

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.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, are hereby amended, respectively, to read as follows:

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.

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 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.

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:

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 February 7, 2012.

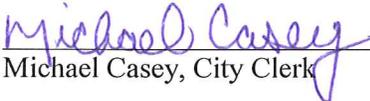
APPROVED AND ADOPTED this the 7th day of February, 2012.

Approved:



Eva Galambos, Mayor

Attest:



Michael Casey, City Clerk

(Seal)

