

STATE OF GEORGIA
COUNTY OF FULTON

AN ORDINANCE AMENDING SECTION 6-135 AND SECTION 6-138 OF THE CODE OF ORDINANCES OF THE CITY OF SANDY SPRINGS CONCERNING ALCOHOLIC BEVERAGES

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

WHEREAS, the U.S. Supreme Court and the Court of Appeals for the Eleventh Circuit have repeatedly upheld regulations prohibiting certain specified sexual activities and the display of certain specified anatomical areas on the premises of establishments dealing in alcoholic beverages, *see Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007) (documenting adverse secondary effects of alcohol and adult entertainment, citing cases, and upholding as consistent with the First Amendment a covering requirement applying to all alcohol establishments); and

WHEREAS, the Mayor and City Council rely on these precedents and incorporate by reference the legislative records compiled by the City for its various ordinances designed to prevent the negative secondary effects adult establishments; 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 Chapter 6, Alcoholic Beverages, of the Code of Ordinances of the City of Sandy Springs are hereby amended as follows.

Section 1. Section 6-135 of The Code of the City of Sandy Springs, Georgia is hereby amended to read as follows:

Sec. 6-135. Prohibited acts; sexual display on licensed premises.

- (a) No licensee shall permit the sale of alcoholic beverages to any person who is in a state of noticeable intoxication or allow persons who are noticeably intoxicated to congregate on the licensed premises.
- (b) No licensee shall permit any gambling, betting, lottery, or other device for the hazarding of any money or other thing of value on the licensed premises, except that this prohibition shall not apply with respect to a properly licensed bingo game.
- (c) No licensee shall permit on the licensed premises any disorderly conduct; breach of the peace; lewd, immoral, or improper entertainment, conduct, or practices; or noise which is disturbing to the surrounding neighborhood.
- (d) No licensee shall suffer or permit any person to engage in live conduct exposing to public view the person's genitals, pubic area, vulva, anus, anal cleft or cleavage or buttocks, or any portion of the female breast below the top of the areola on the licensed premises.

(e) No licensee shall allow any person to engage in sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual act prohibited by law, on the licensed premises.

(f) *Exception.* Nothing contained in subsection (d) of this section shall apply to the premises of any theatre, concert hall, art center, museum, or similar establishment primarily devoted to the arts or theatrical performances, where the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value.

Section 2. Section 6-138 of The Code of the City of Sandy Springs, Georgia is hereby amended to read as follows:

Sec. 6-138. Regulation of lighting.

The exterior of each building in which alcoholic beverages are sold for consumption on the premises shall contain sufficient lighting so that all sides of the building and all entrances thereto are clearly visible at all times when the premises are open for business.

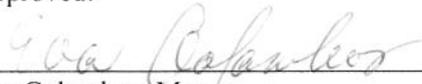
Section 3. It is the intention of the Mayor and Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Code of Ordinances, City of Sandy Springs, Georgia. All ordinances or parts of ordinances in conflict herewith are repealed.

Section 4. 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 5. 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)

