.

Section 3. Section 3.3.18 of the Zoning Ordinance of the City of Sandy Springs, Georgia is hereby amended to read as follows:

3.3.18 R

Recreational Court, Private. An improved area designed and intended for the playing of a game or event such as basketball or tennis, and which serves a single family dwelling(s), duplex dwellings and/or multi-family dwellings, or combinations of dwelling types, including such improved areas which are owned and/or controlled by a neighborhood club or similar organization. A basketball goal adjoining a driveway of typical residential driveway dimensions shall not constitute a recreational court.

Recreational Court, Public. An improved area designed and intended for the playing of a game or event such as basketball or tennis, and is operated as a business or as a club unless such club is a neighborhood club or similar organization identified under Recreational Court, Private.

Recreational Facilities. Includes parks, recreation areas, golf courses, playgrounds, recreation counters (indoor & outdoor), playing fields, and other similar uses or facilities.

Recreation Fields - An outside area designed and equipped for the conduct of sports and leisure-time activities including but not limited to softball, soccer, football, and field hockey.

Recreational Vehicle. A vehicle used for leisure time activities and as a dwelling unit while traveling. Examples include a camper, a motor home and a travel trailer. As distinguished from a mobile home, dimensions shall not exceed a width of eight and one-half (8.5) feet and a length of forty five (45) feet.

Recycling Center, collecting. Any facility utilized for the purpose of collecting materials to be recycled including, but not limited to, plastics, glass, paper and aluminum materials. Such use may be principal or accessory to a non-residential use on non-residentially zoned property, except AG-1 zoned properties unless, the primary use is a permitted non-residential use.

Recycling Center, processing. Any facility utilized for the purpose of collecting, sorting and processing materials to be recycled including, but not limited to, plastics, glass, paper and aluminum materials whenever such use is permitted in M-1 and M-2 Zoning Districts. A recycling center is not to be considered a landfill.

Regularly. The consistent and repeated doing of an act on an ongoing basis.

Relocated Residential Structure. A dwelling which has been removed from one location for relocation to another lot.

Repair Garage, Automobile. A use which may provide a full-range of automotive repairs and services including major overhauls. May include paint and body shops.

Repair Garage, Truck and Heavy Equipment. A use which may provide a full-range of repairs and services including major overhauls on trucks and heavy equipment. Includes paint and body shops.

Residential Use\Dwelling. Any building or portion thereof where one actually lives or has his home; a place of human habitation

Restaurant. A food service use which involves the preparation and serving of food to seated patrons. A cafeteria shall also be considered to be a restaurant. The restaurant seating area must be at least 40% of the gross square footage of the restaurant facility. Seating space located outside of the main structure (i.e. patios, decks, etc.) shall not be included in calculating the seating space.

Restaurant, Fast Food. A food service establishment which sells food from a counter or window for consumption on-premises or off-premises. Tables may be provided, and food may be served at a table, but may not be ordered from a table.

Retail Use. A business whose primary purpose is the sale of merchandise to consumers.

Retreat. See Lodge.

Right-of-Way. A portion of land over which a local or state government has designated a right of use.

Roadside Produce Stand. A use offering either farm-grown, prepared food products such as fruits, vegetables, canned foods, or prepared packaged meats for sale from a vehicle or a temporary structure.

The consumption of food on-site is prohibited. The use is permitted in C-1, C-2, M-1, M-2 and AG-1 Districts.

Roadside Vending. The sale of merchandise such as clothing, crafts, household item, firewood, etc., from a temporary table or cart.

Rooming House. A residential use other than a hotel or motel in which lodging may be provided to non-household members for periods of 30 days or longer, and which does not include the provision of meals.

Section 4. Section 3.3.19 of the Zoning Ordinance of the City of Sandy Springs, Georgia is hereby amended to read as follows:

3.3.19 S

Salvage/Storage/Junk Facility. Any use involving the storage or disassembly of wrecked or junked automobiles, trucks or other vehicles; vehicular impound lots; storage, bailing or otherwise dealing in scrap irons or other metals, used paper, used cloth, plumbing fixtures, appliances, brick, wood or other building materials; and the storage or accumulation outside of a storage building of used vehicle tires or tire carcasses which cannot be reclaimed for their original use. Such uses are storage and/or salvage facilities whether or not all or part of such operations are conducted inside or outside a building or as principal or accessory uses. State approval is required for all sites utilized for reclamation and/or disposal of toxic and/or hazardous waste.

Scale. Scale refers to the relationship of the size of a building to neighboring buildings and of a building to a site. In general, the scale of new construction should relate to the majority of surrounding buildings

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.

School, Private. An educational use having a curriculum at least equal to a public school, but not operated by the Fulton County Board of Education.

School, Special. An educational use devoted to special education including the training of gifted, learning disabled, mentally and/or physically handicapped persons, but not operated by the Fulton County Board of Education.

Screen. A fence, wall, hedge, landscaping, earthen berm, buffer area or any combination of these that is designed to provided a visual and/or physical barrier.

Seasonal Business Use. A primary use involving the sale of items related to holidays which may be conducted outside of the building, but within the confines of a parcel zoned CUP or MIX (commercial components), C-1, C-2, M-1A, M-1, or M-2. A Seasonal Business Use is permitted in AG-1 and residential districts if occupied by either a church, school, or lodge/retreat existing as a conforming use. See the appropriate Administrative Permit.

Secondary Variance. An appeal of a decision and/or action of a department director or deputy department director authorized to hear a variance request or interpretation of the Zoning Ordinance.

Self-Storage/Mini. A single-level structure or group of structures containing separate spaces/stalls and which are leased or rented to individuals for the storage of goods.

Self-Storage/Multi. A multi-level structure containing separate storage rooms/stalls under a single roof that are leased or rented.

Senior Housing. A single family or multi-family development intended for, operated for and designed for older persons in accord with the Fair Housing Amendments Act. Senior housing communities are designed for seniors to live on their own, but with the security and conveniences of community living. Senior housing communities may provide communal dining rooms and planned recreational activities (congregate living or retirement communities), while others provide housing with only minimal amenities or services.

Service Commercial Use. A business whose primary purpose is to provide a service.

Service Line - a distribution line that transports natural gas from a common source of supply to: (1) a customer meter or the connection to a customer's piping, whichever is farther downstream, or (2) the connection to a customer's piping if there is no customer meter. The customer meter is the meter that measures the transfer of gas from one operator to a customer.

Service Station. A use which provides for the sale of motor vehicle fuels and automotive accessories, and which may provide minor repair and maintenance services. A service station shall be limited to 4 or fewer bays excluding no more than one attached or detached bay for washing cars.

Setback. A space between a property line and a building or specified structure.

Setback, Minimum. The minimum yards as specified in the various use districts. A minimum required space between a property line and a structure. An area identified by a building line.

Shopping Center. A group of four (4) or more stores, shops, restaurants, and other businesses within a single architectural plan supplying many basic shopping needs and having a common parking lot.

Sidewalk. A paved area designated for pedestrians which is constructed in accordance with Sandy Springs standards.

Sign. See Article 33, Signs, for all definitions regarding signage.

Site Plan. A detailed plan, drawn to scale, based on a certified boundary survey, and reflecting conditions of zoning approval, various requirements of State law, and City Ordinances and Resolutions.

Site Plan, Preliminary. A detailed plan, normally associated with rezoning and Use Permit requests, which is drawn to scale and reflects the various requirements of State law and of City Ordinances and Resolutions. A Preliminary Site Plan must be drawn to scale and shall contain information listed for such a plan in the development guidelines.

Skywalk. An elevated, grade separated pedestrian walkway or bridge located over a public right-of-way.

Specified Anatomical Areas. (1) Human genitals or pubic region, buttock, or female breast below a point immediately above the top of the areola; or (2) Human male genitalia in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities shall include any of the following:

(1) Sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, masturbation, or excretory functions in the context of 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) Masochism, erotic or sexually oriented torture, beating or the inflicting of pain;
(5) Erotic or lewd touching, fondling or other sexual contact with an animal by a human being; or
(6) Human excretion, urination, menstruation, vaginal or anal irrigation.

Stadium. A large open or enclosed structure used for sports and other major events and partly or completely surrounded by tiers of seats for spectators.

Story. A portion of a building between the surface of any floor and the floor or space above it, excluding basements and attics.

Story, Half. A heated and finished area below a roof, one or more of the vertical walls of which are less than normal ceiling height for the building.

Street. A roadway/right-of-way located and intended for vehicular traffic. Streets may be public or they may be private if specifically approved by the Department of Community Development as part of a subdivision plat.

Public streets are rights-of-way used for access owned and maintained by the federal, state, or local government.

Private streets are roadways constructed to Fulton County or City Standards but owned and maintained by a private entity. Necessary easements for ingress and egress for police, fire, emergency vehicles and all operating utilities shall be provided. Should the City of Sandy Springs ever be petitioned to assume ownership and maintenance of the private streets prior to dedication of the streets, they must be brought to acceptable City standards subject to the approval of the Director of Public Works.

Stub streets are rights-of-way that dead ends into an interior property line.

Freeway - Any multi-lane roadway having full access control and separation of directional traffic. A freeway accommodates large volumes of high speed traffic and provides efficient movement of vehicular traffic for interstate and major through travel.

Principal Arterial - Any roadway that has partial or no access control and is primarily used for fast or heavy traffic. Emphasis is placed on mobility rather than access to adjacent land.

Minor Arterial - Any roadway that has partial or no access control and is primarily used for interconnectivity of major arterials and places more emphasis on access to adjacent land over mobility than principal arterials.

Collector Road - Any roadway that has partial or no access control and has more emphasis on access to adjacent land over mobility than arterials. The primary purpose is

to distribute trips to and from the arterial system to their destination points and allow access to the local roads.

Local Road - Any roadway that has no access control and places strong emphasis on access to adjacent land over mobility while service to through traffic is discouraged.

Full Access Control - Preference is given to through traffic by providing access connections only with selected public roads and by prohibiting crossing at grade and direct private connections.

Partial Access Control - Preference is given to through traffic to a degree that in addition to connection with selected public roads, there may be some crossing at grade and some private connections.

No Access Control - Preference is generally given to access to adjacent land rather than mobility Structure (amended 12/16/08, RZ08-024, Ord. 2008-12-62). See Article 4 of the Land Development Regulations.

Structure, Accessory. A subordinate structure, customarily incidental to a principal structure or use and is located on the same lot. Examples of accessory structures in single-family dwelling districts include a well house, fence, tool shed, guest house and a detached garage.

Structure, Principal. A structure in which the principal use or purpose on a property occurs, and to which all other structures on the property are subordinate. Principal shall be synonymous with main and primary.

Subdivision (amended 12/16/08, RZ08-024, Ord. 2008-12-62). See Article 4 of the Land Development Regulations.

Surface, All-weather. Any surface treatment, including gravel, which is applied to and maintained so as to prevent erosion, and to prevent vehicle wheels from making direct contact with soil, sod or mud; and which effectively prevents the depositing of soil, sod or mud onto streets from areas required to be so treated.

Swimming Pool, Private. A recreation facility designed and intended for water contact activities which serves a single family dwelling(s), duplex dwellings and/or multi-family dwellings, or combinations of dwelling types, including pools which are owned and/or controlled by a neighborhood club or similar organization.

Swimming Pool, Public. A recreation facility designed and intended water contact activities which is operated as a business or as a club unless such club is associated with a neighborhood club or similar organization.

Section 5. Section 4.3.1 of the Zoning Ordinance of the City of Sandy Springs, Georgia is hereby amended to read as follows:

4.3.1. NONCONFORMING LOTS, USES AND STRUCTURES. Within the zoning districts established by this Ordinance there may exist lots, structures, and uses of both land and structures which were lawful before this Ordinance was adopted or subsequently amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance as adopted or subsequently amended. Nonconforming lots, uses and structures may continue in their

nonconforming status with the following limitations and/or requirements. The amortization of nonconforming adult establishment uses, however, shall be governed by Section 26-37 of The Code of the City of Sandy Springs, Georgia.

A. Nonconforming Lot. A single, lawful lot-of-record which does not meet the requirements of this Ordinance for area or dimensions, or both, may be used for the buildings and accessory buildings necessary to carry out permitted uses subject to the following provisions:

1. Parking space requirements as provided for in Article XVIII are met; and
2. Such lot does not adjoin another vacant lot(s) or portion of a lot in the same ownership.

3. If two (2) or more adjoining lots or portions of lots in single ownership do not meet the requirements established for lot width, frontage or area, the property involved shall be treated as one lot, and no portion of said lot shall be used or sold in a manner which diminishes compliance with this Ordinance. This paragraph shall not apply to non-conforming lots when fifty percent or more of adjoining lots on the same street are the same size or smaller.

B. Nonconforming Uses of Land. When a use of land is nonconforming pursuant to the provisions of this Ordinance, such use may continue as long as it remains otherwise lawful and complies with the following provisions:

1 No nonconforming use shall be enlarged, increased or extended to occupy a greater area of land than that which was occupied at the time use became nonconforming;

2. No nonconforming use shall be moved in whole or in part to any other portion of the lot not occupied by such use at the time the use became nonconforming; and

3. If any nonconforming use of land ceases for a period of more than one year, any subsequent use of such land shall comply with this Ordinance.

C. Nonconforming Use of Structures. If a lawful use of structure, or of a structure and lot in combination, exists at the effective date of adoption of this Ordinance or its subsequent amendment that would not be allowed under provisions of this Ordinance as adopted or amended, the use may be continued so long as it complies with other regulations, subject to the following conditions:

1. No existing structure devoted to a use not permitted by this Ordinance shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a permitted use;

2. Any nonconforming use may be extended throughout any part of a building which was arranged or designed for such use at the time the use became nonconforming, but no such use shall be extended to occupy any land outside such building;

3. If no structural alterations are made, any nonconforming use of a structure or structure and land may be changed to another nonconforming use of the same or more restrictive nature;

4. When a nonconforming use of a structure or a structure and land in combination is replaced with a conforming use, such structure or land may not later revert to a nonconforming use;

5. When a nonconforming use of a structure or structure and land in combination is discontinued or abandoned for one year, the structure or structure and land in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located; and

6. A nonconforming use of a structure and/or a nonconforming use of land shall not be extended or enlarged by attachment to a building or land of additional signs which can be seen from off the land or by the addition of other uses of a nature which would be prohibited generally in the district.

D. Nonconforming Structures. When a structure exists on the effective date of adoption of this Ordinance or its amendments that could not be built under the terms of this Ordinance because of restrictions on building area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may remain as long as it complies with all other zoning regulations, subject to the following conditions:

1. No structure may be enlarged or altered in a way which increases its nonconformity;

2. Destruction, by any means, of more than sixty percent of the gross square footage of a structure shall require that the structure be reconstructed in conformity with the provisions of this Ordinance;

3. Any structure which is moved, for any reason and for any distance whatever, shall conform to the regulations for the district in which it is located.

E. Rezoning Which Results in Nonconforming Structures.
When a property containing lawful structures is rezoned, the following shall apply:

1. The approval of the rezoning by the City Council shall automatically reduce minimum yards to the extent necessary for existing structures to comply.

2. All new construction, expansions or additions shall comply with the minimum yard requirements of the new district.

3. Buffers and landscape areas shall be established by conditions of zoning which shall have precedence over the district standards contained in Section 4.23.

4. Destruction or removal of buildings which preexisted rezoning shall reinstate the development standards of the then applicable district provisions of this Zoning Ordinance.

F. Exemptions Due to City, County or State Action. Whenever a lot becomes nonconforming as a result of land acquisition by the city, county, or state, building permits shall be granted for new construction provided the proposed structure complies

with all but lot area requirements, and setback requirements shall be reduced without requirement for a variance to the extent of the width of the acquired property.

Whenever a structure becomes nonconforming as a result of city, county, or state action other than an amendment to this Ordinance, the use of the structure may continue and the structure may be replaced as though no nonconformity exists if, subsequent to such action, the structure is destroyed.

Section 6. Section 19.3.20 of the Zoning Ordinance of the City of Sandy Springs, Georgia is hereby amended to read as follows:

19.3.20. ADULT ESTABLISHMENTS

INTENT AND FINDINGS

It is the intent of this Section to regulate the place and manner of the operation of Adult Establishments 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 establishments have been associated with disorderly conduct, prostitution, negative impacts on surrounding properties, and other adverse secondary effects. This Section advances the substantial government interest in promoting and protecting public health, safety, and general welfare, and maintaining law and order. 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 adult establishments from areas and uses in the community which are incompatible. Areas and uses which are to be protected from adult establishments include but are not limited to residential, churches, day care centers, libraries, recreational facilities, and schools. The City Council hereby readopts and incorporates by reference the findings and secondary effects evidence concerning adult establishments in the legislative record for Chapter 26, Article II of the Code of the City of Sandy Springs, Georgia and for ordinances adopting and amending those provisions.

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 establishments are significantly related to diminishing market values of neighboring residential areas, that adult establishments should not be located in residential areas, and that adult establishments 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 establishments correlates with a decreasing market value of neighboring residential areas, that adult establishments 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 establishments in an immediate area is associated with a statistically significant decrease in residential property market value, and that such a concentration of adult establishments 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 establishment within one block of a residential area decreases the market value of homes, that adult establishments 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 establishments tend to be from outside the immediate neighborhood in which the adult establishment 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 establishment 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 establishments 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 establishments 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 establishments, and the City Council finds that restricting adult establishments to certain zones and imposing development standards can legitimately regulate adult establishments by establishing zones where adult establishments are most compatible with other uses or the surrounding neighborhood, and by requiring minimum distances to be maintained between adult establishments 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 establishments 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.

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 premises to be used for an adult establishment must be located at least 300 feet from the properties listed below:

   a. The property line of any 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 to be used for an adult establishment shall be located any closer than 400 feet from any other premises used for an adult establishment. For the measurement required by this subsection, distance shall be measured from the nearest public entrance of the structure or tenant space in which the applicant is to be located to the nearest public entrance of the structure or tenant space in which the other premises used for an adult establishment is located.

3. Access to adult establishment premises shall be from a major thoroughfare.

4. Adult establishments shall comply with the objective requirements of the subject property's zoning district (e.g., required setbacks of structures from lot lines) and with any preexisting, objective conditions (e.g., "no fast food restaurants") that were placed on the subject property when its present zoning classification was approved.

5. No premises containing an adult entertainment establishment 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 public entrance 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.

6. Adult entertainment establishments shall provide parking spaces at a ratio of 10 per 1000 gross square feet of floor space.

19.3.20 C. Administrative Permit Required:

New adult establishment uses shall file an application for an Administrative Permit with the Director of the Community Development Department. The application shall be complete when it contains the following:

1. Name of the business or applicant;

2. Business address;

3. Business phone number, fax number, and email address;

4. Certified boundary survey, prepared 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;

5. A plan, drawn to scale, based on a certified boundary survey, that shows compliance with the objective requirements of the subject property's zoning district (e.g., required setbacks of structures from lot lines), and that lists any preexisting, objective conditions (e.g., "no fast food restaurants") that were placed on the subject property when its present zoning classification was approved.

19.3.20 D. Permit Processing:

Within fourteen (14) days of receipt of a completed application for an Administrative Permit, the Director shall grant or deny the Administrative Permit and shall mail notice of the granting or denial to the applicant at the business address on the application. The Director shall grant the Administrative Permit unless the premises to be used for an adult establishment fails to meet one or more of the standards specified in Section 19.3.20.B, in which case the Director shall specify the standard(s) that the premises fails to meet.In the event the Director fails to act within the fourteen (14) day period the premises shall be deemed approved and permitted.

19.3.20 E. Appeal of Denial of Administrative Permit:

The applicant may appeal any denial of an Administrative Permit by filing a notice of appeal with the Mayor and City Council within 10 days of the date of the notice of denial. The Mayor and City Council shall place the appeal down for a hearing at the Council's next regularly scheduled meeting, or at a special hearing within 20 days of the filing of the notice of appeal, whichever is sooner, and shall provide notice to the applicant of the date, time, and place of the hearing at least seven (7) days prior to the hearing. At the hearing, the applicant and the Director shall have opportunity to make argument, present evidence, and cross-examine adverse witnesses. Within five (5) days after the hearing, the Mayor and City Council shall issue a decision either denying or granting the Administrative Permit and a statement of reasons for the decision. A denial by the Mayor and City Council may be appealed within 30 days of the date of said denial to the Superior Court by writ of certiorari.

19.3.20 F. Other Regulations:

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

Section 7. Section 19.3.21 of the Zoning Ordinance of the City of Sandy Springs, Georgia, entitled Adult Entertainment Establishments, is hereby repealed in its entirety.

Section 8. 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 part of the Zoning Ordinance of the City of Sandy Springs, Georgia. All ordinances or parts of ordinances in conflict herewith are repealed.

Section 9. If any clause, paragraph, phrase, section, sentence, or word of this ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining clauses, paragraphs, phrases, sections, sentences, or words of this ordinance.

Section 10. This Ordinance is effective April 21, 2009.

ORDAINED this the 21st day of April, 2009.

Approved:

Eva Galambos, Mayor

Attest:

Michael D. Casey, Interim City Clerk
(Seal)