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**CITY COUNCIL AGENDA ITEM**

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**TO:** Mayor & City Council

**DATE:** February 1, 2012

**FROM:** John McDonough, City Manager

**AGENDA ITEM:** TA12-001 - An Ordinance to Amend Section 18.2.1, Basic Off-Street Parking Requirements, and Section 19.3.1, Adult Establishments, of the Sandy Springs Zoning Ordinance

**MEETING DATE:** For Submission onto the February 7, 2012, City Council Regular Meeting Agenda

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*BACKGROUND INFORMATION: (Attach additional pages if necessary)*

See attached:

Memorandum  
Ordinance

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APPROVAL BY CITY MANAGER: JFM APPROVED

\_\_\_\_\_ NOT APPROVED

PLACED ON AGENDA FOR: 2/7/12

CITY ATTORNEY APPROVAL REQUIRED: (  ) YES (  ) NO

CITY ATTORNEY APPROVAL: [Signature]

REMARKS:



To: John McDonough, City Manager

From: Angela Parker, Director of Community Development 

Date: January 24, 2012 for Submission onto the February 7, 2012 City Council Regular Meeting

Subject: TA12-001, An Ordinance to Amend Section 18.2.1, Basic Off-Street Parking Requirements, and Section 19.3.1, Adult Establishments, of the Sandy Springs Zoning Ordinance

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***CITY MANAGER'S OFFICE RECOMMENDATION***  
**APPROVAL** of the amendment as presented by staff.

***BACKGROUND***

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. Additionally, 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.

***DISCUSSION***

The Mayor and City Council find that from time to time it is appropriate to amend sections of the Zoning Ordinance to correct, clarify, and update the provisions of the Ordinance. Community Development, in conjunction with the City Attorney's office, has determined that clarification to the provisions to the ordinance regarding adult entertainment establishments is warranted. These recommended amendments clarify the parking and administrative permit provisions of the ordinance.

***PLANNING COMMISSION RECOMMENDATION***

The amendment was heard at the January 19, 2012 Planning Commission meeting. The Commission recommended approval as presented by staff (4-0, Maziar, Pond, Rubenstein, and Tart for; Duncan not voting; Rupnow and Thatcher absent).

***ALTERNATIVES***

The Mayor and City Council could choose to amend or not approve the changes prepared by staff.

cc: Wendell K. Willard, City Attorney  
Cecil McLendon, Assistant City Attorney

***REDLINE***

**STATE OF GEORGIA  
COUNTY OF FULTON**

**AN ORDINANCE TO AMEND SECTION 18.2.1, BASIC OFF-STREET  
PARKING REQUIREMENTS, AND SECTION 19.3.1, ADULT  
ESTABLISHMENTS, OF THE CITY OF SANDY SPRINGS ZONING  
ORDINANCE**

**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 City Council has on several previous occasions identified and documented the negative secondary effects of adult establishments and hereby incorporates its previous findings and legislative record materials concerning such effects; and

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

**WHEREAS**, it has been determined that provisions regarding adult establishments should be clarified.

**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.**

Article 18, *Off Street Parking and Loading*, Section 18.2.1, *Basic Off-Street Parking Requirements*, of the Sandy Springs Zoning Ordinance is hereby amended by inserting the following row for "Adult Establishments, Other" alphabetically within the table set forth in Section 18.2.1:

USE GROUP	EXAMPLES OF TYPES OF USE	MINIMUM REQUIREMENT
Adult Establishments, Other	adult bookstores adult motion picture arcades adult motion picture theaters	5 per 1000 sq. ft.

**2.**

Article 19, *Administrative Permits and Use Permits*, Section 19.3.1, *Adult Establishments*, of the Sandy Springs Zoning Ordinance is hereby amended by the deletion of

Section 19.3.1.B, Standards, Section 19.3.1.C, Administrative Permit Required, Section 19.3.1.D, Permit Processing, Section 19.3.1.E, Denial of Administrative Permit, and Section 19.3.1.F, Other Regulations, in their entirety and the following inserted therefor:

19.3.1. B. Standards:

1. ~~All boundary lines of the premises to be used for an~~ 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; and
  - 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/or occupied by such government, library, civic center, public or private school, commercial day care facility or church.
  - c. For the measurements required by this subsection B.1, the distance shall be measured in a straight line from the structure or tenant space of the applicable adult establishment to the closest property line of the zoned property or uses outlined in subparts a or b, above. Where property conditioned for residential purposes is part of a mixed use development, the distance shall be measured to the closest boundary of the area shown on the approved site plan as conditioned for residential purposes. Where a use listed in subpart b is located in a structure or tenant space in a multi-tenant development, the distance shall be measured to the structure or tenant space of that use rather than the property line of the overall development, so as to maximize the number of locations available to adult establishments. The zoning and/or use of land in adjacent jurisdictions shall not disqualify any location within the City of Sandy Springs from being available to an adult establishment.
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 in a straight line from the nearest public entrance of the structure or tenant space ~~of in which the applicant adult establishment is to be located~~ to the nearest public entrance of the structure or tenant space in which of 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.~~
- ~~53. No premises containing an adult entertainment establishment shall be located any closer than 50 feet from any premises establishment 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 of the applicant adult entertainment establishment is located to the nearest entrance to the public of the structure or tenant space in which of the premises establishment 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.~~
- ~~4. The location standards in Sections 19.3.1.A and 19.3.1.B are severable from the requirement that adult establishments obtain an Administrative Permit. Should any court of competent jurisdiction declare the Administrative Permit requirement or procedures in this Section 19.3.1 to be invalid, then adult establishments shall be a permitted use in the C-1, C-2, M-1, and M-2 zoning districts subject to the standards in 19.3.1.B.~~
- ~~5. Notwithstanding any provision in this Zoning Ordinance or the Sandy Springs Code of Ordinances to the contrary, a location for which an adult establishment Administrative Permit has issued shall not be rendered nonconforming, nor shall the location be deemed noncompliant with Section 19.3.1.B or Section 26-23 of the Code, by virtue of the subsequent establishment of a land use or zoning district specified in this Section 19.3.1.B.~~

19.3.1. 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 1,000-500 feet of the boundary lines of the subject property structure or tenant space of the proposed adult establishment.~~
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.~~

19.3.1. 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 19.3.201.A or 19.3.1.B, in which case the Director shall specify the standard(s) that the ~~premises-adult establishment~~ fails to meet. In the event the Director fails to act within the fourteen (14) day period the ~~premises-adult establishment~~ shall be deemed approved and permitted. An adult establishment Administrative Permit shall not be denied based on the establishment of a land use or zoning district specified in Section 19.3.1.B that occurs after the filing of that adult establishment's completed application for an Administrative Permit.

19.3.1. E. 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. The city shall provide for the hearing to be transcribed. At the hearing, the applicant and the Director may be represented by counsel and shall have opportunity to make argument, present evidence, and cross-examine adverse witnesses. The Director shall bear the burden of proving the grounds for denying the Administrative Permit. The hearing shall take no longer than two (2) days, unless extended at the request of the applicant to meet the requirements of due process and proper administration of justice. 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, and shall mail notice of the decision to the applicant at the business address on the application. 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.

19.3.1. F. Other Regulations:

Nothing in this section shall allow for the conducting or zoning of any business or entity which would otherwise be illegal. Adult establishments that satisfy the requirements of Section 19.3.1 shall not be required to satisfy any discretionary standard under this Zoning Ordinance or the City of Sandy Springs Code of Ordinances to open and engage in protected expression.

3.

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

4.

*Severability.* Should any court of competent jurisdiction declare any word, phrase, clause, sentence, paragraph, or 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 City Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code or Ordinances, City of Sandy Springs, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention.

6.

This Ordinance is effective \_\_\_\_\_, 2012; and

**APPROVED AND ADOPTED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Approved:

ORDINANCE NO. 2012-\_\_\_\_\_

TA12-\_\_\_\_\_

Reading: \_\_\_\_\_

\_\_\_\_\_  
Eva Galambos, Mayor

Attest:

\_\_\_\_\_  
Michael Casey, City Clerk  
(Seal)

***FINAL***

**STATE OF GEORGIA  
COUNTY OF FULTON**

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**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 City Council has on several previous occasions identified and documented the negative secondary effects of adult establishments and hereby incorporates its previous findings and legislative record materials concerning such effects; and

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

**WHEREAS**, it has been determined that provisions regarding adult establishments should be clarified.

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19.3.1. B. Standards:

1. 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; and
  - 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/or occupied by such government, library, civic center, public or private school, commercial day care facility or church.
  - c. For the measurements required by this subsection B.1, the distance shall be measured in a straight line from the structure or tenant space of the applicable adult establishment to the closest property line of the zoned property or uses outlined in subparts a or b, above. Where property conditioned for residential purposes is part of a mixed use development, the distance shall be measured to the closest boundary of the area shown on the approved site plan as conditioned for residential purposes. Where a use listed in subpart b is located in a structure or tenant space in a multi-tenant development, the distance shall be measured to the structure or tenant space of that use rather than the property line of the overall development, so as to maximize the number of locations available to adult establishments. The zoning and/or use of land in adjacent jurisdictions shall not disqualify any location within the City of Sandy Springs from being available to an adult establishment.
2. No adult establishment shall be located any closer than 400 feet from any other adult establishment. For the measurement required by this subsection, distance shall be measured in a straight line from the nearest public entrance of the structure or tenant space of the adult establishment to the nearest public entrance of the structure or tenant space of the other adult establishment.
3. No adult entertainment establishment shall be located any closer than 50 feet from any establishment 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 of the adult entertainment establishment to the nearest entrance to the public of the structure or tenant space of the establishment authorized and licensed to sell alcoholic beverages or malt beverages or wine for consumption on the premises.

4. The location standards in Sections 19.3.1.A and 19.3.1.B are severable from the requirement that adult establishments obtain an Administrative Permit. Should any court of competent jurisdiction declare the Administrative Permit requirement or procedures in this Section 19.3.1 to be invalid, then adult establishments shall be a permitted use in the C-1, C-2, M-1, and M-2 zoning districts subject to the standards in 19.3.1.B.
5. Notwithstanding any provision in this Zoning Ordinance or the Sandy Springs Code of Ordinances to the contrary, a location for which an adult establishment Administrative Permit has issued shall not be rendered nonconforming, nor shall the location be deemed noncompliant with Section 19.3.1.B or Section 26-23 of the Code, by virtue of the subsequent establishment of a land use or zoning district specified in this Section 19.3.1.B.

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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 within 500 feet of the structure or tenant space of the proposed adult establishment.

19.3.1. 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 adult establishment fails to meet one or more of the standards specified in Section 19.3.1.A

or 19.3.1.B, in which case the Director shall specify the standard(s) that the adult establishment fails to meet. In the event the Director fails to act within the fourteen (14) day period the adult establishment shall be deemed approved and permitted. An adult establishment Administrative Permit shall not be denied based on the establishment of a land use or zoning district specified in Section 19.3.1.B that occurs after the filing of that adult establishment's completed application for an Administrative Permit.

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19.3.1. F. Other Regulations:

Adult establishments that satisfy the requirements of Section 19.3.1 shall not be required to satisfy any discretionary standard under this Zoning Ordinance or the City of Sandy Springs Code of Ordinances to open and engage in protected expression.

3.

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

4.

*Severability.* Should any court of competent jurisdiction declare any word, phrase, clause, sentence, paragraph, or 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 City Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code or Ordinances, City of Sandy Springs, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention.

6.

This Ordinance is effective \_\_\_\_\_, 2012; and

**APPROVED AND ADOPTED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Approved:

\_\_\_\_\_  
Eva Galambos, Mayor

Attest:

\_\_\_\_\_  
Michael Casey, City Clerk  
(Seal)