
CITY COUNCIL AGENDA ITEM

TO: Mayor & City Council **DATE:** February 2, 2012

FROM: John McDonough, City Manager

AGENDA ITEM: **TA12-002** - An Ordinance to Amend Chapter 26, Article II of the Code of Ordinances of Sandy Springs (Adult Establishments) to Clarify Location and Distance Requirements in Section 26-23 and Licensing Provisions in Section 26-25(e), 26-28(a), and 26-28(b)(4)

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

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

See attached:

Memorandum
Ordinance Markup
Ordinance Final

APPROVAL BY CITY MANAGER:  **APPROVED**

_____ **NOT APPROVED**

PLACED ON AGENDA FOR: 2/7/2012

CITY ATTORNEY APPROVAL REQUIRED: () **YES** () **NO**

CITY ATTORNEY APPROVAL: 

REMARKS:



To: John McDonough, City Manager

From: Angela Parker, Director of Community Development 

Date: February 1, 2012 for Submission onto the February 7, 2012 City Council Regular Meeting

Subject: TA12-002, An Ordinance to Amend Chapter 26, Article II of the Code of Ordinances of Sandy Springs (Adult Establishments) to Clarify Location and Distance Requirements in Section 26-23 and Licensing Provisions in Section 26-25(e), 26-28(a), and 26-28(b)(4).

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 are warranted. These recommended amendments clarify the location and distance requirements provisions of the ordinance.

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 CHAPTER 26, ARTICLE II OF THE
CODE OF ORDINANCES OF SANDY SPRINGS (ADULT
ESTABLISHMENTS) TO CLARIFY LOCATION AND DISTANCE
REQUIREMENTS IN SECTION 26-23 AND LICENSING PROVISIONS
IN SECTIONS 26-25(e), 26-28(a), AND 26-28(b)(4).**

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 all such previous findings and legislative record materials concerning such negative secondary effects; and

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

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

NOW, THEREFORE, to accomplish the foregoing, the Mayor and City Council of the City of Sandy Springs, Georgia, pursuant to their authority, do hereby ordain as follows:

Section 1. Section 26-23 of The Code of the City of Sandy Springs, Georgia, is hereby amended to read as follows:

Sec. 26-23. - Location and distance requirements.

- (a) 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.
- (b) Additional location restrictions for adult establishments are as follows:
 - (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.

- (2) For the measurements required by subsection 26-23(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 (b)(1)a or (b)(1)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)(1)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.
- (c) 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.
- (d) Notwithstanding any provision in the Sandy Springs Code of Ordinances to the contrary, an adult establishment in a location that satisfies the standards in this Section 26-23 shall not be deemed noncompliant with this Section by virtue of the subsequent establishment of a land use or zoning district specified in this Section.

Section 2. Section 26-25(e) of The Code of the City of Sandy Springs, Georgia, is hereby amended to read as follows:

- (e) Any annual work permit issued hereunder shall expire 12 months from the date of issue shown on the work permit. The person issued an adult establishment work permit shall make application for renewal at least 60 days prior to the expiration of the work permit in order to continue working at the adult establishment after expiration of the 12-month issue period. Such renewal application shall include the same information as, and be treated the same as, an initial application pursuant to this Section 26-25. The city council shall prescribe a reasonable application fee for an annual adult establishment work permit.

Section 3. Section 26-28(a) of The Code of the City of Sandy Springs, Georgia, is hereby amended to read as follows:

- (a) *Process.* Any person, association, partnership or corporation desiring to obtain a license to operate, engage in, conduct, or carry on any adult establishment in the city shall make application to the city manager or designee of the city. Such application shall be made on forms furnished by the city, shall be made in the name of the adult establishment by an applicant who is a natural person and an agent of the adult establishment and shall include the names of the operators as defined herein and of the owners as defined herein. If the adult establishment is a corporation, then the agent for purposes of making application for a license hereunder shall be an officer of the corporation. If the adult establishment is a partnership, the agent for such purposes shall be a general partner. At the time of submitting

such application, a nonrefundable fee payable in cash or by certified check in the amount of \$300.00 shall be paid to the city manager or designee to defray, in part, the cost of investigation and report required by this article. The city manager or designee shall issue a receipt showing that such application fee has been paid. The filing of an application for license does not authorize the operation of, engaging in, conducting or carrying on of any new adult establishment. If a completed application and fee is submitted for a preexisting adult establishment that is in a location in the city where an adult establishment is allowed, and the application, on its face, indicates that the applicant is entitled to an annual adult establishment license, the city manager shall immediately issue a temporary license to the applicant. The temporary license shall expire upon the final decision of the city to deny or grant an annual license.

Section 4. Section 26-28(b)(4) of The Code of the City of Sandy Springs, Georgia, is hereby amended to read as follows:

- (4) A statement of whether the adult establishment seeking a license, in previous operations in this or any other location, has had its license or permit for an adult entertainment business or similar type of business revoked or suspended, and the reason(s) therefor;

Section 5. 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.

Section 6. 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 of Ordinances, City of Sandy Springs, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention.

Section 7. This Ordinance is effective _____, 2012.

APPROVED AND ADOPTED this the _____ day of _____, 2012.

Approved:

Eva Galambos, Mayor

Attest:

Michael Casey, City Clerk
(Seal)

FINAL

STATE OF GEORGIA
COUNTY OF FULTON

**AN ORDINANCE TO AMEND CHAPTER 26, ARTICLE II OF THE
CODE OF ORDINANCES OF SANDY SPRINGS (ADULT
ESTABLISHMENTS) TO CLARIFY LOCATION AND DISTANCE
REQUIREMENTS IN SECTION 26-23 AND LICENSING PROVISIONS
IN SECTIONS 26-25(e), 26-28(a), AND 26-28(b)(4).**

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 all such previous findings and legislative record materials concerning such negative secondary effects; and

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

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

NOW, THEREFORE, to accomplish the foregoing, the Mayor and City Council of the City of Sandy Springs, Georgia, pursuant to their authority, do hereby ordain as follows:

Section 1. Section 26-23 of The Code of the City of Sandy Springs, Georgia, is hereby amended to read as follows:

Sec. 26-23. - Location and distance requirements.

- (a) No ~~adult establishment that features~~ 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 ~~to the public~~ of the structure or tenant space ~~in which the applicant is located of the adult entertainment establishment~~ to the nearest entrance to the public of the structure or tenant space ~~in which the premises of the establishment~~ authorized and licensed to sell alcoholic beverages or malt beverages or wine for consumption on the premises ~~is located~~.
- (b) Additional location restrictions for adult establishments are as follows:
 - (1) ~~All boundary lines of the property containing an~~ An adult establishment ~~as filed~~ 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.
- (2) For the measurements required by subsection 26-23(b)(1)-~~as amended~~, 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 this section~~ subparts (b)(1)a or (b)(1)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)(1)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.
- (c) 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 ~~to the public~~ of the structure or tenant space ~~in which the applicant is located~~ of the adult establishment to the nearest public entrance ~~to the public~~ of the structure or tenant space ~~in which~~ of the other adult establishment ~~is located~~.
- (d) Notwithstanding any provision in the Sandy Springs Code of Ordinances to the contrary, an adult establishment in a location that satisfies the standards in this Section 26-23 shall not be deemed noncompliant with this Section by virtue of the subsequent establishment of a land use or zoning district specified in this Section.

Section 2. Section 26-25(e) of The Code of the City of Sandy Springs, Georgia, is hereby amended to read as follows:

- (e) Any annual work permit issued hereunder shall expire 12 months from the date of issue shown on the work permit. The person issued an adult establishment work permit shall make application for renewal at least 60 days prior to the expiration of the work permit in order to continue working at the adult establishment after expiration of the 12-month issue period. Such renewal application shall include the same information as, and be treated the same as, an initial application pursuant to this Section 26-25. The city council shall prescribe a reasonable application fee for an annual adult establishment work permit.

Section 3. Section 26-28(a) of The Code of the City of Sandy Springs, Georgia, is hereby amended to read as follows:

- (a) *Process.* Any person, association, partnership or corporation desiring to obtain a license to operate, engage in, conduct, or carry on any adult establishment in the city shall make application to the city manager or designee of the city. Such application shall be made on forms furnished by the city, shall be made in the name of the adult establishment by an applicant who is a natural person and an agent of the adult establishment and shall include the names of the operators as defined herein and of the owners as defined herein. If the

adult establishment is a corporation, then the agent for purposes of making application for a license hereunder shall be an officer of the corporation. If the adult establishment is a partnership, the agent for such purposes shall be a general partner. At the time of submitting such application, a nonrefundable fee payable in cash or by certified check in the amount of \$300.00 shall be paid to the city manager or designee to defray, in part, the cost of investigation and report required by this article. The city manager or designee shall issue a receipt showing that such application fee has been paid. The filing of an application for license does not authorize the operation of, engaging in, conducting or carrying on of any new adult establishment. If a completed application and fee is submitted for a preexisting adult establishment that is lawfully operating in a location in the city where an adult establishment is allowed, and the application, on its face, indicates that the applicant is entitled to an annual adult establishment license, the city manager shall immediately issue a temporary license to the applicant. The temporary license shall expire upon the final decision of the city to deny or grant an annual license.

Section 4. Section 26-28(b)(4) of The Code of the City of Sandy Springs, Georgia, is hereby amended to read as follows:

- (4) A statement of whether ~~The business license history of~~ the adult establishment seeking a license ~~and whether such establishment~~, in previous operations in this or any other location ~~under license~~, has had ~~such its~~ license or permit for an adult entertainment business or similar type of business revoked or suspended, and the reason(s) therefor; ~~and the business activity or occupation subsequent to such action of revocation or suspension;~~

Section 5. 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.

Section 6. 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 of Ordinances, City of Sandy Springs, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention.

Section 7. This Ordinance is effective _____, 2012.

APPROVED AND ADOPTED this the _____ day of _____, 2012.

Approved:

Eva Galambos, Mayor

Attest:

Michael Casey, City Clerk
(Seal)