SANDY SPRINGS
GEORGIA

CITY COUNCIL AGENDA ITEM

TO: Mayor & City Council **DATE:** May 18, 2010

FROM: John McDonough, City Manager

AGENDA ITEM: To amend Chapter 103, Article IV - Definitions, Section 103-16 to define "Permit" and also to amend Chapter 103, Article VI - Permits Required for Development or Construction, Section 103-26, to amend the current language to clearly state the requirements for posting a permit and construction noise ordinance requirements.

MEETING DATE: For Submission onto the June 1, 2010, City Council Work Session Meeting Agenda

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

See attached:

Memorandum
Mark-up of Chapter 103

APPROVAL BY CITY MANAGER: JM *APPROVED*

_____ *NOT APPROVED*

PLACED ON AGENDA FOR: 6/1/10

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

CITY ATTORNEY APPROVAL: _____

REMARKS:

SANDY SPRINGS
GEORGIA

To: Honorable Mayor and City Council Members

From: John McDonough, City Manager

By: Nancy J. Leathers, AICP, Director, Community Development Department

Date: May 13, 2010 for Submission onto the June 1, 2010 Mayor and City Council Work Session Agenda.

Agenda Item: To amend Chapter 103, Article IV - Definitions, Section 103-16 to define "Permit" and also to amend Chapter 103, Article VI - Permits Required for Development or Construction, Section 103-26, to amend the current language to clearly state the requirements for posting a permit and construction noise ordinance requirements.

CMO (City Manager's Office) Recommendation:

Approval of amendments to Chapter 103, Article IV - Definitions, Section 103-16 to define "Permit" and also to amend Chapter 103, Article VI - Permits Required for Development or Construction, Section 103-26, to amend the current language to state the requirements for posting a permit and construction noise ordinance requirements.

***Background*:**

It is the intent of the City of Sandy Springs to have ordinances that clearly state the requirements of building professionals who work within the city. Staff review of the Development Regulations has determined that the amendments included in this agenda item will help professionals understand permit posting requirements and allow staff to better enforce the ordinance.

Discussion:

Staff from the Community Development Department recommends that City Council adopt the amendments to Chapter 103 to state the definition of a permit and the requirements for posting a permit and the Noise Ordinance notice.

Alternatives:

Maintain current language in the Development Regulations Ordinance.

Financial Impact:

N/A

Community Development

7840 Roswell Road, Building 500 • Sandy Springs, Georgia 30350 • 770.730.5600 • 770.393.0244 fax • www.sandyspringsga.org

Concurrent Review:
Wendell K. Willard, City Attorney

Attachment:
Mark up of Chapter 103, Article IV, Section 103-16, and Chapter 103, Article VI, Section 103-26.

Community Development

7840 Roswell Road, Building 500 • Sandy Springs, Georgia 30350 • 770.730.5600 • 770.393.0244 fax • www.sandyspringsga.org

Chapter 103 Development Regulations

ARTICLE IV. DEFINITIONS

Sec. 103-16. Definitions of words and phrases.

Permit means a document or certificate authorizing work to be completed within the boundaries of the City of Sandy Springs and includes the following: 1. the permit, 2. the approved plans, 3.any other documents as required by the director.

Chapter 103 Development Regulations

ARTICLE VI. PERMITS REQUIRED FOR DEVELOPMENT OR CONSTRUCTION

Sec. 103-26. Authorization for land disturbance or development activities will be granted by the issuance of a permit by the City of Sandy Springs.

(a) *Permit required; exemptions.* No disturbance of the land, including clearing, grubbing, or grading activities, shall commence or proceed without a permit except in accordance with the provisions of these development regulations, unless specifically exempted by state law or local ordinance.

(b) *Plan review and approval.* Any commercial or residential builder or developer of land within the city shall first submit to the department of community development such plans, plats, construction drawings, or reports as may be required by this chapter and section 105-46 of the Code of the City of Sandy Springs and shall have been granted a permit consistent with the aforementioned ordinance and approved by the department of community development prior to the initiation of construction or development activities. Approval of plans by city officials or employees shall not imply nor transfer acceptance of responsibility for the application of the principles of engineering, architecture, landscape architecture, or any other profession, from the professional corporation or individual under whose hand or supervision the plans were prepared and sealed. Article X of this chapter and section 105-46 of the Code of the City of Sandy Springs detail the elements of the required plans.

Any developer of land within the city shall first submit to the department of community development such plans, plats, construction drawings, or reports as may be required by this chapter and shall have been granted a permit consistent with this chapter and approved by the department of community development prior to the initiation of development activities. Approval of plans by city officials or employees shall not imply nor transfer acceptance of responsibility for the application of the principles of engineering, architecture, landscape architecture, or any other profession, from the professional corporation or individual under whose hand or supervision the plans were prepared and sealed. Article X of this chapter details the elements of the required plans.

(c) *Time limitations.* An application for a permit for any proposed work shall be deemed to be abandoned six months after the date of filing for the permit, unless before than a permit has been issued, or the permit application is still under review by the land development division. One or more extensions of time for periods of not more than 90 days each may be allowed by the building official for the application provided the extension is requested in writing and justifiable cause is demonstrated.

(d) *Approvals required by outside agencies.* Chattahoochee River Corridor Certificate. If any portion of a property included within a proposed project is located within 2,000 feet of the bank of the Chattahoochee River, the project shall first obtain a certificate authorizing the development under the provisions of the Chattahoochee River Corridor before any clearing, grading, or construction activity may be granted a permit by the department or any other agency. All permits issued by the city pursuant to such authorization shall be consistent with the requirements and provisions of the certificate. Any violation of the provisions of the Chattahoochee River Corridor Certificate shall be considered as a violation of these development regulations, and shall be subject to the enforcement and penalty provisions hereunder.

(e) *Interdepartmental review and approval.* The department shall not issue a permit for any development activities until the plans, plats, or construction drawings, as applicable, have been approved by such other departments as may have authority or jurisdiction over said activities in whole or in part.
(f) *Activities limited to permit authorization.* Development activities shall be limited to those as authorized by the applicable permit and as may be further restricted by conditions of approval pertaining thereto attached by the department or other department or agency as may have authority or jurisdiction over said activities in whole or in part.
(g) *Developer's responsibility for compliance.* No permit shall be interpreted to relieve any developer or sub-divider of the responsibility of maintaining full compliance with all codes, ordinances, and other regulations of the city except as amended by an approved modification, variance, or other relief granted through applicable formal appeal procedures for a specific property or application. Any permit issued in error or in contradiction to the provisions of an adopted code, ordinance, or regulation of the city shall be considered to have been null and void upon its issuance. The developer or sub-divider shall be responsible for ensuring that all applicable external agencies are notified of the proposed work and that all necessary approvals have been obtained prior to commencing any activity covered by those approvals.
(h) *Posting of permits and noise ordinance on-site.* Permits and copies of the City of Sandy Springs' construction noise hours as stipulated in Chapter 38, Article 3, Division 2, Section 38-87 (10). The permit and construction noise hours shall be posted as follows:

1. *Posting of permit.* Work requiring a permit shall not commence until the permit holder or his/her agent posts the permit at a location defined herein, and completes a pre-construction meeting with a city representative. The permit shall be located such that a city representative shall be able to conveniently and safely access the permit and make the required entries thereon. The permit shall be maintained in such position by the permit holder until the certificate of occupancy or completion is issued by the building official.
(a) Unless otherwise authorized by the director, the permit shall be protected from the weather and located at a height of five (5) feet from grade level, and be posted within three (3) feet of the right of way.
(b) Permits that are issued for projects to be completed in the right of way shall be posted in the right of way.
(c) Permits issued for projects fronting private streets or driveways shall be posted at the back of curb.

2. *Posting of work hours.* Work requiring a permit shall not commence until the permit holder or his/her agent posts notice of the allowable work hours that are stipulated in Chapter 38, Article 3, Division 2, Section 38-87 (10). The allowable work hours notice shall be prominently posted at the following locations of the construction site and be maintained in such positions by the permit holder until the certificate of occupancy or completion is issued by the building official:
(a) All primary points of construction access to the site
(b) Along with the permit in a position readily visible without opening any enclosure and also within any enclosure containing permit materials

(i) *Tampering with permits.* Unauthorized tampering or modification of a permit/site plans, approved plans or permit card shall be deemed a violation of this chapter.

(Ord. No. 2008-09-48, § 1, 9-16-2008)

Sec. 103-27. Land disturbance permits.

(a) *General.* The following permits covering portions of the land development process may be issued in accordance with the requirements of this chapter:

(b) *Land disturbance permit.*

(1) *Development activities authorized.* A land disturbance permit shall be issued to authorize all activities associated with the land development process, including clearing and grubbing, grading, and the construction of such improvements as streets, surface parking areas and drives, stormwater drainage facilities, sidewalks, or other structures permanently placed on or in the property except for buildings or other structures requiring the issuance of a building permit. Water and sanitary sewer system improvements shall be authorized by the utility provider; however, the location and land disturbing activities associated with those facilities may be reviewed and permitted by the city to ensure compliance with applicable tree protection, stream buffer, zoning buffers or other city standards which may be affected by the construction of these utilities. Utility locations which violate any city code or ordinance shall not be permitted without a variance or modification being issued by the city.

(2) *Permit approval.* A land disturbance permit may be issued at the developer's request following approval of all other development plans and documents and payment applicable fees required to be submitted under article V and article VII of this chapter. Approvals of water and sanitary sewer plans by the appropriate utility as well as approval from the state department of transportation or other external agencies may be required prior to the issuance of a land disturbance permit.

(3) *Expiration of land disturbance permit application.* An application submitted for a land disturbance permit shall expire after 180 calendar days from the date of filing, unless such application has been pursued in good faith or a permit has been issued. The director is authorized to grant a maximum of two extensions of time not exceeding 90 calendar days each. The extension shall be requested in writing and justifiable cause demonstrated.

(4) *Expiration of land disturbance permits.* A land disturbance permit shall remain valid for the duration of the project subject to the following time restrictions:

a. Land disturbance permits shall expire 180 calendar days from the date of issuance if no inspection has been requested; or,

b. If 180 calendar days elapses between inspection requests.

The director is authorized to grant, in writing, a maximum of two extensions of time, for periods not more than 180 calendar days each. The extension shall be requested in writing and justifiable cause demonstrated.

(5) *Lapse in construction activity.* For the purposes of this chapter, a lapse in or suspension of development activity, as authorized by a land disturbance permit, as a direct result of action or inaction on the part of the city which is completely beyond the control of the developer, shall not be considered as a lapse in activity causing the development permit to expire. The 180 calendar days within which development activity must begin shall exclude any such time period during which the activity is prohibited or has been caused to lapse by said city's action or inaction. Any

action or inaction on the part of the developer which results in a suspension of development activity shall be counted toward the 12-month time period.

~~(6) *Posting of permits and noise ordinance on-site.* The land disturbance permit, along with the approved plans and construction noise hours, must be maintained on site until all work as proposed and approved is completed. The permit and construction noise hours shall be posted as follows:~~

~~a. *Posting of permit.* Work requiring a permit shall not commence until the permit holder or his/her agent posts the permit card in a conspicuous place on the premises. The permit shall be protected from the weather and located at a prominent location within five feet of a right-of-way at approximately five feet above grade, parallel to and facing the street within the right-of-way and prominently visible from the right-of-way. The permit shall be located such that the building official or the building official's representative shall be able to conveniently and safely access the permit and make the required entries thereon. This permit card shall be maintained in such position by the permit holder until the certificate of occupancy or completion is issued by the building official.~~

~~b. *Posting of work hours.* Work requiring a permit shall not commence until the permit holder or his/her agent posts notice of the allowable work hours that are stipulated within the Sandy Springs Noise Ordinance. The allowable work hours notice shall be prominently posted at all primary points of construction access to the site, at the permit posting location in a position readily visible without opening any enclosure and within any enclosure containing permit materials, and at all primary points of construction access to the interior of any building within which construction activity occurs. The allowable work hours notices shall be located prominently at eye level. The allowable work hour notices shall be maintained in such positions by the permit holder until the certificate of occupancy or completion is issued by the building official.~~

~~(7) *Tampering with permits.* Unauthorized tampering or modification of a permit, permit drawings or permit card shall be deemed a violation of this chapter.~~

(c) *Trenching permits.*

(1) *Prohibition.* No individual, partnership, corporation, or other entity of any kind whatsoever shall engage in any excavation or trenching except in the compliance with the provisions of this article and in compliance with any applicable laws of the State of Georgia or of the United States or any rules and regulations of the U.S. Department of Labor, Occupational Safety and Health Administration, or any other state or federal governmental entity or department promulgating rules and regulations applicable to excavating and trenching.

(2) *Adoption of federal regulations.* All safety and health regulations adopted by OSHA with regard to excavating and trenching operations, particularly Part 1926, Subpart P-Excavations, Trenching, and Shoring, Section 1926.650, 1926.651, 1926.652, 1926.653 of the Code of Federal Regulations, as the same now exist or may be hereafter amended are adopted as a part of this article the same as if quoted verbatim herein.

(3) *Permit required.* No excavation or trenching shall be performed until a permit or authorization for same has been obtained from the city in accordance with this chapter. Any applicant will be required to acknowledge receipt and understanding of safety requirements before any permit will be issued. All such permits shall be posted in accordance with section 103-27(b)(6).

No permit or authorization shall be issued unless an authorized agent of the applicant holds a certificate.

(4) *Certificate required.* No equipment operator or supervisory personnel shall participate in any excavation or trenching or in any way work in an excavation or trench unless such person holds a valid certificate evidencing satisfactory completion of a required educational program on safe trench/excavation practices. No other person shall participate in or work in any excavation or trenching site unless a certificate holder is present at the excavation or trench site where work is being performed.

(5) *Inspection.* The city shall periodically inspect trench/excavation sites. Such inspectors shall, among other things, verify the presence of the required permit, verify existence of required certificates, and verify compliance to OSHA safety standards herein above adopted. The inspectors may operate pursuant to a contract between the city and a third-party entity.

(6) *Violations.* In addition to other penalties that may be assessed under this chapter, the following penalties may be imposed for violations of this section:

a. Violations of this article may result in revocation or suspension of any permit issued hereunder as herein above set out.

b. A notice of violation shall be issued for any deficiency. Upon receipt of such notice, the deficiency shall be corrected immediately.

c. All excavating and trenching work upon any job site shall cease immediately when there is trench activity by any person not a certificate holder and/or when the deficiencies cannot be corrected immediately and/or when such work is being done without a permit.

d. If deficiencies identified in a notice of violation are not corrected, the building permit, land disturbance permit or any other permit issued by the city may be suspended or revoked for due cause upon the conditions herein identified for revocation of permit.

e. Flagrant and/or repeated violations shall be reported by the city to OSHA for action by that agency.

(d) *Retaining wall permits.*

(1) *Additional requirements.* In addition to the requirements of this section all retaining walls shall comply with the provisions of article XIII of this chapter.

(2) *Height requirements.* A retaining wall permit shall be issued for all retaining walls four feet in height or greater. A site plan shall be submitted with the application that shows the proposed location of the retaining wall relative to the residence, the property boundaries, setback lines, septic tank and septic tank drain field (if any), any easements on the site, and erosion and sediment control measures and shall comply with all requirements of the zoning resolution.

(3) *Certification by professional engineer.* In addition to the requirements for a wall four feet in height or a greater, any walls more than six feet in height shall include a design signed and sealed by a qualified, professional engineer registered in the State of Georgia.

(4) *Standard for measurement of wall height.* The height of the wall shall be measured from the grade level at the front of the wall to the grade level at the back of the wall at the same section. For walls that are not a constant height the largest of these measurements shall be used to determine the height of the wall.

(e) *Right-of-way encroachment/utility permits.* No person or company shall perform construction work in the street right-of-way without a permit issued by the city public works department in accordance with the City Code of Ordinances. Such permit is posted at the construction site at all times. Such construction must conform to the construction/maintenance guidelines and specifications of the city and/or the state department of transportation.

(f) *Tree removal permits.* A tree removal permit may be required for any activity which may result in the removal, damage or destruction of any tree as defined in the tree conservation ordinance.
(g) Sanitary sewer, *groundwater well, and septic permits.* No person or company shall install of perform construction of sanitary sewer lines, groundwater wells, or septic systems without prior approval from the Fulton County Department of Public Works or of Health and Wellness and completion of a pre-construction meeting with the City of Sandy Springs.
(Ord. No. 2008-09-48, § 1, 9-16-2008)

Sec. 103-28. Building permits.
(a) *Applicable codes.* Building permits for all structures or interior finishes are issued after meeting the applicable requirements of the fire prevention and life safety codes, and the various health, water, sewer, and provisions of Sandy Springs overlay district, building codes of the city or utility providers, as well as the provisions of any certificate approved under the Chattahoochee River Corridor, if applicable and the provisions of this chapter.
(b) *Sanitary sewage disposal.*
(1) *Septic systems.* For any structure for which on-site sewage disposal (septic systems) will be provided, a permit issued by the Fulton County Health and Wellness Department shall be required prior to issuance of a building permit. Said permit may first require approval by the Fulton County Health and Wellness Department of a plan showing the location of the sewage disposal system and other site improvements, in accordance with their regulations.
(2) *Connection to public sanitary sewer.* Any structure which requires a connection to or modification of the existing sanitary sewer system shall require approval from Fulton County prior to the issuance of a building permit.
(c) *Potable water supply.* For any structure for which a connection to the potable water system is required shall provide proof of payment of all applicable fees to the water provider.
(d) *Single-family and duplex residences.*
(1) A building permit for a single- or two-family residence may be issued after the recording of a final plat or after the lot upon which the building is to be located has otherwise become a buildable lot of record or as a model home permit as provided for in section 103-28(i).
(2) The approval by the department of a residential site plan may be required prior to issuance of the building permit, as noted and conditioned on the final plat or as may be required for compliance with the Chattahoochee River Corridor. For such lots, a certificate of occupancy shall not be issued until conformance to the site plan has been field verified by the department. A certified foundation survey prepared by registered land surveyor may be required where, in the opinion of the director, the foundation may encroach in any setback or buffer.
(3) For single- or two-family residences where land disturbing activities exceed one acre, a land disturbance permit may be issued in accordance with the provisions of section 103-27(b) of this chapter prior to the issuance of a building permit.
(e) *Swimming pools.* Issuance of a building permit for a swimming pool as an accessory use to a single or two-family residence, whether to be issued at the same time as or subsequent to the permitting or construction of the house or duplex, shall first require approval of a swimming pool site plan. The plan shall show the proposed location of the swimming pool and enclosing fence relative to the residence, the property boundaries, setback lines, septic tank and septic tank drain field (if any), and any easements on the site, and shall comply with all requirements of the zoning ordinance and swimming pool code. An administrative permit is required. A certificate of

occupancy or a certificate of completion shall not be issued until conformance to the swimming pool site plan and all applicable building codes has been field verified by the department. Additionally, all permitted swimming pools must conform to the swimming pool discharge policy.

(f) *Multifamily and nonresidential structures.*

(1) Issuance of a building permit for any principal building other than a single-family detached or duplex residence (and associated accessory structure) shall first require issuance of a land disturbance permit for the building site, and the building permit shall be consistent with said land disturbance permit.

(2) Building plans must be reviewed and approved by the department prior to permitting for all structures.

(3) Fulton County approval may be required prior to the issuance of a building permit for construction activities involving, food service, commercial swimming pools, dumpster pads, hotels or motels, grease traps, etc.

(g) *Demolition permits.* Demolition permits may be required for the partial or complete demolition of the interior or exterior of any structure within the city. Pursuant to the State of Georgia's Asbestos Safety Act an asbestos survey shall be required.

(h) *Expiration of building permits.* A building permit shall remain valid for the time period specified in the building codes as adopted by the city.

(i) *Issuance of building permits prior to final plat.* Building permits shall only be issued on buildable lots of record, as defined in this chapter, except under special circumstances limited to and as specifically described in this section.

(1) *Single-family residential model homes.* In single-family detached and duplex residential subdivision, after approval of the conceptual plan the sub-divider may be allowed one building permit for each 15 lots located in the proposed subdivision provided the sub-divider provides an agreement to install improvements form and a cash surety equal to 125 percent of the cost of the remaining infrastructure improvements, based on written estimates by the design professional for the project. No more than ten building permits for model homes will be allowed in any one subdivision. For lots where model homes are proposed the following conditions must be met prior to the issuance of the building permits:

a. The lots shall be located within 300 feet of an active fire hydrant; and

b. Sanitary sewer and water service for these lots shall be a installed and approved by the governing regulatory authority; and,

c. The lots shall have a minimum 20-foot wide fire access road extending from a paved public street to within 100 feet of the proposed structure.

A certificate of occupancy shall not be issued for the completed model home until the final plat encompassing the model home building lots has been approved and recorded, without the express approval of the director.

(2) *Nonresidential subdivisions.* Building permits may be issued by the department on the basis of an approved preliminary plat/conceptual plan and after a land disturbance permit has been approved reflecting the site plan and construction drawings for specific buildings and associated site improvements. Issuance of the building permits shall be conditioned on the following:

a. An approved surety shall have been received in a form acceptable to the city attorney, drawn in favor of the city and in an amount not less than 125 percent of the cost of completing all public improvements as authorized and required by the land disturbance permit; and,

b. The performance bond or other approved surety shall not exceed an aggregate total for all required public improvements of $12,000.00 per acre for the total acreage included within the subdivision or portion of the subdivision wherein the improvements are proposed, except by approval of the mayor and council. For any project whose remaining work exceeds an amount equal to the $12,000.00 per acre, provided herein, shall be not substantially complete and not eligible for building permits; and,

c. Fire marshal division approval shall be required prior to issuance of any building permit, which may include approval of acceptable access and water under pressure for combustible construction; and,

d. Approval of the Fulton County Health and Wellness Department for on-site sewage disposal or the Fulton County Sewer Department for a building to be served by public sewer shall be required prior to issuance of any building permit; and,

e. Construction of the required public improvements shall proceed concurrently with construction of the buildings; and,

f. No certificate of occupancy shall be approved for any structure within the subdivision prior to recording of the final plat without the express approval of the director; and,

g. The director shall have found that the public interest is best served and that a public purpose is involved in the acceptance of the surety.

(3) *Fee-simple townhouse subdivisions.* A building permit may be issued on a buildable lot of record established for each building (containing any number of townhouse dwelling units) through recording of a final plat following completion of all required public improvements. Upon completion of the buildings, the final plat shall be rerecorded to establish individual lots for the townhouse units, based on their actual locations, prior to issuance of certificates of occupancy.

(Ord. No. 2008-09-48, § 1, 9-16-2008)