



To: John McDonough, City Manager

From: Michelle Alexander, Director of Community Development

Date: August 4, 2016 for Submission onto the August 16, 2016 City Council Regular Meeting Agenda

Subject: TA16-0007 – An Ordinance to Amend Article III, Section 3.3 Definitions; Article XII-B Sandy Springs Overlay District – Section 12B.7 Prohibited Uses; and Article XIX Administrative Permits and Use Permits, Part II Administrative Permits, Section 19.3.4 Fireworks – Consumer Fireworks Retail Sales As Primary Use, of the Sandy Springs Zoning Ordinance

Planning Commission Recommendation:

APPROVAL of the amendments.
Hearing: July 21, 2016. Vote 5-0

Department of Community Development Recommendation:

APPROVAL of the amendments.

Background and Discussion:

At the 2016 General Assembly Session, House Bill 727 was passed and subsequently signed into law by the Governor. Numerous provisions of the state statutes covering consumer fireworks, passed in 2015, have now been amended and need to be incorporated into Sandy Springs' Zoning Ordinance provisions.

As a result of the 2015 law, the governing authorities of counties and municipal corporations cannot prohibit the sale or use or explosion of consumer fireworks or products or services which are lawful under Chapter 10 of Title 25 of the Official Code of Georgia, which is the chapter governing the regulation of fireworks. The 2016 law contains this same provision, only changing the word "explosion" to "ignition" and referencing now "other" products or services which are lawful under the fireworks regulation chapter.

Of particular significance are the definitions for consumer fireworks retail sales facility, temporary consumer fireworks retail sales stand, and store, all of which have a direct impact on Sandy Springs' consumer fireworks retail sales zoning amendments passed last year. The revised definitions are, however, more specific and result in proposed zoning provisions that are more clear and concise.

Neither city nor county regulation is allowed unless such additional regulation is expressly authorized by general law. Therefore, only in exercising zoning authority can local governing authorities act.

Amendment Schedule:

Planning Commission Public Hearing – July 21, 2016
City Council Public Hearing – August 16, 2016

Attachments:

Final Draft Ordinance to be presented to Mayor and City Council

Marked-Up text to be presented to Mayor and City Council

TA16-0007

Reading: August 16, 2016

STATE OF GEORGIA

COUNTY OF FULTON

AN ORDINANCE TO AMEND ARTICLE 3 -- DEFINITIONS, SECTION 3.3 -- DEFINITIONS, ARTICLE 12B -- SANDY SPRINGS OVERLAY DISTRICT, SECTION 12B.7 -- PROHIBITED USES, AND ARTICLE 19 -- ADMINISTRATIVE PERMITS AND USE PERMITS, SECTION 19.3.4 -- FIREWORKS -- CONSUMER FIREWORKS RETAIL SALES AS PRIMARY USE, OF THE SANDY SPRINGS ZONING ORDINANCE

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

WHEREAS, the Mayor and City Council of Sandy Springs have determined that revision of the fireworks provisions and their associated definitions is required for consistency with State Law, House Bill 727; and

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 III, *Definitions*, of the City of Sandy Springs Zoning Ordinance is hereby amended by the deletion of definitions "Fireworks – Consumer Retail Sales Facility – Mixed sales Use – Temporary or Year Round," "Fireworks – Consumer Retail Sales Facility – Dedicated Fireworks Sales Use – Year Round," "Fireworks – Store," and "Fireworks – Retail Chain," and "Fireworks – Distributor" and the following inserted therefore:

3.3.6.

Fireworks - Consumer Fireworks Retail Sales Facility. A permanent or temporary building or structure or Consumer Fireworks Retail Sales Stand that is used primarily for the retail display and

sale of consumer fireworks to the public, BUT shall not include a tent, canopy, or membrane structure. Primarily means that 80% or greater of the Consumer Fireworks Retail Sales Facility is used for the retail display and sale of consumer fireworks to the public.

Fireworks - Temporary Consumer Fireworks Retail Sales Stand. A temporary or permanent building or structure that has a floor area not greater than 800 square feet (74 square meters), other than tents, canopies, or membrane structures, that is used primarily for the retail display and sale of consumer fireworks to the public.

Fireworks - Store - A building classified as a mercantile occupancy that contains a variety of merchandise and that is not used primarily for the retail sales of consumer fireworks and shall only include such buildings with at least 4000 square feet of retail display space and wherefrom: (A) no more than 25% of such retail display space is used for consumer fireworks and items or products as provided under O.C.G.A. § 25-10-1(b)(2)¹ and (B) other items or products which are not consumer fireworks or items or products as provided for under O.C.G.A. § 25-10-1(b)(2) are sold; and provided, further, that such term means a person, firm, corporation, association, or partnership with more than one mercantile location, where all such mercantile locations are collectively known to the public by the same name or share central management.

Fireworks - Distributor - Any person, firm, corporation, association, or partnership which sells consumer fireworks and is properly licensed by the State as such.

2.

Article XII-B, *Sandy Springs Overlay District*, Section 12B.7, Prohibited Uses, of the City of Sandy Springs Zoning Ordinance is hereby replaced in its entirety and the following inserted therefore:

12B.7. PROHIBITED USES (added 09/18/07, RZ07-028, Ord. 2007-08-56)

¹ O.C.G.A. § 25-10-1(b)(2) reads: "(2) wire or wood sparklers of 100 grams or less of mixture per item; other sparkling items which are nonexplosive and nonaerial and contain 75 grams or less of chemical compound per tube or a total of 500 grams or less for multiple tubes; snake and glow worms; smoke devices; or trick noise makers which include paper streamers, party poppers, string poppers, snappers, and drop pops each consisting of 0.25 grains or less of explosive mixture."

A. All Districts

The following uses shall be prohibited from the Main Street District, the Suburban District, and the Perimeter Community Improvement District:

- a. All uses permitted under the M-1A, M-1, and M-2 districts.
- b. Pawn Shops
- c. Check Cashing Establishments
- d. Self Storage/Mini
- e. Self Storage/Multi
- f. Fireworks - Temporary Consumer Fireworks Retail Sales Stand as defined in Section 3.3.6 of Article III
- g. Fireworks - Consumer Fireworks Retail Sales Facility – as defined in Section 3.3.6 of Article III
- h. Fireworks - Store as defined in Section 3.3.6 of Article III.

3.

Article XIX, *Administrative Permits and Use Permits* – Part II Administrative Permits, Section 19.3.4, Fireworks – Consumer Fireworks Retail Sales, of the City of Sandy Springs Zoning Ordinance is hereby amended and the following inserted therefore:

19.3.4. FIREWORKS - CONSUMER FIREWORKS RETAIL SALES

19.3.4.1. FIREWORKS - TEMPORARY CONSUMER FIREWORKS RETAIL SALES STAND AS DEFINED BY SECTION 3.3.6 OF ARTICLE III.

A. Allowed in These Districts with Administrative Use Permit Only: C-2

B. Standards:

1. The following standards apply to temporary consumer fireworks retail sales stands as defined in Section 3.3.6 Fireworks – Temporary Consumer Fireworks Retail Sales Stand.
2. Administrative permit applications shall be submitted to the Department of Community Development no later than 60 calendar days prior to the desired date for commencement of sales. If a Temporary Consumer Fireworks Retail Stand Sales license is subsequently applied for and issued by the Sandy Springs Department of Revenue, the Administrative permit shall expire on the next January 31 immediately following the date of issuance of the license as provided by O.C.G.A. § 25-10-5.1(c)(1). The permitted location is not transferable and no more than two (2) permits per year shall be issued for one (1) location or parcel. Said permit shall be posted on the site during the operation.
3. Temporary Consumer Fireworks Retail Sales Stands shall not be located within fifteen hundred (1,500) feet of the property line of another Temporary Consumer Fireworks Retail Sales Stand, Consumer Fireworks Retail Sales Facility, or Store.
4. Temporary Consumer Fireworks Retail Sales Stands shall be located within 1,000 feet of a fire hydrant, unless the Fire Chief or designee of the Sandy Springs Fire Department in writing authorizes operation in excess of 1,000 feet.
5. A minimum of six (6) Parking Spaces shall be provided adjacent to the vending area for the exclusive use of the vending operation and shall not occupy minimum required Parking Spaces for any other Use on site.
6. Any Temporary Consumer Fireworks Retail Sales Stand shall maintain a minimum twenty-five (25) foot setback from the Right-of-Way and not be located within a required Landscape Strip, Buffer, or Improvement Setback. Said stand shall also maintain a minimum setback of ten (10) feet from any driveway.

7. The applicant shall provide a notarized written permission statement from the Property owner or lease holder of the subject site. A twenty-four (24) hour contact number of the Property owner or lease holder shall be provided along with the permit application.
8. The hours of operation shall be limited to the hours of 8:00 a.m. to 9:00 p.m.
9. No Distributor equipment, vehicle, display or sales activity shall block access to a public facility including, but not limited to a telephone booth, mail box, parking meter, fire alarm box, fire hydrant, traffic control box, driveway or other access point.
10. Vending shall not be permitted from any vehicle or from a trailer towed by a motor vehicle or from a tent, canopy, or membrane structure.
11. Signs shall be limited to one (1) banner sign as defined in Article XXXIII, Section 3 – Signs of the Zoning Ordinance.
12. Temporary Consumer Fireworks Retail Sales Stands shall not be located within three hundred (300) feet of the property line of a nursing home, hospital, day care facility, school, or residential dwelling.
13. Temporary Consumer Fireworks Retail Sales Stands shall conform to all applicable fire code and building regulations including NFPA 1124.

19.3.4.2. FIREWORKS - CONSUMER FIREWORKS RETAIL SALES FACILITY AND STORE AS BOTH ARE DEFINED IN SECTION 3.3.6 OF ARTICLE III

A. Allowed in These Districts with Administrative Use Permit Only: C-2

B. Standards:

1. The following standards apply to consumer fireworks retail sales within Consumer Fireworks Retail Sales Facilities and Stores as defined in Section 3.3.6, not including, however, Temporary Consumer Fireworks Retail Sales Stands which are covered in the preceding Section 19.3.4.1.

- 2. The Property on which the Consumer Fireworks Sales Facility or Store selling consumer fireworks is permitted must be located at least fifteen hundred (1,500) feet from the property line of any other such Consumer Fireworks Sales Facility or Store.
- 3. The applicant shall provide a notarized written permission statement from the Property owner or lease holder of the subject site. A twenty-four (24) hour contact number of the Property owner or lease holder shall be provided along with the permit application.
- 4. The hours of operation shall be limited to the hours of 8:00 a.m. to 9:00 p.m.
- 5. Consumer Fireworks Retail Sales Facilities and Stores may not be located within multi-tenant buildings.
- 6. Consumer Fireworks Retail Sales Facilities and Stores shall not be located within three hundred (300) feet of the property line of a nursing home, hospital, day care facility, school, or residential dwelling.
- 7. Consumer Fireworks Retail Sales Facilities and Stores shall conform to all applicable fire code and building regulations including NFPA 1124.

4.

This Ordinance is effective August 17, 2016; and

ORDAINED this the 16th day of August, 2016.

Approved:

Russell K. Paul, Mayor

Attest:

Michael Casey, City Clerk

(Seal)

TA16-0007 - CONSUMER FIREWORKS RETAIL SALES ZONING ORDINANCE AMENDMENTS

Amend Article III Section 3.3 as indicated:

3.3.6.

Strike the existing definitions for “Fireworks - Consumer Retail Sales Facility – Mixed Sales Use Temporary or Year-Round” and “Fireworks – Consumer Retail Sales Facility Dedicated Fireworks Sales Use Year-Round” and replace with the following:

~~Fireworks – Consumer Retail Sales Facility – Mixed Sales Use – Temporary or Year Round. A use within a permanent building or structure in which the retail display, storage, and sale of consumer fireworks to the public constitutes ten (10) percent or less of the gross floor area of the sales facility.~~

~~Fireworks – Consumer Retail Sales Facility – Dedicated Fireworks Sales Use – Year Round. A use within a permanent building or structure in which the retail display, storage and sale of consumer fireworks to the public constitutes greater than ten (10) percent of the gross floor area of the building.~~

Fireworks - Consumer Fireworks Retail Sales Facility. A permanent or temporary building or structure or Consumer Fireworks Retail Sales Stand that is used primarily for the retail display and sale of consumer fireworks to the public, BUT shall not include a tent, canopy, or membrane structure. Primarily means that 80% or greater of the Consumer Fireworks Retail Sales Facility is used for the retail display and sale of consumer fireworks to the public.

Strike the existing definition for “Fireworks – Temporary Consumer Retail Sales Stand” and replace with the following:

~~Fireworks – Temporary Consumer Retail Sales Stand. A temporary structure that has a floor area not greater than 800 square feet, including tents, canopies, or membrane structures, that is used for the retail display and sale of consumer fireworks to the public. Temporary use shall be defined as a use not to exceed ninety (90) days after issuance of a City license for the purpose of this definition.~~

Fireworks - Temporary Consumer Fireworks Retail Sales Stand. A temporary or permanent building or structure that has a floor area not greater than 800 square feet (74 square meters), other

than tents, canopies, or membrane structures, that is used primarily for the retail display and sale of consumer fireworks to the public.

Strike the existing definition for “Fireworks – Store” and “Fireworks – Retail Chain” and replace with the following:

~~Fireworks – Store – A building classified as a mercantile occupancy that contains a variety of merchandise and that is not used primarily for the retail sales of consumer fireworks.~~

~~Fireworks – Retail Chain – A person, firm, corporation, association, or partnership with more than one store, where all such stores are collectively known to the public by the same name or share central management.~~

Fireworks - Store - A building classified as a mercantile occupancy that contains a variety of merchandise and that is not used primarily for the retail sales of consumer fireworks and shall only include such buildings with at least 4000 square feet of retail display space and wherefrom: (A) no more than 25% of such retail display space is used for consumer fireworks and items or products as provided under O.C.G.A. § 25-10-1(b)(2)¹ and (B) other items or products which are not consumer fireworks or items or products as provided for under O.C.G.A. § 25-10-1(b)(2) are sold; and provided, further, that such term means a person, firm, corporation, association, or partnership with more than one mercantile location, where all such mercantile locations are collectively known to the public by the same name or share central management.

Add to the existing definition of “Fireworks – Distributor” the language: “and is properly licensed by the State as such” so that said definition shall now read as follows:

Fireworks - Distributor - Any person, firm, corporation, association, or partnership which sells consumer fireworks and is properly licensed by the State as such.

Amend Article XII-B Section 12B.7 as indicated:

Article XII-B Sandy Springs Overlay District

¹ O.C.G.A. § 25-10-1(b)(2) reads: “(2) wire or wood sparklers of 100 grams or less of mixture per item; other sparkling items which are nonexplosive and nonaerial and contain 75 grams or less of chemical compound per tube or a total of 500 grams or less for multiple tubes; snake and glow worms; smoke devices; or trick noise makers which include paper streamers, party poppers, string poppers, snappers, and drop pops each consisting of 0.25 grains or less of explosive mixture.”

12B.7. PROHIBITED USES (added 09/18/07, RZ07-028, Ord. 2007-08-56)

A. All Districts

Strike the existing language under this subsection "A" and replace with the following:

The following uses shall be prohibited from ~~all districts, including the Main Street District, of the Sandy Springs Overlay District~~ **the Main Street District, the Suburban District, and the Perimeter Community Improvement District:**

- a. All uses permitted under the M-1A, M-1, and M-2 districts.
- b. Pawn Shops
- c. Check Cashing Establishments
- d. Self Storage/Mini
- e. Self Storage/Multi

Strike the existing language set forth in "f", "g", and "h" and replace with the following:

- f. Fireworks - ~~Temporary Consumer Retail Sales Stand~~
Temporary Consumer Fireworks Retail Sales Stand as defined in Section 3.3.6 of Article III
- g. Fireworks - ~~Consumer Retail Sales Facility — Dedicated Fireworks Sales Use — Year Round~~
Consumer Fireworks Retail Sales Facility - as defined in Section 3.3.6 of Article III
- h. Fireworks – Store as defined in Section 3.3.6 of Article III.

Amend Article XIX Administrative Permits and Use Permits – Part II Administrative Permits as indicated:

Strike from the title for 19.3.4 the words "as primary use" so that 19.3.4 shall now read as follows:

19.3.4. FIREWORKS - CONSUMER FIREWORKS RETAIL SALES ~~AS PRIMARY USE~~

Add the words “As defined in Section 3.3.6 of Article III” so the title for 19.3.4.1 shall now read as follows:

19.3.4.1. FIREWORKS - TEMPORARY CONSUMER FIREWORKS RETAIL SALES STAND ~~AS DEFINED IN SECTION 3.3.6 OF ARTICLE III~~

A. Allowed in These Districts with Administrative Use Permit Only: C-2

B. Standards:

Adjust the existing subsections 1 and 2 to read as follows:

1. The following standards apply to temporary **consumer** fireworks retail sales stands as defined in Sec. 3.3.6 Fireworks – Temporary Consumer **Fireworks** Retail Sales Stand. ~~Permanent consumer fireworks retail sales stands are not an allowed use in any City of Sandy Springs zoning district.~~
2. Administrative permit applications shall be submitted to the Department of Community Development no later than ~~45~~ **60** calendar days prior to **the desired date** for commencement of sales. **If a Temporary Consumer Fireworks Retail Stand Sales license is subsequently applied for and issued by the Sandy Springs Department of Revenue, the Administrative permit shall expire on the next January 31 immediately following the date of issuance of the license as provided by O.C.G.A. § 25-10-5.1(c)(1).** ~~An administrative permit shall expire 90 calendar days after issuance of any subsequently applied for Temporary Consumer Retail Sales Stand License by the Sandy Springs Department of Revenue pursuant to O.C.G.A. 25-10-5.1(e).~~ The permitted location is not transferable and no more than two (2) permits per year shall be issued for one (1) location or parcel. Said permit shall be posted on the site during the operation.

Delete the words “or temporary consumer fireworks retail sales facility from subsection 3 and replace with the words, “Consumer Fireworks Retail Sales Facility or Store”, so that subsection 3 shall now read as follows:

3. Temporary Consumer Fireworks Retail Sales Stands shall not be located within fifteen hundred (1,500) feet of the property line of another Temporary Consumer Fireworks Retail Sales Stand, ~~or Temporary Consumer Fireworks Retail Sales Facility,~~ or Store.

Strike 500 feet from subsection 4 and replace with 1,000 feet and strike the word, "chief" which appears before "Fire Chief", so that subsection 4 shall now read as follows:

4. Temporary Consumer Fireworks Retail Sales Stands shall be located within ~~500~~ 1,000 feet of a fire hydrant, unless the Fire Chief or designee of the Sandy Springs Fire Department in writing authorizes operation in excess of 1,000 feet.
5. A minimum of six (6) Parking Spaces shall be provided adjacent to the vending area for the exclusive use of the vending operation and shall not occupy minimum required Parking Spaces for any other Use on site.

Replace all plural references to "stands" with the singular, "stand", so that subsection 6 shall now read as follows:

6. Any Temporary Consumer Fireworks Retail Sales ~~Stands~~ Stand shall maintain a minimum twenty-five (25) foot setback from the Right-of-Way and not be located within a required Landscape Strip, Buffer, or Improvement Setback. Said ~~stands~~ stand shall also maintain a minimum setback of ten (10) feet from any driveway.
7. The applicant shall provide a notarized written permission statement from the Property owner or lease holder of the subject site. A twenty-four (24) hour contact number of the Property owner or lease holder shall be provided along with the permit application.
8. The hours of operation shall be limited to the hours of 8:00 a.m. to 9:00 p.m.
9. No Distributor equipment, vehicle, display or sales activity shall block access to a public facility including, but not limited to a telephone booth, mail box,

parking meter, fire alarm box, fire hydrant, traffic control box, driveway or other access point.

Add to subsection 10 the language, "or from a trailer towed by a motor vehicle or from a tent, canopy, or membrane structure", so that subsection 10 shall now read as follows:

10. Vending shall not be permitted from any vehicle ~~or from a trailer towed by a motor vehicle or from a tent, canopy, or membrane structure.~~
11. Signs shall be limited to one (1) banner sign as defined in Article XXXIII, Section 3 – Signs of the Zoning Ordinance.

Strike the existing subsection 12 and replace with the following, so that subsection 12 shall now read as follows:

12. Temporary Consumer Fireworks Retail Sales Stands shall not be located within ~~one hundred fifty (150)~~ **three hundred (300)** feet of the property line of a ~~nursing homes, hospitals, day care facilities, schools, or residential districts~~ hundred (300) feet of the property line of a **nursing home, hospital, day care facility, school, or residential dwelling.**
13. Temporary Consumer Fireworks Retail Sales Stands shall conform to all applicable fire code and building regulations including NFPA 1124.

Strike from the title for 19.3.4.2 the words "Dedicated Fireworks Sales Use Year Round" and replace this language with "And Store as Both are Defined in Section 3.3.6 of Article III", so that 19.3.4 shall now read as follows:

19.3.4.2. **FIREWORKS - CONSUMER FIREWORKS RETAIL SALES FACILITY -**
~~Dedicated Fireworks Sales Use — Year Round.~~ **AND STORE AS BOTH ARE DEFINED IN SECTION 3.3.6 OF ARTICLE III**

- A. Allowed in These Districts with Administrative Use Permit Only: C-2
- B. Standards:

Strike the existing subsections 1 and 2 and replace with the following:

1. The following standards apply to **consumer** fireworks retail sales within ~~permanent structures~~ **Consumer Fireworks Retail Sales Facilities and Stores** as defined in Sec. 3.3.6 Fireworks – ~~Consumer Retail Sales Facility Dedicated Fireworks Sales Use Year Round~~, **not including, however, Temporary Consumer Fireworks Retail Sales Stands** which are covered in the preceding **Section 19.3.4.1**.
2. The Property on which the ~~Dedicated Fireworks Sales Use Year Round~~ **Consumer Fireworks Sales Facility or Store** selling consumer fireworks is permitted must be located at least fifteen hundred (1,500) feet from **the property line of** any other ~~Dedicated~~ **such Consumer Fireworks Sales Facility or Store**. ~~Use Year Round. The Distributor shall provide to the City the names of all such businesses.~~
3. The applicant shall provide a notarized written permission statement from the Property owner or lease holder of the subject site. A twenty-four (24) hour contact number of the Property owner or lease holder shall be provided along with the permit application.
4. The hours of operation shall be limited to the hours of 8:00 a.m. to 9:00 p.m.

Strike existing subsections 5 and 6 and replace with the following, so that subsections 5 and 6 shall now read as follows:

5. Consumer Fireworks Retail Sales Facilities ~~Dedicated Fireworks Sales Use Year Round~~ and Stores may not be located within multi-tenant buildings.
6. Consumer Fireworks Retail Sales Facilities **and Stores** shall not be located within ~~one hundred fifty (150)~~ **three hundred (300)** feet of **the property line of nursing homes, hospitals, day care facilities, schools, and residential dwelling units a nursing home, hospital, day care facility, school, or residential dwelling.**
7. Consumer Fireworks Retail Sales Facilities **and Stores** shall conform to all applicable fire code and building regulations including NFPA 1124.

Strike Sec. 19.3.4.3 in its entirety.

~~19.3.4.3. FIREWORKS CONSUMER FIREWORKS RETAIL SALES FACILITY MIXED SALES USE TEMPORARY OR YEAR ROUND~~

~~A. Allowed in These Districts with Administrative Use Permit Only: C-2~~

~~B. Standards:~~

- ~~1. The following standards apply to fireworks retail sales within permanent structures as defined in Sec. 3.3.6 Fireworks Consumer Fireworks Retail Sales Facility Mixed Sales Use Temporary or Year Round.~~
- ~~2. The applicant shall provide a notarized written permission statement from the Property owner or lease holder of the subject site. A twenty four (24) hour contact number of the Property owner or lease holder shall be provided along with the permit application.~~
- ~~3. The hours of sales for all consumer fireworks shall be limited to the hours of 8:00 a.m. to 9:00 p.m.~~
- ~~4. Consumer Fireworks Retail Sales Facility Dedicated Fireworks Sales Use Year Round shall not be located within one hundred fifty (150) feet of nursing homes, hospitals, day care facilities, schools, and any residential dwelling unit.~~
- ~~5. Consumer Fireworks Retail Sales Facility Dedicated Fireworks Sales Use Year Round shall conform to all applicable fire code and building regulations including NFPA 1124.~~