



CITY OF MABLETON, GEORGIA
Riverside EpiCenter
135 Riverside Pkwy, Austell, GA 30168
July 16, 2025 at 6:30 PM

The Honorable Michael Owens, Mayor
The Honorable Ron Davis, District 1 Councilmember
The Honorable Dami Oladapo, District 2 Councilmember
The Honorable Keisha Jeffcoat, Mayor Pro Tem/District 3 Councilmember
The Honorable Patricia Auch, District 4 Councilmember
The Honorable TJ Ferguson, District 5 Councilmember
The Honorable Debora Herndon, District 6 Councilmember

CITY COUNCIL REGULAR MEETING AGENDA

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. INVOCATION**
- 4. PLEDGE OF ALLEGIANCE**
- 5. APPROVAL OF AGENDA**
- 6. PUBLIC HEARINGS - DURING COUNCIL MEETING ITEMS WERE MOVED BY MAYOR AND COUNCIL TO THE BEGINNING OF PUBLIC HEARINGS.**
 - a. Consideration and Approval of Resolution Updating the Urban Redevelopment Areas within the City of Mableton - City Attorney Emilia Walker-Ashby**
 - b. Public Hearing for the Proposed Amendments to the City of Mableton Urban Redevelopment Plan 2024**
 - c. Consideration and Approval of Amended City of Mableton URA Plan - City Attorney Walker-Ashby**
 - d. Consideration and Approval of Bond Resolution and Intergovernmental Agreement with the City of Mableton, Georgia - City Attorney Walker-Ashby**
 - e. Rezoning Case 2025-001 - Second Read - TKHC Ministries - Rezone Tax Parcel 17010700480 and 17010700100 from GC (General Commercial) to R-20 (Residential Single-Family) District for construction of a Church - Community Development Director Michael Hughes**
 - f. First Read and Public Hearing - Consideration of an Ordinance creating Chapter 5, Alcoholic Beverages, and for Other Lawful Purposes - City Attorney Emilia Walker - Ashby and Community Development Director Michael Hughes
Open and Close Public Hearing - No action to be taken - this is First Read.**
 - g. First Reading and Public Hearing - An Ordinance Updating Chapter 7. Taxes, Fees and Assessments of the Code
of Ordinances: Regulation Occupation Taxation and Business Licensure and For Other Lawful Purposes, Of Mableton Code of Ordinance - Community Development**

Director Michael Hughes

Open and Close Public Hearing. No action at this time - this is First Read.

- h. Second Reading and Public Hearing of An Ordinance Creating Article 5, Subdivisions, under Chapter 8, Buildings and Construction, of the City of Mableton Code of Ordinances - Community Development Director Michael Hughes**
- i. OZI-2025-002: Public Hearing - To consider amending the stipulations of United Security Services Agency c/o Matthew Herbert regarding rezoning application Z-13 of 2009 - located at 1140 Old Powders Springs RD SW in Land Lot 36 of the 18th District - Public Hearing - Community Development Director Michael Hughes**
Staff is recommending deferral to August 11, 2025 meeting.
- j. OZI-2025-003: To consider amending the stipulations for Kingdom Business c/o Tommy Orok regarding rezoning application Z-30 of 2014, property located at 4511 Austell Rd SW in Land Lot 1067 of the 19th District - Public Hearing - Community Development Director Michael Hughes**
Staff is recommending deferral until the August 11, 2025, meeting.

7. UNFINISHED BUSINESS

8. PRESENTATIONS/ACKNOWLEDGEMENTS/PROCLAMATIONS

- a. Presentation and Discussion of the City of Mableton's Grant Writing Services - Sustainability, Waste, and Beautification Director Emily Groth and Chris Brewer of Fund it Forward**

9. APPOINTMENTS

- 10. PUBLIC COMMENTS - 2 minutes per speaker - no more than 30 minutes for all speakers.**
Anyone wishing to make a public comment should complete and submit the public comment card to the City Clerk prior to the start of the meeting.

11. CONSENT AGENDA

- a. Approval of June 25, 2025 Work Session Minutes (5:15 pm)**
- b. Approval of June 25, 2025 Regular Meeting Minutes**

12. NEW BUSINESS

- a. Consideration and Approval of Resolution Approving the Purchase of All Fleet Vehicles from Wade Ford for the Fleet Department and Authorize the Mayor to Finalize and Execute Related Agreements and Documents - Special Projects Manager Xavier Ross**

13. OTHER BUSINESS/DISCUSSION

14. CITY MANAGER'S ANNOUNCEMENTS/COMMENTS

15. CITY ATTORNEY/CITY CLERK/STAFF ANNOUNCEMENTS/COMMENTS

16. MAYOR AND COUNCIL ANNOUNCEMENTS/COMMENTS

17. EXECUTIVE SESSION (IF NEEDED) FOR LITIGATION (O.C.G.A. 50-14-3(B)(1)(A)REAL ESTATE(O.C.G.A. 50-14-3 (B)(1)) PERSONNEL (O.C.G.A. 50-14-3

(B)(2)) AND MISC. EXEMPTIONS (O.C.G.A. 50-14-3 (B)(4)&(5))

18. ADJOURNMENT

Persons with special needs relating to handicapped accessibility, disability, or foreign language may contact the City Clerk at (404) 927-9502 or susan.hiott@mableton.gov at least three days prior to the meeting. The clerk can be located at the City of Mableton Offices, Riverside EpiCenter, 135 Riverside Pkwy, Austell, Georgia 30168 during regular office hours.



AGENDA ITEM MEMORANDUM

MEETING OF: July 16, 2025

DEPARTMENT: [DEPARTMENT]

ISSUE/AGENDA ITEM TITLE: Consideration and Approval of Resolution Updating the Urban Redevelopment Areas within the City of Mableton - City Attorney Emilia Walker-Ashby

BACKGROUND/SUMMARY:

BUDGETED/FINANCIAL IMPACT – FUND:

RECOMMENDATION:

ATTACHMENTS:

1. Amended URA Plan Rev. 7.10.25 clean
2. Amended URA Plan Rev. 7.10.25
3. Resolution Amending URA Areas Rev. 7.10.25

City of Mableton, Georgia

**Urban Redevelopment Plan
2024, As Amended**



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EXECUTIVE SUMMARY

This Amended City of Mableton Urban Redevelopment Plan (“Plan”) shall constitute an Urban Redevelopment Plan for the City of Mableton, Georgia (the “City”) within the meaning of the “Urban Redevelopment Law,” Title 36, Chapter 61 of the Official Code of Georgia Annotated, as amended. This Plan meets the requirements of O.C.G.A. § 36-61- 2(24) and conforms to the general plan for the City as a whole. This Plan further considers zoning and planning changes, land use issues, maximum densities, building and development requirements, and the plan's relationship to City goals regarding suitable land uses, improved traffic and public transportation, the provision of public utilities, the creation or expansion of recreational and community facilities, and other public improvements in identified urban redevelopment areas. This Plan will assist the positive growth and development of the new Georgia City of Mableton and will promote the general welfare of the City’s residents.

The steps to fulfil the requirements under the Urban Redevelopment Law:

- Define boundaries of an Urban Redevelopment Area.
- Develop a draft Urban Redevelopment Plan.
- Hold a public Hearing.
- Adopt a “Finding of Necessity”, declaring that there exist pockets of blight which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of this state.

This resolution declares that certain pockets of blight or portions thereof may require acquisition, clearance, and disposition subject to use restrictions. Additionally, this resolution declares that public money may be expended, and the power of eminent domain may be exercised for the purposes of removing blight.

- Adopt the Urban Redevelopment Plan and designate an Urban Redevelopment Agency responsible for implementation.

BACKGROUND AND PURPOSE

Certain areas within the City of Mableton meet the State of Georgia criteria for targeted urban redevelopment, as defined by the State of Georgia Urban Redevelopment Law (O.C.G.A. 36-61-1 *et seq.*). These areas present conditions of persistent deteriorating or inadequate utility, transportation, or transit infrastructure; a predominance of buildings or improvements, which by reason of dilapidation, deterioration, age, vacancy, or obsolescence are detrimental to the public health, safety, morals, or welfare; the presence of a substantial number of vacant, deteriorated, or

deteriorating structures; or a combination of such conditions. As such, the persistence of these conditions substantially impairs or arrests the sound growth of the City, detain the provisions of adequate housing accommodations, and constitutes an economic and social liability that is a menace to the public health, safety, morals, or welfare in its present condition and use.

As such, the State of Georgia enables the use of redevelopment tools through the Urban Redevelopment Law to undertake actions to improve the “public health, safety, morals and welfare” of a specifically designated and qualifying area, otherwise labeled as an Urban Redevelopment Area. In order to enact these tools, an area must be declared to be meeting certain standards for depressed or derelict conditions based upon the predominance of the physical indicators mentioned above. In addition to identifying areas that meet these conditions, an Urban Redevelopment Plan must be approved which conforms to the general plan of the City as a whole (O.C.G.A.36-61-2 (24)). This document is intended to fulfill the role of the Urban Redevelopment Plan for the Mableton Urban Redevelopment Area No. 1 (“URA Area 1”) and Mableton Urban Redevelopment Area No. 2 (“URA Area 2”) approved by the City.

This document will highlight several significant tools that could be used to begin addressing the poor environmental quality pervasive within Mableton URA Area 1 and Area 2 under this Plan and contribute to sustainable growth for the City as a whole.

BLIGHT

The urban redevelopment areas under this Plan “pockets of blight,” which display the presence of conditions or a combination of factors that substantially impairs and arrests the sound growth of the City of Mableton.

"Pocket of blight" means an area in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, age, or obsolescence; inadequate provision for ventilation, light, air, sanitation, or open spaces; high density of population and overcrowding; existence of conditions which endanger life or property by fire and other causes; or any combination of such factors, are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime and detrimental to the public health, safety, morals, or welfare.

“Pocket of blight” also means an area which by reason of the presence of a substantial number of deteriorated or deteriorating structures; predominance of defective or inadequate street layout; faulty lot layout in relation to size, adequacy, accessibility, or usefulness; unsanitary or unsafe conditions; deterioration of site or other improvements; tax or special assessment delinquency exceeding the fair value of the land; the existence of conditions which endanger life or property by fire and other causes; having development impaired by airport or transportation noise or other environmental hazards; or any combination of such factors, substantially impairs or arrests the sound growth of a municipality or county, retards the provisions of housing

accommodations, or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use.

CONSISTENCY WITH OTHER CITY PLANS

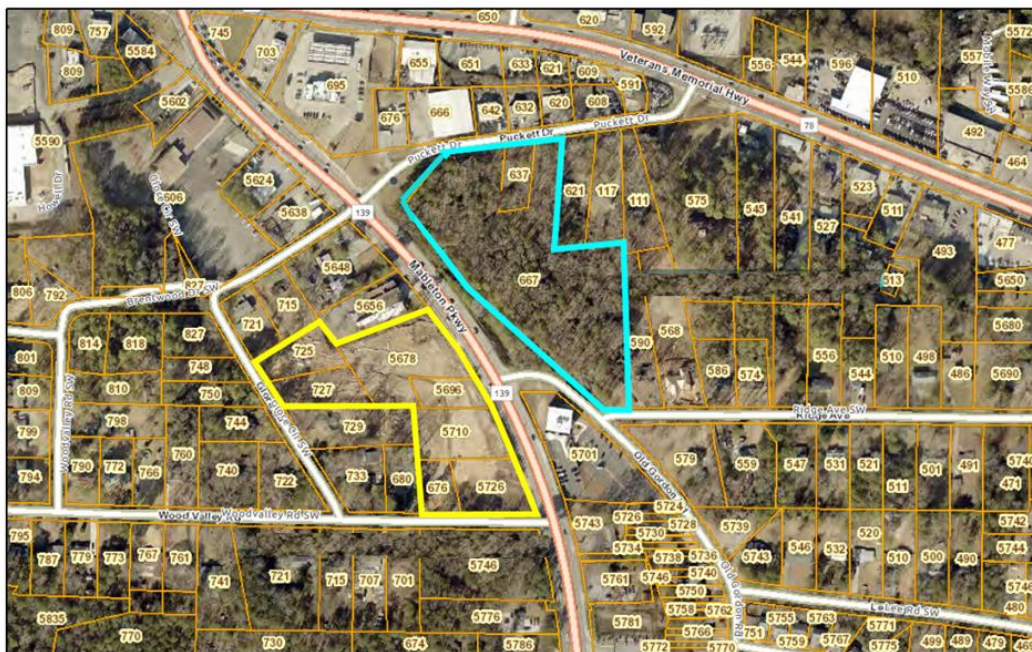
This plan is consistent with the other plans as adopted or proposed by the City regarding the City's future. A vision that included neighborhoods, businesses, industries, investments, redevelopment, recreation, and quality of life. This Plan will assist in pursuing redevelopment projects and partnerships that will support those goals.

DESCRIPTION OF URBAN REDEVELOPMENT AREAS

The Urban Redevelopment areas identified under and subject to this Plan are more fully defined below:

➤ URA Area 1—Mableton Parkway and Puckett Drive

- Boundaries outlined in yellow and blue below
- URA Area 1 is a mix of residential and commercial under current zoning
- Includes tax parcels: 17003700440, 17003700450, 17003700580, 17003700400, 17003700410, 18003900010, 18003900020, 18003900030, 17003700340, 17003700330, 18015600250 and 18015600270



— Approx. 5.87 Acres
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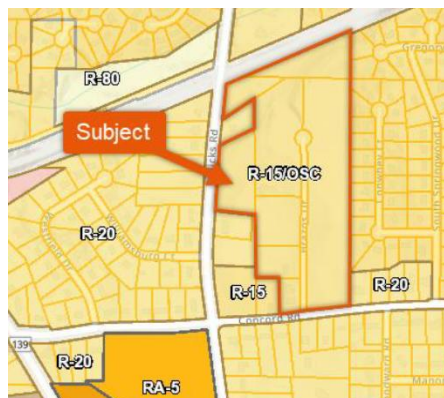
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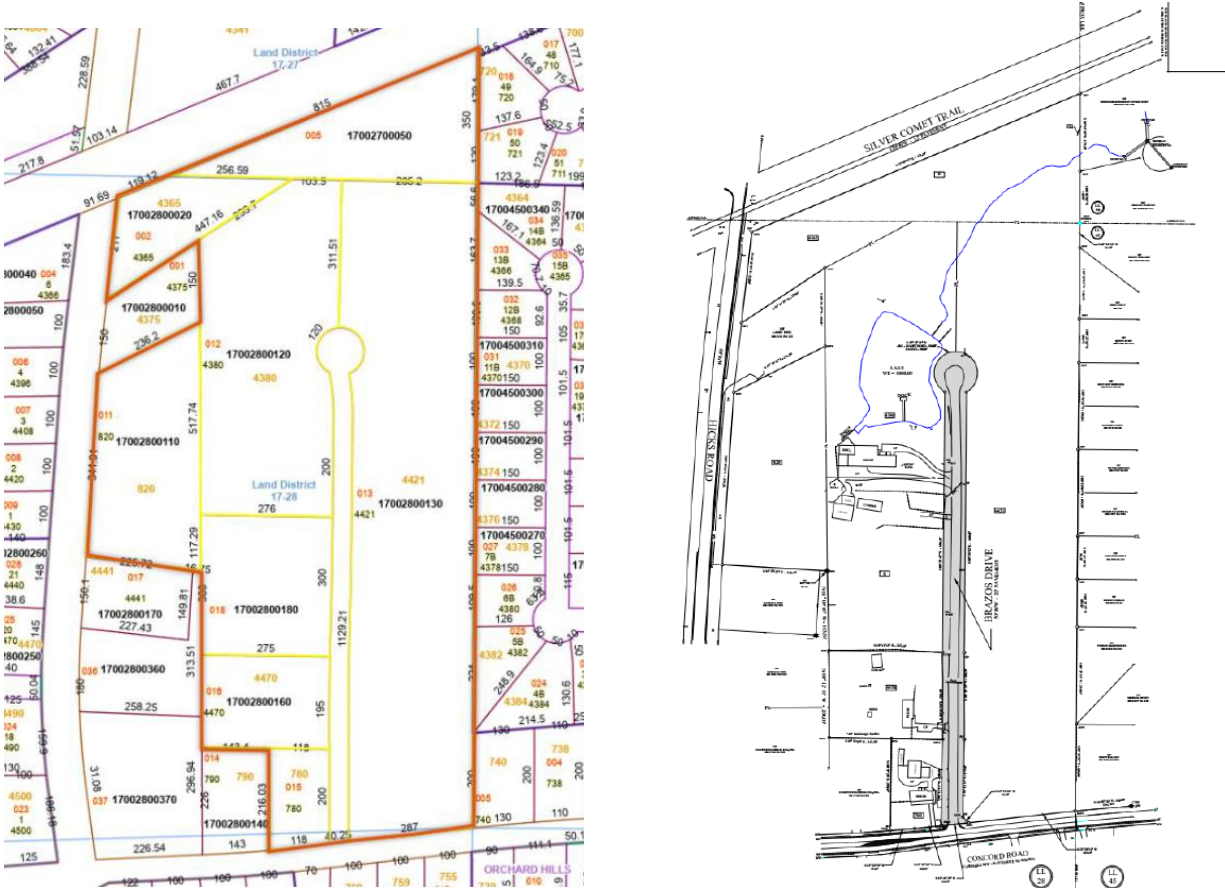


Approx 2.281 Acres

➤ **URA Area 2 – Near Silver Comet Trail**

- Boundaries outlined in orange — below
- URA Area 2 is zoned Single-Family Residential District and Open Space Community Overlay
- Consists of approximately 23.105± acres located on the south side of the Silver Comet Trail, the east side of Hicks Road, the north side of Concord Road and along Brazos Drive, in the City, as more particularly identified as tax parcels: 17002800020, 17002700050, 17002800110, 17002800120, 17002800130, 17002800180, 17002800150 and 17002800160.





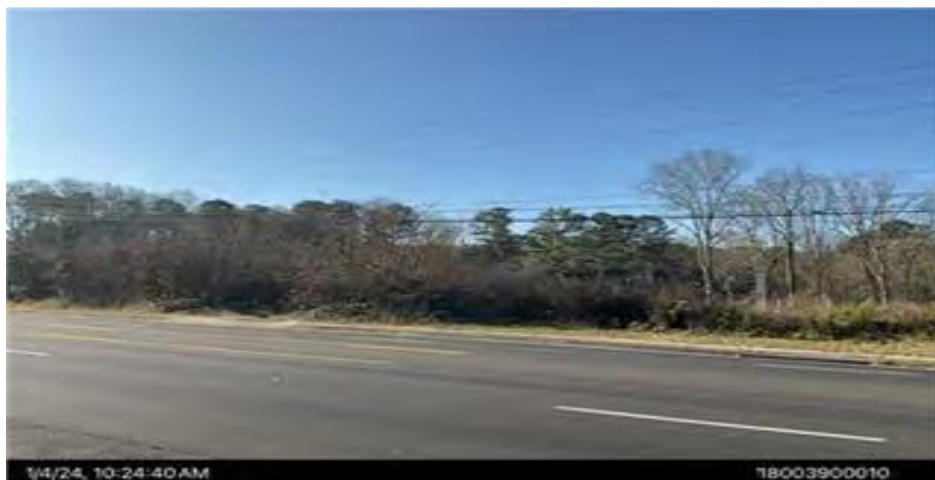
NEGATIVE CONDITIONS WITHIN THE URBAN REDEVELOPMENT AREAS

URA Area 1 and Area 2 have future economic potential, however, they have been determined to consist of pockets of blight that contain: underutilized commercial land and structures; unsanitary hazardous and/or unsafe conditions, deteriorated or poorly maintained housing stock; vacant and overgrowth areas; obsolescent buildings or facilities; visual blight; substandard public infrastructure, including lack of sidewalks and pedestrian amenities, lighting, open space; inefficient street layout; and fragmented, inappropriate or commercially nonviable subdivision platting or lot layout; the high land to building value makes the properties located in URA Area 1 and Area 2 economically viable for redevelopment.

PHOTOGRAPHIC EVIDENCE

URA 1:







URA Area 2:







LAND USE OBJECTIVES

- Types of Uses
 - Land uses in URA Area 1 and Area 2 and surrounding area will be a mixture of commercial, residential, and mixed-use. The allowable land uses in URA Area 1 and Area 2 are diverse enough to permit a wide range of commercial and residential uses.
- Building Requirements
 - The City of Mableton will utilize the building requirements and life-safety regulations that will be in effect under the City's Code.
- Zoning Changes
 - Zoning classifications in the Mableton Zoning Ordinance ("ZO") should be appropriate to drive redevelopment in the URA areas under this Plan. If zoning changes are proposed to individual parcels, or as amendments to the ZO or Zoning Map are made, those changes will conform to O.C.G.A. Title 36 Chapter 66, known as "The Zoning Procedures Law."
- Description of Parcels to be Acquired.
 - The City does anticipate acquiring certain property under this Plan for the purposes of promotion of the highest land uses consistent with the City's growth and Plan.

PLAN IMPACTS

Historic Preservation Considerations

The City of Mableton values its local history and heritage, and this Plan seeks to preserve as many historic structures as possible. No historic properties will be impacted by this Plan.

Strategy for Relocating Displaced Residents

The City has determined that the development of a relocation strategy is not necessary nor anticipated at this time.

Strategies for Access to Affordable Housing

Revitalization efforts in the Urban Redevelopment Area and surrounding area will focus on promoting mixed-use development and redevelopment in the City of Mableton.

Covenants and Restrictions to be Placed on Properties

No covenants or restrictions will be placed on properties at this time. Should circumstances arise where making use of covenants and restrictions becomes necessary, this Plan will be amended.

Strategy for Leveraging Private Resources for Redevelopment

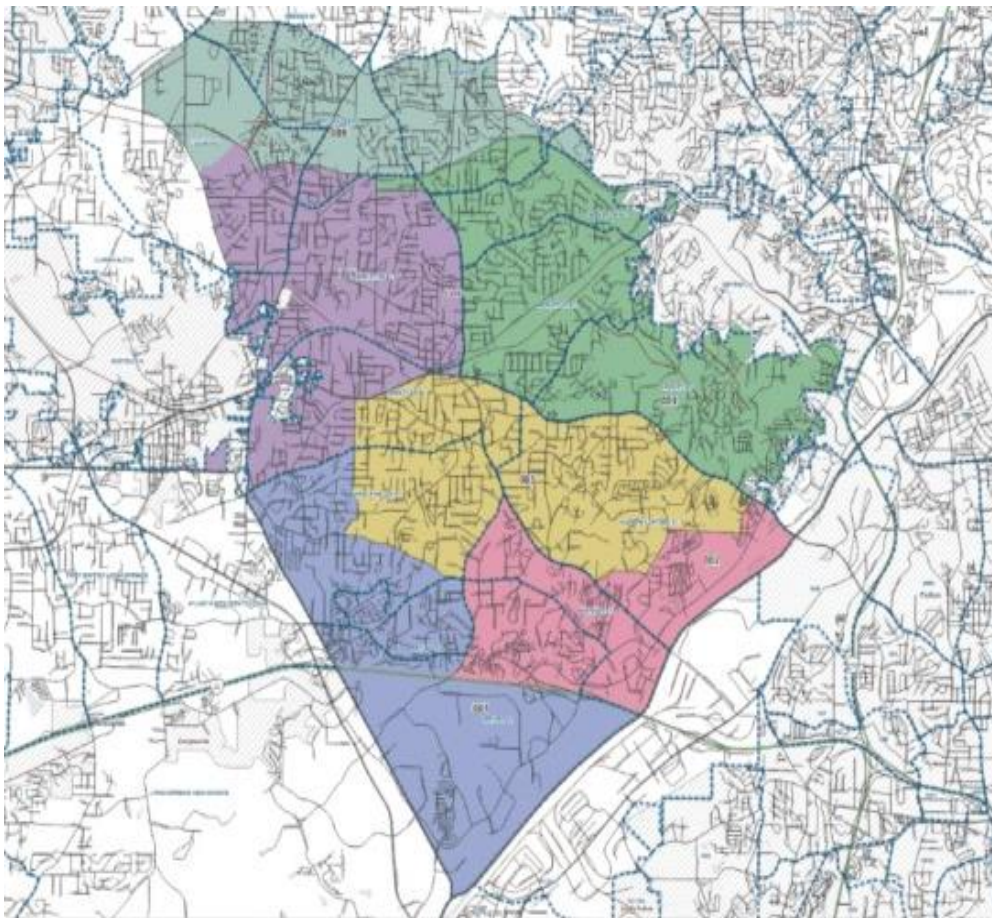
The purpose of this Plan is to encourage private redevelopment to the greatest extent possible. Implementation of this Plan will focus on master planning efforts and funding mechanisms for necessary public infrastructure to attract increased private development. This includes local developers and community and nonprofit organizations.

Public Infrastructure to be Provided

The City will work to provide the public infrastructure necessary to promote public and private redevelopment in these areas.

PROJECT SPECIFICS

To address the issues of runoff, vacant and overgrowth areas, substandard public infrastructure, and reduce pockets of blight within URA Area 1 and Area 2, and to establish a passive pocket park and/or other recreational facilities and redevelopment opportunities within URA Area 1 and Area 2 that will promote further positive development within the City of Mableton.

CITY MAP**City of Mableton, Georgia**

City of Mableton, Georgia

Urban Redevelopment Plan 2024, As Amended



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EXECUTIVE SUMMARY

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BACKGROUND AND PURPOSE

Certain areas within the City of Mableton meet the State of Georgia criteria for targeted urban redevelopment, as defined by the State of Georgia Urban Redevelopment Law (O.C.G.A. 36-61-1 *et seq.*). These areas present conditions of persistent deteriorating or inadequate utility, transportation, or transit infrastructure; a predominance of buildings or improvements, which by reason of dilapidation, deterioration, age, vacancy, or obsolescence are detrimental to the public health, safety, morals, or welfare; the presence of a substantial number of vacant, deteriorated, or deteriorating structures; or a combination of such conditions. As such, the persistence of these conditions substantially impairs or arrests the sound growth of the City, detain the provisions of adequate housing accommodations, and constitutes an economic and social liability that is a menace to the public health, safety, morals, or welfare in its present condition and use.

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This document will highlight several significant tools that could be used to begin addressing the poor environmental quality pervasive within Mableton URA Area 1 and Area 2 under this Plan ~~the URA~~ and contribute to sustainable growth for the City as a whole.

BOUNDARIES OF THE URA LIGHT

The urban redevelopment areas ~~under this Plan is made up of certain areas, each of which has been determined to be a~~ “pockets of blight,” ~~and each of which displays~~ the presence of conditions or a combination of factors that substantially impairs and arrests the sound growth of the City of Mableton. ~~For the purposes of the plan, these areas are identified as Area 1 and is more fully defined below.~~

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CONSISTENCY WITH OTHER CITY PLANS

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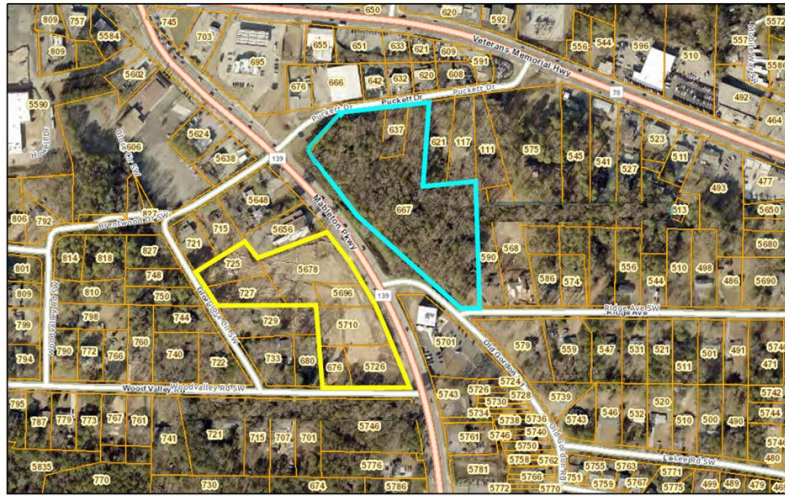
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City of Mableton
Amended Urban Redevelopment Plan

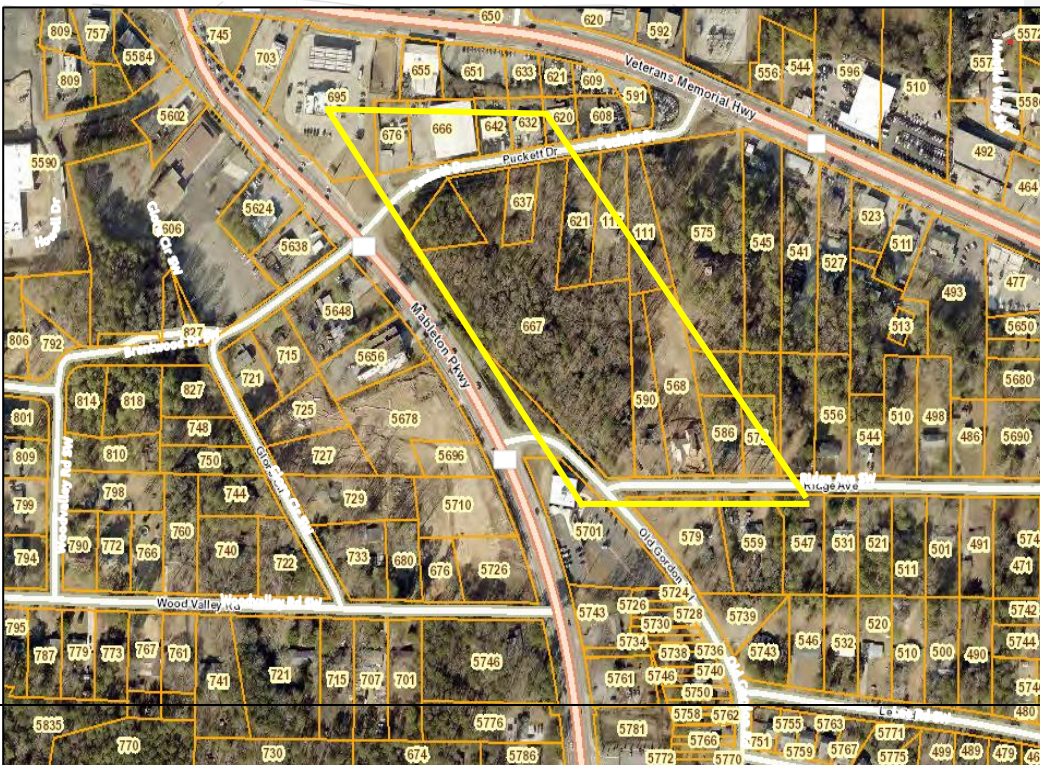
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July 16, 2025



Approx. 5.87 Acres
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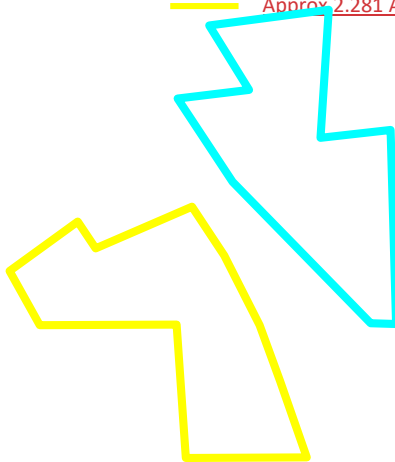
Amended Urban Redevelopment Plan

City of Mableton

Rev. July 16, 2025



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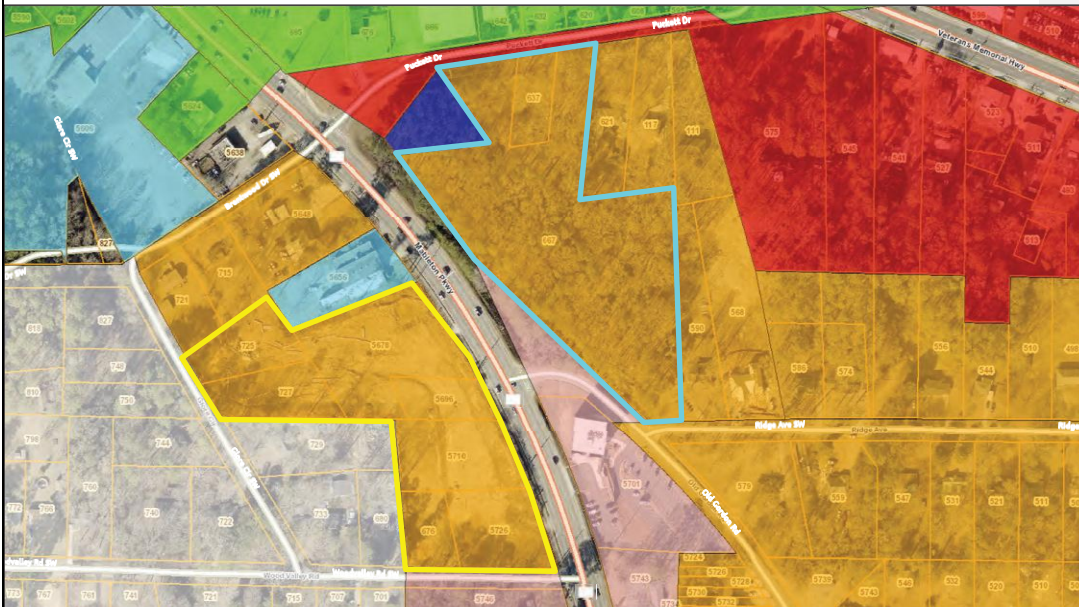
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Proposed Mableton Parcels Under the Plan — Medium Density Residential/Mixed Use



➤ **URA Area 2 – Near Silver Comet Trail**

- Boundaries outlined in orange — below
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- Consists of approximately 23.105± acres located on the south side of the Silver Comet Trail, the east side of Hicks Road, the north side of Concord Road and along Brazos Drive, in the City, as more particularly identified as tax parcels: 17002800020, 17002700050, 17002800110, 17002800120, 17002800130, 17002800180, 17002800150 and 17002800160.

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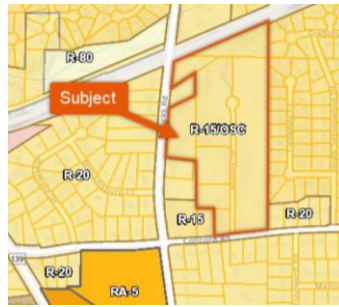
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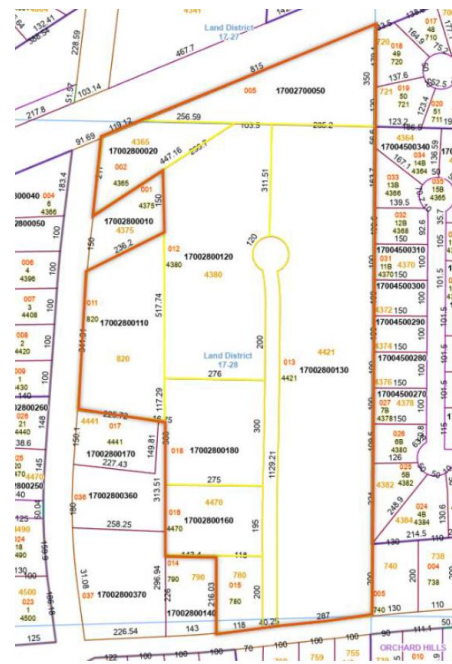
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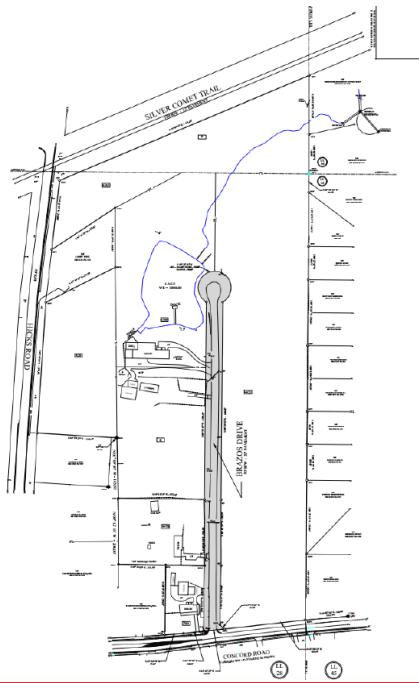
City of Mableton

~~Rev. July 16, 2025~~Rev. July 16, 2025~~July 16, 2025~~



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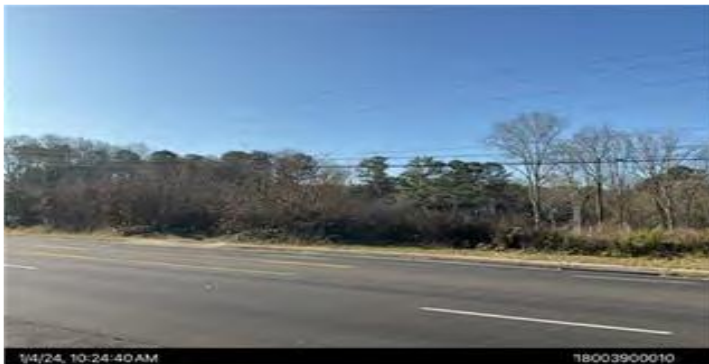
NEGATIVE CONDITIONS WITHIN THE URBAN REDEVELOPMENT AREAS

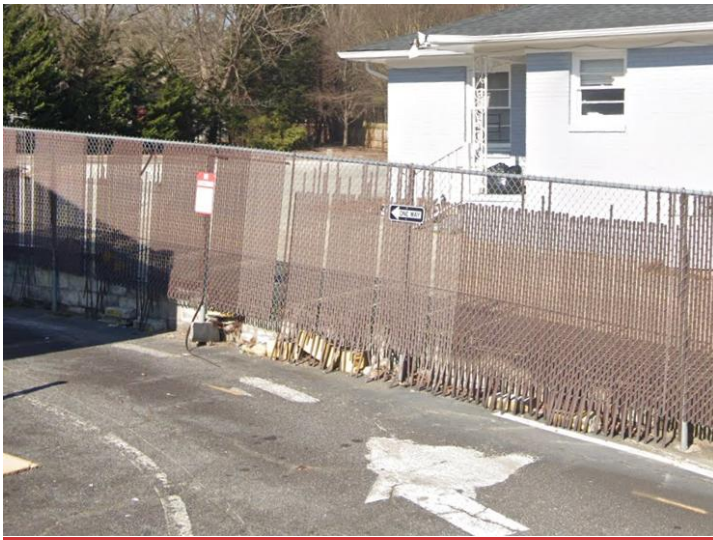
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PHOTOGRAPHIC EVIDENCE

URA 1:







URA Area 2:







LAND USE OBJECTIVES

- Types of Uses
 - Land uses in ~~the~~ URA Area 1 and Area 2 and surrounding area will be a mixture of commercial, residential, and mixed-use. The allowable land uses in URA Area 1 and Area 2 ~~the URA~~ are diverse enough to permit a wide range of commercial and residential uses.
- Building Requirements
 - The City of Mableton will utilize the building requirements and life-safety regulations that will be in effect under the City's Code.
- Zoning Changes
 - Zoning classifications in the Mableton Zoning Ordinance ("ZO") should be appropriate to drive redevelopment in the URA areas under this Plan. If zoning changes are proposed to individual parcels, or as amendments to the ZO or Zoning Map are made, those changes will conform to O.C.G.A. Title 36 Chapter 66, known as "The Zoning Procedures Law."
- Description of Parcels to be Acquired.
 - The City does anticipate acquiring certain property under this Plan for the purposes of promotion of the highest land uses consistent with the City's growth and Plan.

PLAN IMPACTS

Historic Preservation Considerations

The City of Mableton values its local history and heritage, and this Plan seeks to preserve as many historic structures as possible. No historic properties will be impacted by this Plan.

Strategy for Relocating Displaced Residents

The City has determined that the development of a relocation strategy is not necessary nor anticipated at this time. ~~In the event displacement of residents becomes necessary at a later date, this Plan will be amended to incorporate a plan for relocating displaced residents in accordance with all local and state statutory requirements.~~

Strategies for Access to Affordable Housing

Revitalization efforts in the Urban Redevelopment Area and surrounding area will focus on promoting mixed-use development and redevelopment in the City of Mableton.

Covenants and Restrictions to be Placed on Properties

No covenants or restrictions will be placed on properties at this time. Should circumstances arise where making use of covenants and restrictions becomes necessary, this Plan will be amended.

Strategy for Leveraging Private Resources for Redevelopment

The purpose of this Plan is to encourage private redevelopment to the greatest extent possible. Implementation of this Plan will focus on master planning efforts and funding mechanisms for

necessary public infrastructure to attract increased private development. This includes local developers and community and nonprofit organizations.

Public Infrastructure to be Provided

The City will work to provide the public infrastructure necessary to promote public and private redevelopment in these areas.

PROJECT SPECIFICS

To address the issues of runoff, vacant and overgrowth areas, substandard public infrastructure, and reduce pockets of blight within URA Area 1 and Area 2, and to establish a passive pocket park and/or other recreational facilities and redevelopment opportunities within URA Area 1 and Area 2 that will promote further positive development by within the City of Mableton. ~~As more projects are identified, this section will be updated with the specifics.~~

CITY MAP

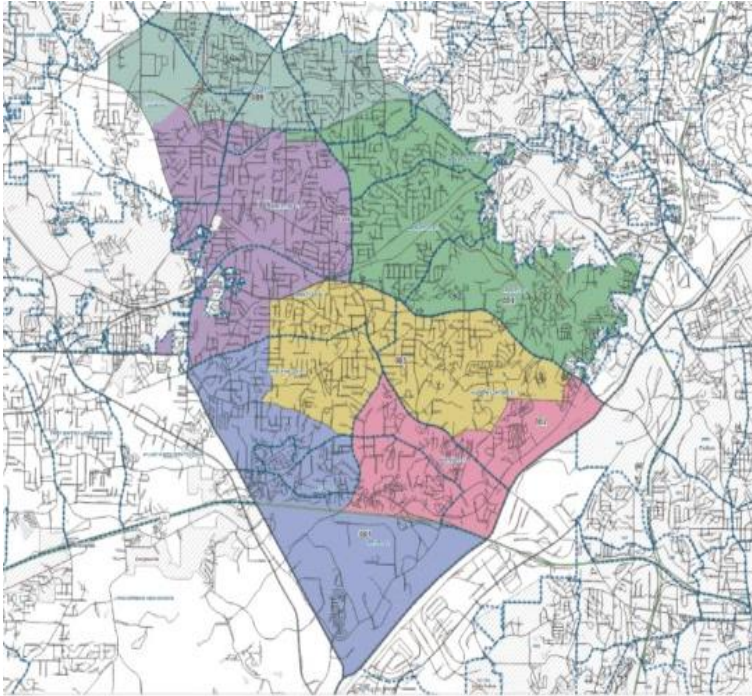
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~~1. City Map~~
~~2. URA Establishing Resolution~~

City of Mableton, Georgia



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**STATE OF GEORGIA
COBB COUNTY
CITY OF MABLETON**

RES 2025-07-01

**A RESOLUTION UPDATING THE CITY’S URBAN REDEVELOPMENT AREAS AND
FOR OTHER LAWFUL PURPOSES**

WHEREAS, the City of Mableton (“City”) is a municipal corporation duly organized and existing under the laws of the State of Georgia;

WHEREAS, the duly elected governing authority of the City is the Mayor and Council thereof (“City Council”);

WHEREAS, in accordance with the Georgia Urban Redevelopment Law, Title 36, Chapter 61 of the Official Code of Georgia Annotated, as amended, the City adopted Res 2024-06-01 which, among other things, found that one or more pockets of blight exist in the City and that the rehabilitation, conservation or redevelopment, or a combination thereof, of such area or areas is necessary in the interest of the public health, safety, morals or welfare of its residents;

WHEREAS, City Council hereby finds that additional areas exist within the City meeting the Urban Redevelopment Law’s definition of a “pocket of blight” and that it is in the public interest of the City that the Urban Redevelopment Law be exercised in order to remediate conditions within the City which constitute an economic and social liability, impairs or arrests the sound growth of the City and for which the rehabilitation, conservation, or redevelopment, or a combination thereof, of such area or areas is necessary in the interest of the public health, safety, morals, or welfare of City residents;

WHEREAS, the City Council desires through this Resolution to amend and update its urban redevelopment areas established within the City; and

WHEREAS, this Resolution will benefit the health and general welfare of City residents, the City and general public.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL as follows:

Section 1.

- a. **Declaration of Necessity.** The City Council hereby reaffirms its finding, determination and, and declaration that one or more pockets of blight exist in the City and that the rehabilitation, conservation, or redevelopment, or a combination thereof, of such area or areas is necessary in the interest of the public health, safety, morals, or welfare of the residents of the City.
- b. **Expansion of Mableton Urban Redevelopment Area No. 1.** The City Council hereby amends and expands **Mableton Urban Redevelopment Area No. 1** established in Res 2024-06-01 to additionally include Cobb County, Georgia, tax parcels: 17003700580,

18015600250 and 18015600270. The City finds that these additional tax parcels, in combination with the other designated and approved parcels within **Mableton Urban Redevelopment Area No. 1**, to constitute an Urban Redevelopment Area: (i) in which there is a predominance of buildings or improvements which by reason of dilapidation, deterioration, age or obsolescence and inadequate provision for ventilation, light, air, sanitation, or open spaces of buildings or improvements is conducive to ill health, delinquency and is detrimental to the public health, safety, morals or welfare, (ii) which by reason of a predominance of defective or inadequate street layout substantially impairs the sound growth of the City and (iii) which by reason of the presence of a substantial number of deteriorated or deteriorating structures constitutes an economic or social liability and is a menace to the public health, safety, morals or welfare in its present condition and use. The City Council furthermore declares that by reason of these conditions such area is designated as appropriate for an urban redevelopment project. **Mableton Urban Redevelopment Area No. 1**, as amended, is identified on **Exhibit A** to this Resolution.

- c. **Creation of Mableton Urban Redevelopment Area No. 2.** The City hereby creates **Mableton Urban Redevelopment Area No. 2** as an Urban Redevelopment Area: (i) in which there is a predominance of buildings or improvements which by reason of dilapidation, deterioration, age or obsolescence and inadequate provision for ventilation, light, air, sanitation, or open spaces of buildings or improvements is conducive to ill health, delinquency and is detrimental to the public health, safety, morals or welfare, (ii) which by reason of a predominance of defective or inadequate street layout substantially impairs the sound growth of the City and (iii) which by reason of the presence of a substantial number of deteriorated or deteriorating structures constitutes an economic or social liability and is a menace to the public health, safety, morals or welfare in its present condition and use. The City Council furthermore declares that by reason of these conditions such area is designated as appropriate for an urban redevelopment project. **Mableton Urban Redevelopment Area No. 2** is identified on **Exhibit B** to this Resolution and consists of approximately 23.105± acres located on the south side of the Silver Comet Trail, the east side of Hicks Road, the north side of Concord Road and along Brazos Drive, in the City, as more particularly identified as tax parcels: 17002800020, 17002700050, 17002800110, 17002800120, 17002800130, 17002800180, 17002800150 and 17002800160.
- d. **Rehabilitation and Redevelopment of Urban Redevelopment Area.** The City Council finds, determines, and declares that the rehabilitation and redevelopment of City urban redevelopment areas, including **Mableton Urban Redevelopment Area No. 1**, as amended, and **Mableton Urban Redevelopment Area No. 2**, is likely to improve the economic and social conditions of such urban redevelopment areas and abate or eliminate deleterious effects of its current depressed and underutilized state.
- e. **Urban Redevelopment Plan.** A public hearing on the proposed Urban Redevelopment Plan 2024, As Amended, for **Mableton Urban Redevelopment Area No. 1**, as amended, and **Mableton Urban Redevelopment Area No. 2**, shall be conducted in accordance with the Georgia Urban Redevelopment Law.

Section 2. It is hereby declared to be the intention of the City Council that:

- (a) All sections, paragraphs, sentences, clauses and phrases of this Resolution are or were, upon their enactment, believed by the City Council to be fully valid, enforceable and constitutional.
- (b) To the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Resolution is severable from every other section, paragraph, sentence, clause or phrase of this Resolution. No section, paragraph, sentence, clause or phrase of this Resolution is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Resolution.
- (c) In the event that any phrase, clause, sentence, paragraph or section of this Resolution shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the City Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Resolution.

Section 3. The City Attorney and the City Clerk are authorized to make non-substantive editing and renumbering revisions to this Resolution for proofing and renumbering purposes.

Section 4. The effective date of this Resolution shall be the date of adoption, unless required otherwise by the City Charter, state and/or federal law.

BE IT SO RESOLVED, this _____ day of _____, 2025.

ATTEST:

CITY OF MABLETON, GEORGIA:

Susan D. Hiott, City Clerk

Dr. Michael Owens, Mayor

APPROVAL AS TO FORM:

Emilia Walker-Ashby, Interim City Attorney

Exhibit A**Mableton Urban Redevelopment Area No. 1**
(Mableton Parkway and Puckett Drive)

- Boundaries outlined in yellow and blue below
- Includes tax parcels: 17003700440, 17003700450, 17003700580, 17003700400, 17003700410, 18003900010, 18003900020, 18003900030, 17003700340, 17003700330, 18015600250 and 18015600270

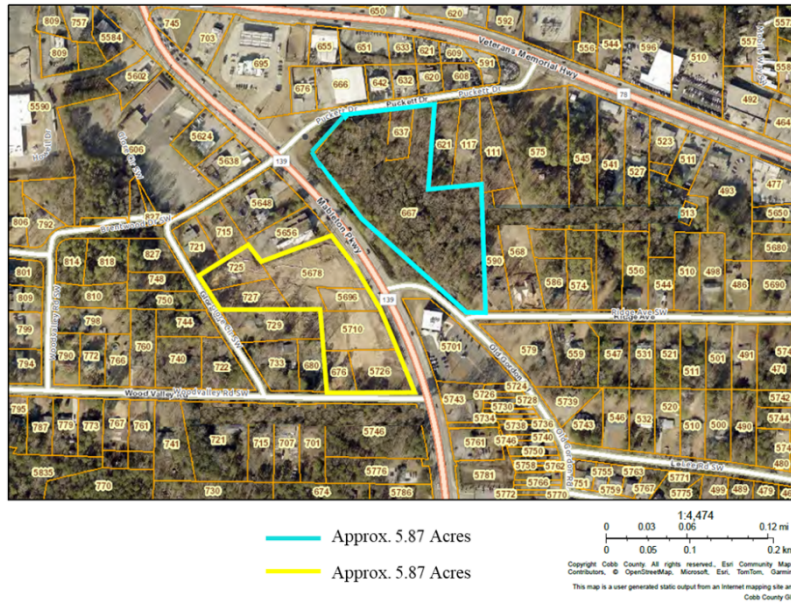
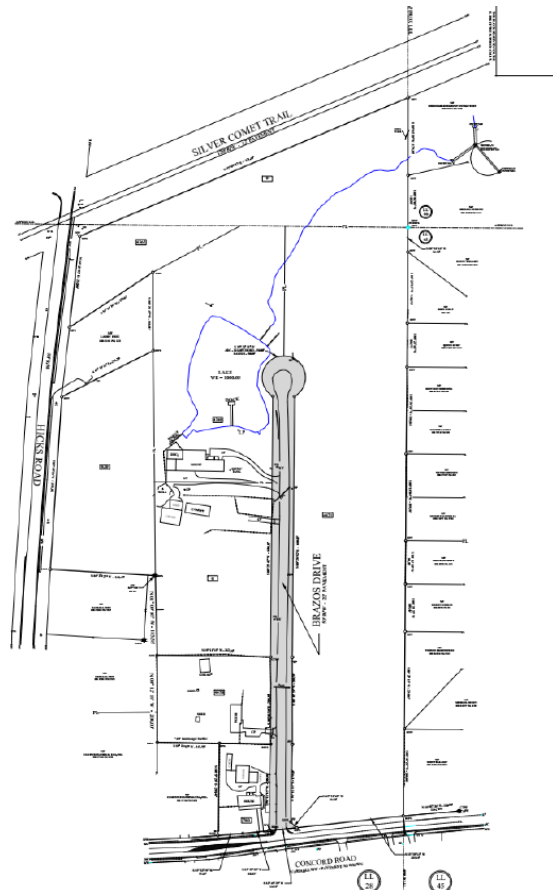
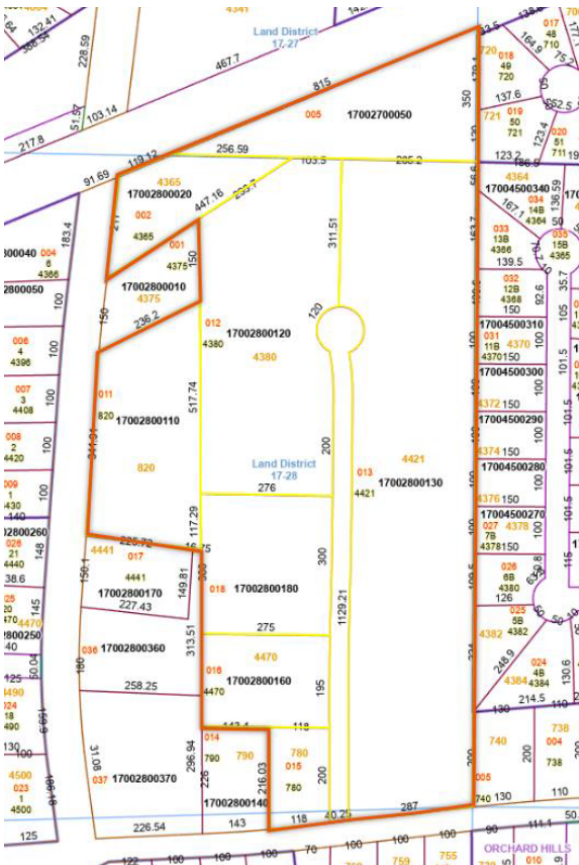
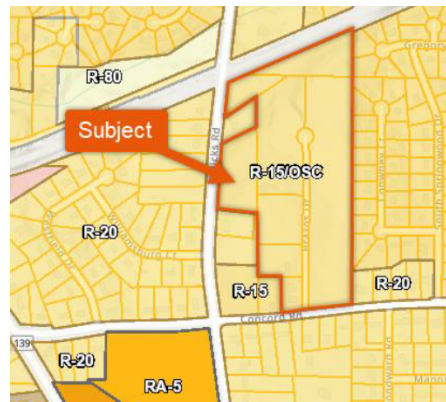


Exhibit B**Mableton Urban Redevelopment Area No. 2**
(Near Silver Comet Trail)

- Boundaries outlined in orange — below
- Comprised of approximately 23.105± acres located on the south side of the Silver Comet Trail, the east side of Hicks Road, the north side of Concord Road and along Brazos Drive, in the City, as more particularly identified as tax parcels: 17002800020, 17002700050, 17002800110, 17002800120, 17002800130, 17002800180, 17002800150 and 17002800160.





AGENDA ITEM MEMORANDUM

MEETING OF: July 16, 2025

DEPARTMENT: [DEPARTMENT]

ISSUE/AGENDA ITEM TITLE: Public Hearing for the Proposed Amendments to the City of Mableton Urban Redevelopment Plan 2024

BACKGROUND/SUMMARY: There may be a URA meeting on Wednesday. Legal and financial steps are pending prior to having a meeting.

BUDGETED/FINANCIAL IMPACT – FUND:

RECOMMENDATION:

ATTACHMENTS:

1. Notice of Public Hearing (Amended URA Plan) Rev. 7.10.25 (1)

**NOTICE OF PUBLIC HEARING ON PROPOSED
AMENDMENTS TO THE CITY OF MABLETON, GEORGIA,
URBAN REDEVELOPMENT PLAN 2024**

Notice is hereby given that the City of Mableton, Georgia (“City”) will hold a public hearing during its City Council meeting occurring on **July 16, 2025 at 6:30 p.m.** at the Riverside EpiCenter located at 135 Riverside Parkway, Austell, Georgia 30168. Said public hearing is being held for the purpose of hearing comments on amendments to the City of Mableton, Georgia’s Urban Redevelopment Plan 2024 (the “Urban Redevelopment Plan”). The Urban Redevelopment Plan sets forth urban redevelopment projects for the urban redevelopment areas within the City. The areas to be additionally considered under the proposed amendments to the Urban Redevelopment Plan include certain parcels within the City along and/or near Mableton Parkway, the south side of the Silver Comet Trail, the east side of Hicks Road, the north side of Concord Road and Brazos Drive.

The general scope of the Urban Redevelopment Plan, as amended, will be revitalization, land acquisition, improvements and other related redevelopment activities, and to address blight and growth within the City in a manner that positively enhances neighborhoods, businesses, industries, investments, recreation and quality of life. Members of the public are invited to participate in the public hearing. A copy of the proposed amendments to the Urban Redevelopment Plan may be obtained from the City Clerk, Susan Hiott, via email at susan.hiott@mableton.gov



AGENDA ITEM MEMORANDUM

MEETING OF: July 16, 2025

DEPARTMENT: [DEPARTMENT]

ISSUE/AGENDA ITEM TITLE: Consideration and Approval of Amended City of Mableton URA Plan - City Attorney Walker-Ashby

BACKGROUND/SUMMARY:

BUDGETED/FINANCIAL IMPACT – FUND:

RECOMMENDATION:

ATTACHMENTS:

1. Amended URA Plan Rev. 7.10.25 clean

City of Mableton, Georgia

**Urban Redevelopment Plan
2024, As Amended**



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EXECUTIVE SUMMARY

This Amended City of Mableton Urban Redevelopment Plan (“Plan”) shall constitute an Urban Redevelopment Plan for the City of Mableton, Georgia (the “City”) within the meaning of the “Urban Redevelopment Law,” Title 36, Chapter 61 of the Official Code of Georgia Annotated, as amended. This Plan meets the requirements of O.C.G.A. § 36-61- 2(24) and conforms to the general plan for the City as a whole. This Plan further considers zoning and planning changes, land use issues, maximum densities, building and development requirements, and the plan's relationship to City goals regarding suitable land uses, improved traffic and public transportation, the provision of public utilities, the creation or expansion of recreational and community facilities, and other public improvements in identified urban redevelopment areas. This Plan will assist the positive growth and development of the new Georgia City of Mableton and will promote the general welfare of the City’s residents.

The steps to fulfil the requirements under the Urban Redevelopment Law:

- Define boundaries of an Urban Redevelopment Area.
- Develop a draft Urban Redevelopment Plan.
- Hold a public Hearing.
- Adopt a “Finding of Necessity”, declaring that there exist pockets of blight which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of this state.

This resolution declares that certain pockets of blight or portions thereof may require acquisition, clearance, and disposition subject to use restrictions. Additionally, this resolution declares that public money may be expended, and the power of eminent domain may be exercised for the purposes of removing blight.

- Adopt the Urban Redevelopment Plan and designate an Urban Redevelopment Agency responsible for implementation.

BACKGROUND AND PURPOSE

Certain areas within the City of Mableton meet the State of Georgia criteria for targeted urban redevelopment, as defined by the State of Georgia Urban Redevelopment Law (O.C.G.A. 36-61-1 *et seq.*). These areas present conditions of persistent deteriorating or inadequate utility, transportation, or transit infrastructure; a predominance of buildings or improvements, which by reason of dilapidation, deterioration, age, vacancy, or obsolescence are detrimental to the public health, safety, morals, or welfare; the presence of a substantial number of vacant, deteriorated, or

deteriorating structures; or a combination of such conditions. As such, the persistence of these conditions substantially impairs or arrests the sound growth of the City, detain the provisions of adequate housing accommodations, and constitutes an economic and social liability that is a menace to the public health, safety, morals, or welfare in its present condition and use.

As such, the State of Georgia enables the use of redevelopment tools through the Urban Redevelopment Law to undertake actions to improve the “public health, safety, morals and welfare” of a specifically designated and qualifying area, otherwise labeled as an Urban Redevelopment Area. In order to enact these tools, an area must be declared to be meeting certain standards for depressed or derelict conditions based upon the predominance of the physical indicators mentioned above. In addition to identifying areas that meet these conditions, an Urban Redevelopment Plan must be approved which conforms to the general plan of the City as a whole (O.C.G.A.36-61-2 (24)). This document is intended to fulfill the role of the Urban Redevelopment Plan for the Mableton Urban Redevelopment Area No. 1 (“URA Area 1”) and Mableton Urban Redevelopment Area No. 2 (“URA Area 2”) approved by the City.

This document will highlight several significant tools that could be used to begin addressing the poor environmental quality pervasive within Mableton URA Area 1 and Area 2 under this Plan and contribute to sustainable growth for the City as a whole.

BLIGHT

The urban redevelopment areas under this Plan “pockets of blight,” which display the presence of conditions or a combination of factors that substantially impairs and arrests the sound growth of the City of Mableton.

"Pocket of blight" means an area in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, age, or obsolescence; inadequate provision for ventilation, light, air, sanitation, or open spaces; high density of population and overcrowding; existence of conditions which endanger life or property by fire and other causes; or any combination of such factors, are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime and detrimental to the public health, safety, morals, or welfare.

“Pocket of blight” also means an area which by reason of the presence of a substantial number of deteriorated or deteriorating structures; predominance of defective or inadequate street layout; faulty lot layout in relation to size, adequacy, accessibility, or usefulness; unsanitary or unsafe conditions; deterioration of site or other improvements; tax or special assessment delinquency exceeding the fair value of the land; the existence of conditions which endanger life or property by fire and other causes; having development impaired by airport or transportation noise or other environmental hazards; or any combination of such factors, substantially impairs or arrests the sound growth of a municipality or county, retards the provisions of housing

accommodations, or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use.

CONSISTENCY WITH OTHER CITY PLANS

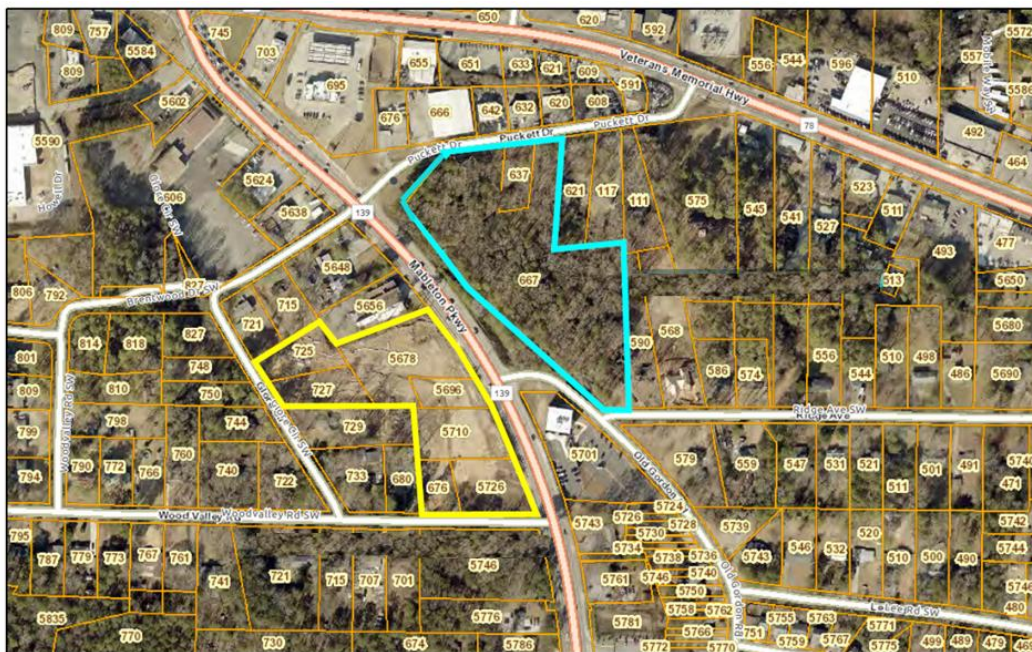
This plan is consistent with the other plans as adopted or proposed by the City regarding the City's future. A vision that included neighborhoods, businesses, industries, investments, redevelopment, recreation, and quality of life. This Plan will assist in pursuing redevelopment projects and partnerships that will support those goals.

DESCRIPTION OF URBAN REDEVELOPMENT AREAS

The Urban Redevelopment areas identified under and subject to this Plan are more fully defined below:

➤ URA Area 1—Mableton Parkway and Puckett Drive

- Boundaries outlined in yellow and blue below
- URA Area 1 is a mix of residential and commercial under current zoning
- Includes tax parcels: 17003700440, 17003700450, 17003700580, 17003700400, 17003700410, 18003900010, 18003900020, 18003900030, 17003700340, 17003700330, 18015600250 and 18015600270



— Approx. 5.87 Acres
— Approx. 5.87 Acres

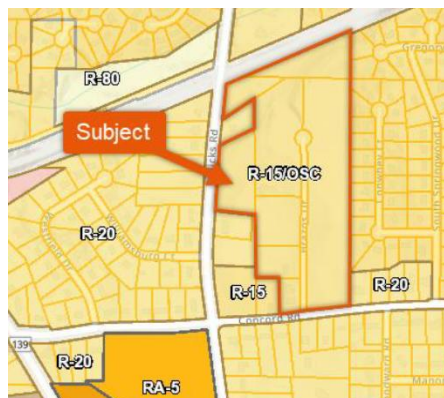
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This map is a user generated static output from an Internet mapping site and Cobb County GIS

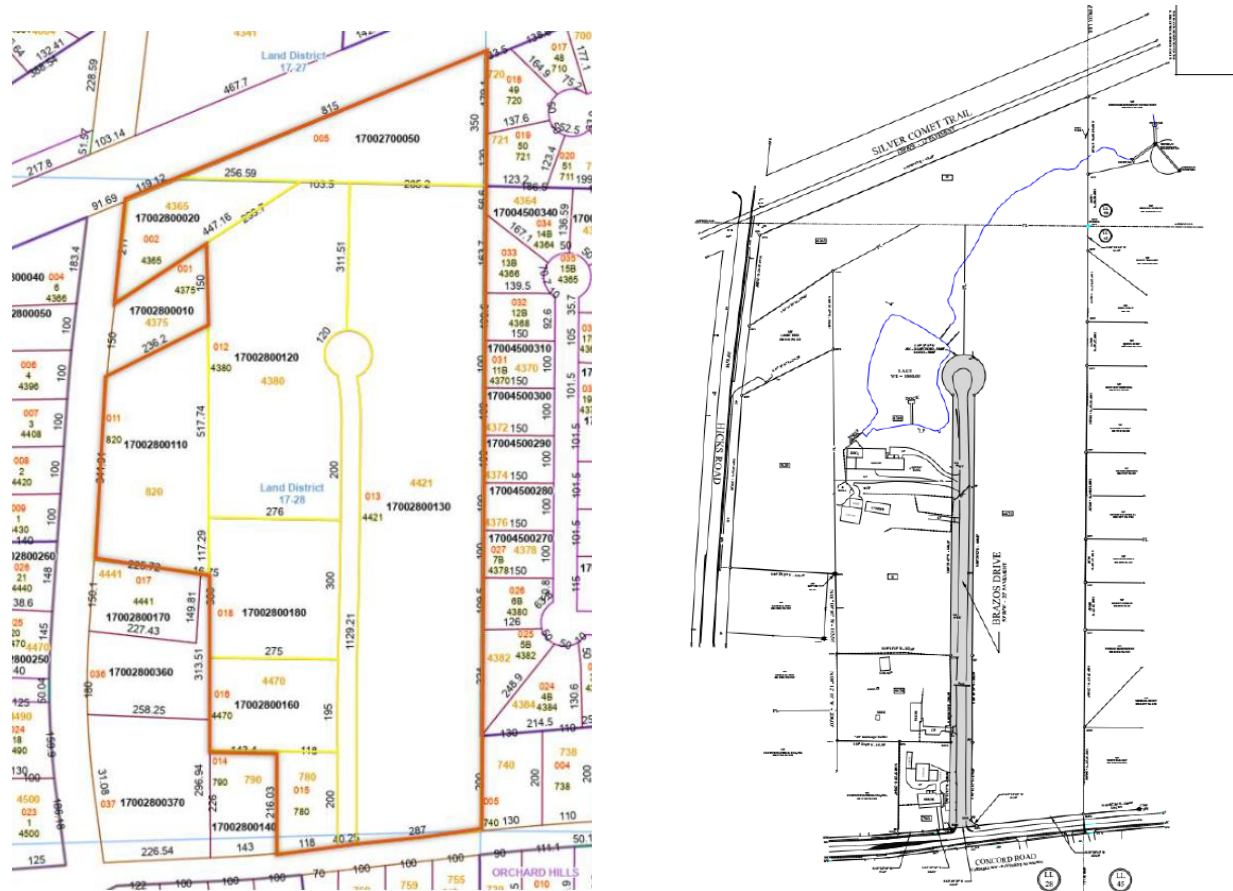


Approx 2.281 Acres

➤ **URA Area 2 – Near Silver Comet Trail**

- Boundaries outlined in orange — below
- URA Area 2 is zoned Single-Family Residential District and Open Space Community Overlay
- Consists of approximately 23.105± acres located on the south side of the Silver Comet Trail, the east side of Hicks Road, the north side of Concord Road and along Brazos Drive, in the City, as more particularly identified as tax parcels: 17002800020, 17002700050, 17002800110, 17002800120, 17002800130, 17002800180, 17002800150 and 17002800160.





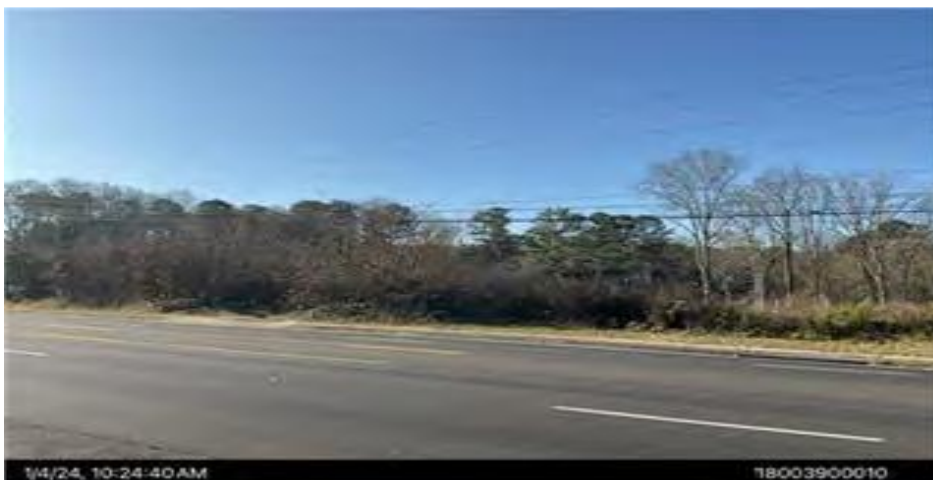
NEGATIVE CONDITIONS WITHIN THE URBAN REDEVELOPMENT AREAS

URA Area 1 and Area 2 have future economic potential, however, they have been determined to consist of pockets of blight that contain: underutilized commercial land and structures; unsanitary hazardous and/or unsafe conditions, deteriorated or poorly maintained housing stock; vacant and overgrowth areas; obsolescent buildings or facilities; visual blight; substandard public infrastructure, including lack of sidewalks and pedestrian amenities, lighting, open space; inefficient street layout; and fragmented, inappropriate or commercially nonviable subdivision platting or lot layout; the high land to building value makes the properties located in URA Area 1 and Area 2 economically viable for redevelopment.

PHOTOGRAPHIC EVIDENCE

URA 1:







URA Area 2:







LAND USE OBJECTIVES

- Types of Uses
 - Land uses in URA Area 1 and Area 2 and surrounding area will be a mixture of commercial, residential, and mixed-use. The allowable land uses in URA Area 1 and Area 2 are diverse enough to permit a wide range of commercial and residential uses.
- Building Requirements
 - The City of Mableton will utilize the building requirements and life-safety regulations that will be in effect under the City's Code.
- Zoning Changes
 - Zoning classifications in the Mableton Zoning Ordinance ("ZO") should be appropriate to drive redevelopment in the URA areas under this Plan. If zoning changes are proposed to individual parcels, or as amendments to the ZO or Zoning Map are made, those changes will conform to O.C.G.A. Title 36 Chapter 66, known as "The Zoning Procedures Law."
- Description of Parcels to be Acquired.
 - The City does anticipate acquiring certain property under this Plan for the purposes of promotion of the highest land uses consistent with the City's growth and Plan.

PLAN IMPACTS

Historic Preservation Considerations

The City of Mableton values its local history and heritage, and this Plan seeks to preserve as many historic structures as possible. No historic properties will be impacted by this Plan.

Strategy for Relocating Displaced Residents

The City has determined that the development of a relocation strategy is not necessary nor anticipated at this time.

Strategies for Access to Affordable Housing

Revitalization efforts in the Urban Redevelopment Area and surrounding area will focus on promoting mixed-use development and redevelopment in the City of Mableton.

Covenants and Restrictions to be Placed on Properties

No covenants or restrictions will be placed on properties at this time. Should circumstances arise where making use of covenants and restrictions becomes necessary, this Plan will be amended.

Strategy for Leveraging Private Resources for Redevelopment

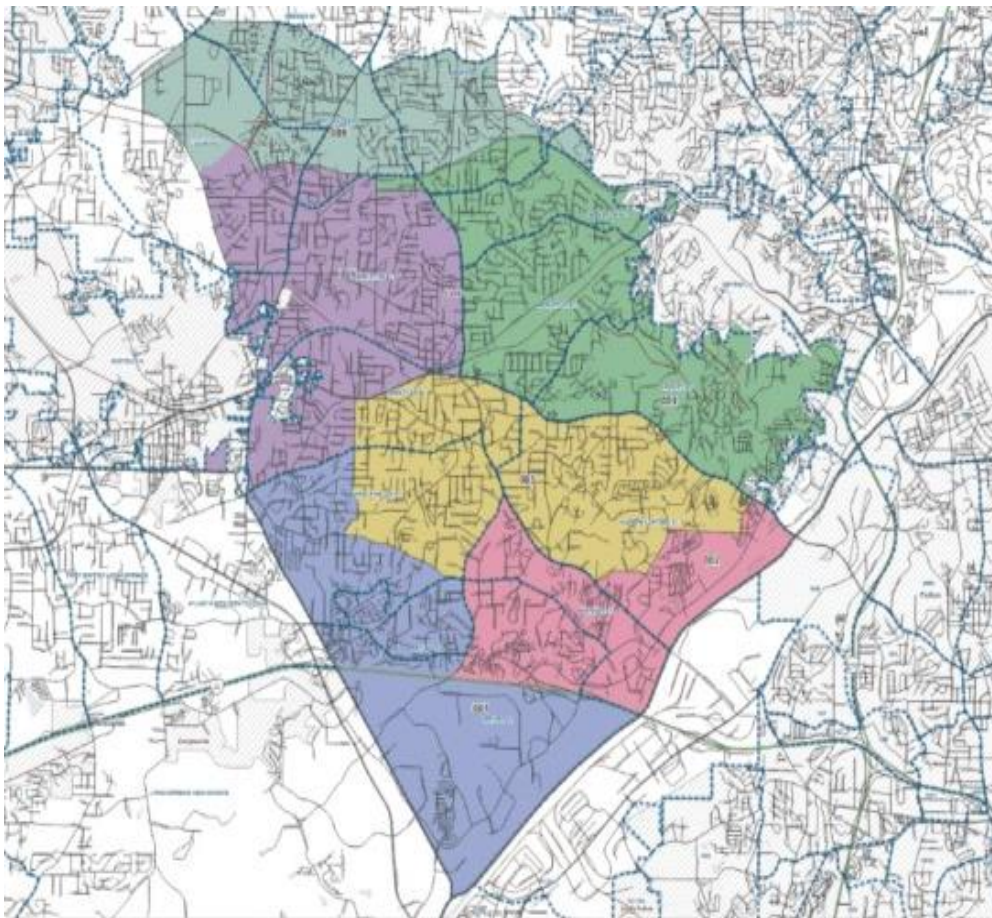
The purpose of this Plan is to encourage private redevelopment to the greatest extent possible. Implementation of this Plan will focus on master planning efforts and funding mechanisms for necessary public infrastructure to attract increased private development. This includes local developers and community and nonprofit organizations.

Public Infrastructure to be Provided

The City will work to provide the public infrastructure necessary to promote public and private redevelopment in these areas.

PROJECT SPECIFICS

To address the issues of runoff, vacant and overgrowth areas, substandard public infrastructure, and reduce pockets of blight within URA Area 1 and Area 2, and to establish a passive pocket park and/or other recreational facilities and redevelopment opportunities within URA Area 1 and Area 2 that will promote further positive development within the City of Mableton.

CITY MAP**City of Mableton, Georgia**



AGENDA ITEM MEMORANDUM

MEETING OF: July 16, 2025

DEPARTMENT: [DEPARTMENT]

ISSUE/AGENDA ITEM TITLE: Consideration and Approval of Bond Resolution and Intergovernmental Agreement with the City of Mableton, Georgia - City Attorney Walker-Ashby

BACKGROUND/SUMMARY: This is pending and City should have numbers and information from Bond Team on Monday.

BUDGETED/FINANCIAL IMPACT – FUND:

RECOMMENDATION:

ATTACHMENTS:

1. Mableton - City Resolution 2025 - 351488136-v3-c
2. City of Mableton - Intergovernmental Agreement (2025) - 351989766-v2-c

**A RESOLUTION OF THE MAYOR AND COUNCIL
OF THE CITY OF MABLETON, GEORGIA**

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF MABLETON, GEORGIA AUTHORIZING, INTER ALIA, THE EXECUTION, DELIVERY AND PERFORMANCE OF AN INTERGOVERNMENTAL LEASE AGREEMENT RELATING TO ITS LEASE OF A CERTAIN PARK AND RECREATIONAL FACILITIES PROJECT FROM THE MABLETON URBAN REDEVELOPMENT AGENCY AND: (I) THE ISSUANCE OF THE MABLETON URBAN REDEVELOPMENT AGENCY REVENUE BOND (PARK AND RECREATIONAL FACILITIES PROJECT), SERIES 2025, AND (II) OTHER RELATED PURPOSES.

WHEREAS, the Mayor and Council, pursuant to Resolution No. 2024-06-02 adopted on June 5, 2024, and the Urban Redevelopment Law (Section 36-61-1, *et seq.* of the Official Code of Georgia Annotated (“O.C.G.A.”)), as amended (“the Act”), has heretofore created and activated the Mableton Urban Redevelopment Agency (the “Agency”) and the Agency is now existing and operating and its members have been duly appointed and entered into their duties; and

WHEREAS, the Agency was created for the general purpose of providing for the planning and funding of urban redevelopment projects, as described in the Act, that are necessary in the interest of the public health, safety, morals, or welfare of the residents of the City; and

WHEREAS, the Mayor and Council, pursuant Resolution No. 2024-06-01 adopted on June 5, 2024 (“Initial Prerequisite Resolution”), and the Act, including specifically O.C.G.A. §36-61-5, previously found that one or more pockets of blight exist within the boundaries of the City, including one or more urbanized or developed areas in which (i) structures, buildings, improvements, by reasons of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation or open spaces, and the existence of conditions which endanger life and property by fire or other causes, is conducive to ill health, transmission of disease, infant mortality, high unemployment, juvenile delinquency and crime and is detrimental to the public health, safety, morals and welfare and (ii) by reason of the presence of a predominant number of substandard, deteriorated, or deteriorating structures, inadequate parking, faulty lot layout in relation to size, adequacy, accessibility, and usefulness, unsanitary and unsafe conditions, deterioration of site and other improvements, tax delinquency exceeding the fair value of the land, diversity of ownership on defective or unusual conditions of title which prevent or encumber the free alienability of land, and the existence of conditions which endanger life and property by fire and other causes, substantially impair and arrest the sound growth of the community, retard the provision of housing accommodation and employment opportunities, and constitute an economic and social liability and is a menace to the public health, safety, morals and welfare in their present conditions and use; and

WHEREAS, pursuant to the Initial Prerequisite Resolution No and the Act, the City previously designated certain areas within the City as “urban redevelopment areas,” particularly Mableton Urban Redevelopment Area No.1, appropriate for projects that provide for rehabilitation, conservation, or redevelopment, or a combination thereof; and

WHEREAS, the Mayor and Council, pursuant Resolution No. 2025-[]-[] adopted on July 16, 2025 amended and updated the Initial Prerequisite Resolution, and as amended shall be referenced herein as (the “Prerequisite of Necessity Resolution”) and the Act, including specifically O.C.G.A. §36-61-5, found that one or more additional pockets of blight exist within the boundaries of the City including one or more urbanized or developed areas in which (i) structures, buildings, improvements, by reasons of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation or open spaces, and the existence of conditions which endanger life and property by fire or other causes, is conducive to ill health, transmission of disease, infant mortality, high unemployment, juvenile delinquency and crime and is detrimental to the public health, safety, morals and welfare and (ii) by reason of the presence of a predominant number of substandard, deteriorated, or deteriorating structures, inadequate parking, faulty lot layout in relation to size, adequacy, accessibility, and usefulness, unsanitary and unsafe conditions, deterioration of site and other improvements, tax delinquency exceeding the fair value of the land, diversity of ownership on defective or unusual conditions of title which prevent or encumber the free alienability of land, and the existence of conditions which endanger life and property by fire and other causes, substantially impair and arrest the sound growth of the community, retard the provision of housing accommodation and employment opportunities, and constitute an economic and social liability and is a menace to the public health, safety, morals and welfare in their present conditions and use; and

WHEREAS, pursuant to the Prerequisite of Necessity Resolution, the City further found that one or more areas, including Mableton Urban Redevelopment Area No. 2 (“Mableton Urban Redevelopment Area No. 2”), exist in the City that fit within the intent of the definition of O.C.G.A. Section 36-61-2(15) by reason of the deterioration of site or other improvements and by having development impaired by environmental hazards, which substantially arrests the sound growth of the City or constitutes an economic or social liability and is a menace to the public health, safety, morals or welfare of the residents of the City, and that such Mableton Urban Redevelopment Area is therefore designated as appropriate for an urban redevelopment project; and

WHEREAS, the Mayor and Council held a public hearing on July 16, 2025, regarding the proposed urban redevelopment plan entitled “City of Mableton, Georgia-Urban Redevelopment Plan 2024, As Amended” (the “Plan”), a copy of which Plan is on file with the City; and

WHEREAS, public notice of such public hearing relating to consideration of the approval of the Plan was published in the *Marietta Daily Journal*, a newspaper having a general circulation in the area of operation of the City on July 12, 2025, and proof of such publication is on file with the City; and

WHEREAS, the Mayor and Council, by Resolution No. 2025-[]-[] (the Plan Amendment Resolution) adopted on July 16, 2025, approved the Plan and the urban redevelopment projects set forth therein, including, among other things, addressing the need to provide for the physical development of the City as a whole; and

WHEREAS, the City desires to cause the Agency to acquire an approximately 23.105-acre land assemblage within the Mableton Urban Redevelopment Area No. 2 (the “Project Site”)

which shall be deeded to the Agency and thereafter leased by the Agency to the City, as further described in the hereinafter defined Intergovernmental Agreement; and

WHEREAS, in addition, the City desires to cause the Agency to acquire additional sites designated as “urban redevelopment areas” within the City (the “Additional Sites”), which shall be deeded to the Agency, developed for permitted urban redevelopment purposes, and thereafter leased by the Agency to the City, at which point the Intergovernmental Agreement will be amended to include such Additional Sites; and

WHEREAS, the Agency desires to finance the costs of (i) the acquisition of the Project Site and any Additional Sites, (ii) land preparation, grading and the installation of certain public infrastructure improvements to the Project Site and any Additional Sites, (iii) construction and development of a passive pocket park, (iv) the acquisition, construction and equipping of recreational and public park facilities, including, but not limited to, playgrounds, pavilions, park benches, park equipment and/or the installation of walking trails, and (v) professional fees and other expenses related to the issuance of the Bond (collectively, the “Project”); and

WHEREAS, the Act authorizes the City to appropriate such funds and make such expenditures as may be necessary to carry out the purposes of the Act and to levy taxes and assessments for such purposes; and

WHEREAS, Article IX, Section III, Paragraph I(a) and (b) of the Constitution of the State of Georgia of 1983 provides that any “... county, municipality, school district or political subdivision of the state may contract for any period not exceeding 50 years with each other or any other public agency or public corporation for joint services, for the provision of services, or for joint or separate use of facilities or equipment; but such contracts must deal with activities, services and facilities which the contracting parties are authorized by law to undertake or provide ... and, subject to such limitations as may be provided by general law, any county, municipality, or political subdivision may, in connection with any contracts authorized by [this provision], convey any existing facilities or equipment to the state or to any public agency, public corporation or public authority”; and

WHEREAS, pursuant to a Bond Resolution adopted by the Agency on July 16, 2025 (the “Bond Resolution”) at the request of the City, the Agency proposes to issue its revenue bond to be designated the “Mableton Urban Redevelopment Agency Revenue Bond (Park and Recreational Facilities Project), Series 2025” (the “Series 2025 Bond”) in the original principal amount of \$6,740,000 for the purpose of financing all or a portion of the costs of (i) the acquisition and equipping of the Project Site and any Additional Sites, (ii) the design, acquisition, construction, installation and equipping of the Project and (iii) certain costs of issuance related to the Series 2025 Bond; and

WHEREAS, the Agency expects to finance the Project with the proceeds of the Series 2025 Bond, the repayment of which shall be secured by, among other things, lease payments made by the City under the hereinafter defined Intergovernmental Agreement, which payments shall be made from a combination of revenue sources, including the Ad Valorem Property Tax and all other lawfully available sources; and

WHEREAS, the Agency and the City propose to enter into an Intergovernmental Lease Agreement, to be dated the first day of the calendar month in which the Series 2025 Bond is issued (the “Intergovernmental Agreement”), pursuant to which the Agency will agree, among other things, to issue the Series 2025 Bond to finance all or a portion of the costs of the Project for lease to the City, and in consideration of the facilities and services provided by the Agency, the City will agree to, among other things, (i) lease the project from the Agency, (ii) make payments to the Agency in such amounts sufficient to enable the Agency to pay, when due, the principal of, redemption premium, if any, and interest on the Series 2025 Bond and other amounts due under the Resolution, (iii) levy an annual ad valorem tax on all taxable property located within the corporate limits of the City subject to such tax, at such rate or rates, as may be necessary to produce in each year revenues that are sufficient to fulfill the City’s obligations under the Intergovernmental Agreement and (iv) the City will agree to secure its obligations to the Agency by a pledge of monies in a deposit account to be delivered by a pledge and security agreement or similar document (to the extent required by the Purchaser, as hereinafter defined); and

WHEREAS, pursuant to a Request for Proposals, the Agency and the City solicited competitive bids from financial institutions for the purchase of the Series 2025 Bond (the “Request for Proposals”), and received bids from multiple financial institutions; and

WHEREAS, the bid of the most responsive bidder, taking into account terms, interest rates, conditions, fees and expenses to be paid by the Agency and within the parameters of the Request for Proposals was submitted by Truist Bank (the “Purchaser”), and a copy of such bid is attached to this Resolution as Exhibit A and incorporated herein by reference; and

WHEREAS, after due consideration, it is deemed advisable and in the best interest of the Agency and the City that the Series 2025 Bond be sold to the Purchaser; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF MABLETON, GEORGIA, as follows:

Section 1. Authorization of Intergovernmental Agreement. The execution, delivery and performance of the Intergovernmental Agreement shall be approved and the same are hereby authorized. The Intergovernmental Agreement shall be in substantially the form attached hereto as Exhibit B, subject to such minor changes, insertions or omissions as may be approved by the Mayor or Mayor Pro Tempore of the City, and the execution of the Intergovernmental Agreement by the Mayor or Mayor Pro Tempore and Clerk of the City as hereby authorized shall be conclusive evidence of any such approval.

Section 2. Ratification of Winning Bid; Authorization of Terms of Series 2025 Bond. The City ratifies the request for proposals for the sale of the Series 2025 Bond and the bid submitted by the Purchaser to purchase the Series 2025 Bond at one hundred percent (100%) of par, attached hereto as Exhibit A, is hereby approved. The Mayor and Mayor and Council acknowledge that they have received a copy of the Bond Resolution and hereby approve the terms and provisions thereof.

Section 3. Tax and Non-Arbitrage Certificate. Any officer of the City is hereby authorized to execute a tax and non-arbitrage certificate with respect to the Series 2025 Bond in order to comply with Section 148 of the Internal Revenue Code of 1986, as amended.

Section 4. Bank Qualification. The City reasonably anticipates that the amount of tax-exempt obligations (other than private activity bonds, treating qualified 501(c)(3) bonds as not being private activity bonds) which will be issued by the City (and all entities treated as one issuer with the City, and all subordinate entities whose obligations are treated as issued by the City) during calendar year 2025 will not exceed \$10,000,000. The City will designate the Series 2025 Bond as a “qualified tax-exempt obligation” within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

Section 5. No Personal Liability. No stipulation, obligation or agreement herein contained or contained in the Intergovernmental Agreement or the other documents herein authorized shall be deemed to be a stipulation, obligation or agreement of any officer, director, agent or employee of the City in his or her individual capacity.

Section 6. Validation of Series 2025 Bond. The Mayor and City Clerk are authorized to acknowledge and make answer in the validation proceedings relating to the Series 2025 Bond.

Section 7. General Authority. From and after the execution and delivery of the documents hereinabove authorized, the proper officers, directors, agents and employees of the City are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of said documents as executed and are further authorized to take any and all further actions and execute and deliver any and all other documents and certificates as may be necessary or desirable in connection with the issuance of the Series 2025 Bond and the execution and delivery of the Intergovernmental Agreement and the other documents herein authorized.

Section 8. Actions Approved and Confirmed. All acts and doings of the officers of the City which are in conformity with the purposes and intents of this Resolution and in the furtherance of the issuance of the Series 2025 Bonds and the execution, delivery and performance of the Intergovernmental Agreement, a pledge and security agreement, if so required by the Purchaser, and the other documents herein authorized shall be, and the same hereby are, in all respects approved and confirmed.

Section 9. Counterparts; Electronic Execution. The Mayor or Mayor Pro Tempore of the City are each hereby authorized to execute the Intergovernmental Agreement, and all other documents and certificates related to the issuance and delivery of the Series 2025 Bond in counterparts, by electronic or digital signature including but not limited to emailed PDF or other electronic means that reproduces an image of the actual executed signature page, and such electronic pages shall constitute one and the same instrument, and an original signature and shall be of the same legal effect, validity or enforceability as a manually executed, physically delivered or paper-based signature, as the case may be, and it is further found and determined that such electronic signatures are expressly permitted under the Uniform Electronic Transactions Act (O.C.G.A. Section 10-12-1, *et seq.*).

Section 10. Severability of Invalid Provisions. If any one or more of the agreements or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed severable from the remaining agreements and provisions and shall in no way affect the validity of any of the other agreements and provisions hereof.

Section 11. Repealing Clause. All resolutions or parts thereof of the City in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

Section 12. Effective Date. This Resolution shall take effect immediately upon its adoption.

ADOPTED this July 16, 2025.

CITY OF MABLETON, GEORGIA

By: _____
Mayor

(SEAL)

Attest:

City Clerk

EXHIBIT A
WINNING BID

EXHIBIT B

FORM OF INTERGOVERNMENTAL LEASE AGREEMENT

MABLETON URBAN REDEVELOPMENT AGENCY

(a public body corporate and politic created and
existing under the laws of the State of Georgia)

as Agency

And

CITY OF MABLETON, GEORGIA

(a municipality created and
existing under the laws of the State of Georgia)

as City

INTERGOVERNMENTAL LEASE AGREEMENT

Dated as of August 1, 2025

THE RIGHTS AND INTEREST OF THE MABLETON URBAN REDEVELOPMENT AGENCY IN THIS INTERGOVERNMENTAL LEASE AGREEMENT AND THE REVENUES AND RECEIPTS DERIVED THEREFROM, EXCEPT FOR ITS UNASSIGNED RIGHTS, AS DEFINED HEREIN, HAVE BEEN COLLATERALLY ASSIGNED AND PLEDGED TO THE BONDHOLDERS PURSUANT TO A BOND RESOLUTION, ADOPTED BY THE BOARD OF COMMISSIONERS OF THE MABLETON URBAN REDEVELOPMENT AGENCY ON JULY 16, 2025

This instrument was prepared by

Hunton Andrews Kurth LLP
600 Peachtree Street, N.E., Suite 4100
Atlanta, Georgia 30308
Attention: Public Finance Group
Tel: (404) 888-4000

INTERGOVERNMENTAL LEASE AGREEMENT

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and is only for convenience of reference.)

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INTERGOVERNMENTAL LEASE AGREEMENT

This **INTERGOVERNMENTAL LEASE AGREEMENT**, dated as of August 1, 2025 (this “Intergovernmental Agreement”), by and between the Mableton Urban Redevelopment Agency (the “Agency”), a public body corporate and politic created and existing under the laws of the State of Georgia, and the City of Mableton, Georgia (the “City”), a municipality existing under the laws of the State of Georgia;

W I T N E S S E T H:

WHEREAS, the Agency and the City propose to enter into this Intergovernmental Agreement pursuant to which the Agency will agree, among other things, to issue the Series 2025 Bond (hereafter defined) to finance the costs of the acquisition, construction and installation of the Project in furtherance of its powers under the Act (hereafter defined); and in consideration therefor, the City will agree, among other things, in furtherance of aiding the Agency with the carrying out of the Project, to make lease payments to the Agency for the use of the Project and for such services identified herein, with such payments to be in such amounts sufficient to enable the Agency to pay, when due, the principal of and interest on the Series 2025 Bond and other amounts due under the Resolution (hereafter defined) and pledge its full faith and credit and taxing power, within any limitations provided by law and to the extent necessary to make the payments required by this Intergovernmental Agreement;

WHEREAS, the Agency and the City are authorized under the Constitution and laws of the State of Georgia to enter into this Intergovernmental Agreement for the purposes set forth herein;

NOW, THEREFORE, for and in consideration of the promises and covenants hereinafter contained, the parties hereby agree as follows:

ARTICLE I

DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

Section 1.01.Definitions.

Certain words and terms used in this Intergovernmental Agreement shall have the meanings set forth in Section 101 of the Resolution. When used herein, such words and terms shall have the meanings given to them by the language employed in Section 101 of the Resolution and in this Article I defining such words and terms, unless the context clearly indicates otherwise. In addition to the words and terms defined elsewhere herein, the following words and terms have the meanings set forth below.

“Additional Payments” means payments due to the Agency pursuant to Section 5.03(b) of this Intergovernmental Agreement.

“Additional Sites” shall mean the real estate acquired by The City and/or the Agency within Mableton Urban Redevelopment Areas No.1 and No.2, which are added to the Project Site Description, leased by the Agency to the City and subject to the terms of this Instrumental Agreement.

“Authorized Agency Representative” means the person at the time designated to act on behalf of the Agency by written certificate furnished to the City and the Project Fund Custodian, containing the specimen signature of such person and signed on behalf of the Agency by its Chair or Vice Chair. Such certificate or any subsequent or supplemental certificate so executed may designate an alternate or alternates.

“Authorized City Representative” means the person at the time designated to act on behalf of the City by written certificate furnished to the Agency and the Project Fund Custodian, containing the specimen signature of such person and signed on behalf of the City by its Mayor or Mayor Pro Tempore.

“Basic Payments” means the payments due to the Agency pursuant to Section 5.03(a) of this Intergovernmental Agreement.

“Bond Documents” means, collectively, this Intergovernmental Agreement and the Resolution.

“Completion Date” means the date of completion of the acquisition, construction, and installation of the Improvements, as that date shall be certified as provided in Section 4.06 hereof.

“Construction Contracts” means the contracts between the Agency or its agent and the general contractors for the construction of the Improvements and the contracts between the Agency or its agent and suppliers of materials and Equipment.

“Consulting Architect”, if any, means any design professional, architect or architectural firm at the time employed by the Agency or its agent and designated to act on behalf of the Agency

or the City by written certificate furnished to the Project Fund Custodian, containing the signature of such person or the signature of a partner or officer of such firm, and signed on behalf of the City by the Mayor or Mayor Pro Tempore of its Governing Body and on behalf of the Agency by the Chair or Vice Chair of its Governing Body. The Consulting Architect shall not be a full-time employee of the Agency or the City.

“Costs of the Project” means those costs and expenses in connection with the acquisition, construction and installation of the Project permitted by Section 4.03 hereof to be paid or reimbursed from proceeds of the Bonds.

“Continuing Disclosure Agreement”, to the extent it exists, shall have the meaning assigned to such term in Section 2.02(j) hereof.

“EMMA” shall have the meaning assigned to such term in Section 2.02(j) hereof.

“Equipment” means the equipment, machinery and furnishings comprising a portion of the Project.

“Event of Default” means any event specified in Section 8.01 of this Intergovernmental Agreement.

“Favorable Opinion of Bond Counsel” means, with respect to any action taken which requires such opinion, or unqualified opinion of Hunton Andrews Kurth LLP or such other independent counsel acceptable to City to the effect that such action will not adversely affect the tax-exempt status of those Bonds which are issued on a tax-exempt basis for federal income tax purposes.

“Fiscal Year” means any period of twelve consecutive months adopted by the City as its fiscal year for financial reporting purposes and shall initially mean the period beginning on October 1 of each calendar year and ending on September 30 of the next calendar year.

“Governing Body” means, in the case of the Agency, the board of commissioners for the Agency and, in the case of the City, the Mayor and Council of the City of Mableton, Georgia.

“Improvements” means those certain facilities and improvements constituting part of the Project funded with proceeds of Bonds and not constituting part of the Equipment, which are or shall be located on the Project Site.

“Initial Installment Computation Date” shall have the meaning assigned to such term in Section 4.13(b) hereof.

“Intergovernmental Agreement” means this Intergovernmental Lease Agreement between the Agency and the City, as the same may be amended from time to time in accordance with the provisions hereof.

“Leased Property” means the real and personal property components of the Project to be located on the Project Site as described on Exhibit A hereto and by this reference made a part hereof.

“Lease Term” means the duration of the leasehold interest created by this Intergovernmental Lease Agreement as specified in Section 5.01 hereof.

“Lien” means any mortgage or pledge of or security interest in or lien, charge, or encumbrance on the Project.

“Permitted Encumbrances” means, as of any particular time,

(1) liens for ad valorem taxes, if any, and special assessments not then delinquent;

(2) the Resolution and the security interests created therein and the specific title exceptions (if any) applicable to the Leased Property prior to August 1, 2025;

(3) such utility, access or other easements and rights-of-way, restrictions, reservations, reversions and exceptions other than those referred to in (2) above and which do not, in the opinion of an independent engineer, materially interfere with or impair the operations being conducted in the Project (or, if no operations are being conducted therein, the operations for which the Project was designed or last modified);

(4) unfiled and inchoate mechanics’ and materialmen’s liens for construction work in progress;

(5) architects’, contractors’ subcontractors’ mechanics’ materialmen’s, suppliers’, laborers’, vendors’, workers’, repairmen’s, carriers’, land surveyors’ and engineers’ liens or other similar liens not then payable; and

(6) such minor defects, irregularities, encumbrances, easements, rights-of-way and clouds on title as normally exist with respect to properties similar in character to the Project and as do not, in the opinion of independent legal counsel, materially interfere with or impair the operations being conducted in the Project (or, if no operations are being conducted therein, the operations for which the Project was designed or last modified).

“Plans and Specifications” means the detailed plans and specifications for the construction of the Improvements prepared by the Consulting Architect or by architects and engineers acceptable to the Consulting Architect, as amended from time to time by the City, a copy of which is or will be on file with the Agency and the City.

“Project Site” means the real estate described in Exhibit A attached hereto, which, by this reference thereto, is incorporated herein.

“Rebate Amount” shall have the meaning assigned to such term in Section 4.13(b) hereof.

“Rebate Amount Certificate” shall have the meaning assigned to such term in Section 4.13(b) hereof.

“Regulations” means the Treasury Regulations promulgated under and pursuant to the Code.

“Resolution” means the bond resolution adopted by the Agency, on July 16, 2025, authorizing the issuance of the Series 2025 Bond and Additional Bonds and the security therefor, as the same may be supplemented from time to time in accordance with the terms of the Resolution.

“Rule” shall have the meaning assigned to such term in Section 2.02(j) hereof.

“Security Agreement” means that certain Pledge and Security Agreement by the City in favor of the Agency to secure the performance by the City of its obligations hereunder, if so required by the Purchaser.

“Series 2025 Bond” means the Mableton Urban Redevelopment Agency Revenue Bond (Park and Recreational Facilities Project), Series 2025, in the original principal amount of \$6,740,000, authorized to be issued pursuant to the Resolution.

“Unassigned Rights” means all of the rights of the Agency to receive reimbursements and payments pursuant to Sections 5.03(b), 6.02, 6.06, and 8.04 of this Intergovernmental Agreement, and to be held harmless and indemnified pursuant to Section 6.02 of this Intergovernmental Agreement.

Section 1.02. Construction of Certain Terms. For all purposes of this Intergovernmental Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following rules of construction shall apply:

(1) The use of the masculine, feminine, or neuter gender is for convenience only and shall be deemed and construed to include correlative words of the masculine, feminine, or neuter gender, as appropriate.

(2) “This Intergovernmental Agreement” means this instrument as originally executed or as it may from time to time be supplemented or amended by one or more contracts supplemental hereto entered into pursuant to the applicable provisions hereof.

(3) All references in this instrument to designated “Articles,” “Sections,” and other subdivisions are to the designated Articles, Sections, and other subdivisions of this instrument. The words “herein,” “hereof,” and “hereunder” and other words of similar import refer to this Intergovernmental Agreement as a whole and not to any particular Article, Section, or other subdivision.

(4) The terms defined in this Article shall have the meaning assigned to them in this Article and include the plural as well as the singular.

(5) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting

principles as promulgated by the American Institute of Certified Public Accountants, on and as of the date of this instrument.

Section 1.03. Table of Contents; Titles and Headings. The table of contents, the titles of the articles, and the headings of the sections of this Intergovernmental Agreement are solely for convenience of reference, are not a part of this Intergovernmental Agreement, and shall not be deemed to affect the meaning, construction, or effect of any of its provisions.

Section 1.04. Contents of Certificates or Opinions. Every certificate or opinion with respect to the compliance with a condition or covenant provided for in this Intergovernmental Agreement shall include: (i) a statement that the person or persons making or giving such certificate or opinion have read such covenant or condition and the definitions herein relating thereto, (ii) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based, (iii) a statement that, in the opinion of the signers, they have made or caused to be made such examination or investigation as is necessary to enable them to express an informed opinion as to whether or not such covenant or condition has been complied with, and (iv) a statement as to whether, in the opinion of the signers, such condition or covenant has been complied with.

Any such certificate or opinion made or given by an official of the Agency or the City may be based, insofar as it relates to legal or accounting matters, upon a certificate or an opinion of counsel or an accountant, which certificate or opinion has been given only after due inquiry of the relevant facts and circumstances, unless such official knows that the certificate or opinion with respect to the matters upon which his certificate or opinion may be based as aforesaid is erroneous or in the exercise of reasonable care should have known that the same was erroneous. Any such certificate or opinion made or given by counsel or an accountant may be based (insofar as it relates to factual matters with respect to information that is in the possession of an official of the Agency or the City or any third party) upon the certificate or opinion of or representations by an official of the Agency or the City or any third party on whom counsel or an accountant could reasonably rely unless such counsel or such accountant knows that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion may be based as aforesaid are erroneous or in the exercise of reasonable care should have known that the same were erroneous. The same official of the Agency or the City, or the same counsel or accountant, as the case may be, need not certify or opine to all of the matters required to be certified or opined under any provision of this Intergovernmental Agreement, but different officials, counsel, or accountants may certify or opine to different matters, respectively.

ARTICLE II

REPRESENTATIONS AND UNDERTAKINGS

Section 2.01. Representations by the Agency. The Agency makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) Creation and Authority. The Agency is a public corporation of the State of Georgia duly created and validly existing under the laws of the State and specifically the Act, and validly activated pursuant to a resolution of the Mayor and Council of the City dated as of June 5, 2024,

(the “Activating Resolution”). The Agency has all requisite power and authority under the Activating Resolution, the Act and the laws of the State (i) to issue the Series 2025 Bond to finance the costs of acquiring, constructing, equipping and installing the Project, (ii) to own the Project, and (iii) to lease the project to the City and to enter into, perform its obligations under, and exercise its rights under this Intergovernmental Agreement and the Resolution. The Act authorizes the Agency to issue revenue bonds and use the proceeds thereof for the purpose of paying all or any part of the cost of any “urban redevelopment project,” which includes the acquisition, construction, installation, modification, renovation, or rehabilitation of land, interest in land, buildings, structures, facilities or other improvements located or to be located within the urban development area designated by the Governing Body of the City, and the acquisition, installation, modification, renovation, rehabilitation, or furnishing of fixtures, machinery, equipment, furniture, or other property of any nature whatsoever used on, in, or in connection with any such land, interest in land, building, structure, facility, or other improvement, all for the essential public purpose of rehabilitating, redeveloping, or conserving such urban redevelopment area. The Act also authorizes the Agency (i) to construct, erect, assemble, purchase, acquire, improve, install, and sell urban redevelopment projects, (ii) to make and execute contracts, agreements, and other instruments necessary or convenient to exercise the powers of the Agency or to further the public purpose for which the Agency is created, including, but not limited to, contracts for construction of urban redevelopment projects and contracts for sale of urban redevelopment projects, (iii) to contract for any period, not exceeding fifty (50) years, with any political subdivision of the State for the use by such political subdivision of any facilities or services of the Agency, provided that such contracts shall deal with such activities and transaction as the Agency and any such political subdivision are authorized to undertake, and (iv) to acquire, by purchase, any real property (defined to include all lands, including improvements and fixtures thereon and property of any nature appurtenant thereto or used in connection therewith) and to hold, improve, clear, or prepare for redevelopment any such property.

The Act also authorizes the Agency, as security for repayment of its revenue bonds, to pledge, convey, assign, hypothecate, or otherwise encumber any property of the Agency and to execute any agreement for the sale of its revenue bonds, security agreement, assignment, or other agreement or instrument as may be necessary or desirable, in the judgment of the Agency, to secure any such revenue bonds. The Agency has approved the pledge of all of its rights and interests in the revenues and receipts derived from the Intergovernmental Agreement, except for its unassigned rights. The Agency has found that the Project constitutes an “urban redevelopment project” within the meaning of that term as defined in the Act. The Agency has further found that the acquisition, construction, equipping and installation of the Project is in the best interest of the Agency and that the Project is for the lawful and valid public purposes set forth in the Act.

(b)Pending Litigation. There are no actions, suits, proceedings, inquiries, or investigations pending or, to the knowledge of the Agency, after making due inquiry with respect thereto, threatened against or affecting the Agency in any court or by or before any governmental authority or arbitration board or tribunal, which involve the possibility of materially and adversely affecting the transactions contemplated by this Intergovernmental Agreement or which, in any way, would adversely affect the validity or enforceability of the Bonds, the Resolution, this Intergovernmental Agreement or any agreement or instrument to which the Agency is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby or thereby, nor

is the Agency aware of any facts or circumstances presently existing which would form the basis for any such actions, suits, or proceedings.

(c) Agreements Are Legal and Authorized. The execution and delivery by the Agency of this Intergovernmental Agreement and the Bonds, the compliance by the Agency with all of the provisions of each thereof, and the adoption of the Resolution (i) are within the purposes, powers, and authority of the Agency, (ii) have been done in full compliance with the provisions of the Act and have been approved by the Governing Body of the Agency and are legal and will not conflict with or constitute on the part of the Agency a violation of or a breach of or a default under any organic document, indenture, mortgage, security deed, pledge, note, lease, loan, or installment sale agreement, contract, or other agreement or instrument to which the Agency is a party or by which the Agency or its properties are otherwise subject or bound, or any license, judgment, decree, law, statute, order, writ, injunction, demand, rule, or regulation of any court or governmental agency or body having jurisdiction over the Agency or any of its activities or properties, and (iii) have been duly authorized by all necessary action on the part of the Agency. This Intergovernmental Agreement, when executed by the other party hereto, will have been duly and validly executed and delivered by the Agency, will be in full force and effect as to the Agency, and will constitute the legal, valid, binding, and enforceable obligation of the Agency, enforceable in accordance with its terms. The Series 2025 Bond, when issued, delivered, and paid for as in the Resolution provided, will have been duly and validly authorized and issued and will constitute the valid and binding limited obligation of the Agency enforceable in accordance with their terms.

(d) Governmental Consents. Neither the nature of the Agency nor any of its activities or properties, nor any relationship between the Agency and any other Person, nor any circumstance in connection with the offer, issue, sale, or delivery of the Bonds is such as to require the consent, approval, permission, order, license, or authorization of, or the filing, registration, or qualification with, any governmental authority on the part of the Agency in connection with the execution, delivery, and performance of this Intergovernmental Agreement and the Resolution or the consummation of any transaction therein contemplated, or the offer, issue, sale, or delivery of the Bonds, except as shall have been obtained or made and as are in full force and effect.

(e) No Defaults. To the knowledge of the Agency, after making due inquiry with respect thereto, no event has occurred and no condition exists that would constitute an event of default under the Resolution or this Intergovernmental Agreement or that, with the lapse of time or with the giving of notice or both, would become such an event of default. To the knowledge of the Agency, after making due inquiry with respect thereto, the Agency is not in default or violation in any material respect under the Act or under any organic document or other agreement or instrument to which it is a party or by which it may be bound.

(f) No Prior Pledge. Neither this Intergovernmental Agreement nor any of the payments or amounts to be received by the Agency hereunder have been or will be assigned, pledged, or hypothecated in any manner or for any purpose or have been or will be the subject of a grant of a security interest by the Agency other than as provided in the Resolution.

(g) Disclosure. The representations of the Agency contained in this Intergovernmental Agreement and any certificate, document, written statement, or other instrument furnished to the Purchaser by or on behalf of the Agency in connection with the transactions contemplated hereby

do not contain any untrue statement of a material fact relating to the Agency and do not omit to state a material fact relating to the Agency necessary in order to make the statements contained herein and therein relating to the Agency not misleading. Nothing has come to the attention of the Agency that would materially and adversely affect or in the future may (so far as the Agency can now reasonably foresee) materially and adversely affect the acquisition, construction and installation of the Project by the Agency or any other transactions contemplated by this Intergovernmental Agreement and the Resolution, which has not been set forth in writing to the Purchaser or in the certificates, documents, and instruments furnished to the Purchaser by or on behalf of the Agency prior to the date of execution of this Intergovernmental Agreement in connection with the transactions contemplated hereby.

(h) Compliance with Conditions Precedent to the Issuance of the Bonds. All acts, conditions, and things required to exist, happen, and be performed precedent to and in the execution and delivery by the Agency of the Bonds do exist, have happened, and have been performed in due time, form, and manner as required by law; the issuance of the Bonds, together with all other obligations of the Agency, do not exceed or violate any constitutional or statutory limitation, and the revenues, funds, property, and amounts pledged to the payment of the principal of, premium, if any, and interest on, the Bonds, as the same become due, have been calculated to be sufficient in amount for that purpose.

The Agency makes no representation as to the financial position or business condition of the City and does not represent or warrant as to any of the statements, materials (financial or otherwise), representations or certifications furnished or to be made and furnished by the City in connection with the sale of the Bonds, or as to the correctness, completeness or accuracy of such statements.

(i) Agency's Tax Certificate. The representations and warranties of the Agency set forth in the Agency's tax and non-arbitrage certificate, dated the date of issuance and delivery of the Series 2025 Bond, are hereby incorporated herein and made a part hereof by this reference thereto, as if fully set forth herein, and are true and correct as of the date hereof.

Section 2.02.Representations by the City. The City makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) Creation and Authority. The City is a municipal corporation duly created and validly existing under the laws of the State. The City has all requisite power and authority under the laws of the State and the Act to enter into, perform its obligations under, and exercise its rights under this Intergovernmental Agreement. The Act authorizes the City to undertake and carry out within its corporate limits "urban redevelopment projects," which are defined to include undertakings or activities of the City in an urban redevelopment area under the Act for the elimination and for the prevention of the development or spread of pockets of blight and may involve pocket of blight clearance and redevelopment in an urban redevelopment area, rehabilitation or conservation in an urban redevelopment area, or any combination nor part thereof, in accordance with an urban redevelopment plan adopted pursuant to the Act. The Act authorizes the City to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under the Act and to appropriate such funds and make such expenditures as may be necessary to carry out the purposes of the Act and to levy taxes and assessments for such purposes. The Act further

authorizes the City to aid in the carrying out of an urban redevelopment project of the Agency, including the furnishing of funds in connection with such urban redevelopment project. Article IX, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 authorizes the City to contract for any period not exceeding fifty years with any public corporation or public authority for joint services, for the provision of services, or for the joint or separate use of facilities or equipment, if such contract deals with activities, services, or facilities that the contracting parties are authorized by law to undertake or provide. The City has taken all actions required by the Act to qualify the Project as an “urban redevelopment project” thereunder, including, without limitation, approving an urban redevelopment plan for the Project following its holding all required public hearings as described in the Resolution. The City has further adopted the Prerequisite Necessity Resolution (as defined in the Resolution) and has duly created Mableton Urban Redevelopment Areas No.1 and No.2, in which it found that certain conditions exist within the City as provided in O.C.G.A. § 36-61-5 and further has found that the Project is necessary in the interest of the public health, safety, morals, or welfare of the residents of the City, in compliance with the Act. The Project is in furtherance of the efficient operation of the City.

(b)Pending Litigation. There are no actions, suits, proceedings, inquiries, or investigations pending or, to the knowledge of the City, after making due inquiry with respect thereto, threatened against or affecting the City in any court or by or before any governmental authority or arbitration board or tribunal, which involve the possibility of materially and adversely affecting the properties, activities, prospects, profits, operations, or condition (financial or otherwise) of the City, or the ability of the City to perform its obligations under this Intergovernmental Agreement, or the transactions contemplated by this Intergovernmental Agreement or which, in any way, would adversely affect the validity or enforceability of this Intergovernmental Agreement or any agreement or instrument to which the City is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby or thereby, nor is the City aware of any facts or circumstances presently existing that would form the basis for any such actions, suits, or proceedings. The City is not in default with respect to any judgment, order, writ, injunction, decree, demand, rule, or regulation of any court, governmental authority, or arbitration board or tribunal.

(c)Intergovernmental Agreement is Legal and Authorized. The execution and delivery by the City of this Intergovernmental Agreement, the consummation of the transactions therein contemplated, and the fulfillment of or the compliance with all of the provisions hereof (i) are within the power, legal right, and authority of the City, (ii) are legal and will not conflict with or constitute on the part of the City a violation of or a breach of or a default under, any organic document, indenture, mortgage, security deed, pledge, note, lease, loan, or installment sale agreement, contract, or other agreement or instrument to which the City is a party or by which the City or its properties are otherwise subject or bound, or any license, law, statute, rule, regulation, judgment, order, writ, injunction, decree, or demand of any court or governmental agency or body having jurisdiction over the City or any of its activities or properties, and (iii) have been duly authorized by all necessary and appropriate official action on the part of the Governing Body of the City. This Intergovernmental Agreement, when executed by the other party hereto, will have been duly and validly executed by the City, will be in full force and effect as to the City and will constitute the valid, legal, binding, and enforceable obligation of the City, enforceable in accordance with its terms. The officials of the City executing this Intergovernmental Agreement are duly and properly in office and are fully authorized and empowered to execute the same for

and on behalf of the City. The City has duly authorized the assignment and pledge of the Intergovernmental Agreement to secure its obligation to make lease payments in amounts sufficient to pay the principal of the redemption premium (if any) and interest on the Series 2025 Bond.

(d)Governmental Consents. Neither the City nor any of its activities or properties, nor any relationship between the City and any other Person, nor any circumstances in connection with the execution, delivery, and performance by the City of its obligations under this Intergovernmental Agreement, or the offer, issue, sale, or delivery by the Agency of the Series 2025 Bond, is such as to require the consent, approval, permission, order, license, or authorization of, or the filing, registration, or qualification with, any governmental authority on the part of the City in connection with the execution, delivery, and performance of this Intergovernmental Agreement or the consummation of any transaction herein or therein contemplated, or the offer, issue, sale, or delivery of the Series 2025 Bond, except as shall have been obtained or made and as are in full force and effect and except as are not presently obtainable. To the knowledge of the City, after making due inquiry with respect thereto, the City will be able to obtain all such additional consents, approvals, permissions, orders, licenses, or authorizations of governmental authorities as may be required on or prior to the date the City is legally required to obtain the same.

(e)No Defaults. No event has occurred and no condition exists that would constitute an Event of Default or that, with the lapse of time or with the giving of notice or both, would become an Event of Default. To the knowledge of the City, after making due inquiry with respect thereto, the City is not in default or violation in any material respect under any organic document or other agreement or instrument to which it is a party or by which it may be bound.

(f)Compliance with Law. To the knowledge of the City, after making due inquiry with respect thereto, the City is not in violation of any laws, ordinances, or governmental rules or regulations to which it or its properties are subject and has not failed to obtain any licenses, permits, franchises, or other governmental authorizations (which are presently obtainable) necessary to the ownership of its properties or to the conduct of its affairs, which violation or failure to obtain might materially and adversely affect the properties, activities, prospects, profits, and condition (financial or otherwise) of the City, and there have been no citations, notices, or orders of noncompliance issued to the City under any such law, ordinance, rule, or regulation.

(g)Restrictions on the City. The City is not a party to or bound by any contract, instrument, or agreement, or subject to any other restriction, that materially and adversely affects its activities, properties, assets, operations, or condition (financial or otherwise). The City is not a party to any contract or agreement that restricts the right or ability of the City to enter into this Intergovernmental Agreement and perform its obligations hereunder.

(h)Disclosure. The representations of the City contained in this Intergovernmental Agreement and any certificate, document, written statement, or other instrument furnished by or on behalf of the City to the Agency or the Purchaser in connection with the transactions contemplated hereby, do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements contained herein or therein not misleading. There is no fact that the City has not disclosed to the Agency or the Purchaser in writing that materially and adversely affects or in the future may (so far as the City can now reasonably foresee)

materially and adversely affect the acquisition, construction and installation of the Project or the properties, activities, prospects, operations, profits, or condition (financial or otherwise) of the City, or the ability of the City to perform its obligations under this Intergovernmental Agreement or any of the documents or transactions contemplated hereby or thereby or any other transactions contemplated by this Intergovernmental Agreement, which has not been set forth in writing to the Purchaser or in the certificates, documents, and instruments furnished to the Purchaser by or on behalf of the City prior to the date of execution of this Intergovernmental Agreement in connection with the transactions contemplated hereby.

(i) Project Compliance. The Project complies or will comply with all presently applicable building and zoning, health, environmental, and safety ordinances and laws and all other applicable laws, rules, and regulations of any and all governmental and quasi-governmental authorities having jurisdiction over any portion of the Project.

(j) Annual Reporting. The City will provide the Bondholder of the Series 2025 Bond with (i) its audited financial statements within 270 days of the close of its fiscal year, (ii) with its annual budget within 30 days' of its adoption, and (iii) such other publicly available information that the Bondholder of the Series 2025 Bond reasonably requests.

The City may satisfy its obligation to provide the Bondholder of the Series 2025 Bond with audited financial statements by providing such Bondholder a link to an electronic copy of such audited financial statements or by any posting the audited financial statements on the Electronic Municipal Market Access ("EMMA") system. In the event that the audited financial statements are not available within 270 days of the close of the City's fiscal year, the City will furnish unaudited financial statements to the Bondholder of the Series 2025 Bond in the manner described in this paragraph, and will then supply the audited financial statements immediately upon the availability thereof. The electronic audited financial statements or link may be sent to the email address the Registered Holder of the Series 2025 Bond supplies to the City in writing. In connection with the City's compliance with any continuing disclosure undertakings (each, a "Continuing Disclosure Agreement") entered into by the City pursuant to SEC Rule 15c2-12 promulgated pursuant to the Securities and Exchange Act of 1934, as amended (the "Rule"), the Purchaser acknowledges that the City may be required to file with EMMA, notice that the City has incurred obligations hereunder and notice of certain subsequent events reflecting financial difficulties in connection with the Series 2025 Bond. The City agrees that it shall not file or submit, or permit to be filed or submitted, with EMMA any documentation that includes the following unredacted sensitive or confidential information about the Purchaser or its affiliates: address and account information of the Purchaser or its affiliate, or e-mail addresses, telephone numbers, fax numbers, names and signatures of officers, employees and signatories of the Purchaser or its affiliates, unless otherwise required for compliance with the Rule or otherwise required by law. The City acknowledges that the Purchaser is not responsible for the City's compliance or noncompliance with the Rule or any Continuing Disclosure Agreement.

(k) City's Tax Certificate. The City has certified certain facts and agreed to take on certain responsibilities with respect to the Series 2025 Bond on behalf of the Agency pursuant to a Tax and Non-Arbitrage Certificate, dated the date of issuance and delivery of the Series 2025 Bond. Such certification is hereby incorporated herein and made a part hereof by this reference thereto, as if fully set forth herein and is true and correct as of the date hereof. The City reasonably

anticipates that the amount of tax-exempt obligations (other than private activity bonds, treating 501(c)(3) bonds as not being private activity bonds) which will be issued by the City during the calendar year will not exceed \$10,000,000.

Section 2.03.Reliance by Purchaser. The Agency and the City acknowledge and agree that these representations and warranties are made to induce the Purchaser to purchase the Series 2025 Bond, and that such representations and warranties and any other representations and warranties made by the Agency and the City in the Bond Documents are made for the benefit of the Purchaser and may be relied upon by the Purchaser and shall remain operative and in full force and effect (unless expressly waived in writing by the Purchaser), regardless of any investigations made by the Purchaser, or on its behalf, and shall survive delivery of the Series 2025 Bond to the Purchaser.

ARTICLE III

ISSUANCE OF THE SERIES 2025 BOND; SECURITY; LEASING CLAUSES AND WARRANTY OF TITLE

Section 3.01.Approval of Issuance of the Series 2025 Bond. The Agency has adopted the Resolution authorizing the issuance of the Series 2025 Bond and agrees that it will proceed with the issuance thereof. The proceeds from the sale of the Series 2025 Bond shall be applied as provided in the Resolution, and the City, through the execution of this Intergovernmental Agreement, hereby approves the issuance of the Series 2025 Bond. The Agency shall provide the City a certified copy of the Resolution, which resolution as so approved by the Agency is hereby approved and incorporated by reference.

Section 3.02.Security for Payments under this Intergovernmental Agreement. (a) The obligation of the City to make payments under this Intergovernmental Agreement shall constitute a general obligation of the City, payable out of any funds lawfully available to it for such purpose, from whatever source derived (including general funds). The City covenants and agrees that in order to make funds available for such purpose in each Fiscal Year, it will, in its general revenue, appropriation, and budgetary measures through which its tax funds or revenues and the allocation thereof are controlled or provided for, include sums sufficient to satisfy any such payments that may be required to be made hereunder, whether or not any other sums are included in such measure, until all payments so required to be made hereunder shall have been made in full. The obligation of the City to make any payments that may be required to be made from its general funds shall constitute a general obligation of the City and a pledge of the full faith and credit of the City to provide the funds required to fulfill any such obligation. In the event for any reason any such provision or appropriation is not made as provided in this Section 3.02, then the fiscal officers of the City are hereby authorized and directed to set up as an appropriation on their accounts in the appropriate Fiscal Year the amounts required to pay the obligations that may be due from the general funds of the City. The amount of such appropriation shall be due and payable and shall be expended for the purpose of paying any such obligations, and such appropriation shall have the same legal status as if the City had included the amount of the appropriation in its general revenue, appropriation, and budgetary measures, and the fiscal officers of the City shall make such

payments to the Agency if for any reason the payment of such obligations shall not otherwise have been made.

(b)The City covenants and agrees that it shall, to the extent necessary, levy an annual ad valorem tax on all taxable property located within the corporate limits of the City, as now existent and as the same may hereafter be extended, at such rate or rates, as may be necessary to produce in each year revenues that will be sufficient to fulfill the City's obligations under this Intergovernmental Agreement, from which revenues the City agrees to appropriate sums sufficient to pay in full when due all of the City's obligations under this Intergovernmental Agreement. The City hereby grants a lien in favor of the Agency on any and all revenues realized by the City from such tax, to make the payments that are required under this Intergovernmental Agreement. Nothing herein contained, however, shall be construed as limiting the right of the City to make the payments called for by this Intergovernmental Agreement out of any funds lawfully available to it for such purpose, from whatever source derived.

Section 3.03.Security for the Bonds. As security for the payment of the Bonds, the Agency has adopted the Resolution. The City hereby assents to the assignment and pledge of the Pledged Revenues made in the Resolution and hereby agrees that its obligations to make all payments under this Intergovernmental Agreement shall be absolute and shall not be subject to any defense, except payment, or to any right of setoff, counterclaim, or recoupment arising out of any breach by the Agency of any obligation to the City, whether hereunder or otherwise, or arising out of any indebtedness or liability at any time owing to the City by the Agency. The City further agrees that all payments required to be made under this Intergovernmental Agreement, except for those arising out of Unassigned Rights, shall be paid directly to the Sinking Fund Custodian for the account of the Agency for deposit to the Sinking Fund. The Bondholders shall have all rights and remedies herein accorded to the Agency (except for Unassigned Rights), and any reference herein to the Agency shall be deemed, with the necessary changes in detail, to include the Bondholders, and the Bondholders are deemed to be and are third party beneficiaries of the representations, covenants, and agreements of the City herein contained.

Section 3.04.Demise. The Agency hereby leases to the City, and the City hereby leases from the Agency, the Leased Property for the payments set forth in Section 5.03 hereof and in accordance with the provision of this Intergovernmental Agreement.

Section 3.05.Limited Warranty of Title. The Agency for itself, its successors and assigns, warrants to the City, their successors and assigns, that to the extent of the interests conveyed to the Agency by the City, title in and to the Leased Property free from all liens or encumbrances, except for Permitted Encumbrances. There are no implied general warranties of titled provided herein.

Section 3.06.Quiet Enjoyment. The Agency warrants and covenants that it will defend the Lessee in the quiet enjoyment and peaceable possession of the Leased Property, free from all claims of all persons whomsoever except for Permitted Encumbrances, throughout the Lease Term, so long as the Lessee shall perform the covenants, conditions and agreements to be

performed by the Lessee hereunder, or so long as the period for remedying any default in such performance shall not have expired under Section 8.01(b).

Section 3.07. Title to the Leased Property; Conveyance at End of Term. Fee title to the Leased Property shall continue to vest in the Agency or its successors at all times during the Lease Term, subject only to the leasehold interest and estate for years and any additional rights expressly and specifically granted to the City in this Intergovernmental Lease Agreement. The Agency shall, at the written demand of the City, re-convey all right, title and interest in the Leased Property to the City, provided that all payments due to the Agency hereunder have been paid and no Bonds are outstanding under the Resolution.

ARTICLE IV

THE PROJECT; ISSUANCE OF THE SERIES 2025 BOND; PROJECT FUND

Section 4.01. Agreement to Acquire the Project Site. Promptly following the issuance and sale of the Series 2025 Bond, the Agency will acquire, or acknowledge that it has acquired, the Project Site (as described in Exhibit A hereto), constituting a portion of the Project Site and the improvements thereon. In addition, a portion of the proceeds of the Series 2025 Bond will be used to improve that portion of the Project Site or additional Sites, to construct, install and equip recreational and public park facilities, including, but not limited to, playgrounds, pavilions, park benches, park equipment and/or the installation of walking trails. Within a reasonable time following the issuance of the Series 2025 Bond, and preparation of the Plans and Specifications, the Agency will acquire and construct the Improvements and acquire and install on the Project Site the Equipment. The Agency hereby authorizes the City, as its sole and exclusive agent, to acquire, construct and install the Improvements and the Equipment. Title to the Project shall be retained by the Agency, subject to the obligations to transfer to the City pursuant to Section 5.02 hereof. The Agency further authorizes the City, as its sole and exclusive agent, to enter into contracts necessary or advisable to carry out the Project, including, without limitation, construction contracts, services contracts, real and personal property leases, licenses, easements, insurance contracts, and agreements for the sale or other disposition of personal property. The City agrees (i) that it will exercise the foregoing authorizations given to it by the Agency and (ii) that it will cause the Equipment to be acquired in the name of the City. The Agency will enter into, or accept the assignment of, such contracts as the City may request in order to effectuate the purposes of this Section 4.01 but it will not execute any other contract or give any order for such construction or such purchase of material, supplies, furnishings, or equipment unless and until the City shall have approved the same in writing.

The City covenants to cause the Improvements to be constructed without material deviation from the Plans and Specifications and the Construction Contracts and warrants that this will result in facilities suitable for use by the City and that all real and personal property provided for therein is necessary or appropriate in connection with the Project. The City may make changes in or additions to the Plans and Specifications. The City agrees that the Agency and its duly authorized agents shall have access to the Project as may reasonably be necessary to ensure that the City is performing its obligations hereunder. The Agency and its duly authorized agents shall also be permitted, at all reasonable times, to examine the books, records, reports and other papers of the City with respect to the Project. The City shall obtain or cause to be obtained all necessary approvals from any and all governmental agencies requisite to undertaking the acquisition, construction and installation of the Project. The Project shall be acquired, constructed and installed in compliance with all federal, state and local laws, ordinances and regulations applicable thereto.

The City agrees, as agent of the Agency, to complete the acquisition, construction, equipping and installation of the Project as promptly as practicable and with all reasonable dispatch after the date of issuance and sale of the Series 2025 Bond, and in connection therewith shall expend or cause to be expended moneys on deposit in the Project Fund, including, but not limited to, preparing any and all checks, requisitions and certifications required by this Intergovernmental Agreement and the Resolution to withdraw moneys to pay costs of the acquisition, construction

and installation of the Project. The City acknowledges that the Agency bears no responsibility for the design, construction, installation or equipping of the Project, except to the extent of the amounts properly requisitioned and applied from the proceeds of the Series 2025 Bond and any Additional Bonds issued in connection with the Project, as, and to the extent applicable. The City shall to the fullest extent permitted by law, hold the Agency, its members, officers, officials, agents and counsel harmless for all claims arising out of the design, construction or installation of the Project.

Section 4.02. Agreement to Issue the Series 2025 Bond; Application of Proceeds. In order to provide funds for payment of the Costs of the Project and for the other purposes set forth in the Resolution, the Agency agrees that it will sell and cause to be delivered to the Purchaser the Series 2025 Bond in the original principal amount of \$6,740,000 and shall thereupon deposit the proceeds from the sale of the Series 2025 Bond in the Series 2025 Project Account of the Project Fund as provided in Section 401 of the Resolution and will use the moneys deposited in the Series 2025 Project Account of the Project Fund to pay the Costs of the Project and the costs of issuance of the Series 2025 Bond.

Section 4.03. Notwithstanding the foregoing, if the Chair or Vice Chair of the Agency shall determine that a different application of funds is required to carry out the intent of this Resolution, subject to the conditions in (b) above, the different application of funds may be provided for in a supplemental resolution or the Chair or Vice Chair may provide for such different application of funds in the authentication order to be delivered at the time of issuance of the Series 2025 Bond

Section 4.04. Application of Moneys in the Project Fund. The Agency shall in the Resolution authorize and direct the Project Fund Custodian to use the moneys in the Project Fund for the following purposes (but for no other purposes):

(a) payment of (i) the cost of the preparation of plans and specifications (including any preliminary study or planning of the Project or any aspect thereof), (ii) the cost of acquisition, construction, equipping and installation of the Project and all construction, acquisition, equipping and installation expenses required to provide utility services or other facilities and all real or personal properties deemed necessary in connection with the Project (including development, architectural, engineering and supervisory services with respect to any of the foregoing) and (iii) any other costs and expenses relating to the Project;

(b) payment of the purchase price of any component of the Project, including all costs incident thereto, payment for labor, services, materials and supplies used or furnished in site improvement and in the construction of the Project, including all costs incident thereto, payment for the cost of the construction, acquisition, installation, equipping of utility services or other facilities, payment for all real and personal property deemed necessary in connection with the Project, payment of consulting and development fees and payment for the miscellaneous expenses incidental to any of the foregoing items including the premium on any surety bond;

(c) payment of the costs of issuing the Series 2025 Bond or any Additional Bonds;

(d) payment of expenses incurred in seeking to enforce any remedy against any contractor or subcontractor or their surety in respect of any default under a contract relating to the Project;

(e) payment of the fees or out-of-pocket expenses of the City or the Agency, if any, relating to the Project, including, but not limited to, architectural, engineering, and supervisory services with respect to the Project;

(f) payment of the fees, or out-of-pocket expenses, if any, of those providing services with respect to the Project, including, but not limited to, architectural, engineering, legal, accounting and supervisory services;

(g) payment to the City or the Agency of such amounts, if any, as shall be necessary to reimburse the City or the Agency in full for all advances and payments made by either of them for any of the items set forth in clauses (a) through (e) above; and

(h) payment of any other costs and expenses (including administrative fees and expenses of the Agency) relating to the Project permitted to be paid by the Agency under the Act.

Upon completion of the Project and after payment of all expenses with respect thereto, all moneys credited to a Project Account of the Project Fund shall be credited to the Sinking Fund and used to pay principal on the Bonds. Prior to such application, the Agency shall receive an opinion of counsel of recognized expertise in matters pertaining to municipal bonds to the effect that such application will not violate the Act.

Section 4.05. Disbursements from the Project Fund. Except as otherwise provided in the Resolution, all payments and disbursements from the Project Fund shall be made by wire transfer or checks signed by the Project Fund Custodian or an Authorized City Representative upon receipt by the Project Fund Custodian of a requisition and certification in substantially the form of Exhibit E to the Resolution for such payment signed by an Authorized City Representative and an Authorized Agency Representative, and, with respect to the Series 2025 Bond, a copy provided to the Bondholder. The Project Fund Custodian shall retain a record of all such requisitions.

Section 4.06. Obligation of the Parties to Cooperate in Furnishing Documents; Reliance of the Project Fund Custodian. Upon payment of any expenses of the Agency incurred in connection therewith pursuant to Section 5.03(b) hereof, the Agency agrees to cooperate with the City in furnishing to the Project Fund Custodian the documents referred to in Section 4.04 hereof that are required to effect payments out of the Project Fund, and the Agency agrees to cause such orders to be directed to the Project Fund Custodian as may be necessary to effect payments out of the Project Fund, in accordance with Section 4.04 hereof. Such obligation of the Agency is subject to any provisions of the Resolution requiring additional documentation with respect to payments and shall not extend beyond the moneys in the Project Fund available for payment under the terms of the Resolution. In making any such payment from the Project Fund, the Project Fund Custodian may rely on any such orders and certifications delivered to it pursuant to Section 4.04 hereof.

Section 4.07. Establishment of Completion Date. The Completion Date with respect to projects funded with proceeds of a series of Bonds shall be evidenced to the Project Fund Custodian by a certificate of substantial completion listing the items to be completed or corrected, if any, and the amounts to be withheld therefor, signed by the Authorized Agency Representative

and the Authorized City Representative stating that, except for amounts retained by the Project Fund Custodian for Costs of the Project not then due and payable, (i) all labor, services, materials, and supplies used in such acquisition, construction, and installation have been paid or provided for, (ii) all other facilities necessary in connection with the acquisition, construction, and installation of the Improvements have been constructed, acquired, and installed and all costs and expenses incurred in connection therewith have been paid or provided for, and (iii) any certificates of occupancy or other appropriate permits for the Improvements have been issued by appropriate local governmental authorities. Notwithstanding the foregoing, such certificate may state that it is given without prejudice to any rights against third parties that exist at the date of such certificate or that may subsequently come into being. It shall be the duty of the City to cause the certificate contemplated by this Section 4.06 to be furnished as soon as the acquisition, construction, and installation of the Improvements shall have been substantially completed.

Section 4.08. City Required to Pay Project Costs in Event Project Fund Insufficient.

In the event moneys in the Project Fund available for payment of Costs of the Project shall not be sufficient to pay the costs thereof in full, the City agrees to complete the acquisition, construction and installation of the Project and to pay all that portion of the Costs of the Project as may be in excess of the moneys available therefor in the Project Fund out of any funds lawfully available to it for such purpose, from whatever source derived. The Agency does not make any warranty, either express or implied, that the moneys which will be paid into the Project Fund and which, under the provisions of this Intergovernmental Agreement, will be available for payment of the Costs of the Project (together with any additional funds provided by the City), will be sufficient to pay all the costs that will be incurred in that connection. The City agrees that if after exhaustion of the moneys in the Project Fund the City shall pay any portion of the Costs of the Project pursuant to the provisions of this Section 4.07, it shall not be entitled to any reimbursement therefor from the Agency or the Project Fund Custodian, nor shall it be entitled to any diminution of the amounts payable under Section 5.03 hereof.

Section 4.09. Authorized City and Agency Representatives and Successors. The City and the Agency, respectively, shall designate, in the manner prescribed in Section 1.01 hereof, the Authorized City Representative and the Authorized Agency Representative. In the event that any person so designated and his or her alternate or alternates, if any, should become unavailable or unable to take any action or make any certificate provided for or required in this Intergovernmental Agreement, a successor shall be appointed in the same manner.

Section 4.10. Enforcement of Remedies Against Contractors and Subcontractors and their Sureties and Manufacturers. The City covenants that it will take such action and institute such proceedings as shall be necessary to cause and require all contractors and subcontractors and material suppliers to complete their contracts diligently in accordance with the terms of such contracts, including, without limitation, the correction of any defective work, with all expenses incurred by the City in connection with the performance of its obligations under this Section 4.09 to be considered part of the Costs of the Project referred to in Section 4.03 hereof. The Agency agrees that the City may, from time to time, in its own name, or in the name of the Agency, take such action as may be necessary or advisable, as determined by the City, to ensure the construction of the Improvements in accordance with the terms of the Construction Contracts and the Plans and Specifications, to ensure the peaceable and quiet enjoyment of the Project, and to ensure the performance by the Agency of all covenants and obligations of the Agency under this

Intergovernmental Agreement, with all costs and expenses incurred by the City in connection therewith to be considered as part of the Costs of the Project referred to in Section 4.03 hereof. All amounts recovered by way of penalties, damages, whether liquidated or actual, refunds, adjustments, or otherwise in connection with the foregoing prior to the Completion Date, less any unreimbursed legal expenses incurred to collect the same, shall be paid into the Project Fund and, after the Completion Date, shall be disbursed pursuant to the provisions of Section 4.03(c) of this Intergovernmental Agreement.

The City covenants that it will take such action and institute such proceedings as shall be necessary to cause and require any manufacturers of the Equipment and any dealer to fulfill their warranties and contractual responsibilities diligently in accordance with the terms of any purchase and installation contracts, including, without limitation, the correction of any defective parts or workmanship, with all expenses incurred by the City in connection with the performance of its obligations under this Section 4.09 to be considered part of the Costs of the Project referred to in Section 4.03 hereof. The Agency agrees that the City may, from time to time, take such action as may be necessary or advisable, as may be determined by the City, to ensure the conformity of the Equipment to the specifications therefor, with all costs and expenses incurred by the City in connection therewith to be considered as part of the Costs of the Project referred to in Section 4.03 hereof.

Section 4.11. Investment of Project Fund. Subject to Section 501 of the Resolution, any moneys held as a part of the Project Fund shall be invested or reinvested by the Project Fund Custodian at the written direction of the Authorized City Representative in such Permitted Investments as may be designated by the City. The Project Fund Custodian may make any and all such investments through its own bond or investment department or through its broker-dealer affiliate.

The investments so purchased shall be held by the Project Fund Custodian and shall be deemed at all times a part of the Project Fund, and the interest accruing thereon and any profit realized therefrom shall be credited to the Project Fund, and any losses resulting from such investments shall be charged to the Project Fund and paid by the City.

Section 4.12. Special Investment Covenants. The Agency and the City each covenant that it will not directly or indirectly use or permit the use of any proceeds (as defined in the Regulations) of the Series 2025 Bond, any Additional Bonds or any other funds of the Agency or the City, or take or omit to take any action, or direct the Project Fund Custodian to invest any funds held by it, in such manner as will, or allow any “related party” (as defined in Section 1.150-1(b) of the Regulations) to enter into any arrangement, formal or informal, as will, cause the Series 2025 Bond or any such Additional Bonds to be “federally guaranteed”, as such term is used and defined in Section 149(b) of the Code, or to be an “arbitrage bond” within the meaning of Section 148 of the Code, and any Regulations proposed or promulgated in connection therewith. To that end, the Agency and the City shall comply with all requirements of Section 149(b) and Section 148 of the Code to the extent applicable to the Series 2025 Bond and any Additional Bonds. In the event that at any time the Agency or the City is of the opinion that for purposes of this Section 4.11 it is necessary to dispose of any investment or to restrict or limit the yield on any investment

held under the Bond Documents or otherwise, the Agency or the City, as the case may be, shall so instruct the Project Fund Custodian in writing.

Section 4.12 Tax Covenants. (a) The Agency and the City covenant to either take actions to prevent its receipt of private payments which would cause the Series 2025 Bond to be a “private activity bond,” redeem the Series 2025 Bond prior to receipt of such excess private payments or take remedial actions under the Code which would allow such payments to be received without adverse effect on the tax status of interest on the Series 2025 Bond. Other than as provided in the preceding sentence, the Agency and the City may only make contractual arrangements with respect to the use and payment therefor of the Project such that the Series 2025 Bond will not become a “private activity bond” under Section 141 of the Code provided such restrictions shall not apply if an Opinion of Bond Counsel is delivered to the effect that interest on the Series 2025 Bond will continue to be exempt from gross income for federal income tax purposes.

(b) Reference is made to the non-arbitrage certificate by the Agency delivered concurrently with the issuance of the Series 2025 Bond; the representations and covenants made therein are hereby incorporated by reference as if contained herein and shall constitute part of this Intergovernmental Agreement.

(c) In the event that at any time the Agency or the City is of the opinion that for purposes of Section 4.11 or this Section 4.12, it is necessary to dispose of any investment or to restrict or limit the yield on any investment held under the Resolution or otherwise, the Agency or the City, as the case may be, shall so instruct the Sinking Fund Custodian in writing.

(d) The Agency reasonably anticipates that the amount of tax-exempt obligations (other than private activity bonds, treating qualified 501(c)(3) bonds as not being private activity bonds) which will be issued by the Agency (and all entities treated as one issuer with the Agency, and all subordinate entities whose obligations are treated as issued by the Agency) during calendar year 2025 will not exceed \$10,000,000. The Agency will designate the Series 2025 Bond as a “qualified tax exempt obligation” within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

Section 4.13 Calculation and Payment of Rebate Amount. An Authorized City Representative, is hereby authorized (i) to retain a certified public accountant or financial analyst, or any firm thereof or any financial institution experienced in making the arbitrage rebate calculations required pursuant to Section 148 of the Code, to make such calculations, (ii) to establish such funds or accounts, and (iii) to make or direct such investment as may be desired to assist in or facilitate compliance with Section 148 of the Code. The moneys and securities held in any rebate fund or account do not, and shall not, constitute security for the payment of the Series 2025 Bond.

(a) The City, on behalf of the Agency, shall cause the Rebate Amount, hereinafter defined, to be determined and pay such Rebate Amount, if any, from any legally available source. Such amount shall be deposited in the Rebate Fund or account established under the Bond Resolution for subsequent payment to the United States Treasury, as and when due, in accordance with the

“rebate requirement” described in Section 148(f) of the Code and in this Section and retain records of all such determinations until six (6) years after the payment of the Series 2025 Bond.

(b) Within thirty (30) days after the last day of the fifth Bond Year (June 1, 2030) (the “Initial Installment Computation Date”), and at least once every five (5) years thereafter until final payment of the Series 2025 Bond, the City, on behalf of the Agency, shall cause the preparation of a certificate (a “Rebate Amount Certificate”) setting forth the amount due the United States Treasury pursuant to Section 148(f) of the Code and regulations thereunder (the “Rebate Amount”). Such Rebate Amount Certificate shall be prepared or approved by (i) a person with experience in matters of governmental accounting for Federal income tax purposes, (ii) a bona fide arbitrage rebate calculation reporting service, or (iii) nationally recognized bond counsel. The City shall pay all costs associated with the preparation of the Rebate Amount Certificate.

(c) Not later than sixty (60) days after the Initial Installment Computation Date, the City, on behalf of the Agency, shall deposit into the Rebate Fund or account established under the Bond Resolution, for subsequent payment to the United States Treasury, at least ninety percent (90%) of the Rebate Amount as set forth in the Rebate Amount Certificate prepared with respect to the Initial Installment Computation Date. At least once on or before sixty (60) days after the date that is the fifth anniversary of the Initial Installment Computation Date and on or before sixty (60) days after every fifth anniversary date thereafter (until final payment of the Series 2025 Bond), the City shall deposit into the Rebate Fund or account established under the Bond Resolution, for subsequent payment to the United States Treasury, not less than the amount, if any, by which ninety percent (90%) of the Rebate Amount set forth in the most recent Rebate Amount Certificate exceeds the aggregate of all such payments theretofore made to the United States Treasury pursuant to this Section. On or before sixty (60) days after final payment of the Series 2025 Bond, the City, on behalf of the Agency, shall deposit into the rebate fund or account established under the Bond Resolution, for subsequent payment to the United States Treasury, the amount, if any, by which one hundred percent (100%) of the Rebate Amount set forth in the Rebate Amount Certificate with respect to the date of final payment of the Series 2025 Bond exceed the aggregate of all payments theretofore made pursuant to this Section.

The Agency and the City may, without the consent of the Owners of the Series 2025 Bond, make such additions, deletions or modifications to this Intergovernmental Contract as may be required or permitted so as to ensure compliance with Section 148 of the Code or otherwise as may be required to ensure that interest on the Series 2025 Bond is not includable within the gross income of the holders thereof for federal income tax purposes.

ARTICLE V

EFFECTIVE DATE OF AGREEMENT; DURATION OF TERM; NATURE OF OBLIGATIONS OF CITY

Section 5.01. Term of Agreement. This Intergovernmental Agreement shall become effective upon its delivery and the leasehold interest created by this Intergovernmental Agreement shall then begin and shall be in full force and effect until midnight, December 31, 2045, subject to the provisions of this Intergovernmental Agreement permitting earlier termination (including particularly Article VII hereof), or if all the amounts payable pursuant to Section 5.03 hereof have

not been paid or retired, until such date as such payment shall have been made; provided, however, that the covenants and obligations expressed herein to so survive shall survive the termination of this Intergovernmental Agreement, but in no event shall the term of this Intergovernmental Agreement exceed fifty (50) years.

Section 5.02.Delivery and Acceptance of Possession. The Agency agrees to deliver to the City sole and exclusive possession and use of the Leased Property constituting the Project promptly following execution and delivery of this Intergovernmental Agreement and the City will accept possession and use of such Leased Property. The City shall retain the ownership of and sole and exclusive use and possession of the Project. Title to the Project shall be conveyed to the City upon the payment in full of the Series 2025 Bond or as otherwise agreed by the City and the Agency. The Agency shall be permitted such continued possession of the Project as shall be necessary and convenient for it to construct or install or cause to be constructed or installed the Improvements. The Agency covenants and agrees that it shall not take any action to prevent the City from having quiet and peaceable possession and enjoyment of the Project during the term of this Intergovernmental Agreement and shall, at the request of the City and at the cost of the City, cooperate with the City in order that the City may have quiet and peaceable possession and enjoyment of the Project. The City shall operate the Project or shall cause the Project to be operated and shall pay all costs of operating the Project or shall cause all costs of operating the Project to be paid, including, without limitation, salaries, wages, employee benefits, the payment of any contractual obligations incurred pertaining to the operation of the Project, costs of materials and supplies, rentals of leased property, real or personal, insurance premiums, audit fees, any incidental expenses and such other charges as may be properly made for the purpose of operating the Project.

Section 5.03.Basic Payments and Other Amounts Payable. (a) Until the principal of, and premium, if any, and interest on, the Bonds shall have been fully paid, the City shall pay to the Sinking Fund Custodian for the account of the Agency, on or before each May 20 and each November 20, commencing November 20, 2025, until the earlier of (i) June 1, 2045 or (ii) the date that there are no Bonds Outstanding, a sum equal to the amount payable on such date as principal of and interest on, the Bonds, as provided in the Resolution. Each payment under this Section due on an interest or principal payment date until the Bonds are fully paid or payment is provided therefor in accordance with the Resolution, shall in all events be sufficient, after giving credit for funds held in the Sinking Fund available for such purpose, to pay the total amount of interest and principal payable on the Bonds on the principal or interest payment date or prepayment or redemption date. Any payment shall be reduced and need not be made to the extent that there are moneys in the Sinking Fund in excess of the amount required for the payment of interest for which checks or drafts have been mailed by or on behalf of the Agency, and past due interest in all cases where the Bonds have not been presented for payment. Any payment not received by the Sinking Fund Custodian when due shall continue as an obligation of the City until paid and shall bear interest at the rate of interest on the Bonds to which such payment relates.

(b) The City agrees to pay all reasonable out-of-pocket cost and expenses of the Agency, the Project Fund Custodian and the Sinking Fund Custodian incurred in connection with their negotiation, structuring, documenting, and closing the Bonds, including, without limitation, the reasonable fees and disbursements of counsel for the Agency and the City and Bond Counsel. The City agrees to pay all reasonable out-of-pocket costs and expenses of the Agency and the Project

Fund Custodian incurred in connection with their administration or modification of, or in connection with the preservation of their rights under, enforcement of, or any refinancing, renegotiation, restructuring, or termination of, any Bond Document or any instruments referred to therein or any amendment, waiver, or consent relating thereto, including, without limitation, the reasonable fees and disbursements of counsel for the Agency, counsel for the Project Fund Custodian and counsel for the Sinking Fund Custodian.

Such additional payments shall be billed to the City by the Agency, from time to time, together with a statement certifying that the amount billed has been incurred or paid by such party for one or more of the above items. Amounts so billed shall be paid by the City within thirty (30) days after receipt of the bill by the City.

(c) In the event the City shall fail to make any of the payments required in this Section 5.03, the item or installment so in default shall continue as an obligation of the City until the amount in default shall have been fully paid.

Section 5.04. Place of Payments. The payments provided for in Section 5.03(a) hereof shall be paid in lawful money of the United States of America directly to the Sinking Fund Custodian for the account of the Agency and shall be deposited in the Sinking Fund. The payments of additional payments to be made pursuant to Section 5.03(b) hereof shall be paid directly to the Agency, the Project Fund Custodian or the Sinking Fund Custodian for its own use.

Section 5.05. Nature of Obligations of City Hereunder. (a) The obligations of the City to make the payments required in Section 5.03 hereof and other sections hereof and to perform and observe any and all of the other covenants and agreements on its part contained herein shall be a general obligation of the City and shall be absolute and unconditional irrespective of any defense or any rights of setoff, recoupment, or counterclaim, except payment, it may otherwise have against the Agency. The City agrees that it shall not (i) suspend, abate, reduce, abrogate, diminish, postpone, modify, or discontinue any payments provided for in Section 5.03 hereof, (ii) fail to observe any of its other agreements contained in this Intergovernmental Agreement, or (iii) except as provided in Article VII hereof, terminate its obligations under this Intergovernmental Agreement for any contingency, act of God, event, or cause whatsoever, including, without limiting the generality of the foregoing, failure of the Agency or the City to complete the acquisition, construction and installation of the Improvements, failure of the City to occupy or to use the Project as contemplated in this Intergovernmental Agreement or otherwise, any change or delay in the time of availability of the Project, any acts or circumstances that may impair or preclude the use or possession of the Project, any defect in the title, design, operation, merchantability, fitness, or condition of the Project or in the suitability of the Project for the City's or the Agency's purposes or needs, failure of consideration, any declaration or finding that the Bonds are unenforceable or invalid, the invalidity of any provision of this Intergovernmental Agreement, any acts or circumstances that may constitute an eviction or constructive eviction, destruction of or damage to the Project, the taking by eminent domain of title to or the use of all or any part of the Project, failure of the Agency's title to the Project or any part thereof, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State or any political subdivision of either thereof or in the rules or regulations of any governmental authority, or any failure of the Agency to perform and observe any agreement,

whether express or implied, or any duty, liability, or obligation arising out of or connected with this Intergovernmental Agreement.

(b) The obligations of the City to make the payments required in Section 5.03 hereof and other sections hereof and to perform and observe any and all of the other covenants and agreements on its part contained herein shall be a general obligation of the City.

(c) Nothing contained in this Section 5.05 shall be construed to release the Agency from the performance of any of the agreements on its part herein contained. In the event the Agency should fail to perform any such agreement on its part, the City may institute such action against the Agency as the City may deem necessary to compel performance so long as such action does not abrogate the City's obligations hereunder. The Agency hereby agrees that it shall not take or omit to take any action that would cause this Intergovernmental Agreement to be terminated. The City may, however, at its own cost and expense and in its own name or in the name of the Agency, prosecute or defend any action or proceeding or take any other action involving third persons that the City deems reasonably necessary in order to secure or protect its right of possession, occupancy, and use hereunder, and in such event the Agency hereby agrees to cooperate fully with the City and to take all action necessary to effect the substitution of the City for the Agency in any such action or proceeding if the City shall so request.

ARTICLE VI

ADDITIONAL COVENANTS

Section 6.01. No Warranty of Condition or Suitability by the Agency. THE AGENCY MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE HABITABILITY, MERCHANTABILITY, CONDITION, OR WORKMANSHIP OF ANY PART OF THE PROJECT OR THAT IT WILL BE SUITABLE FOR THE CITY'S PURPOSES OR NEEDS.

Section 6.02. Indemnity. To the extent permitted by the laws and Constitution of the State, the City shall protect, hold harmless, and indemnify the Agency from and against any and all liability, obligations, losses, claims and damages whatsoever, regardless of cause thereof, and expenses in connection therewith, including, without limitation, fees and expenses of legal counsel, penalties, and interest arising out of or as a result of: the entering into of the Bond Documents or any transactions contemplated thereby, but not including any acts or omissions by the indemnified party; the ownership of any portion of the Project; the ordering, acquisition, construction, use, operation, condition, purchase, delivery, rejection, storage or return of any item of the Project; or any accident in connection with the construction, operation, use condition, possession, storage or return of any item of the Project resulting in damage to property or injury to or death of any person. The indemnification arising under this Section shall continue in full force and effect notwithstanding the full payment of all obligations under this Intergovernmental Agreement and shall survive the termination of this Intergovernmental Agreement for any reason.

Section 6.03. Tax Covenants. The City further covenants and agrees that it shall comply with the representations and certifications it made in its tax and non-arbitrage certificate dated the

date of issuance and delivery of the Series 2025 Bond and that it shall take no action nor omit to take any action that would cause such representations and certifications to be untrue.

Section 6.04. Insurance. To the extent deemed necessary, the City will cause to be bonded its employees or agents handling funds of the Project in amounts adequate for its protection and it shall procure and maintain or cause to be maintained insurance on the physical properties of the Project of the kinds and in the amounts normally carried by private companies or other agencies engaged in the operation of similar properties so long as any Bonds are outstanding. Such insurance shall include: (i) fire and extended coverage insurance on the insurable portions of the Project with a responsible insurance company or companies authorized and qualified to do business under the laws of the State of Georgia; (ii) public liability insurance relating to the operation of the Project; and (iii) vehicular public liability insurance on any vehicle owned or operated by the City and used in the operation of the Project. Such insurance may provide reasonable and customary coverage and deductibles for agencies and governmental authorities operating similar facilities, provided that such insurance in such amount is available at a cost which, in the opinion of the City, will not impose an unreasonable financial burden, or the City may self-insure against such claims and risks, or the City in its discretion, may provide for any combination of the foregoing. The proceeds of such fire and extended coverage policies are pledged as security for the payment of the Contract Payments, but shall be available for and shall, to the extent necessary and desirable, be applied to the repair and replacement of the damaged or destroyed property. In the event the proceeds of such policies are not used for that purpose, then same shall be deposited in the Sinking Fund. Proceeds from the fidelity bonds on employees and agents shall be paid into the appropriate fund. All insurance policies and fidelity bonds shall be open to the inspection of the Bondholders or their duly authorized representatives at all reasonable times. All insurance policies shall name the Agency as an additional insured.

Section 6.05. Operation and Maintenance of the Project; Modification of Project.

(a) The City agrees that, at all times while any Bonds are Outstanding (i) the City will cause the Project to be operated and maintained in good repair and in accordance herewith and (ii) the City will be responsible for maintaining and operating the Project Without limiting the foregoing, the City agrees that it will maintain the Project in an efficient and economical manner, that it will at all times maintain the Project in good repair and in sound operating condition, that it will make all repairs and replacements to the Project necessary in the judgment of the City and that it will comply with all valid acts, rules, regulations, orders and directions of any legislative, executive, administrative or judicial body applicable to the Project and its operation thereof.

(b) The City may, from time to time, in its sole discretion and at its own expense, make any additions, modifications or improvements to the Project, which it may deem desirable for its purposes.

Section 6.06. Release Covenant. The City releases the Agency from, and covenants and agrees that the Agency shall not be liable for, all claims by or on behalf of any person arising from: (i) the conduct or management of, or from any work or thing done in or on, the Project during the term hereof; (ii) any condition of the Project; (iii) any breach or default on the part of the City in the performance of any of its obligations under this Intergovernmental Agreement; (iv) any act of negligence of the City or of any agents, contractors, servants, employees or licensees of the City

or of any lessee or tenant of the City; and (v) any loss or damage to property or any injury to or death of any persons occurring on or about or resulting from any defect in the Project.

ARTICLE VII

ASSIGNMENT; PREPAYMENTS

Section 7.01.No Assignment by City. This Intergovernmental Agreement may not be sold, assigned, or encumbered by the City without the prior written consent of the Agency and the Bondholders.

Section 7.02.Prepayment of Series 2025 Bond and Additional Bonds. The Agency, at the written request of the City at any time and if the Series 2025 Bond or any Additional Bonds are then prepayable or callable, and if there are funds available therefor, shall forthwith take all steps that may be necessary under the applicable prepayment or purchase provisions of the Resolution to effect prepayment, redemption or purchase of all or part of the then outstanding Series 2025 Bond or any Additional Bonds, as may be specified by the City, on the earliest date on which such prepayment, redemption or purchase may be made under such applicable provisions. The City acknowledges that the Series 2025 Bond may be optionally prepaid at any time and is also subject to extraordinary optional prepayment as set forth in Section 301(a) and 301(b) of the Resolution.

Section 7.03.Prepayment of Contract Payments. There is expressly reserved to the City the right, and the City is authorized and permitted, at any time it may choose, to prepay all or any part of the Contract Payments and other amounts payable under Section 5.03 hereof, and the Agency agrees that the Sinking Fund Custodian may accept such prepayments of Contract Payments and other amounts when the same are tendered by the City. All Contract Payments and other amounts so prepaid shall at the written direction of the City be credited toward the Contract Payments and other amounts specified in Section 5.03 hereof, in the order of their due dates, or applied to the retirement of the Series 2025 Bond and any Additional Bonds prior to maturity (either by redemption or purchase) in accordance with the Resolution. The City shall also have the right to surrender the Series 2025 Bond and any Additional Bonds acquired by it in any manner whatsoever to the Agency for cancellation, and such Series 2025 Bond and any Additional Bonds, upon such surrender and cancellation, shall be deemed to be paid and retired and shall be allocated as credits to Contract Payments as provided in the Resolution.

Section 7.04.Option to Prepay the Contract Payments and Prepay or Redeem the Bonds. The City shall also have the option to prepay Contract Payments and other amounts payable under this Intergovernmental Agreement in such manner and amounts as will enable the Agency to (i) prepay the Series 2025 Bond prior to maturity in whole or in part on any date as provided in Section 301 of the Resolution and (ii) redeem any Additional Bonds, as provided in the supplemental resolution approving such Additional Bonds. The Series 2025 Bond prepaid pursuant to this Section including any required extraordinary optional prepayment required by the owner of the Series 2025 Bond shall be prepaid in accordance with Article III of the Resolution. The Contract Payments and other amounts payable by the City in the event of its exercise of the option granted under this Section shall be (i) in the case of partial prepayment or redemption, the amount necessary to pay principal, all interest to accrue to the prepayment or redemption date and

the applicable premium as provided in Section 301 of the Resolution or such amounts required by such supplemental resolution with respect to Additional Bonds and (ii) in the case of a total prepayment or redemption, the amounts set forth in Article III of the Resolution and the applicable premium, as provided in Section 301 of the Resolution or such amounts required by such supplemental resolution with respect to Additional Bonds.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.01.Events of Default Defined. The following shall be “Events of Default” under this Intergovernmental Agreement, and the terms “Event of Default” or “Default” shall mean, whenever they are used in this Intergovernmental Agreement, any one or more of the following events:

(a) The City’s failure to pay the amounts required to be paid under Section 5.03(a) of this Intergovernmental Agreement at the times specified therein.

(b) The City’s breach in any material respect of any representation or warranty contained in this Intergovernmental Agreement or the City’s failure to observe, perform, or comply with any covenant, condition, or agreement in this Intergovernmental Agreement on the part of the City to be observed or performed, other than as referred to in subsection (a) of this Section 8.01, for a period of thirty (30) days after written notice specifying such breach or failure and requesting that it be remedied, given to the City by the Agency or the Bondholders, unless the Bondholders shall agree in writing to an extension of such time prior to its expiration, provided that such 30-day notice and cure period shall not apply to a breach of Section 9.05. In the case of any such breach or default that cannot with due diligence be cured within such thirty (30) day period but can be wholly cured within a period of time not materially detrimental to the rights of the Agency and the Bondholders, to be determined conclusively by the Bondholders, it shall not constitute an Event of Default if corrective action is instituted by the City within the applicable period and diligently pursued until the breach or default is corrected in accordance with and subject to any directions or limitations of time established in writing by the Bondholders.

(c) The City shall (i) apply for or consent to the appointment of or the taking of possession by a receiver, custodian, trustee, or liquidator of it or of all or a substantial part of its property, (ii) enter into an agreement of composition with its creditors, (iii) admit in writing its inability to pay its debts as such debts become due, (iv) make a general assignment for the benefit of its creditors, (v) commence a voluntary case under the federal bankruptcy law (as now or hereafter in effect), (vi) file a petition or answer seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vii) fail to controvert in a timely or appropriate manner or acquiesce in writing to any petition filed against it in an involuntary case under such federal bankruptcy law, or (viii) take any action for the purpose of effecting any of the foregoing.

(d) A proceeding or case shall be commenced, without the application of the City, in any court of competent jurisdiction, seeking (i) the liquidation, reorganization, dissolution, winding-up, or composition or adjustment of debts of the City, (ii) the appointment of a trustee, receiver,

custodian, liquidator, or the like of the City or of all or any substantial part of the assets of it, or (iii) similar relief in respect of the City under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition and adjustment of debts, and such proceeding or case shall continue undismissed or an order, judgment, or decree approving or ordering any of the foregoing shall be entered and shall continue unvacated and unstayed and in effect for a period of sixty (60) days, whether consecutive or not.

Section 8.02. Remedies on Default. Whenever any Event of Default referred to in Section 8.01 hereof shall have happened and be continuing the Agency, in its discretion, may exercise any one or more of the following remedies:

(a) The Agency may have access to and inspect, examine, and make copies of the books and records and any and all accounts and similar data of the City.

(b) The Agency may from time to time take whatever action at law or in equity or under the terms of this Intergovernmental Agreement may appear necessary or desirable to collect amounts payable by the City hereunder then due or thereafter to become due, or to enforce performance and observance of any obligation, agreement, or covenant of the City under this Intergovernmental Agreement.

No action taken pursuant to this Section 8.02 shall relieve the City from its obligations pursuant to Section 5.03 hereof, all of which shall survive any such action, and the Agency may take whatever action at Law or in equity as may appear necessary and desirable to collect the amounts then due and thereafter to become due or to enforce the performance and observance of any obligation, agreement, or covenant of the City hereunder.

Section 8.03. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Agency is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Intergovernmental Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Agency to exercise any remedy reserved to it in this Article VIII, it shall not be necessary to give any notice, other than such notice as may be herein expressly required. Such rights and remedies as are given the Agency hereunder shall also extend to the Bondholders, and the Bondholders shall be deemed a third party beneficiary of all covenants and agreements herein contained.

Section 8.04. Agreement to Pay Fees and Expenses. If an Event of Default should occur and the Agency or the Bondholders should employ attorneys, accountants, or other experts or incur other expenses for the collection of amounts due hereunder or the enforcement of performance or observance of any obligation or agreement on the part of the City herein contained, the City agrees that it shall on demand therefor pay to the Agency and to the Bondholders for the account of the Agency the reasonable fees of such attorneys, accountants, or other experts and such other expenses so incurred by the Agency and the Bondholders. Any attorneys' fees required to be paid by the City under this Intergovernmental Agreement shall include attorneys' and paralegals' fees

through all proceedings, including, but not limited to, negotiations, administrative hearings, trials, and appeals.

Section 8.05.Waiver of Events of Default. Subject to Section 9.05, the Agency may waive any Event of Default hereunder and its consequences. In case of any such waiver, or in case any proceeding taken by the Agency or the Bondholders on account of any such Event of Default shall be discontinued or abandoned or determined adversely to the Agency or the Bondholders, then and in every such case the Agency and the City shall be restored to their former position and rights hereunder, but no such waiver or rescission shall extend to or affect any subsequent or other Event of Default or impair or exhaust any right, power, or remedy consequent thereon.

ARTICLE IX

MISCELLANEOUS

Section 9.01.Notices. All notices, certificates, and other communications provided for hereunder shall be in writing and sent (i) by telecopy if the sender on the same day sends a confirming copy of such notice by a recognized overnight delivery service (charges prepaid), or (ii) by registered or certified mail with return receipt requested (postage prepaid), or (iii) by a recognized overnight delivery service (with charges prepaid). Any such notice must be sent to any party hereto at the following addresses or to such other address as any party hereto shall have specified in writing to the other party:

If to the Agency: Mableton Urban Redevelopment Agency
1400 Veterans Memorial Highway, SE
Suite 134-200
Mableton, GA 30126
Attn: Chair

With a copy to: Hunton Andrews Kurth LLP
600 Peachtree Street, Suite 4100
Atlanta, Georgia 30308
Attn: Douglass P. Selby, Esq.

If to the City: City of Mableton, Georgia
1400 Veterans Memorial Highway, SE
Suite 134-200
Mableton, GA 30126
Attention: City Manager

With a copy to: Denmark Ashby Matricardi, LLC
100 Hartsfield Centre Parkway, Suite 400
Atlanta, Georgia 30354
Attn: Emilia Walker, Esq.

Notices under this Section 9.01 will be deemed given only when actually received.

Section 9.02. Construction and Binding Effect. This Intergovernmental Agreement constitutes the entire agreement of the parties and supersedes any prior agreements. This Intergovernmental Agreement shall inure to the benefit of and shall be binding upon the Agency, the City, and their respective successors and assigns subject, however, to the limitations contained in Section 7.01 hereof.

Section 9.03. Severability. In the event any provision of this Intergovernmental Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 9.04. Amounts Remaining in Funds. It is agreed by the parties hereto that any amounts remaining in the Project Fund or other funds provided for herein upon expiration or sooner termination of this Intergovernmental Agreement, as provided in this Intergovernmental Agreement, after payment in full of the Contract Payments and the Bonds, the fees, charges, and expenses of the Agency and the Bondholders, in accordance with the terms hereof, and all sums due and owing to the Agency, shall belong to and be paid to the City by the Agency as overpayment of Contract Payments.

Section 9.05. Amendments, Changes, and Modifications. This Intergovernmental Agreement may not be amended, changed, modified, altered, or terminated, and the observance of any term hereof may not be waived, except in accordance with the Resolution.

Section 9.06. Counterparts; Electronic Execution. The Chair or the Vice Chair of the Agency are each hereby authorized to execute this Intergovernmental Agreement, and all other documents and certificates related to the issuance and delivery of the Series 2025 Bond, by electronic or digital signature including but not limited to emailed PDF or other electronic means that reproduces an image of the actual executed signature page, and such electronic pages shall constitute an original signature and shall be of the same legal effect, validity or enforceability as a manually executed, physically delivered or paper-based signature, as the case may be, and it is further found and determined that such electronic signatures are expressly permitted under the Uniform Electronic Transactions Act (O.C.G.A. Section 10-12-1, *et seq.*).

Section 9.07. Law Governing Construction of this Intergovernmental Agreement. This Intergovernmental Agreement is prepared and entered into with the intention that the law of the State of Georgia, exclusive of such state's rules governing choice of law, shall govern its construction.

Section 9.08. Immunity of Officials, Officers, and Employees of Agency and City. No recourse shall be had for the enforcement of any obligation, covenant, promise, or agreement of the Agency or the City contained in this Intergovernmental Agreement or for any claim based hereon or otherwise in respect hereof against any member of a Governing Body, officer, or employee, as such, in his or her individual capacity, past, present, or future, of the Agency, the City, or any successor body, whether by virtue of any constitutional provision, statute, or rule of law, or by the enforcement of any assessment or penalty or otherwise, it being expressly agreed and understood that this Intergovernmental Agreement is solely a corporate obligation of the City and the Agency payable only from the funds and assets of the City and the Agency herein specifically provided to be subject to such obligation and that no personal liability whatsoever

shall attach to, or be incurred by, any member of a Governing Body, officer, or employee, as such, past, present, or future, of the City or the Agency, or of any successor corporation, either directly or through the City, the Agency, or any successor corporation, under or by reason of any of the obligations, covenants, promises, or agreements entered into between the Agency and the City whether contained in this Intergovernmental Agreement or in the Resolution or to be implied here from or therefrom as being supplemental hereto or thereto, and that all personal liability of that character against every such member of a Governing Body, officer, and employee is, by the execution of this Intergovernmental Agreement and as a condition of and as part of the consideration for the execution of this Intergovernmental Agreement, expressly waived and released. The immunity of members of a Governing Body, officers, and employees of the Agency and the City under the provisions contained in this Section 9.08 shall survive the acquisition of the Project and the termination of this Intergovernmental Agreement.

Section 9.09.Survival of Warranties. All agreements, representations, and warranties of the parties hereunder, or made in writing by or on behalf of them in connection with the transactions contemplated hereby, shall survive the execution and delivery hereof, regardless of any investigation or other action taken by any person relying thereon.

SIGNATURES AND SEALS

IN WITNESS WHEREOF, the Agency has executed this Intergovernmental Agreement by causing its name to be hereunto subscribed by its Vice Chair and by causing the official seal of the Agency to be impressed hereon and attested to by its Secretary, and the City has executed this Intergovernmental Agreement by causing its name to be hereunto subscribed by its Mayor and by causing the official seal of the City to be impressed hereon and attested by its City Clerk, all being done as of the day and year first above written.

MABLETON URBAN REDEVELOPMENT AGENCY

By: _____
Vice Chair

(SEAL)

Attest:

Secretary

CITY OF MABLETON, GEORGIA

By: _____
Mayor

(SEAL)

Attest:

City Clerk

EXHIBIT A

LEGAL DESCRIPTION OF PROJECT SITE

. []

EXHIBIT B

SCHEDULE OF BASIC PAYMENTS

Amounts set forth below are for Basic Payments due under Section 5.03(a).

<u>Payment Date</u>	<u>Principal Component</u>	<u>Interest Component</u>	<u>Total Payment</u>
	\$	\$	\$

Totals:	\$	\$	\$
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AGENDA ITEM MEMORANDUM

MEETING OF: July 16, 2025

DEPARTMENT: [DEPARTMENT]

ISSUE/AGENDA ITEM TITLE: Rezoning Case 2025-001 - Second Read - TKHC Ministries -
Rezone Tax Parcel 17010700480 and 17010700100 from GC (General Commercial) to R-20
(Residential Single-Family) District for construction of a Church - Community Development
Director Michael Hughes

BACKGROUND/SUMMARY:

BUDGETED/FINANCIAL IMPACT – FUND:

RECOMMENDATION:

ATTACHMENTS:

1. Z-1-2025 Staff Report 6-5-25 PC rec
2. Z-2025-01 Lions Club Drive - Completed Application-combined
3. June MCC Power Point
4. 2025-06-25 Final Mableton Zoning Ordinance -550 Lions Club Drive
5. 20250627112902056



City of Mableton
Community Development | Planning and Zoning Division
6116 Mableton Parkway, Suite 144
Mableton, GA 30126
(470) 417-4220
www.mableton.gov

PLANNING COMMISSION STAFF REPORT

GENERAL INFORMATION

CASE NUMBER: Z-2025-01

APPLICANT: TKHC Ministries

REQUEST: Rezoning from General Commercial (GC) to R-20 (Single Family District)

PROPERTY LOCATION: 550 Lions Club Drive and Lions Club Drive, Mableton, Georgia

PARCEL ID: 17010700100 and 17010700480

ACREAGE: 4.62

P.C. HEARING DATE: May 6th, 2025 / June 5th 2025

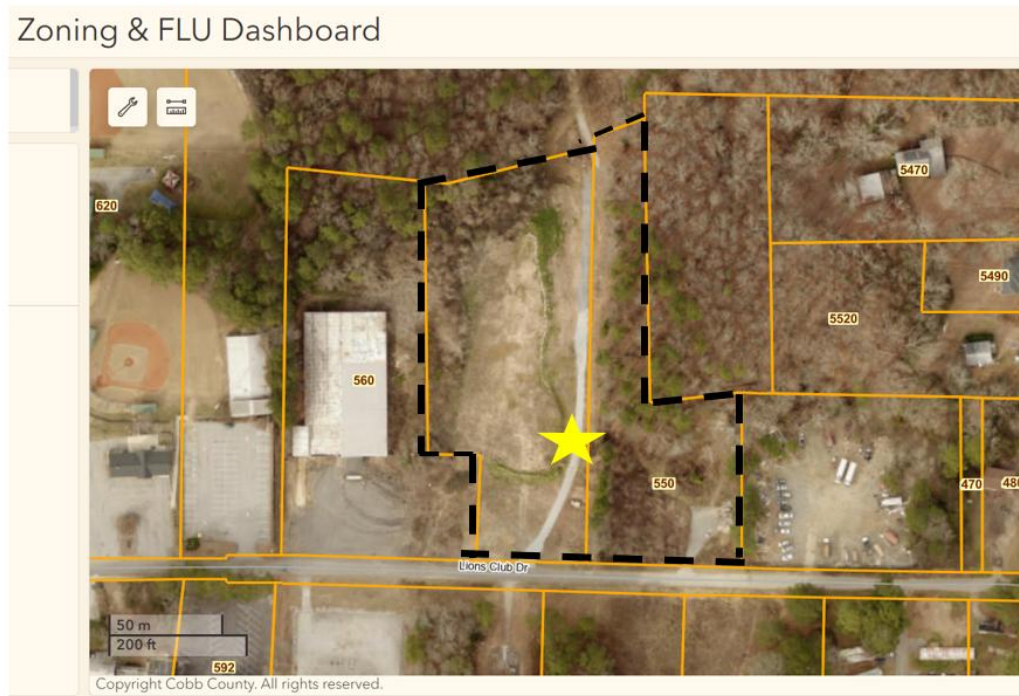
DISTRICT: 4 Councilwoman Auch

**Application was held at the May 6th 2025 Planning Commission Meeting. Planning Commission requested applicant to submit a landscape plan and staff to determine if the subject properties were subject to the Veterans Memorial Design Standards.*

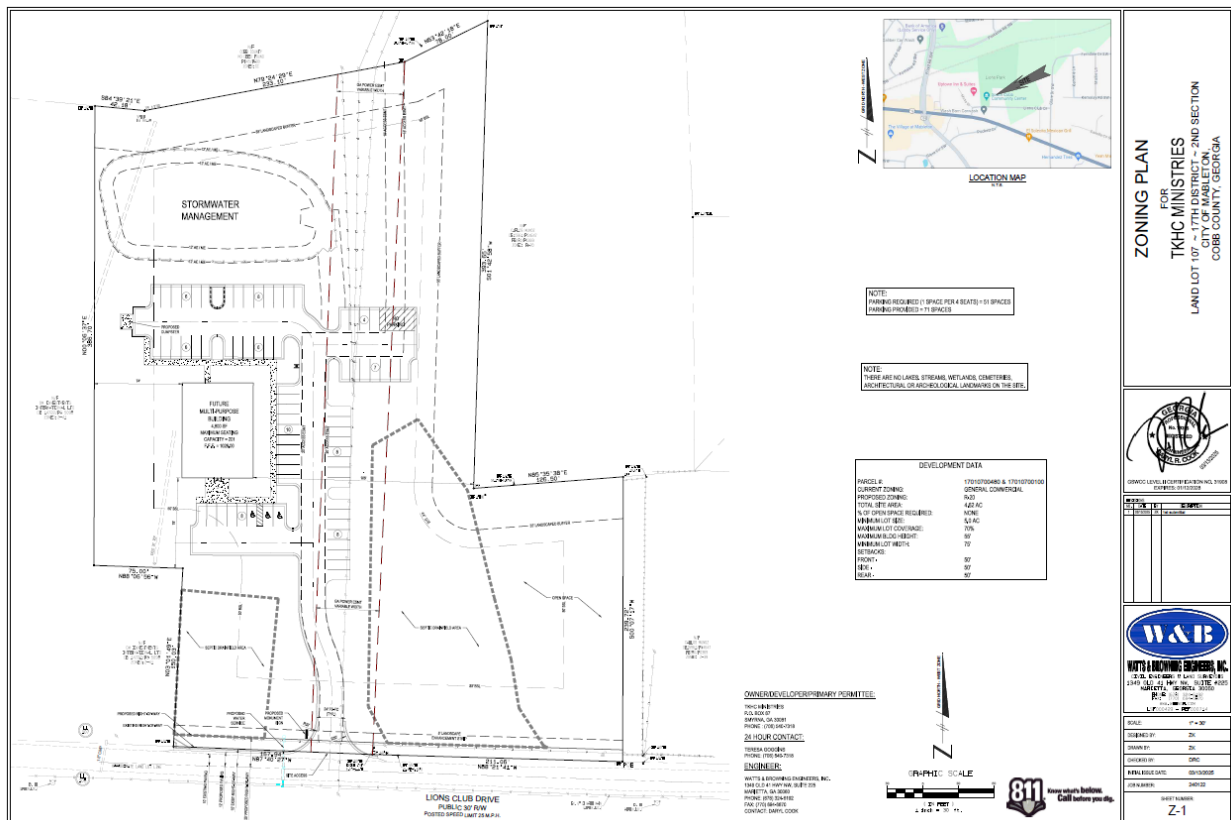
ZONING MAP



AERIAL MAP



PROPOSED SITE PLAN



I. Purpose of Request

The applicant is requesting the rezoning of approximately 4.62 acres from **General Commercial (GC)** to **R-20 (Single Family District)** in order to establish a **church facility** on the property. According to the applicant, the church intends to serve the surrounding residential community and provide spiritual services, community events, and outreach programs.

Request Zoning District for the property

The R-20 district is established to provide locations for single-family residential uses or residential compatible institutional and recreational uses which are within or on the edge of properties delineated for any residential category as defined and shown on the Cobb County Comprehensive Plan: A Policy Guide, adopted November 27, 1990. When residentially compatible institutional and recreational uses are developed within the R-20 district, they should be designed and built to ensure intensity and density compatibility with adjacent single-family detached dwellings and otherwise to implement the stated purposes and intent of this chapter.

II. Property Description & Surrounding Land Use

Both properties are zoned General Commercial. The GC district is established to provide locations for retail commercial and service uses which are oriented toward automotive businesses, are land intensive with a need for a major road access and visibility, are generally not listed as permitted uses within the NRC and CRC districts or may have existing stipulations and conditions that limit certain intensive uses and are located in areas delineated within a community activity center as defined and shown on the Comprehensive Plan.

Both properties are subject to the Veteran Memorial Highway Design Guidelines. Per the VMH regulations and development/redevelopment within a ½ mile radius of centers/nodes at major intersection along two corridors (Mableton Parkway and Veterans Memorial Highway) are subject to the design guidelines. Please see image below for reference.



The properties in question are currently undeveloped, with primary access provided via Lions Club Drive. Tax parcel 17010700480 is predominantly flat and features several clusters of hardwood trees situated along its boundaries. In contrast, tax parcel 17010700100 is primarily characterized by wooded areas and includes a paved driveway measuring 3,500 square feet, along with a concrete pad located in the southeastern corner of the property.

ADJACENT ZONING AND CURRENT LAND USE			
Direction	Address	Current Zoning	Existing Land Use
North	Lions Club Drive / Tax Parcel ID 17010700090	Residential Single-Family Zoning District (R-20)	Undeveloped
South	596 Veterans Memorial Hwy / Tax Parcel ID 17010800040	General Commercial (GC) Zoning District	Retail and Service Business (Auto Dealer)
West	560 Lions Club Drive / Tax Parcel ID 17010700080	Community Retail Commercial (CRC) Zoning District	Warehouse
East	596 Veterans Memorial Hwy / Tax Parcel ID 17010800040	General Commercial (GC) Zoning District	Retail and Service Business (Auto Dealer)

- **Existing Zoning:** General Commercial (GC)
 - **Proposed Zoning:** R-20
 - **Current Use:** Vacant
 - **Future Land Use Map:** Medium Density / Mableton Town Center
 - **Surrounding Zoning and Uses:**
 - **North:** R-20 – Single-family homes
 - **South:** GC – Retail and service businesses
 - **East:** R-20 – Residential subdivision
 - **West:** GC – Mixed commercial uses
-

III. Analysis

When considering an application to amend the current zoning designation of a property, the Mayor and City Council, the Planning Commission, and the Planning and Zoning Division shall consider the following standards as described in Section 2.03 (3) a-e of the Zoning ordinance:

1. **Whether the zoning proposal is in conformity with the policy and intent of the land use plans.**

It is the opinion of staff that the proposed zoning is keeping with the policy and intent of the land use plan. Medium Density and Mableton Town Center Character areas support civic uses located in residential areas. Religious institutions are generally considered compatible within residential zoning districts, provided they adhere to development standards.

2. **Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.**

It is the opinion of staff the property is suitable for rezoning to R-20 for institutional use. The scale of the proposed church use should be evaluated to ensure it does not adversely impact surrounding properties through traffic, noise, or site lighting.

3. **Whether there are other existing or changing conditions affecting the use and development of the property which gives grounds for either approval or disapproval of the zoning proposal**

It is the staff's opinion that there are existing or changing conditions affecting the use and development of the property which gives grounds for approval. The property is approximately 500 feet east of the South Cobb Community Center which is an institutional use and applicants request would be a similar to that specific use.

4. **Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportations facilities, utilities or schools.**

It is the staff's opinion that the applicant's proposal will not results in a use which would cause an excessive burdensome use of existing streets, transportation facilities, utilities, or schools. Cobb County Departments support staff opinion.

5. **Community Impact: Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby properties.**

It is the staff's opinion that the applicants' zoning proposal will not have adverse effect on the usability of adjacent or nearby property. The proposed land use intensity is considerable less than the adjacent or nearby commercial properties.

IV. Department Comments

Cobb County Water/Sewer

Water comments:

At development:

☒ YES ☐ NO

Fire flow test required:

☒ YES ☐ NO Size and location of

existing water main(s): 6" in LIONS CLUB DR ROW

Additional water comments: Approval of zoning site plan does not imply approval of shown water design. Connection to public water will be reviewed/approved at Plan Review.

Sewer comments:

In the drainage basin:

☒ YES ☐ NO

At development:

☐ YES ☒ NO

Approximate distance to nearest sewer: 3,000' to the west in VETERANS MEMORIAL

HWY Estimated waste generation (in G.P.D.): Average daily flow = 408

Peak flow = 1,020

Treatment plant: South Cobb WRF

Plant capacity:

☒ Yes ☐ NO

Projected plant availability:

☐ 0-5 years ☒ 5-10 years ☐ over 10 years

Off-site easement required: ☐ YES* ☒ NO

Line capacity study required: ☐ YES ☒ NO

Letter of allocation issued: ☐ YES

☒ NO Septic tank recommended by this department: ☒ YES

YES ☐ NO Subject to Health Department approval: ☒ YES

☐ NO

*If off-site easements are required, the developer/owner must submit easements to CCWS for review and approval as to form and stipulations prior to the execution of easements by the property owners. All easement acquisitions are the responsibility of the developer/owner.

Additional sewer comments: CCWS has no objection to the use of septic systems with Health Department approval. FYI, if this property will be served by a septic system, County Code limits the size of the sanctuary (1 sanctuary seat per 1,000 square feet of property).

Note: These comments only reflect what facilities were in existence at the time of this review. Developer may be required to install/upgrade water mains based on fire flow test results or Fire Department code. This will be addressed in the Plan Review process. The developer/owner will be responsible for connecting to the existing county water and sewer systems, installing and/or upgrading all outfalls & water mains, obtaining onsite and/or offsite easements, and dedication of onsite and/or offsite water and sewer to Cobb County as may be required. Rezoning does not guarantee water/sewer availability or capacity unless so stated in writing by the Cobb County Water System.

Cobb County Stormwater

Site Data

1. Address: 550 Lions Club Drive
2. Council District: 4
3. Existing Zoning: GC Existing Allowable Impervious Coverage: 70%
4. Proposed Zoning: R-20 Allowable Future Impervious Coverage: 35%

Existing Conditions

Floodplain Information

1. Flood Damage Prevention Designated Flood Hazard: No

Stormwater Information

1. Drainage Basin: Tributary to Nickajack Creek.
2. State Stream Buffers: No
3. Stream Buffer Ordinance: No
4. Impaired Stream: Yes: If the site is within a one-mile radius of an impaired stream additional Erosion Control BMP's per the State's current requirements will be required. It is the Engineer's responsibility to verify Impaired Streams per the State EPD's list.
5. Hotspot: No
6. Wetlands: No

7. Water Intake Zone: No
8. Chattahoochee River Corridor: No
9. Existing Onsite Ponds / Lake: No

Topography Information

1. General site Description: The site consists of two parcels, one of which is mostly cleared, which generally slope from the front of the property at Lion's Club Drive toward the rear of the parcels.
2. Downstream Description: Stormwater discharges from the site onto an undeveloped Cobb County owned parcel north of the site.

Project Design Comments and Recommendations

The following comments and recommendations are typically required at the time of plan review and permitting.

Proposed Project Onsite Design Requirements

1. At the time of plan review provide a comprehensive Hydrology Study and Design for the Stormwater Management Design will be required. The design and study shall be in accordance with the Georgia Stormwater Management Manual and the current Cobb County Codes. The design and study shall include but not limited to stormwater detention, runoff reduction and/or water quality, channel protection, and downstream flood prevention.
2. At the time of plan review calculate and provide the percentage of impervious coverage for the project site on the plans.
3. Recommend a pre-design concept meeting with Cobb County Stormwater Management Division. At the time of the Concept Meeting a proposed concept stormwater management plan shall be presented.
4. The existing and/or proposed onsite storm drain system and stormwater management facility is considered private. All annual inspections, maintenance and repairs are the responsibility of the property owner. A stormwater facility "Maintenance Agreement and Access Easement" will be required at the time of the land disturbance permit with the City of Mableton.
5. Substantially mitigate any effects of concentrated stormwater discharges onto adjacent properties. Level spreaders or another, appropriate energy-dissipation design may be required to disburse the stormwater discharge.
6. Developer must secure drainage easement(s) to receive concentrated discharges where none naturally exist downstream.
7. Any spring activity discovered must be addressed by a qualified registered geotechnical

professional engineer (PE) at the expense of the owner/developer.

8. Structural fill must be placed under the direction of a qualified registered geotechnical engineer (PE) at the expense of the owner/developer.

Special Conditions

1. The proposed dumpster pad on this site, must be connected to an infiltration system to capture and treat the dumpster pad runoff separately from the remaining stormwater.
2. An existing storm drain pipe originating near the property line at 560 Lion's Club Drive enters this site and passes close to the location of the proposed building. Another storm drain pipe enters the site on the west side of the site, near the proposed rear parking lot (per the provided site plan) and is shown to drain under the existing stormwater facility. These pipes should be located and potentially relocated to avoid the new church building.

Cobb County Fire Department

FIRE DEPARTMENT ACCESS:

All access roads shall meet the American Association of State and Highway Transportation Officials (AASHTO) design manual live load standard HS20 (75,000 lbs.) with an unobstructed width of not less than 20 feet, 35 foot inside radius, 50 foot outside turning radius and unobstructed vertical clearance of not less than 13 feet 6 inches. (Cobb County Development Standards 402.11)

Maximum slope of the access road in reference to the apparatus is 10% Front to Back and 5% Side to Side. Maximum grade of roadways leading to Fire Access roads refer to the Cobb County Development Standard Section 400: 14% for Non-Residential. Maximum angle of departure is 8.5%.

Dead-end access roads more than 150 feet shall be provided with a turn-around (IFC Chapter-5, 120-3-3 Rules and Regulations, CCDS Section-401 & 402). Refer to APPENDIX-D for dimensional criteria for turn-arounds in commercial developments.

Aerial apparatus access shall be required for all structures over 30 feet in height measured from the lowest level of fire department access to the ceiling height of the highest occupied floor level.

- Aerial fire apparatus access roads shall have a minimum width of 26 feet
- Aerial fire apparatus access roads shall be at least 15 feet but no more than 30 ft from the structure
- Aerial fire apparatus access roads shall be positioned parallel to one entire side of the building.

- No overhead utility and power lines shall be located within the aerial fire apparatus access. (IFC Appendix D105)

CERTIFICATE OF OCCUPANCY:

Plans must be submitted to the Cobb County Fire Marshal's Office to initiate the Certificate of Occupancy process.

FIRE HYDRANT:

The maximum distance of a hydrant to the most remote portion of a structure shall be 500 feet. Distance shall be measured around the structure and from the fire apparatus access road. A 500-foot radius around the hydrant is not an acceptable measurement for distance. Hydrants on the opposite side of a main ROW is not an acceptable measurement of distance. (Cobb County Development Standards 410.5.2) (Cobb County Development Standards 410.5.2)

Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet for a 40-foot length centered on the fire hydrant, exclusive of shoulders (see Figure D103.1 in Appendix D).

FIRE PROTECTION:

Automatic sprinkler protection must be provided where mandated by the applicable codes.

Cobb County DOT

Roadway	Roadway classification	Speed limit (mph)	Jurisdictional control	Recommended Min. R.O.W. requirements
Lions Club Drive	Local	25	City of Mableton	50'

ITE Land Use	Description	Expected Size (Seats)	AM			PM			Weekday Daily (vpd)
			In (vph)	Out (vph)	Total (vph)	In (vph)	Out (vph)	Total (vph)	
560	Church	201	8	6	14	9	11	20	181

ITE Land Use	Description	Expected Size (Seats)	Sunday Peak Hour of Generator			Sunday Daily (vpd)
			In (vph)	Out (vph)	Total (vph)	
560	Church	201	50	53	103	444

vph = vehicles per hour, vpd = vehicles per day

Development gross trip generation based on available development size and rates from the Institute of Transportation Engineers (ITE) Trip Generation, 11th edition.

Comments and observations

Lions Club Drive is classified as a local roadway and according to the available information the existing right-of-way does not meet the recommended requirements for this classification.

Recommendations

1. Recommend applicant consider donation of right-of-way on the North side of Lions Club Drive, a minimum of 25' from the roadway centerline.
 2. Recommend no parking on the right-of-way.
 3. Recommend constructing curb, gutter, and sidewalk along the Lions Club Drive frontage or paying fee in lieu to comply with recommended County standards if constraints exist and subject to City of Mableton approval. This recommendation is to address pedestrian accessibility and safety.
 4. Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.
-

V. Staff Recommendation

The planning and zoning staff recommends the approval of Z-2025-01, subject to specific conditions. It is essential to emphasize that the analysis and recommendations provided by the staff represent their professional opinions and do not constitute a conclusive decision. The ultimate determination regarding all rezoning and land use permits will be made by the Mayor and City Council during a scheduled public hearing.

Recommended Conditions of Approval.

1. The property shall be used for a church and related accessory uses only.
2. The development shall abide by all applicable standards of the City of Mableton Zoning Ordinance unless otherwise specified in these conditions or through approval of a variance by the Zoning Board of Appeals.
3. Building Architectural Design will follow the Veterans Memorial Highway Design Guidelines, and final approval by the Community Development Director.
4. Ground signage shall be limited to monument-type sign(s) and shall be subject to review and approval by the Director of Community Development. The sign shall include a minimum two-foot high brick or stacked stone base, complementing the building's architectural treatment. The masonry base shall extend at least the full

- width of the sign cabinet, and the sign cabinet shall be fully recessed and surrounded by the same materials. Ground sign(s) shall not exceed six feet in height.
5. Final site plan shall be reviewed and approved by the Planning & Zoning Division prior to building permit issuance.
 6. Landscape plan subject to review and approved by the Planning and Zoning Division prior to building permit issuance.
 7. Cobb County Fire Department recommendations and conditions.
 8. Cobb County Water/Sewer Department recommendations and conditions.
 9. Cobb County Stormwater recommendations and conditions.
-

VI. Planning Commission Recommendation

On Tuesday June 5th 2025 the Mableton Planning Commission recommends the approval of SLUP-2025-01, subject to specific conditions;

1. The property shall be used for a church and related accessory uses only.
2. The development shall abide by all applicable standards of the City of Mableton Zoning Ordinance unless otherwise specified in these conditions or through approval of a variance by the Zoning Board of Appeals.
3. **Property to be developed in accordance with the site plan submitted March 13, 2025.**
4. **No expansion of the proposed building or additional building due to the lack of sewer capacity.**
5. Building Architectural Design will follow the Veterans Memorial Highway Design Guidelines, and final approval by the Community Development Director.
6. Ground signage shall be limited to monument-type sign(s) and shall be subject to review and approval by the Director of Community Development. The sign shall include a minimum two-foot high brick or stacked stone base, complementing the building's architectural treatment. The masonry base shall extend at least the full width of the sign cabinet, and the sign cabinet shall be fully recessed and surrounded by the same materials. Ground sign(s) shall not exceed six feet in height.
7. Final site plan shall be reviewed and approved by the Planning & Zoning Division prior to building permit issuance.
8. Landscape plan subject to review and approved by the Planning and Zoning Division prior to building permit issuance.
9. Cobb County Fire Department recommendations and conditions.
10. Cobb County Water/Sewer Department recommendations and conditions.
11. Cobb County Stormwater recommendations and conditions.
12. Cobb County Department Transportation recommendations with modifications to recommendation number three, removing "*paying fee in lieu to comply with recommended County standards if constraints exist and subject to City of Mableton approval*"

- 13.** Building architectural design to be substantially similar to the design presented to the Planning Commission on June 5th 2025 and except to be modified to meet the Veterans Memorial Highway Design Standards.

Application for Rezoning Mableton, Georgia

Application No. _____

PC Hearing Date: _____

M&C Hearing Date: _____

Applicant TKHC Ministries Phone# 706-540-7318

(applicant's name printed)
Address PO Box 67, Smyrna GA 30081 E-mail ladytgogginsministries@gmail.com

TKHC Ministries Address 550 Lions Club Drive Mableton, GA 30126
(representative's name, printed)

Teresa M. Goggins Phone# 7065407318 E-mail ladytgogginsministries@gmail.com
(representative's signature)

Signed, sealed and delivered in presence of:

Notary Public My commission expires: _____

Titleholder Teresa and Thomas Goggins Phone# 7065407318 E-mail ladytgogginsministries@gmail.com
(titleholder's name, printed)

Signature _____ Address _____
(attach additional signature, if needed)

Signed, sealed and delivered in presence of:

Notary Public My commission expires: _____

Zoning Request From General Commercial to R-20
(present zoning) (proposed zoning)

For the Purpose of Church Facility Size of Tract 4.62 Acre(s)
(subdivision, restaurant, warehouse, apt., etc.)

Location 550 Lions Club Dr, Mableton GA 30126
(street address, if applicable; nearest intersection, etc.)

Land Lot(s) 107 District(s) 17th

We have investigated the site as to the existence of archeological and/or architectural landmarks. I hereby certify that there are/are no such assets. If any exist, provide documentation with this application.

Teresa M Goggins
(applicant's signature)

We have investigated the site as to the existence of any cemetery located on the above property. I hereby certify that there is/is not such a cemetery. If any exist, provide documentation with this application.

Teresa M Goggins
(applicant's signature)

CAMPAIGN DISCLOSURE REPORT¹ BY APPLICANT²

(A separate form must be completed by each applicant* - please see definition below)

Has the applicant² made, within two (2) years immediately preceding the filing of this application for rezoning, campaign contributions aggregating two hundred fifty dollars (\$250.00) or more or made gifts having in the aggregate a value of two hundred fifty dollars (\$250.00) or more to a member or members of the Mayor and Council or Planning Commission who will consider the application?

N/A

If so, the applicant and the attorney representing the applicant must file a disclosure report with the Mayor and Council of Mableton within ten (10) days after this application is first filed.

Please apply the following information that will be considered as the required disclosure:

The name of the member(s) of the Mayor and Council or Planning Commission to whom the campaign contribution or gift was made: N/A

The dollar amount of each campaign contribution made by the applicant to the member(s) of the Mayor and Council or Planning Commission during the two (2) years immediately preceding the filing of this application and the date of each such contribution: N/A

An enumeration and description of each gift having a value of two hundred fifty dollars (\$250.00) or more made by the applicant to the member(s) of the Mayor and Council or Planning Commission during the two (2) years immediately preceding the filing of this application: N/A

I certify that the foregoing information is true and correct, this March day of 12, 2025.

Teresa M Goggins

Applicant's Signature

¹If the answer to any of the above is "Yes," then the member of the Mayor and Council or Planning Commission must immediately disclose the nature and extent of such interest, in writing, to the City Council of Mableton, Georgia. A copy should be filed with this application. Such disclosures shall be a public record and available for public inspection at any time during normal working hours.

²Applicant means any person who applies for a rezoning action and any attorney or other person representing or acting on behalf of a person who applies for a rezoning action.

PROPERTY/FINANCIAL DISCLOSURE REPORT¹ BY APPLICANT²

(A separate form must be completed by each applicant* - please see definition below)

Does any member of the Mayor and Council or Planning Commission have a property interest (direct or indirect ownership, including any percentage of ownership less than total) in the subject property? N/A

If so, describe the nature and extent of such interest: _____

Does any member of the Mayor and Council or Planning Commission have a financial interest (direct ownership interests of the total assets or capital stock where such ownership interest is ten percent (10%) or more) of a corporation, partnership, limited partnership, firm, enterprise, franchise, association, or trust, which has a property interest (direct or indirect ownership, including any percentage of ownership less than total) upon the subject property? N/A

If so, describe the nature and extent of such interest: _____

Does any member of the Mayor and Council or Planning Commission have a spouse, mother, father, brother, sister, son or daughter who has any interest as described above? N/A

If so, describe the relationship and the nature and extent of such interest: _____

I certify that the foregoing information is true and correct, this March day of 12, 2025.

Teresa M Goggins

Applicant's Signature

¹If the answer to any of the above is "Yes," then the member of the Mayor and Council or Planning Commission must immediately disclose the nature and extent of such interest, in writing, to the City Council of Mableton, Georgia. A copy should be filed with this application. Such disclosures shall be a public record and available for public inspection at any time during normal working hours.

²Applicant means any person who applies for a rezoning action and any attorney, or other person representing or acting on behalf of a person who applies for a rezoning action.



Watts & Browning Engineers, Inc.

Civil Engineering · Land Planning · Land Surveying

March 13, 2025

Christopher Wheeler
Planning & Zoning Manager
6116 Mableton Pkwy.
Mableton, GA 30126

Re: Re-Zoning and Variance Letter of Intent.

Christopher:

Please accept this letter as notification of our request for a proposed change in zoning for the subject property located on Lions Club Drive in Land Lot 107 of the 17th District, in the 2nd Section, City of Mableton, Cobb County, GA. The current owner of the property is TKHC Ministries, consists of 4.62 acres, and is currently zoned GC.

- a) The property is surrounded to the west by OM Investments International, Ltd., zoned LRO; to the north by Cobb County, zoned R-20; to the east by Carlos Munoz, zoned R-20 and GC, and is bounded to the south by Lions Club Drive.
- b) We believe the R-20 zoning will best suit the proposed development of a multi-purpose/place of worship facility and associated parking. The proposed entrance to this development is from Lions Club Drive via Veterans Memorial Hwy, will not be gated, and an identification monument is anticipated.
- c) The proposed zoning will neither affect the existing property use since it is vacant nor will it adversely affect adjacent properties. The facility will provide a safe sanctuary for the community for worship, fellowship, and community involvement.
- d) Although the property is currently zoned GC the proposed facility will better serve the community by providing the needed services of worship and fellowship.

- e) The proposed zoning will not cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. There will be minimal use of the facility since the facility will operate on Tuesday nights from approximately 7:30 pm to 9:30 pm and on weekends only.
- f) The proposed zoning is in conformity with the policy and intent of the land use plan by meeting all the required special exceptions per the ordinance. Additionally, there are no existing or changing conditions that will affect the use and development of the property.

Along with the requested re-zoning, the owner is requesting The City of Mableton to grant one concurrent variance to this property for the reduction in the minimum required site area of 5 acres to 4.62 acres.

Thank you for your consideration.

Weissman PC E-filed Document
Date: 9/23/21 Time: 10:55 AM
Book: 15971 Page: 5224
County: Cobb

Record and Return to:
Weissman PC
5909 Peachtree Dunwoody Road, Suite 100
Atlanta, GA 30328

File No.: W-S-19450-21-CM

Parcel ID: 17010700480

**LIMITED
WARRANTY DEED**

**STATE OF GEORGIA
COUNTY OF FULTON**

THIS INDENTURE, made this 21st day of September, 2021, between Charles J. Frazee, as party or parties of the first part, hereinunder called Grantor, and Thy Kingdom Has Come International Ministries Inc., a Georgia nonprofit corporation as party or parties of the second part, hereinunder called Grantee, (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of TEN DOLLARS AND NO/100 (\$10.00) and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee.

See Exhibit "A" attached hereto.

This Deed is given subject to all easements and restrictions of record.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, only to the proper use, benefit and behoof of the said Grantee, forever in **FEE SIMPLE**.

AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons claiming by, through and the above named grantor.

Deed (Warranty)

W-S-19450-21-CM

IN WITNESS WHEREOF, the Grantor has signed and sealed this Deed, on the date and year above written.

Signed, sealed and delivered
in the presence of:

Cathy E. Starn

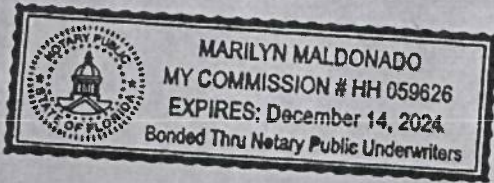
Unofficial Witness

Marilyn Maldonado

Notary Public

My Commission Expires: 12/14/2024

Charles J. Frazee (Seal)
Charles J. Frazee



Weissman PC E-filed Document
Date: 9/23/21 Time: 10:58 AM
Book: 15971 Page: 5247
County: Cobb

Record and Return to:
Weissman PC
5909 Peachtree Dunwoody Road, Suite 100
Atlanta, GA 30328

File No.: W-S-19451-21-CM

Parcel ID: 17010700100

**LIMITED
WARRANTY DEED**

**STATE OF GEORGIA
COUNTY OF FULTON**

THIS INDENTURE, made this 23rd day of September, 2021, between Chief Solutions, Inc., a Texas corporation, as party or parties of the first part, hereinunder called Grantor, and Thy Kingdom Has Come International Ministries Inc., a Georgia nonprofit corporation as party or parties of the second part, hereinunder called Grantee, (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of TEN DOLLARS AND NO/100 (\$10.00) and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee.

See Exhibit "A" attached hereto.

This Deed is given subject to all easements and restrictions of record.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, only to the proper use, benefit and behoof of the said Grantee, forever in **FEE SIMPLE**.

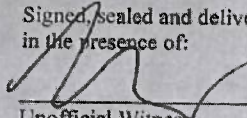
AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons claiming by, through and the above named grantor.

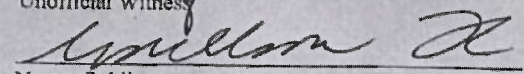
Deed (Warranty)

W-S-19451-21-CM

IN WITNESS WHEREOF, the Grantor has signed and sealed this Deed, on the date and year above written.

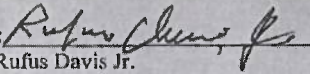
Signed, sealed and delivered
in the presence of:


Unofficial Witness

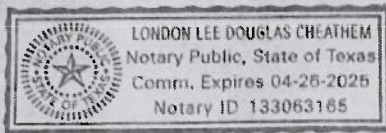

Notary Public

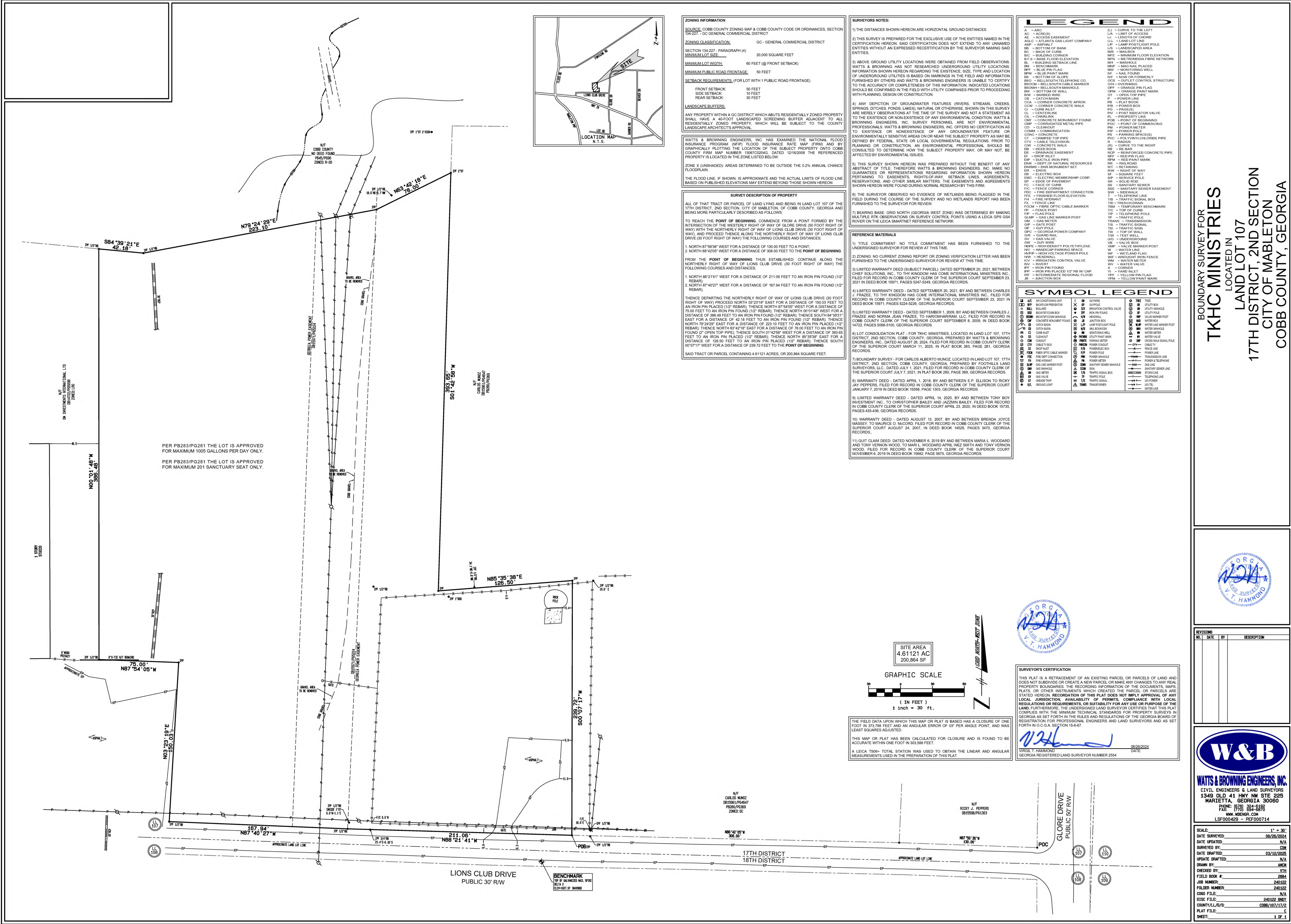
My Commission Expires: 04-26-25

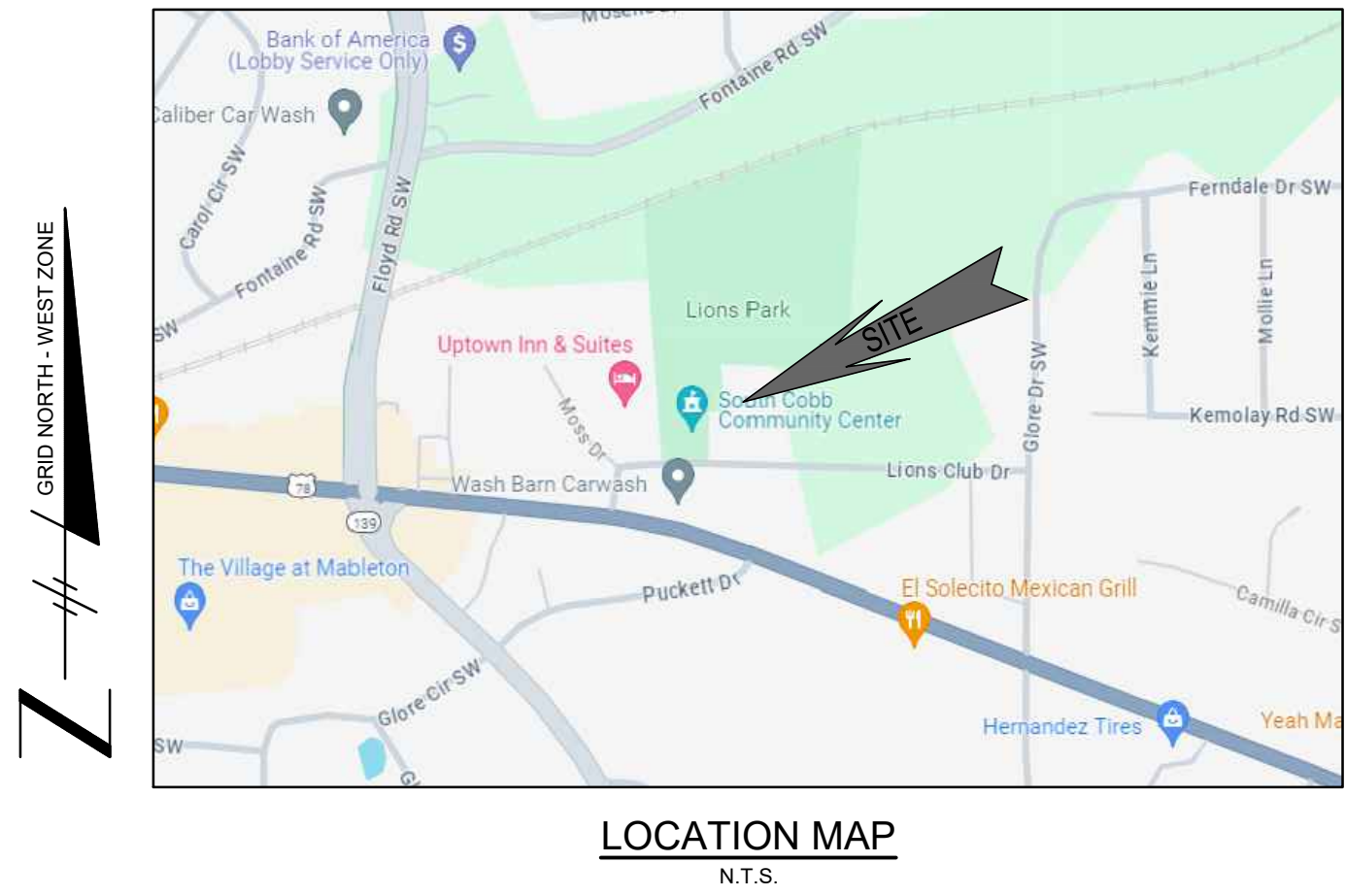
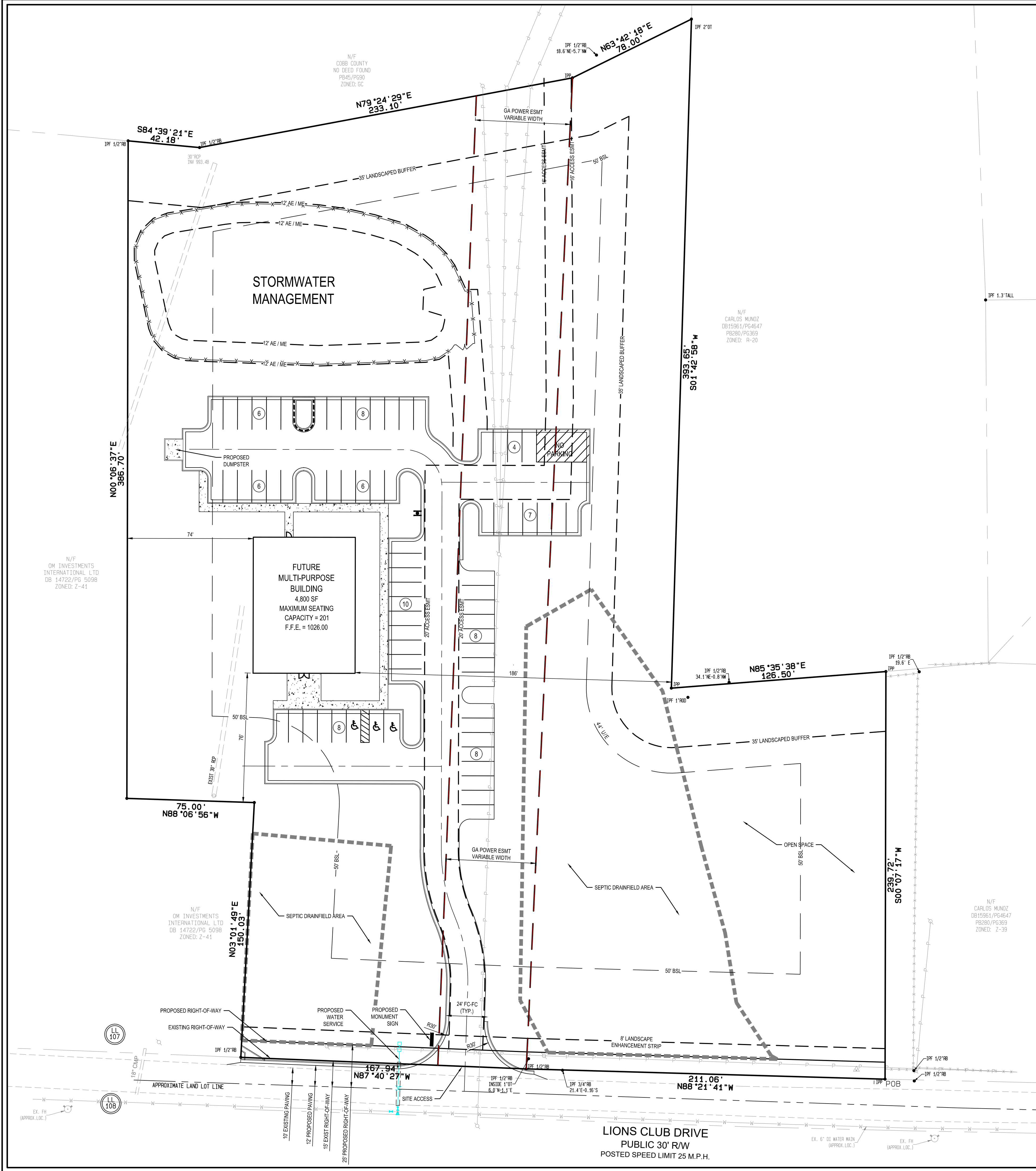
Chief Solutions, Inc., a Texas corporation

BY: 
Rufus Davis Jr.
President

CORPORATE SEAL







NOTE:
PARKING REQUIRED (1 SPACE PER 4 SEATS) = 51 SPACES
PARKING PROVIDED = 71 SPACES

NOTE:
THERE ARE NO LAKES, STREAMS, WETLANDS, CEMETERIES,
ARCHITECTURAL OR ARCHEOLOGICAL LANDMARKS ON THE SITE.

DEVELOPMENT DATA	
PARCEL #:	17010700480 & 17010700100
CURRENT ZONING:	GENERAL COMMERCIAL
PROPOSED ZONING:	R-20
TOTAL SITE AREA:	4.62 AC
% OF OPEN SPACE REQUIRED:	NONE
MINIMUM LOT SIZE:	5.0 AC
MAXIMUM LOT COVERAGE:	70%
MAXIMUM BLDG HEIGHT:	55'
MINIMUM LOT WIDTH:	75'
SETBACKS:	
FRONT -	50'
SIDE -	50'
REAR -	50'

OWNER/DEVELOPER/PRIMARY PERMITTEE:

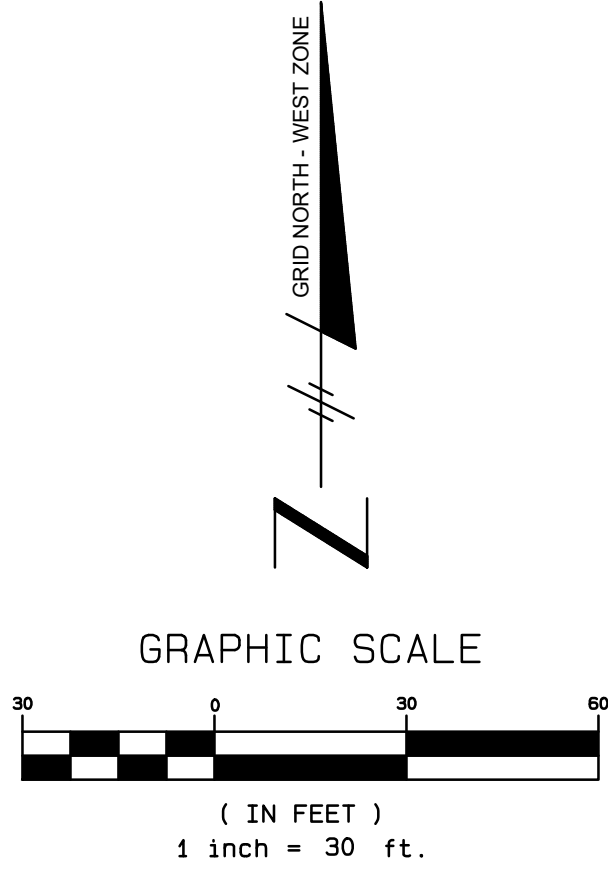
TKHC MINISTRIES
P.O. BOX 67
SMYRNA, GA 30081
PHONE : (706) 540-7318

24 HOUR CONTACT:

TERESA GOGGINS
PHONE: (706) 540-7318

ENGINEER:

WATTS & BROWNING ENGINEERS, INC.
1349 OLD 41 HWY NW, SUITE 225
MARIETTA, GA 30060
PHONE: (678) 324-6192
FAX: (770) 684-6870
CONTACT: DARYL COOK



ZONING PLAN
FOR
TKHC MINISTRIES

LAND LOT 107 ~ 17TH DISTRICT ~ 2ND SECTION
CITY OF MABLETON,
COBB COUNTY, GEORGIA



GSWCC LEVEL II CERTIFICATION NO. 31908
EXPIRES: 01/12/2028

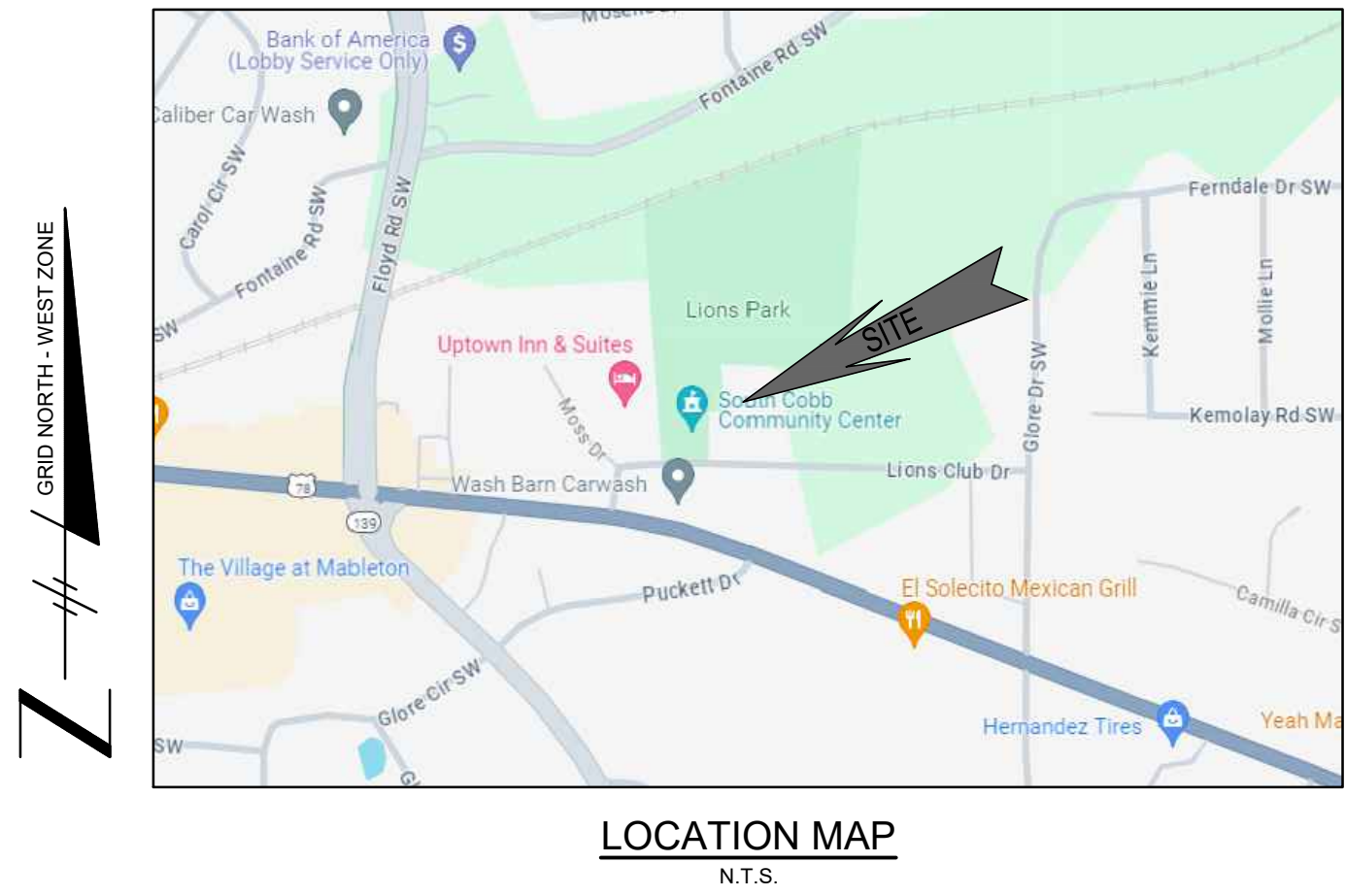
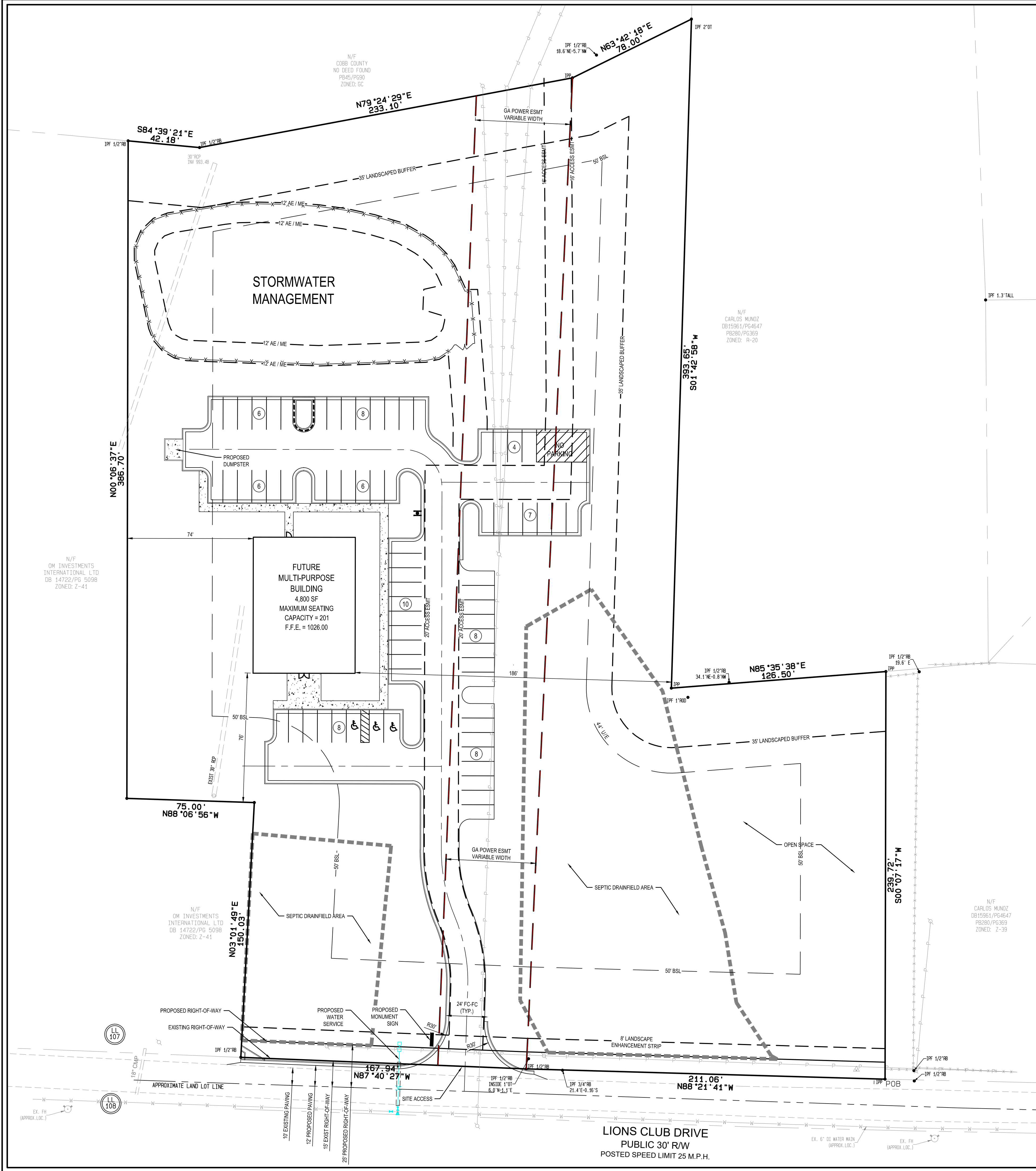
NO.	DATE	BY	DESCRIPTION
1	03/13/2025	ZK	1st submittal

W&B
WATTS & BROWNING ENGINEERS, INC.
CIVIL ENGINEERS & LAND SURVEYORS
1349 OLD 41 HWY NW, SUITE #225
MARIETTA, GEORGIA 30060
PHONE: (678) 324-6192
FAX: (770) 684-6870
WWW.WBENGR.COM
LSF000429 - PEF000714

SCALE:	1" = 30'
DESIGNED BY:	ZK
DRAWN BY:	ZK
CHECKED BY:	DRC
INITIAL ISSUE DATE:	03/13/2025
JOB NUMBER:	240122
SHEET NUMBER:	Z-1



Can you see it?



NOTE:
PARKING REQUIRED (1 SPACE PER 4 SEATS) = 51 SPACES
PARKING PROVIDED = 71 SPACES

NOTE:
THERE ARE NO LAKES, STREAMS, WETLANDS, CEMETERIES,
ARCHITECTURAL OR ARCHEOLOGICAL LANDMARKS ON THE SITE.

DEVELOPMENT DATA	
PARCEL #:	17010700480 & 17010700100
CURRENT ZONING:	GENERAL COMMERCIAL
PROPOSED ZONING:	R-20
TOTAL SITE AREA:	4.62 AC
% OF OPEN SPACE REQUIRED:	NONE
MINIMUM LOT SIZE:	5.0 AC
MAXIMUM LOT COVERAGE:	70%
MAXIMUM BLDG HEIGHT:	55'
MINIMUM LOT WIDTH:	75'
SETBACKS:	
FRONT -	50'
SIDE -	50'
REAR -	50'

OWNER/DEVELOPER/PRIMARY PERMITTEE:

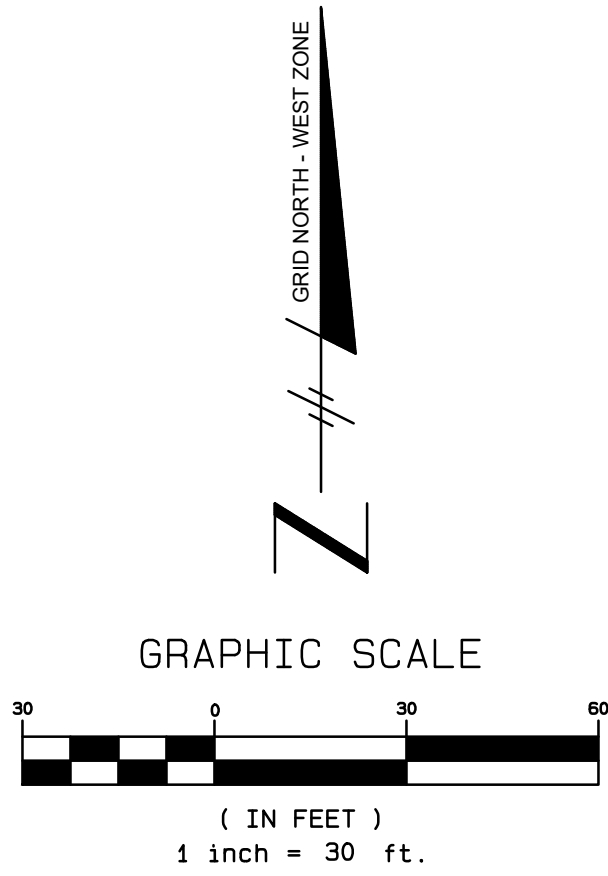
TKHC MINISTRIES
P.O. BOX 67
SMYRNA, GA 30081
PHONE : (706) 540-7318

24 HOUR CONTACT:

TERESA GOGGINS
PHONE: (706) 540-7318

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1349 OLD 41 HWY NW, SUITE 225
MARIETTA, GA 30060
PHONE: (678) 324-6192
FAX: (770) 684-6870
CONTACT: DARYL COOK



ZONING PLAN
FOR
TKHC MINISTRIES

LAND LOT 107 ~ 17TH DISTRICT ~ 2ND SECTION
CITY OF MABLETON,
COBB COUNTY, GEORGIA



GSWCC LEVEL II CERTIFICATION NO. 31908
EXPIRES: 01/12/2028

NO.	DATE	BY	DESCRIPTION
1	03/13/2025	ZK	1st submittal

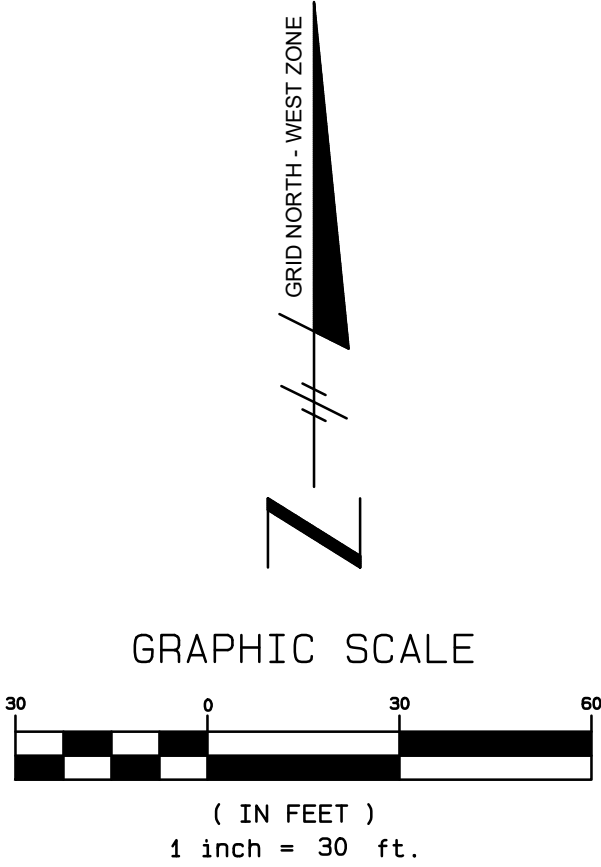
W&B
WATTS & BROWNING ENGINEERS, INC.
CIVIL ENGINEERS & LAND SURVEYORS
1349 OLD 41 HWY NW, SUITE #225
MARIETTA, GEORGIA 30060
PHONE: (678) 324-6192
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WWW.WBENGR.COM
LSF000429 - PEF000714

SCALE:	1" = 30'
DESIGNED BY:	ZK
DRAWN BY:	ZK
CHECKED BY:	DRC
INITIAL ISSUE DATE:	03/13/2025
JOB NUMBER:	240122
SHEET NUMBER:	Z-1



PLANT LIST			
COMMON NAME	BOTANICAL NAME	MIN. SIZE	SPACING
TREES			
BALD CYPRESS	TAXODIUM DISTICHUM	3" CAL.	AS SHOWN
CRYPTOMERIA	CRYPTOMERIA JAPONICA	5'-6" HT.	10' O.C.
EASTERN RED CEDAR	JUNIPERUS VIRGINIANA	5'-6" HT.	10' O.C.
LACEBARK ELM	ULMUS PARVIFOLIA	3" CAL.	AS SHOWN
SOUTHERN MAGNOLIA	MAGNOLIA GRANDIFLORA	5'-6" HT.	10' O.C.
VILLAGE GREEN ZELKOVA	ZELKOVA SERRATA 'VILLAGE GREEN'	3" CAL.	AS SHOWN
VIRGINIA PINE	PINUS VIRGINIANA	5'-6" HT.	10' O.C.
WILLOW OAK	QUERCUS PHELLOS	3" CAL.	AS SHOWN
DENTENTION POND SCREENING PLANTS			
BURGUNDY LOROPETALUM	LOROPETALUM CHINENSE 'BURGUNDY'	3 GAL.	6' O.C.
JAPANESE ANISE	ILICIIUM ANISATUM	3 GAL.	6' O.C.
CRYPTOMERIA	CRYPTOMERIA JAPONICA	5'-6" HT.	10' O.C.
SOUTHERN MAGNOLIA	MAGNOLIA GRANDIFLORA	5'-6" HT.	10' O.C.
SOUTHERN WAX MYRTLE	MYRICA CERIFERA	3 GAL.	8' O.C.
35' LANDSCAPE BUFFER SHRUBS			
BURGUNDY LOROPETALUM	LOROPETALUM CHINENSE 'BURGUNDY'	3 GAL.	6' O.C.
JAPANESE ANISE	ILICIIUM ANISATUM	3 GAL.	6' O.C.
SOUTHERN WAX MYRTLE	MYRICA CERIFERA	3 GAL.	8' O.C.
8' LANDSCAPE ENHANCEMENT STRIP SHRUBS			
BLUE CASCADE DISTYLIIUM	DISTYLIIUM 'P11DIST-11' PP#24	3 GAL.	3.5' O.C.
GREY OWL JUNIPER	JUNIPERUS VIRGINIANA 'GREY OWL'	3 GAL.	4' O.C.
NEEDLEPOINT HOLLY	ILEX CORNUTA 'NEEDLEPOINT'	3 GAL.	3.5' O.C.
RUBY LOROPETALUM	LOROPETALUM CHINENSE 'RUBY'	3 GAL.	4' O.C.

NOTE: FINAL LANDSCAPING PER LDP REQUIREMENTS



CONCEPTUAL LANDSCAPE EXHIBIT
FOR
TKHC MINISTRIES
LAND LOT 107 ~ 17TH DISTRICT ~ 2ND SECTION
CITY OF MABLETON,
COBB COUNTY, GEORGIA

PROGRESS PRINTS
NOT FOR
CONSTRUCTION

NO.	DATE	BY	DESCRIPTION
1	08/01/2024	JJT	1st submittal

WATTS & BROWNING ENGINEERS, INC.
CIVIL ENGINEERS & LAND SURVEYORS
1349 OLD 41 HWY NW, SUITE #225
MARIETTA, GEORGIA 30060
PHONE: (678) 324-6192
FAX: (770) 694-0870
WWW.WBENR.COM
LSF000429 - PEF000714

SCALE:	1" = 30'
DESIGNED BY:	ZK
DRAWN BY:	JJT
CHECKED BY:	DRC
INITIAL ISSUE DATE:	08/01/2024
JOB NUMBER:	240122

SHEET NUMBER:
C-3

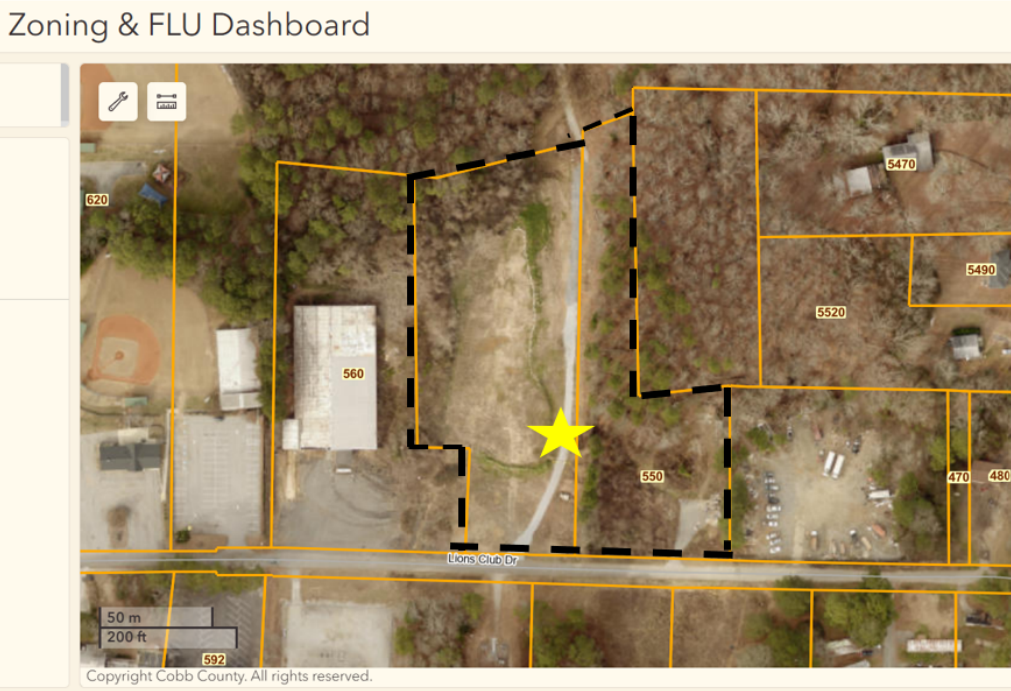
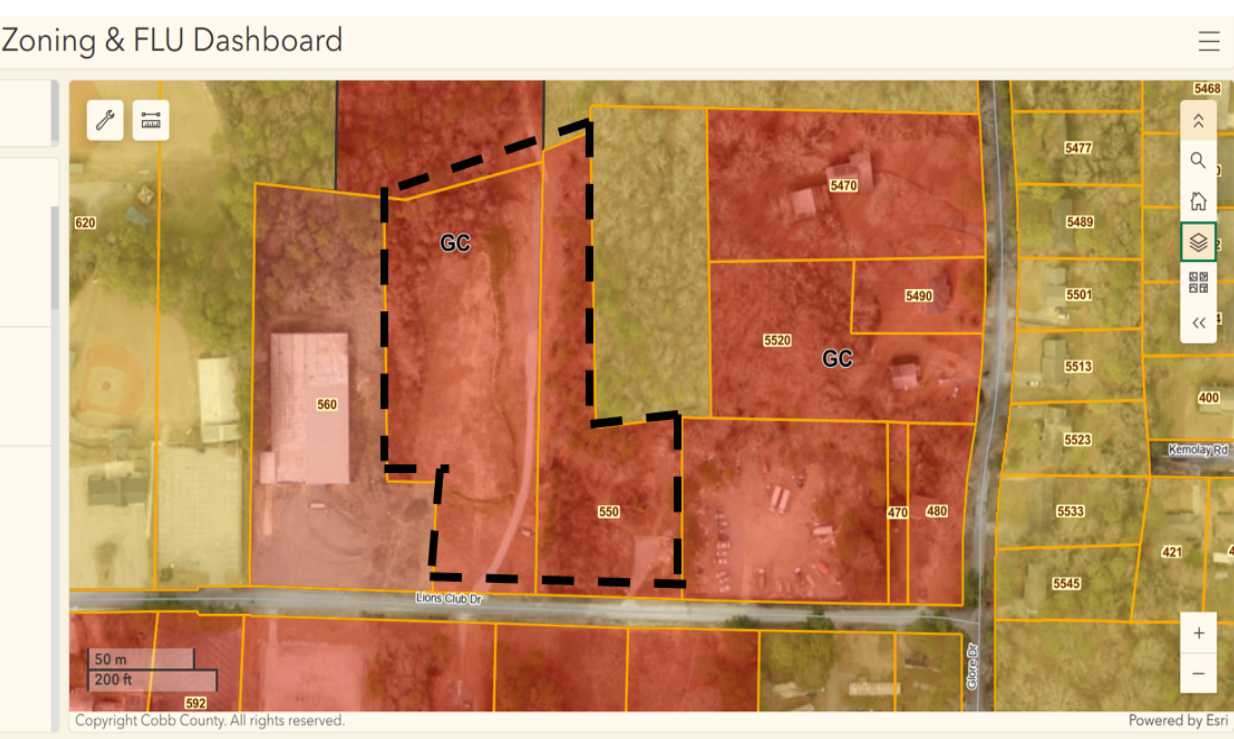


City of Mableton Mayor and City Council Meeting

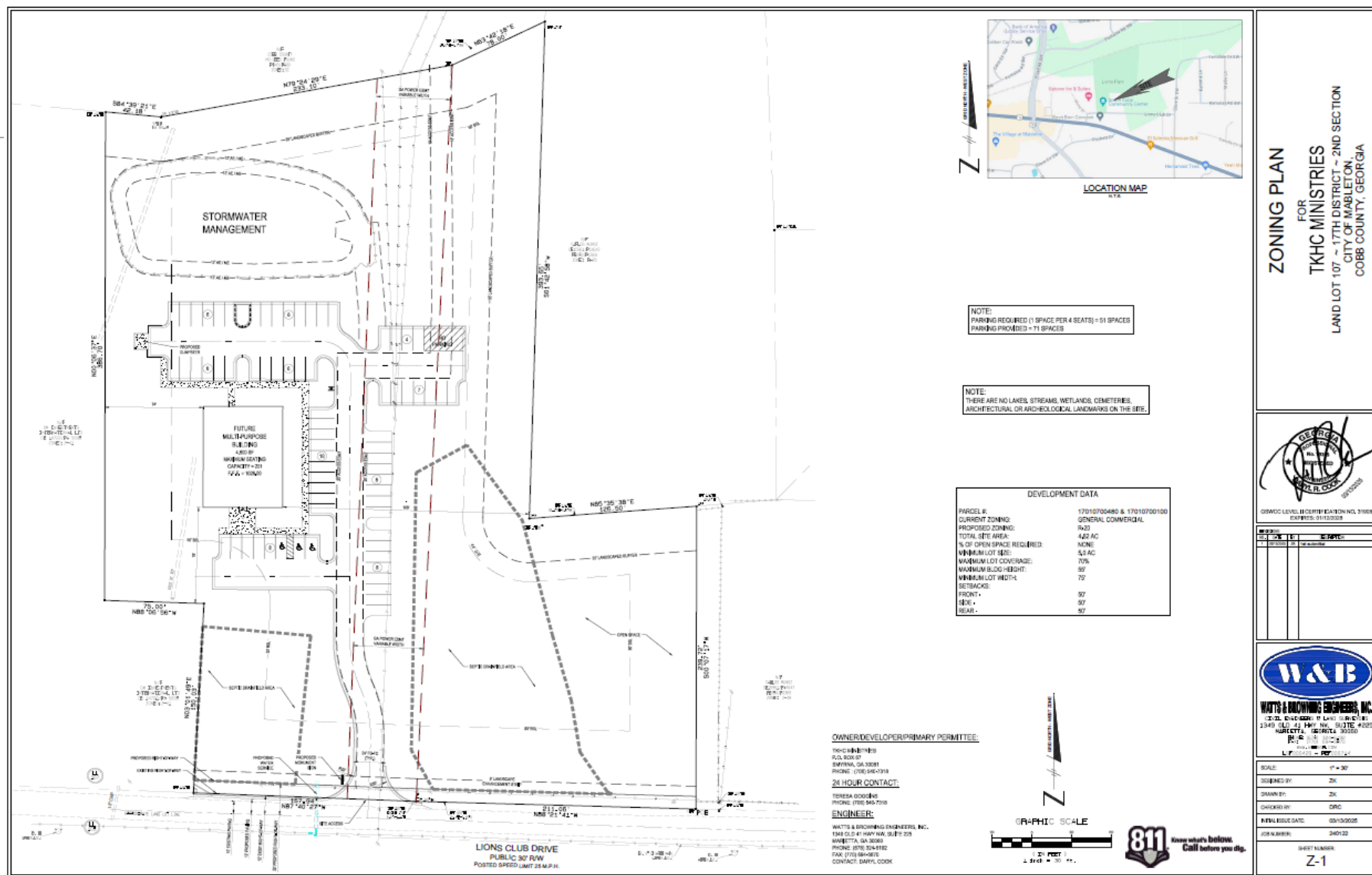
JUNE 25TH, 2025

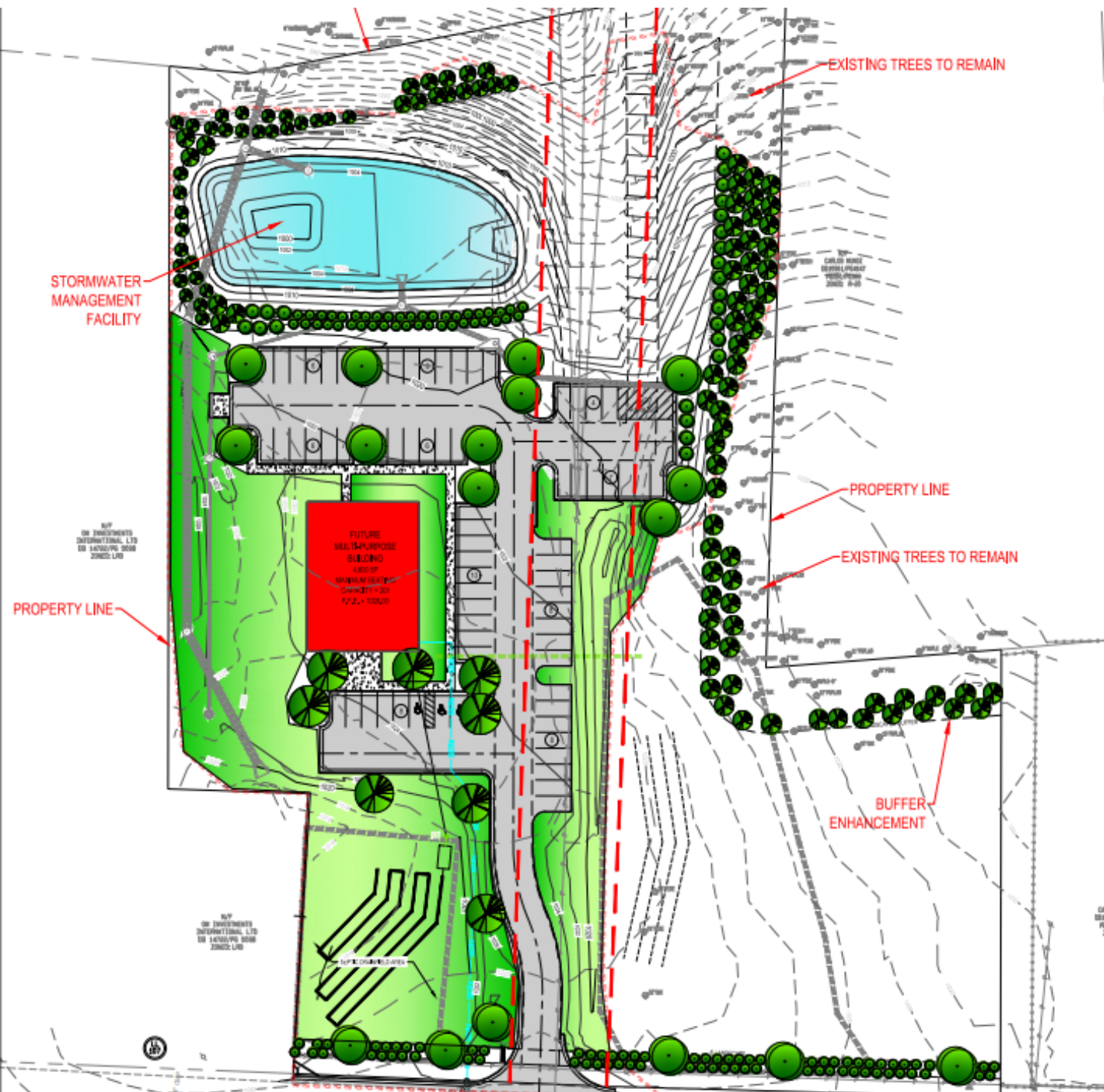
135 RIVERSIDE PARKWAY, MABLETON, GA
30126

Zoning Map and Aerial Map



Proposed Site Plan





PLANT LIST

COMMON NAME	BOTANICAL NAME	MIN. SIZE	SPACING
TREES			
BALD CYPRESS	TAXODIUM DISTICHUM	3" CAL	AS SHOWN
CRYPTOMERIA	CRYPTOMERIA JAPONICA	5'-6" HT.	10' O.C.
EASTERN RED CEDAR	JUNIPERUS VIRGINIANA	5'-6" HT.	10' O.C.
LACINBARB BLM	ULMUS PARVIFOLIA	3" CAL	AS SHOWN
SOUTHERN MAGNOLIA	MAGNOLIA GRANDIFLORA	5'-6" HT.	10' O.C.
VILLAGE GREEN ZELKOVA	ZELKOVA SERRATA 'VILLAGE GREEN'	3" CAL	AS SHOWN
VIRGINIA PINE	PINUS VIRGINIANA	5'-6" HT.	10' O.C.
WILLOW OAK	QUERCUS PHellos	3" CAL	AS SHOWN
DETENTION POND SCREENING PLANTS			
BURGUNDY LOROPETALUM	LOROPETALUM CHINENSE 'BURGUNDY'	3 GAL	6' O.C.
JAPANESE ANISE	ILICUM ANISATUM	3 GAL	6' O.C.
CRYPTOMERIA	CRYPTOMERIA JAPONICA	5'-6" HT.	10' O.C.
SOUTHERN MAGNOLIA	MAGNOLIA GRANDIFLORA	5'-6" HT.	10' O.C.
SOUTHERN WAX MYRTLE	MYRTICA CERIFERA	3 GAL	8' O.C.
35' LANDSCAPE BUFFER SHRUBS			
BURGUNDY LOROPETALUM	LOROPETALUM CHINENSE 'BURGUNDY'	3 GAL	6' O.C.
JAPANESE ANISE	ILICUM ANISATUM	3 GAL	6' O.C.
SOUTHERN WAX MYRTLE	MYRTICA CERIFERA	3 GAL	8' O.C.
8' LANDSCAPE ENHANCEMENT STRIP SHRUBS			
BLUE CASCADE DISTYLIUM	DISTYLIUM 'PL11057-11' PR24	3 GAL	3.5' O.C.
GREY OWL JUMPER	JUNIPERUS VIRGINIANA 'GREY OWL'	3 GAL	4' O.C.
NEEDLEPOINT HOLLY	ILEX CORNUTA 'NEEDLEPOINT'	3 GAL	3.5' O.C.
RUBY LOROPETALUM	LOROPETALUM CHINENSE 'RUBY'	3 GAL	4' O.C.

NOTE: FINAL LANDSCAPING PER LDP REQUIREMENTS

CONCEPTUAL LANDSCAPE EXHIB

FOR
TKHC MINISTRIES

LAND LOT 107 ~ 17TH DISTRICT ~ 2ND SECTION
CITY OF MABLETON,
COBB COUNTY, GEORGIA

PROGRESS PRINTS
NOT FOR
CONSTRUCTION

REVISION
DATE
BY
DESCRIPTION

NO.	DATE	BY	DESCRIPTION



WATKINS & BROWN ENGINEERS, INC.
CIVIL ENGINEERS & LAND SURVEYORS
1540 OLD 41 HWY NW, SUITE #225
MARIETTA, GEORGIA 30060
PHONE: (770) 844-0000
WWW.W&B.COM
LSP000429 - PEP000754

SCALE: 1" = 30'

DRAWN BY: JUT

Proposed Elevation



1 **STATE OF GEORGIA**

2 **CITY OF MABLETON**

3 **ORDINANCE NO. 2025-**

4 AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP, CITY OF MABLETON,
5 GEORGIA BY REZONING CERTAIN PARCELS OF REAL PROPERTY LOCATED
6 ALONG LIONS CLUB DRIVE, MABLETON, GEORGIA (COBB COUNTY PIN
7 17010700480 and 17010700100); TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR
8 SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN
9 ADOPTION DATE; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES
10 ALLOWED BY LAW.

11 **WHEREAS**, the governing authority of the City of Mableton, Georgia (the “City”) are the
12 Mayor and Council thereof; and

13 **WHEREAS**, the governing authority is authorized by its Charter and state law to regulate
14 zoning within the limits of the City; and

15 **WHEREAS**, the subject parcels of real property consist of approximately 4.62 acres, to be
16 combined into one parcel, located at 550 Lions Club Drive, Land Lot 107, District 17th, according
17 to the present system of numbering property in Mableton, Cobb County, Georgia (Cobb County
18 Tax Parcel Identification Numbers: 17010700100 and 17010700480) (the “Property”); and

19 **WHEREAS**, the Property is currently zoned as GC-General Commercial; and

20 **WHEREAS**, the owners (“Applicant”) of the Property filed an application requesting the
21 governing authority to rezone the Property to R-20 and combine the parcels in order to establish a
22 worship and fellowship building; and

23 **WHEREAS**, the Planning Commission and City staff have recommended approval, along
24 with a variance to reduce the minimum required area from 5 acres to 4.62 acres as the re-zoning
25 will not adversely impact adjacent properties and will be consistent with the other uses in R-20;
26 and

27 **WHEREAS**, the governing authority of the City desires to rezone the Property to R-20, to
28 ensure consistency with the City’s comprehensive plan and future land use plan; and

29 **WHEREAS**, the City has complied with the notice and hearing requirements pursuant to
30 O.C.G.A. § 36-66-1 *et seq.*; and

31 **WHEREAS**, the health, safety and welfare of the citizens of the City will be positively
32 impacted by the adoption of this Ordinance.

33 **NOW THEREFORE**, be it and it is hereby resolved by the Mayor and Council of the
34 City of Mableton:

35 **Section 1.** Those certain parcels of real property consisting of approximately 4.62 acres
36 located at 550 Lions Club Drive, Land Lot 107, District 17th according to the present system of
37 numbering property in Mableton, Cobb County, Georgia (Cobb County Tax Parcel Identification
38 Numbers: 17010700100 and 17010700480) is hereby rezoned from GC-General Commercial to
39 R-20, and the parcels are to be combined into one parcel. Such rezoning is to be noted on the
40 official City of Mableton Zoning Map approved by the Mayor and Council as soon as reasonably
41 possible following adoption of this Ordinance along with an editorial note on the official City of
42 Mableton Zoning Map specifying the parcel affected by this Ordinance and the date of adoption
43 of this Ordinance. Until this rezoning is indicated on the official City of Mableton Zoning Map,

44 this Ordinance and Exhibit A shall govern over the official City of Mableton Zoning Map to the
45 extent of any discrepancy between this Ordinance and the official City of Mableton Zoning Map.

46 **Section 2.** (a) It is hereby declared to be the intention of the Mayor and Council that all
47 sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their
48 enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

49 (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent
50 allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is
51 severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is
52 hereby further declared to be the intention of the Mayor and Council that, to the greatest extent
53 allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually
54 dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

55 (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall,
56 for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the
57 valid judgment or decree of any court of competent jurisdiction, it is the express intent of the
58 Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the
59 greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any
60 of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance and that, to
61 the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and
62 sections of this Ordinance shall remain valid, constitutional, enforceable, and of full force and
63 effect.

64 **Section 3.** All Ordinances and parts of Ordinances in conflict herewith are hereby
65 expressly repealed to the extent of such conflict.

66 **Section 4.** The effective date of this Ordinance shall be the date of its adoption by the
67 Mayor and Council unless otherwise stated herein.

68 **Section 5.** The Ordinance shall be codified in a manner consistent with the laws of the
69 State of Georgia and the City of Mableton.

70 **Section 6.** It is the intention of the governing body, and it is hereby resolved that the
71 provisions of this Ordinance shall be enforceable under the authority of the City as permitted in
72 its Charter and Ordinances.

73 **Section 7.** The City Clerk, with the concurrence of the City Attorney, is authorized to
74 correct any scrivener's errors found in this Ordinance, including its exhibits, as enacted.

SO ORDAINED, this _____ day of _____, 2025.

CITY OF MABLETON, GEORGIA

Michael Owens, Mayor

ATTEST:

Susan Hiott, City Clerk

APPROVED AS TO FORM:

Emilia Walker-Ashby, Interim City Attorney

EXHIBIT A

Stipulations:

1. The property shall be used for a church and related accessory uses only.
2. The development shall abide by all applicable standards of the City of Mableton Zoning Ordinance unless otherwise specified in these conditions or through approval of a variance by the Zoning Board of Appeals.
3. Property to be developed in accordance with the site plan submitted March 13, 2025.
4. No expansion of the proposed building or additional building due to the lack of sewer capacity.
5. Building Architectural Design will follow the Veterans Memorial Highway Design Guidelines, and final approval by the Community Development Director.
6. Ground signage shall be limited to monument-type sign(s) and shall be subject to review and approval by the Director of Community Development. The sign shall include a minimum two-foot high brick or stacked stone base, complementing the building's architectural treatment. The masonry base shall extend at least the full width of the sign cabinet, and the sign cabinet shall be fully recessed and surrounded by the same materials. Ground sign(s) shall not exceed six feet in height.
7. Final site plan shall be reviewed and approved by the Planning & Zoning Division prior to building permit issuance.
8. Landscape plan subject to review and approved by the Planning and Zoning Division prior to building permit issuance.
9. Cobb County Fire Department recommendations and conditions.
10. Cobb County Water/Sewer Department recommendations and conditions.
11. Cobb County Stormwater recommendations and conditions.
12. Cobb County Department Transportation recommendations with modifications to recommendation number three, removing *"paying fee in lieu to comply with recommended County standards if constraints exist and subject to City of Mableton approval"*
13. Building architectural design to be substantially similar to the design presented to the Planning Commission on June 5th 2025 and except to be modified to meet the Veterans Memorial Highway Design Standards.



Handed out to Mayor
and Council by
applicant.
S. Huett
Clerk

Lions Club Drive

Walk-Through

Our Why

Thy Kingdom Has Come International Ministries (TKHC) seeks to impact the world by following the teachings of Jesus Christ. We're a faith community of standard, integrity and service unto others. We believe in exemplifying the love of God to all, creating a more disciplined life by adhering to faith principles.

What We Bring

Established in 2007 and led by Pastors Thomas and Teresa Goggins, TKHC offers a unique blend of marketplace and ministry expertise. In addition to over 20 years of clergy experience, our leadership team includes corporate, marketing, mental health, logistics, and law professionals. We're ready to implement ministry for impact!



CobbWorks

Veterans Memorial



Carwash



Motel





Lions Park

South Cobb Community Center

Thy Kingdom Has Come International Ministries
THIS WAY



**Power grid across the
street from Lions
Park**

South Cobb Community Center



Lions Park



Thy Kingdom Has Come International Ministries
THIS WAY

South Cobb Community Center

**Potential Soccer
Complex**

**Thy Kingdom Has Come International Ministries
NEXT DOOR**

**Power grid across the street from
TKHC Ministries**



A photograph showing a fenced-in utility area. In the background, there are several large metal power transformers and a tall metal pole. The area is enclosed by a chain-link fence topped with barbed wire. In the foreground, there is a grassy area with some debris, including a red toy car and a stroller. The date "June 3, 2025" is displayed in the top right corner.

June 3, 2025

Unhoused Mableton residents living IN the power grid across the street from TKHC Ministries

Potential Soccer Complex

**TKHC also owns the neighboring lot
where unhoused Mableton citizens
have taken residence**

**Thy Kingdom Has Come International Ministries
550 Lions Club Drive Mableton, GA 30126**

An aerial photograph of a dirt road in a wooded area. A black pickup truck is parked on the right side of the road, with several tires in its bed. A person is standing near the truck. On the left side of the road, there is a wooden utility pole with a 'NO DUMPING ALLOWED' sign and a 'PRIVATE PROPERTY' sign. The road is surrounded by trees with some autumn foliage. The sky is clear and blue.

Aerial Shot

Thy Kingdom Has Come International Ministries
550 Lions Club Drive Mableton, GA 30126



Aerial Shot

Potential Soccer Complex

Unhoused encampment of
Mableton residents

Thy Kingdom Has Come International Ministries
550 Lions Club Drive Mableton, GA 30126

An aerial photograph showing a large, cleared dirt area in the center, surrounded by dense forest with autumn-colored trees. To the left, a white-roofed building is partially visible. A dirt road runs vertically through the center. In the bottom right, there is a paved parking lot with several vehicles.

Aerial Shot

Potential Soccer Complex

Unhoused encampment of
Mableton residents

Thy Kingdom Has Come International Ministries
550 Lions Club Drive Mableton, GA 30126

An aerial photograph showing a large, cleared, reddish-brown dirt area in the center-left, surrounded by dense forest with trees in various shades of green and yellow. A road or path runs vertically through the center. In the bottom right, a paved road curves, with some vehicles and structures visible. The sky is clear and blue in the distance.

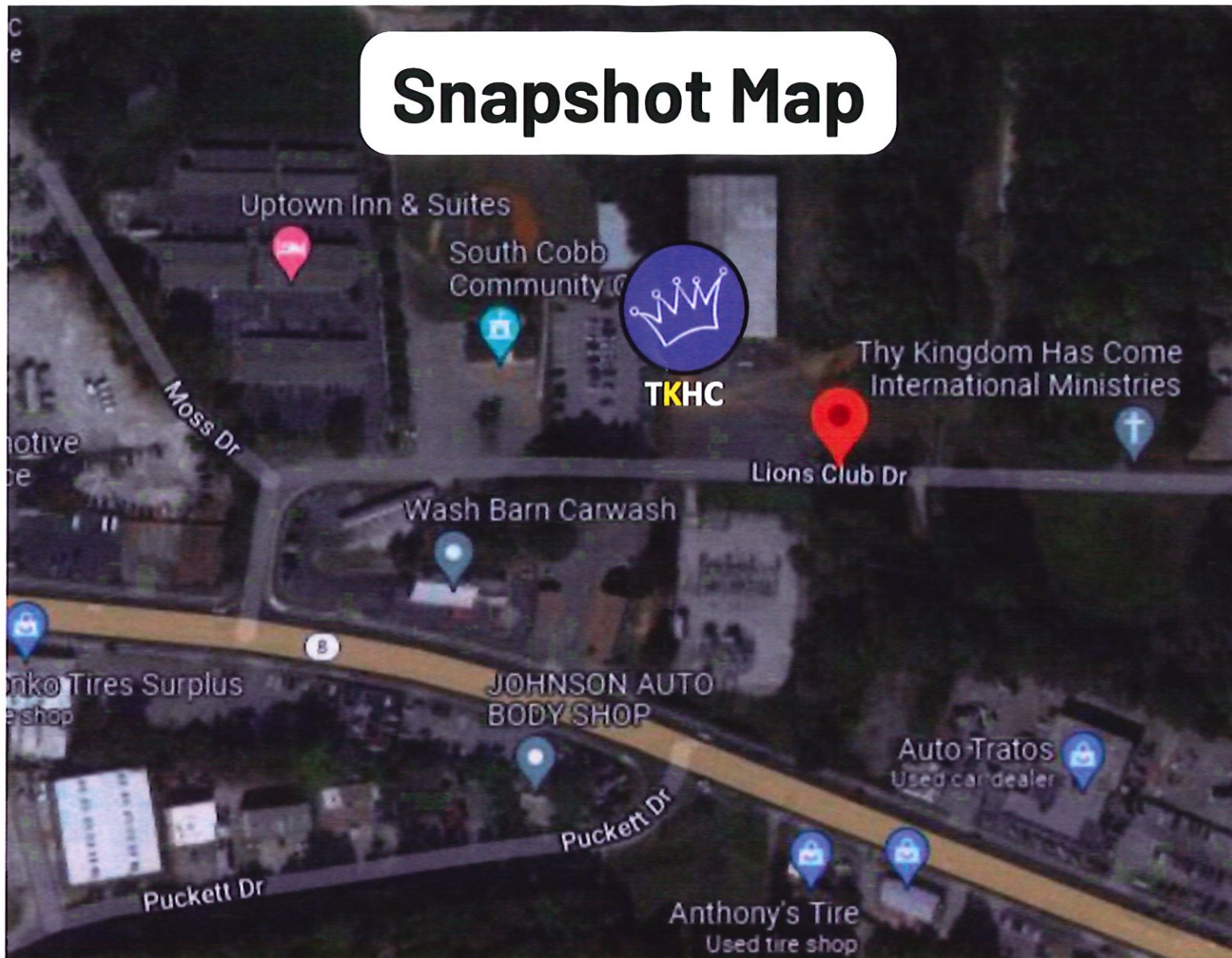
Aerial Shot

Potential Soccer Complex

Unhoused encampment of
Mableton residents

Thy Kingdom Has Come International Ministries
550 Lions Club Drive Mableton, GA 30126

Snapshot Map



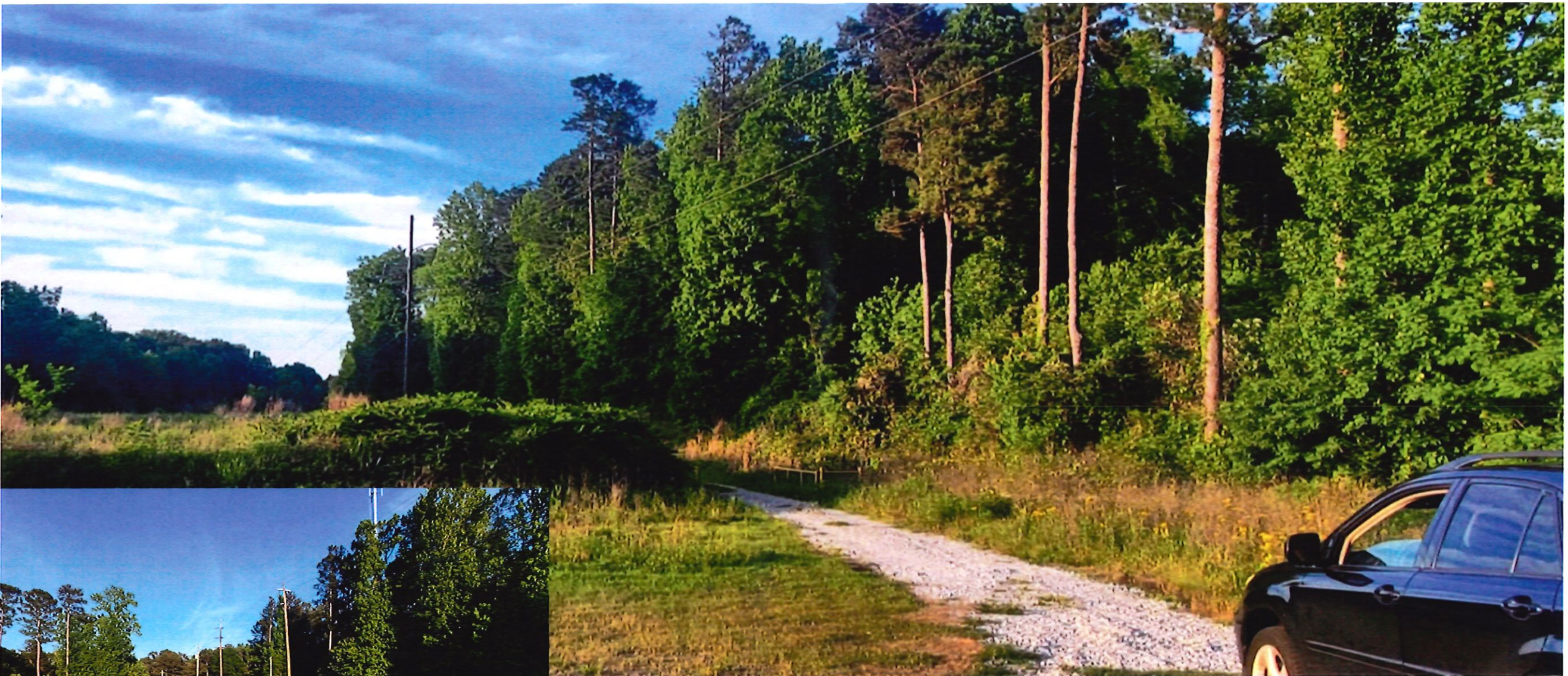
Thy Kingdom Has Come International Ministries
550 Lions Club Drive Mableton, GA 30126

Architectural Design Mockup

Thy Kingdom Has Come International Ministries
550 Lions Club Drive Mableton, GA 30126

Architectural Design Mockup

Thy Kingdom Has Come International Ministries
550 Lions Club Drive Mableton, GA 30126



Thy Kingdom Has Come International Ministries
550 Lions Club Drive Mableton, GA 30126



Thy Kingdom Has Come International Ministries
550 Lions Club Drive Mableton, GA 30126



Unhoused encampment of
Mableton residents



**Thy Kingdom Has Come International Ministries
550 Lions Club Drive Mableton, GA 30126**



Unhoused encampment of
Mableton residents

June 3, 2025

Thy Kingdom Has Come International Ministries
550 Lions Club Drive Mableton, GA 30126



Headed back down toward Veterans
Memorial

Thy Kingdom Has Come International Ministries
550 Lions Club Drive Mableton, GA 30126



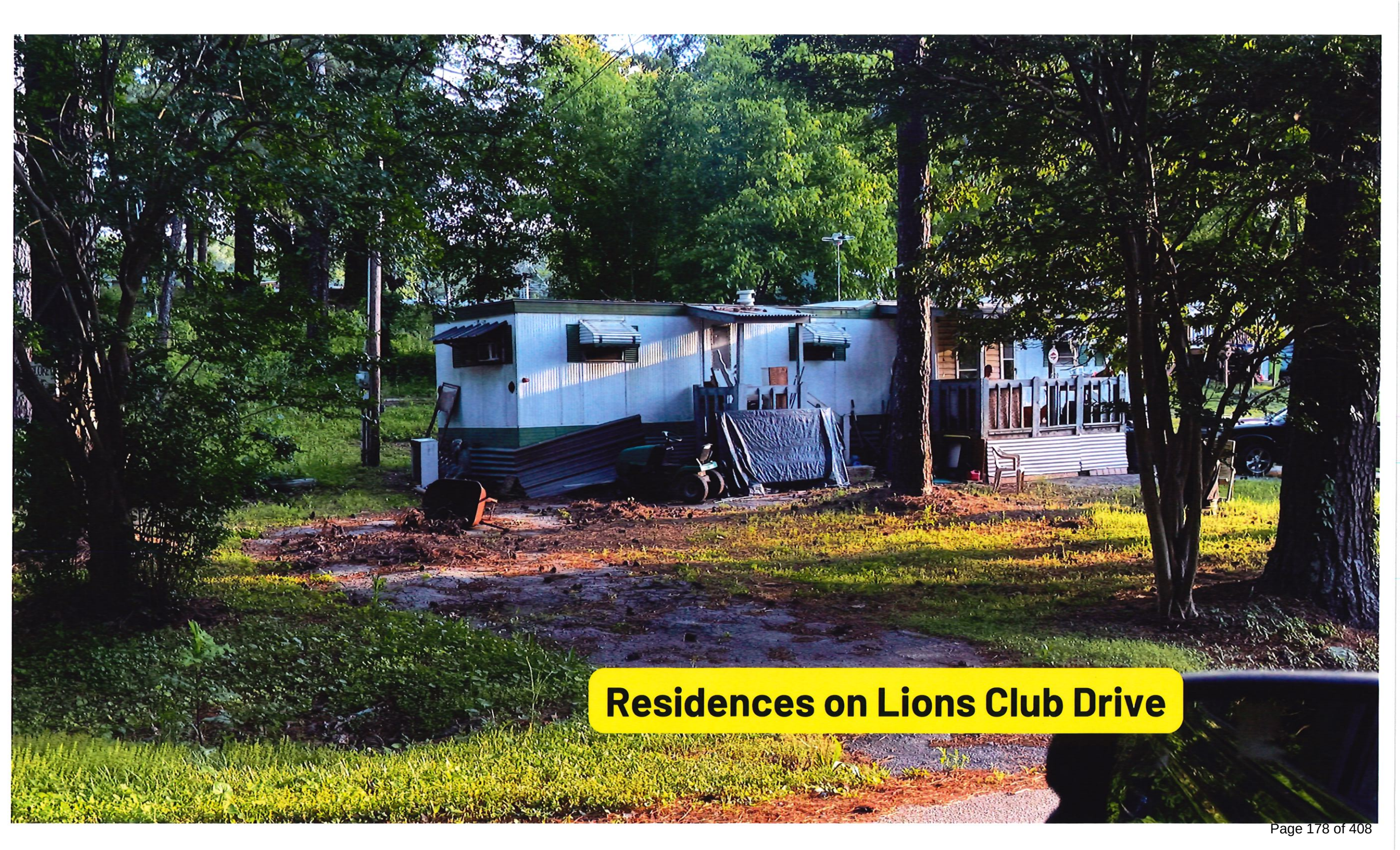
Heading toward Lions Club Drive residents

**Thy Kingdom Has Come International Ministries
550 Lions Club Drive Mableton, GA 30126**



May 6, 2025

Residences on Lions Club Drive



Residences on Lions Club Drive

Residences on Lions Club Drive

Boat



May 6, 2025

Fire Hydrant



AGENDA ITEM MEMORANDUM

MEETING OF: July 16, 2025

DEPARTMENT: [DEPARTMENT]

ISSUE/AGENDA ITEM TITLE: First Read and Public Hearing - Consideration of an Ordinance creating Chapter 5, Alcoholic Beverages, and for Other Lawful Purposes - City Attorney Emilia Walker - Ashby and Community Development Director Michael Hughes Open and Close Public Hearing - No action to be taken - this is First Read.

BACKGROUND/SUMMARY: This ordinance establishes Chapter 5 - Alcoholic Beverages of the City of Mableton Code of Ordinances to provide for the regulation, licensing, taxation, and enforcement of alcoholic beverage sales and service in accordance with applicable state law.

BUDGETED/FINANCIAL IMPACT – FUND: N/A

RECOMMENDATION: Staff recommends approval.

ATTACHMENTS:

1. Alcoholic Beverage Ordinance Rev. 7.11.25 (clean)

**AN ORDINANCE CREATING CHAPTER 5, ALCOHOLIC BEVERAGES, OF THE
CITY CODE OF ORDINANCES AND FOR OTHER LAWFUL PURPOSES**

WHEREAS, the City of Mableton (“City”) is a municipal corporation duly organized and existing under the laws of the State of Georgia;

WHEREAS, the duly elected governing authority of the City is the Mayor and Council (“City Council”) thereof;

WHEREAS, the City Council is empowered by Section 1.13(35) and Section 6.14 of the City Charter, respectively, to “to regulate or prohibit junk dealers, the manufacture and sale of intoxicating liquors” and “to levy any other tax or fee allowed now or hereafter by law, and the specific mention of any right, power, or authority in this article shall not be construed as limiting in any way the general powers of this city to govern its local affairs;”

WHEREAS, the City Council desires through this Ordinance to adopt reasonable code provisions relating to alcoholic beverages; and

WHEREAS, the City Council finds this Ordinance to be in the best interest of the health, safety and welfare of the City.

IT IS HEREBY ORDAINED, by the governing authority of the City of Mableton as follows:

Section 1. Chapter 5, Alcoholic Beverages, of the City of Mableton Code of Ordinances, is hereby created to read as follows:

CHAPTER 5 – ALCOHOLIC BEVERAGES¹

ARTICLE 1 – IN GENERAL

Sec. 5.1.1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adequate parking means one parking space for each 200 square feet of gross floor area within the premises of an applicant dedicated to the sale or consumption of alcohol.

State law reference(s)—Georgia Alcoholic Beverage Code, O.C.G.A. § 3-1-1 et seq.

Adult concession area means an area designated and identified within an amusement park wherein adults (and minors within their care who will not be served alcohol beverages) may purchase and consume alcoholic beverages while the park is open to the general public.

Agent means an individual who does not have an ownership interest in the licensed premise, who acts in a managing capacity at the premises and/or designated by the owner of the licensed premise to speak and/or act on behalf of the premises.

Alcoholic beverage caterer means any retail dealer licensed pursuant to the alcoholic beverage ordinance of City of Mableton who provides alcohol at special events or special events facilities.

Alcoholic beverage license means a license to sell any malt beverages, vinous beverages, and/or spirituous liquors.

Alcoholic beverages includes, but is not limited to, malt beverages, vinous beverages, and spirituous liquors or alcoholic liquors, as defined in this chapter.

Amusement park means a place owned and operated permanently and exclusively for the purpose of providing amusement, attractions, and entertainment to the general public through the means of rides, live entertainment and games either on a seasonal or year-round basis, which park has at least 25 rides and 50 games or attractions and the area of the amusement park is comprised of at least 80 acres exclusive of parking.

Applicant means the person making application for a license under this chapter for the sale of alcoholic beverages and, if applicable, any individual designated by that person to be the licensee.

Approved container means a tamper evident container that:

- (1) Does not contain openings or straw holes;
- (2) Is sealed in a manner that is visibly apparent if the container has been subsequently opened or tampered with; and
- (3) Has an affixed label or marking that identifies the licensee that prepared and sold the mixed drink.

Bar shall be an establishment that does not meet the definition of a restaurant, nightclub, lounge, farm winery, brewery, distillery, or hotel, and serves alcoholic beverages on premises. A full-service food permit shall be valid and issued to the owner/licensee of the bar. Total annual food sales from the sale of prepared meals or food for the bar shall not be less than 30 percent of the total annual gross sales of food and alcoholic beverage sales of the bar.

Bar facility is a physical structure, permanent, where the establishment staff dispenses alcoholic beverages.

Barrel means 53 gallons.

Beer bomber means a glass bottle containing 22 U.S. ounces of craft or draft beer.

Bottle house means any place of business open to the public or any private club which allows guests, patrons or members to bring in and to consume the guest's, patron's or member's alcoholic beverages on the premises unless otherwise provided in this chapter. This definition includes restaurants with alcohol pouring licenses that allow alcohol to be brought on the

premises and may charge a corkage fee. Restaurants that are bottle houses shall pay a license fee as provided in schedule F on file with the City Clerk and the business license.

Brewer means a manufacturer of malt beverages.

Brewpub means any establishment in which beer or malt beverages are manufactured or brewed, subject to the barrel production limitation of not more than 10,000 barrels of malt beverages manufactured on the licensed premises in any calendar year solely for retail sale. For purposes of this paragraph, the term “eating establishment” means an establishment that is licensed to sell distilled spirits, beer, malt beverages, or wine and that derives at least 50 percent of its total annual gross food and beverages sales from the sale of prepared meals or food.

Brewery means a domestic manufacturer of malt beverages that is licensed by the state. Provided a license is issued as required by this chapter, a brewery is authorized to sell malt beverages by the package, by the drink and operate tasting events on the premises of the brewery pursuant to appropriate state law, without additional license requirements, except as is required in chapter 7. A licensed brewery may fill customer provided containers, such as growlers or howlers for consumption off-premises so long as the container is sealed in the same manner as an *approved container* as defined above upon its furnishing or return to the customer.

Business area means any street length between intersections where 50 percent or more of such street length is in use for business purposes.

Business license manager or supervisor means the individual who is the business license manager handling alcoholic beverage licenses, as such position presently exists, or by whatever name the position may be designated in the future.

Church means a permanent building where persons regularly assemble for religious worship and shall be publicly designated as a church, but shall not include a residence also used for religious purposes.

City means the City of Mableton

City manager means the duly appointed city manager or the city manager’s designee.

Closed function means an event sponsored by a nonprofit organization not open to the general public which must have a written, limited guest list prepared at least 48 hours in advance of the date on which the closed function is to occur, and which occurs on property owned and maintained by the city. No pay-at-the-door guests or drop-ins are to be permitted. Alcoholic beverages may be served without charge and consumed at closed functions, but the offer and sale of alcoholic beverages at such functions is prohibited, unless authorized in sections 5.4.1.14 and 5.4.1.15; except that a general admission fee permitting attendance at the closed function may be collected in advance.

College means only such state, city, church or other colleges as teach the subjects commonly taught in the common colleges of this state, and shall not include private colleges where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught. The definition of college shall include a university.

Convenience store means a retail establishment which offers for sale packaged or unprepared food and grocery items for consumption off of the premises which may sell fuel products, household items, or tobacco products and having 5,000 or less square feet of floor area.

Conviction means adjudication of guilt, plea of guilty, plea of nolo contendere or the forfeiture of a bond when charged with a crime, but shall not include a discharge under provisions of what is commonly called the State of Georgia First Offender Act, being O.C.G.A. § 42-8-60 et seq.

Craft beer means a beer brewed by an independent brewer with annual production not exceeding six million barrels.

Crowler means a sealed aluminum can containing 32 U.S. ounces of craft or draft beer filled from a tap and sealed at a licensed brewery.

Curbside pick-up means when a licensee delivers purchased goods to a customer's vehicle within a clearly designated pick-up area located within a paved parking area adjacent to the licensed premises.

Distance means the measurement in lineal feet from the center of any door of customer entry of the proposed premises of a licensee to the nearest property line of any church, library, school, park, public housing, public hospital or private residence as defined in this section. A radius shall be measured from the center of any door of customer entry of the proposed premises of any licensee to the nearest property line of any church, library, school, park, public housing, public hospital or private residence as defined in this section.

Distiller means a manufacturer of spirituous liquors.

Distillery means a domestic manufacturer of spirituous liquors that is licensed by state. Provided a license is issued as required by this chapter, a distiller is authorized to sell spirituous liquors by the package, by the drink and operate tasting events on the premises of the distillery pursuant to appropriate state law, without additional license requirements, except as required in chapter 7.

Drink means any spirituous liquor not in its original package served for consumption on the premises, which may or may not be diluted by any other liquid.

Establishment means a business location that has received the applicable pouring license within certain mixed-use developments identified in section 5.3.2.18.

Event venue means the location of a temporary event or gathering using public property that has the capacity to draw 20,000 participants on the day of the event.

Family means any person related to the holder of an alcoholic beverage license within the first degree of consanguinity or affinity as determined according to civil law.

Farm winery means a domestic manufacturer of wine in quantities of less than 100,000 gallons of wine per year, that is licensed by the state pursuant to O.C.G.A. § 3-6-21.1. Provided a license is issued as required by this chapter, a farm winery is authorized to sell wine by the package, by the drink and operate a wine tasting facility on the premises of the farm winery without additional license requirements, except as is required in chapter 7.

Flight means the service of several small samples of a single type of alcoholic beverage served at one time to an individual for a fee and intended to allow the sampling of different flavors.

Food hall means an area containing multiple food hall cafes, as defined in this section that share a common area of seating and tables for their customers collectively, as provided in this

section, within a building located in certain mixed-use developments identified in section 5.3.2.18.

Food hall café means a restaurant located within a food hall. Although seating for a food hall café may be shared with other food hall cafés, the applicant can satisfy the minimum seating requirements for a restaurant by establishing that there are a sufficient number of total seats within its own premises and/or the common area of seating within the food hall such that each licensed café could independently meet the 20-seat requirement. This provision does not require seating to be contiguous or separately designated, but does require a sufficient amount of total seating to cover all establishments licensed as food hall cafés within the food hall. A food hall café may utilize one or more other food hall cafés within the same food hall, by written agreement with any such other food hall café, to satisfy the requirements of meal service and the alcohol/food sales ratio identified in section 5.1.1. In order to qualify for this inclusion, the other food hall cafés must be (a) located in the same food hall as the food hall café seeking to utilize the other food hall café's meal service and alcohol/food sales ratio; and (b) be available, open and prepared to serve food every hour that alcoholic beverages are offered for sale from any portion of the food hall premises.

Free standing vendor means any person or entity that is permitted to sell alcoholic beverages from a cart, kiosk, or temporary structure for retail sales within certain mixed-use developments identified in section 5.3.2.18.

Grocery store means a retail establishment whose primary function is the sale of packaged or unprepared food and grocery items for consumption off the premises and whose annual gross sales of alcoholic beverages do not exceed ten percent of its total gross sales.

Growler means a reusable glass, ceramic, or stainless-steel bottle or jug intended for the transport of craft or draft beer filled from a tap and sealed at a licensed brewery which shall not exceed 128 U.S. ounces.

Hotel means a building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which 50 or more rooms are used for the sleeping accommodations of such guests and having one or more public dining rooms, with adequate and sanitary kitchen and a seating capacity of at least 40, where meals are regularly served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel operation. Motels meeting the qualifications set out in this definition for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of a lounge, restaurant or nightclub on their premises; and the holder of such franchise shall be included in the definition of hotel hereunder.

Howler means a reusable glass, ceramic, or stainless-steel bottle or jug intended for the transport of craft or draft beer filled from a tap and sealed at a licensed brewery which shall not exceed 32 U.S. ounces.

Legal alien means a person who possesses a valid United States government-issued I-551 card; an application for I-551 status does not meet the legal alien definition. Any other status, which allows a person to enter the United States, does not comply with this definition.

License means the authorization by the Mayor and City Council to engage in the sale of alcoholic beverages either by the package or consumption on the premises.

License review board means the board created under section 5.3.1.5.

Licensee means a person holding any class of license issued under the terms of this chapter who is a full-time employee responsible for the management of the establishment. A licensee must be a resident of the State of Georgia and must be working on site a minimum of one day per week.

Live entertainment means music, comedy, readings, dancing, acting or other entertainment performed on the site. This classification includes dancing by patrons to live or recorded music, but excludes live conduct characterized by nudity or semi-nudity.

Lounge means a separate room in which alcoholic beverages are sold, connected with a part of and adjacent to a restaurant or located in a hotel as defined in this section with all booths, stools and tables being unobstructed and open to view. All lounges shall be air conditioned and have a seating capacity of at least 50. A lounge, as defined in this section, which is operated on a different floor in the premises, or in a separate building, or has a separate customer entrance, or is not connected with a part of and adjacent to a restaurant, shall be considered a separate establishment and shall pay an additional license fee therefore. A lounge operated by a different entity from the hotel or restaurant must have a separate license as a bar or restaurant and meet the food requirements of a bar or restaurant.

Major shareholder means an individual or entity that owns or controls a 20 percent or more interest in a business establishment.

Malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water, containing alcohol by volume in accordance with state law and including ale, porter, brown, stout, lager beer, small beer, and strong beer. The term does not include sake, known as Japanese rice wine.

Manager shall mean a person or that person's designee who has responsibility for management of the operations, including sale of alcoholic beverages at the location to be licensed, who is a full-time or part-time employee of the corporation, partnership, proprietor or other ownership entity. A manager or manager's designee must be on the premises at all times the business is in operation.

Managing capacity shall mean the responsibility for management of the operation and for designating management of the operation including responsibility for the sale of alcoholic beverages.

Manufacturer means any maker, producer, or bottler of an alcoholic beverage. The term also means:

- (1) In the case of distilled spirits, any person engaged in distilling, rectifying, or blending any distilled spirits;
- (2) In the case of malt beverages, any brewer; and
- (3) In the case of wine, any vintner.

Minor means a person less than 18 years of age.

Mixed drink means a beverage prepared by combining distilled spirits with nonalcoholic liquid or liquids and that:

- (1) Is prepared on the day of sale by an employee of the licensee;
- (2) Contains no more than three ounces of distilled spirits; and
- (3) If sold for off-premises consumption, is sealed in an approved container.

Nightclub means an establishment which operates with its primary income generation from the sales of alcoholic beverages, and which may offer live entertainment. All nightclubs shall be equipped with air conditioning and shall maintain an adequate kitchen with a valid full service health department permit and with a sufficient number of servers and employees for cooking, preparing and serving food and meals for their patrons, provided that nightclubs located in hotels having dining room and kitchen facilities may be excluded from the requirement of maintaining a kitchen in connection with such nightclub; and further provided that a nightclub located in certain mixed-use developments identified in section 5.3.2.18 is excluded from the requirement of maintaining a kitchen.

Nonprofit civic organization means an organization which is an exempt organization under Section 501(c) or (d) of the Internal Revenue Code of 1986, as amended.

Nonprofit private club means a corporation organized and existing under the laws of the state or veterans' organization associated with and a part of a recognized national veterans' organization which is organized and operated exclusively for pleasure, recreation and other nonprofit purposes and which immediately prior to the application for a license hereunder:

- (1) Has at least 100 members regularly paying dues; and
- (2) Has tax exempt status under the provisions of section 501(c)(19) of the U.S. Internal Revenue Code; and
- (3) Owns or leases a building or space for the reasonable use of its members; and
- (4) Has no members or officers, agent or employees of the club receiving compensation directly or indirectly in the form of commissions or other compensation based on the amount of profits from the sale of malt beverages and wines beyond the amount of such salary as may be fixed by its members at an annual meeting or by its governing body out of the general revenue of the club; and
- (5) Has no part of the net earnings inuring to the benefit of any shareholder or member; and
- (6) Has been in continuous operation for at least one year prior to the application for a license hereunder.

Where an application for a license is submitted for a nonprofit private club the application shall be made in the name of the highest elected officer and/or the manager of the club or organization.

Package means an alcoholic beverage bottled, canned, or otherwise assembled for retail sale by the bottle, box, can or case by a licensed manufacturer or wholesaler. As used in this section, the term "package" shall include crowlers, howlers, and growlers.

Package store means a business establishment whose primary business activity is the retail sale of alcoholic beverages by the package.

Park means any public lands owned or controlled and operated by this City, any county of the state, any municipality of the state, the state, the United States of America or any property owned or managed by a nonprofit organization, in and upon which play facilities are provided for the recreation and enjoyment of the general public.

Pouring license means a license that authorizes on-premises consumption of alcoholic beverages.

Principal shareholder means a person who owns any shares of a corporation with less than 35 shareholders or more than five percent of the shares of a corporation which has more than 35 shareholders, except that a person who owns shares which are publicly traded shall not be deemed to be a principal shareholder or to have a beneficial interest in the corporation based solely on the fact of stock ownership.

Private club means a corporation organized and existing under the laws of the state, actively in operation within the City, having at least 200 members regularly paying monthly, quarterly, or semiannual dues, organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any shareholder or member, and owning, hiring or leasing a building or space therein for the reasonable use of its members with suitable kitchen and dining room space and equipment and maintaining and using a sufficient number of servants and employees for cooking, preparing and serving meals for its members and guests; provided, that no member or officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of spirituous liquors to the club or its members or guests beyond the amount of such salary as may be fixed by its members at any annual meeting or by its governing board out of the general revenue of the club.

Private party function means an event held by an amusement park where alcoholic beverages are provided. The owner/licensee must submit to and have the private party function approved by the supervisor of the City's business license office provided such function does not threaten the health, safety and welfare of the participants or public. In the event the private party function is not approved by the business license supervisor the owner/licensee may appeal said decision to the license review board. The license review board shall have the authority to approve the private party function provided the function does not threaten the health, safety and welfare of the participants or public. Any decision of the license review board may be appealed to the Mayor and City Council in the same manner as set forth in section 5.3.1.5.

Private residence means a house or dwelling wherein not less than one or more than two families customarily reside and shall not include a mobile home, an apartment house having facilities for housing more than two families, a boardinghouse or rooming house where there are five or more boarders or roomers, any residence which has been unoccupied for a period of six consecutive months immediately prior to the filing of any application for license, or any residence that shall be a nonconforming use in a commercial zone.

Purchase price means the consideration received for the sale of spirituous liquors by the drink valued in money, whether received in cash or otherwise, including all receipts, cash, credits

and property, or services of any kind or nature, and also the amount for which credit is allowed by the licensee or his agent to the purchases, without any deduction therefrom whatsoever.

Purchaser means any person who orders and gives present or future consideration for any spirituous liquor by the drink.

Restaurant means any public place, including establishments referred to as a "sports bar," kept, used, maintained, advertised and held out to the public as a place where meals are served, and where meals are actually and regularly prepared and served, without sleeping accommodations, such place seating a minimum of 20 or more people, and holding a certificate of approval from the county health department. At least one meal per day shall be served at least six days per week, with the exception of holidays, vacations, and periods of redecorating; and the serving of such meals shall be the principal business conducted; with the serving of distilled spirits to be consumed on the premises as only incidental thereto. A restaurant shall have 50 percent or more of its total annual gross sales of food and alcoholic beverage from the sale of prepared meals or food.

Retail sale means selling or offering for sale alcoholic beverages to any member of the public. Such term shall also include, without limitation, the sale to any member of the public of any ticket or license, or the charging of any cover charge or fee, for admission to any event or premises where alcoholic beverages are available without further charge, as well as the sale of any ticket, stamp, token or similar item which may be redeemed or exchanged for alcoholic beverages.

Sample means a small amount of any malt beverage, wine, or distilled spirits served as a single serving.

School means only such state, county, city, church, private, or other schools, including day care facilities as teach Georgia State accredited curriculum taught in the common public schools of this state. This definition shall not include private post secondary schools where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.

Special event pouring license means a temporary license issued for a limited amount of time pursuant to section 5.4.1.11 of this chapter.

Spirituos or alcoholic liquors means all beverages containing alcohol, obtained by distillation or containing more than 21 percent of alcohol by volume, including fortified wines.

Tailgating means a social gathering of people in a designated area, for a specified, limited time period, when and where food and alcoholic beverages may be consumed immediately preceding or following an event at an event venue. Alcohol may not be sold, but attendees 21 and older can bring and consume alcoholic beverages in compliance with approvals required in section 5.3.2.19.

Tasting event means a scheduled event hosted by a licensee at which free samples may be provided and that may be open to the general public or limited by invitation.

Tax means tax imposed for each calendar month of the year.

Underage person means a person who is less than 21 years of age.

Variety store means a retail store that sells general merchandise, such as apparel, automotive parts, dry goods, hardware, home furnishings, and a selection of groceries and whose annual gross sales of alcoholic beverages do not exceed ten percent of its total gross sales.

Vinous beverages or *wine* means any alcoholic beverages containing not more than 21 percent of alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to the definition of wine contained in this section.

Wholesaler means any person engaged in distribution or selling to retailers for the purpose of resale of any alcoholic beverages as defined in this section.

Wine specialty shop means a retail establishment which has both package sales of wine and limited consumption on the premises of wine or drafts beers.

Sec. 5.1.2. Penalty for violation of chapter.

The violation of this chapter shall be punishable as allowed by law.

Sec. 5.1.3. Purposes of chapter.

This chapter has been enacted for the purposes, among others, of promoting the health and general welfare of the community; to establish reasonable and ascertainable standards for the regulation and control of the licensing and sales of alcoholic beverages; to protect and preserve schools and churches; to give effect to existing land use and preserve certain residential areas, with reasonable consideration being given, among others, to the character of the areas and their peculiar suitability for particular uses, the congestion in the roads and streets, and with a general view of promoting desirable living conditions and sustaining stability of neighborhoods and property values; and to protect against concentration of the retail outlets for alcohol in one-family residential areas or to prevent undesirable persons from engaging in or having any interest in alcoholic beverages.

Sec. 5.1.4. Territorial application of chapter

The terms and provisions of this chapter shall apply only within the corporate limits of the city.

Sec. 5.1.5. Penalty for late fee payment.

Any licensee, person or entity who fails to pay any fee, tax or other payment due to the City of any kind when due shall pay, in addition to such fee, tax or other charge, a separate penalty equal to ten percent of the required fee, tax or other charge for each period of 30 days, or portion thereof, following the due date, until paid in full, including penalties.

Sec. 5.1.6. Prohibited activities.

- (a) *On school grounds; in parks.* No alcoholic beverage shall be sold, possessed or consumed by any person in any school building or on any school grounds. No alcoholic beverages shall be sold, possessed or consumed by any person in any public park except:
 - (1) At a closed function as defined in this chapter and only at the locations specified in the definition; or
 - (2) Any area designated as an Entertainment District by action of the Mayor and City Council
 - (3) As authorized in section 5.4.1.14 of this chapter.
- (b) *In vehicles.* It shall be unlawful for any person to consume while driving or operating any vehicle on any public road or street any alcoholic beverage in any open or unsealed original container or cup, can, bottle or other open or unsealed container.

Sec. 5.1.7. Sunday permits.

A separate permit is required for the Sunday sale of alcoholic beverages for consumption on the premises and by the package for off-premises consumption (to the extent allowed by state law). Farm wineries, distillers, and brewers are not required to obtain a Sunday permit as long as they are operating in compliance with state law regarding the sale of alcoholic beverages at farm wineries, distilleries, and breweries.

ARTICLE II. TAXATION²

DIVISION 1. GENERAL EXCISE TAX

Sec. 5.2.1.1. Levied; amount; payment; duties of dealers and wholesalers; unlawful sales and deliveries; bonds; penalties.

- (a) *Scope of section.* In addition to all other taxes or license fees imposed upon retail dealers engaged in the City in the business of selling spirituous liquors, malt beverages and naturally fermented wines, as defined under the laws of the state, there is imposed and levied upon all dealers described in this section within the City an excise tax, to be computed and collected as set forth in this section.
- (b) *Amount of tax.* The excise taxes on spirituous liquors, malt beverages and fermented wine shall be that amount set forth in the schedule of excise taxes on file in the City Clerk's office and the business license office.
- (c) *Computation, payment, duties of wholesale dealer or distributor.* The tax imposed in this section shall be computable and payable monthly. Each wholesale dealer or distributor selling, shipping or delivering spirituous liquors, malt beverages or fermented wine to any retail dealer in the City shall, as a condition to the privilege of carrying on the business:

- (1) Keep true and correct records of all sales, shipments or deliveries of such alcoholic beverages to any retail dealer in the unincorporated area of the City, such records to be for a period of two years for spirituous liquors, and one year for malt beverages and fermented wine, and to be made available upon request to any duly authorized representative of the City.
- (2) Collect from each such retail dealer in the unincorporated area of the City at the time of delivery of the spirituous liquors, malt beverages and fermented wine the amount of tax due under the terms of this section and to hold such amount in trust for the City until such amount is remitted to the City as provided in this section.
- (3) Except as provided in O.C.G.A. § 3-5.81 or other applicable state law, on or before the 20th day of each calendar month make a verified and comprehensive report to the City business license office, which shall correctly show all sales and deliveries of spirituous liquors, malt beverages and fermented wine to or for retail dealers in the unincorporated area of the City for the month immediately preceding such report. Such report shall show the name and address of each retail dealer, the quantities delivered to each retail dealer, the amount collected under the terms of this section, and such other information as may be called for by the City. This report shall be accompanied by remittance to the City for all taxes collected or due as shown on the report.
- (d) *Noncompliance by wholesale dealer or distributor.* If any wholesaler dealer or distributor fails or refuses to make the report provided for in this section, the City shall notify the party in writing; and if the reports are not made and the taxes remitted within five days from the date of notice, the City may revoke the wholesaler dealer's or distributor's license. In addition, such a wholesaler must pay a late payment charge of ten percent per month for each month of delinquency together with interest on the total amount due (including late payment fee) equal to one percent per month.
- (e) *Unlawful retail sales.* It shall be a violation of this section for any person to sell at retail within the limits of the unincorporated area of the City any spirituous liquors, malt beverages or fermented wine on which the taxes provided for in this section have not been paid. This section shall also apply to farm wineries.
- (f) *Unlawful deliveries.* It shall be unlawful and a violation of this section for any wholesale dealer or distributor to deliver any spirituous liquors, malt beverages or fermented wine to any retail dealer in the unincorporated area of the City without collecting the taxes provided for in this section at the time of delivery.
- (g) *Posting of bonds.* Each wholesaler dealer or distributor who sells spirituous liquors to retail dealers in the unincorporated area of the City shall post a bond in the sum of \$10,000.00 as a condition that he shall comply with every provision and make payment of any sums due under this section. If the wholesaler's license shall be revoked for cause, the bond shall be forfeited and paid to the City.
- (h) *Violations and penalties.* Any person violating any of the provisions of this section, or who shall assist any retail dealer in spirituous liquors, malt beverages or fermented wines in the City to evade or avoid the payment of the taxes provided for in this section shall be punished as allowed by law and shall also be subject to having his license revoked.

- (i) *Farm wineries.* Wines sold at retail by a farm winery shall have levied thereon the excise tax that applies to wholesalers. Farm wineries have a duty to keep accurate records as to what is sold at retail and what is sold at wholesale.
- (j) *Distilleries.* Spirituous liquors sold at retail by a distillery shall have levied thereon the excise tax that applies to wholesalers. Distilleries have a duty to keep accurate records as to what is sold at retail and what is sold at wholesale.
- (k) *Breweries.* Malt beverages sold at retail by a brewery shall have levied thereon the excise tax that applies to wholesalers. Breweries have a duty to keep accurate records as to what is sold at retail and what is sold at wholesale.

State law reference(s)—Nudity and related acts on premises, O.C.G.A. § 3-3-41; employee solicitation of patrons for drinks on premises, O.C.G.A. § 3-3-42; display of prices of distilled spirits, O.C.G.A. § 3-4-26; levy of tax on sale of distilled spirits by the package authorized, O.C.G.A. § 3-4-80; sale of distilled spirits by the drink, O.C.G.A. § 3-4-90 et seq.; imposition of excise tax on malt beverages required, O.C.G.A. § 3-5.80; authorization to levy tax on wine, O.C.G.A. § 3-6-60.

Sec. 5.2.1.2. Records on deliveries.

Upon each and every delivery by a licensed wholesaler to a licensed retailer, written records in triplicate shall be prepared, showing the quantities and brands of spirituous liquors delivered, together with the price thereof and the tax collected thereon. The original copy of such record shall be delivered by the wholesaler to the retailer simultaneously with each such delivery. The wholesaler shall retain the second copy of such record and shall keep it and have it available for inspection by authorized representatives of the City. If requested by an authorized representative of the City, a copy of such records shall be attached to any reports requested or required by the City.

DIVISION 2. SALES OF SPIRITUOUS LIQUORS BY THE DRINK

Sec. 5.2.2.1. Imposition and rate of tax.

There is hereby imposed and levied upon every sale of spirituous liquor purchased by the drink in the City a tax in the amount of three percent of the purchase price of such drink.

State law reference(s)—Authority to impose excise tax on sale of distilled spirits by the drink, O.C.G.A. § 3-4-131.

Sec. 5.2.2.2. Purchaser's receipt; credit or deferred payment.

Every licensee for the sale of spirituous liquor by the drink for operation of a place of business in the City shall, at the time of collecting for food and drinks served, give to the purchaser a receipt on which the price of alcoholic beverages served shall be itemized separately and where the charges for food and drink are satisfied by credit or deferred in a like manner. The licensee shall itemize the charges therefor separately on the charge billing at the time and to the extent that such credits are incurred.

Sec. 5.2.2.3. Person liable for collection of tax.

Every licensee or his agent is hereby authorized and directed to collect the tax imposed in this division from purchasers of spirituous liquors by the drink sold within his licensed premises. Such licensee or his agent shall furnish such information as may be requested by the business license manager to facilitate the collection of this tax.

Sec. 5.2.2.4. Determinations, returns and payments.

- (a) *Due date of taxes.* All taxes collected by any licensee or agent under this division shall be due and payable to the City business license office monthly on or before the 20th day of every month next succeeding each respective monthly period.
- (b) *Return; time of filing.* On or before the 20th day of the month following each monthly period, a return for the preceding monthly period shall be filed with the City business license office in such form as the business license manager may prescribe for every licensee or agent liable for the payment of tax under this division.
- (c) *Contents of return.* All returns required by this division shall show the gross receipts from the sale of spirituous liquors by the drink, the amount of tax collected or due for the related period, and such other information as may be required by the business license manager.
- (d) *Delivery of return and remittance.* The person required to file the return under this division shall deliver the return, together with the remittance of the net amount of tax due, to the Business License Office.
- (e) *Collection fee.* Operators collecting the tax imposed under this division shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction for submitting, reporting and paying the amount due, if such amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from the state tax under O.C.G.A. tit. 48, Ch. 8, art. I (O.C.G.A. § 48-8-1 et seq.), as amended.

Sec. 5.2.2.5. Deficiency determinations.

- (a) *Recomputation of tax; authority to make basis of recomputation.* If the business license manager is not satisfied with the return of the tax or the amount of the tax to be paid to the City by any licensee, the manager may compute and determine the amount required to be paid upon the basis of any information within his possession or that may come into his possession. Deficiency determinations may be made of the amount due for one or more monthly periods.
- (b) *Interest on deficiency.* The amount of the deficiency determination under this section, exclusive of penalties, shall bear interest at the rate of one percent per month. Interest shall be assessed for each month or fraction thereof from the close of the monthly period in which the amount or any portion thereof should have been returned until the date of payment.

- (c) *Offsetting of overpayments.* In making a deficiency determination under this section, the business license manager may offset overpayments, for a period or periods, against underpayments for another period or periods, against penalties and against the interest on underpayments. The interest on overpayments shall be computed in the manner set forth in section 5.2.2.6.
- (d) *Penalty; negligence or disregard of rules and regulations.* If any part of the deficiency for which a deficiency determination under this section has been made is due to negligence or disregard of rules and regulations, a penalty in the amount of ten percent per month shall be added to the amount of the deficiency.
- (e) *Penalty for fraud or intent to evade.* If any part of the deficiency for which a deficiency determination under this section is made is due to fraud or an intent to evade any provisions of this division or other authorized rules and regulations, a penalty of 25 percent of the deficiency shall be added thereto.
- (f) *Time within which notice of deficiency determination to be mailed.* Except in the case of fraud, intent to evade this division or authorized rules or regulations, or failure to make a return, every notice of a deficiency determination shall be mailed within three years after the 20th day of every month following the monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period should last expire.
- (g) *Collection of unpaid fees, taxes or penalties.* If any person shall fail or neglect to pay any license fee, tax or penalty as required by this division, such fee, tax or penalty is subject to collection in the manner as provided for the collection of taxes, regardless of the provisions of this section for penalties.

Sec. 5.2.2.6. Determination if no return made.

- (a) *Estimate of gross receipts.* If any licensee fails to make a return as required by this division, the business license manager shall make an estimate of the amount of the total sales in the City which are subject to the tax. The estimate shall be made for the period in respect to which the licensee failed to make the return and shall be based upon any information which is in or may come into the possession of the business license manager. Upon the basis of this estimate, the business license manager shall compute and determine the amount required to be paid the City, adding to the sum thus determined a penalty equal to 15 percent thereof. One or more determinations may be made for one or more than one period.
- (b) *Manner of computation; offsets; interest.* In making a determination of tax due under this division, the business license manager may offset overpayments for a period or penalties against the interest on the underpayments. The interest on underpayments shall be computed at one percent per month.
- (c) *Interest on amount due.* The amount of the determination of tax due under this division, exclusive of penalties, shall bear interest at the rate of one percent per month. Interest shall be assessed for each month, or fraction thereof, from the last day of the month of the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

- (d) *Penalty for fraud or intent to evade.* If the failure to file a return for taxes due under this division is due to fraud or an intent to evade this division or rules and regulations, penalties shall be assessed at 25 percent of the deficiency, which penalty shall be added thereto.
- (e) *Written notice, manner of service.* Promptly after making his determination of taxes due under this division, the business license manager shall give to the person written notice to be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

Sec. 5.2.2.7. Penalties and interest for failure to pay tax.

Any licensee who fails to pay the tax imposed by this division to the City, or who fails to pay any amount of such tax required to be collected and paid to the City, within the time required, shall pay a penalty of ten percent per month of the tax or amount of the tax due, in addition to the tax or amount of the tax, plus interest on the unpaid tax or any portion thereof.

Sec. 5.2.2.8. Collection of tax.

- (a) *Notice of delinquency to persons holding credits or property of delinquent; duty of persons so notified.* If any person is delinquent in the payment of the amount required to be paid by him under this division or if a determination has been made against him which remains unpaid, the business license manager may, not later than three years after the payment became delinquent, give notice thereof by registered mail to all persons in the City having in their possession or under their control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent. After receiving the notice, the persons so notified shall neither transfer nor make any other disposition of the credits, other personal property or debts in their possession owed by them or under their control at the time they receive the notice until the business license manager consents to a transfer or disposition or until 20 days elapse after the receipt of the notice. All persons so notified shall within five days after receipt of the notice advise the manager of all these credits, other personal property or debts in their possession, under their control or owing by them.
- (b) *Action for tax; time for.* At any time within three years after any tax or any amount of tax required under this division became delinquent or any amount of tax was required to be collected, the business license manager may bring an action in the courts of this state, or any other state, or of the United States, in the name of the City to collect the amount delinquent together with penalties and interest, court fees, filing fees, attorney's fees and other legal fees incident thereto.
- (c) *Duty of successors or assignees of operator to withhold tax from purchase money.* If any operator liable for any amount under this division sells out his business or quits the business, his successors or assigns shall withhold a sufficient amount of the purchase price to cover such amount until the former owner produces receipts from the business license manager showing that the City has been paid or a certificate stating that no amount is due. The purchaser of the business may not operate the business until the requirements of this subsection are met.
- (d) *Liability for failure to withhold; certificate of notice of amount due.* If the purchaser of a business fails to withhold purchase price as required by this section, he becomes personally

liable for a portion of the payment of the amount required to be withheld by him valued in money. Within 30 days after receiving a written request from the purchaser for a certificate, the business license manager shall either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the business license manager of the amount that must be paid as a condition of issuing the certificate.

Sec. 5.2.2.9. Administration of this division.

- (a) *Authority of business license manager.* The business license manager shall administer and enforce the provisions of this division for the levy and collection of the tax imposed by this division.
- (b) *Rules and regulations.* The business license manager shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with this division or other laws of the City and the state, or the constitution of this state or the United States, for the administration and enforcement of the provisions of this division and the collection of taxes under this division.
- (c) *Records required of licensee, form.* Every licensee for the sale of alcoholic beverages by the drink in this City shall keep such records, receipts, invoices and other pertinent papers in such form as the business license manager may require.
- (d) *Examination of records; audit.* The business license manager or any person authorized in writing by the manager may examine the books, papers, records, financial reports, equipment and other facilities of any licensee liable for the tax imposed by this division, in order to verify the accuracy of any return made, or if no return is made by the licensee, to ascertain and determine the amount required to be paid.
- (e) *Authority to require reports; contents.* In the administration of the provisions of this division, the business license manager may require the filing of reports by any person or class of persons having in such person's or class of persons' possession or custody information relating to sales of alcoholic beverages which are subject to any tax. The reports shall be filed with the business license manager when required by the manager and shall set forth the price charged for each sale, the date or dates of sales, and such other information as the business license manager may require.
- (f) *Disclosure of business of licensee; limitations on rule.* The business license manager or any person having an administrative duty under this division shall not make known in any manner the business affairs, operations or information obtained by an audit of books, papers, records, financial reports, equipment and other facilities of any licensee or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person not having such administrative duty under this chapter, except in the case of judicial proceedings or other proceedings necessary to collect the tax levied and assessed. Successors, receivers, trustees, executors, administrators and assignees, if directly interested, may be given information as to the items included in the measure and amount of unpaid tax or amounts of tax required to be collected, interest and penalties.

Sec. 5.2.2.10. Revocation of license.

The continuous failure to pay the tax prescribed by this division shall render the dealer or person liable therefor subject to revocation of their alcoholic beverage license in accordance with the procedures set out in section 5.3.3.2.

ARTICLE III. LICENSES³

DIVISION 1. GENERALLY

Sec. 5.3.1.1. License required for manufacture, sale.

No alcoholic beverages shall be manufactured or sold at wholesale or retail, in the original package or by the drink, nor shall any bottle house be operated except under a license granted by the Mayor and City Council. A farm winery is required to obtain a license as provided in this chapter for the manufacture of wine.

Sec. 5.3.1.2. Keeping or storing alcoholic beverages.

It shall be unlawful for any person or licensee to keep, possess or store any alcoholic beverage without appropriate, valid and current state and local licenses for such beverage.

Sec. 5.3.1.3. Separate license for each place of business.

A person doing business at more than one place shall take out and pay for a separate license under this article for each place of business.

Sec. 5.3.1.4. Licenses constitute grant or privilege.

- (a) All alcoholic beverage licenses constitute a mere grant or privilege to carry on such business during the term of the license subject to all the terms and conditions imposed by this chapter and related laws and other ordinances and resolutions of the City relating to such business.
- (b) All licenses under this chapter shall have printed on the front these words: "This license is a mere privilege subject to be revoked and annulled by the Mayor and City Council and is subject to any future ordinances eliminating notice and hearing prior to revocation with or without cause."

Sec. 5.3.1.5. License review board.

- (a) There is hereby established a license review board.
 - (b) The license review board established by this section shall have the following duties:
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- (1) To hear deferred applications or appeals from administrative decisions by the business license office with regard to applications for licenses, transfers, renewals, change of ownership or other matters affecting such licenses.
 - (2) To hear appeals with regard to issuance or renewal of work permits.
 - (3) To hear matters involving any revocation, suspension or other disciplinary action against the holder of any work permit or alcoholic beverage license.
 - (4) To consider and act upon any other matters specifically delegated to the license review board by any other City ordinance or resolution or action of the Mayor and City Council.
- (c) Applicants or licensees shall be given notice of the date, time and place when the license review board will consider the respective matter. If the matter to be considered by the license review board concerns an objection to a new application for a license, which shall not include a change of ownership or licensee, a sign meeting the size and location requirements of section 5.3.1.9(b) shall be posted by the business license office at the location giving notice of the date, time and place when the license review board shall consider the application. Such applicant and interested parties shall be afforded the opportunity to be heard by the license review board prior to making its decision.
- (d) The license review board shall have the authority to hear or determine any matter set forth in this chapter and chapter 7 unless specifically prohibited therefrom.
- (e) The license review board other than as hereinafter authorized in section 5.3.3.2 shall have no authority or jurisdiction to hear, consider or render decisions of any kind with respect to the suspension, revocation, probation or other disciplinary action against a license or licensee, except for the authority given it in this article with regard to work permits.
- (f) A decision of the license review board related to work permits shall be final and may be appealed in accordance with 5.4.3.2(i). Other decisions of the license review board shall be final unless appealed to the Mayor and City Council within ten days of the date of decision by the license review board. The Mayor and City Council shall review a summary of the hearing before the license review board within 30 days of the date of the license review board's recommendation to waive the distance requirements of section 5.3.2.9 or 5.3.2.10 or direct the business license manager to place the matter down for a hearing and take any authorized action concerning the applicant's requested license. If the Mayor and City Council opt to review a summary of the hearing before the license review board it may, after such review, place the matter down for a hearing and take any authorized action concerning the applicant's requested license or licenses. No license shall be issued until the Mayor and City Council has reviewed the summary and made a decision on whether to place the matter down for hearing. In the event the Mayor and City Council affirms the decision of the license review board to issue a license, the appropriate license or licenses shall be issued.
- (g) The decision of the Mayor and City Council on an appeal under this article shall be final unless appeal is made to the superior court of Cobb County. Any aggrieved party may appeal a decision of the Mayor and City Council by filing a petition for review pursuant to OCGA 5.3-5 to the superior court within 30 days of the decision of the Mayor and City Council.

- (h) The license review board shall have no jurisdiction or authority to hear any appeal from or to reverse, modify or set aside any decision of the City Council.
- (i) *Board Composition and Organization.*
 - (1) *Appointment.* The license review board shall consist of ten members with practical and relevant knowledge in the areas of business or responsible alcohol consumption, with one member being appointed by each member of the city council. Members appointed by the mayor may reside anywhere within the corporate limits of the city, but a member appointed by a councilmember shall reside within the district of the councilmember who appointed such member.
 - (a) If a board member moves outside the city and/or the district of their appointing council member, such move shall constitute such member's automatic resignation from the license review board, with exception that the mayor's appointee may relocate their residency anywhere city-wide. Any board member planning on relocating outside the City or their appointed district, shall notify the city clerk and their appointing council member in advance of their relocation.
 - (b) Board members shall serve concurrently with their appointing council member's term of office, and until a successor is appointed.
 - (2) Any vacancy in the membership of the alcohol review board shall be filled for the remainder of the unexpired term, in the manner prescribed herein for original appointment.
 - (3) Alcohol review board members may be reappointed to successive terms without limitation.
 - (4) Members of the alcohol review board may not hold any other city office or city-compensated position.
 - (5) All individual council appointees shall be subject to confirmation by the city council, prior to such member formally serving as a alcohol review board member.
 - (6) The City Manager shall designate at least one City employee to provide administrative assistance to the license review board.
 - (7) The license review board shall meet at such times as necessary, to be determined by such board, and shall render decisions within a reasonable time. Reasonable time for the purposes of this section shall be no longer than 120 days from the date an application is filed.
 - (8) The license review board shall select one of its members to serve as chair and one of its members to serve as secretary, to serve at the pleasure of the license review board. Minutes and records of all proceedings shall be kept and maintained in the business license office.

Sec. 5.3.1.6. Application, filing; form; contents.

- (a) In accordance with O.C.G.A § 3-2-7.1, the State of Georgia requires that all retail alcoholic beverage license applications be submitted through the Georgia Tax Center's

Centralized Alcohol Licensing Portal (ALP). The City of Mableton designates this portal as the primary method for submitting such applications.

- (b) Applicants shall also be required to provide all additional documentation, affidavits, and supplemental materials required by the City of Mableton through the business license office, whether in person, by mail, or through any secure online system established by the City for local license administration.
- (c) The application shall include the name and address of the applicant licensee and any sub-licensee(s); the name of the business and the street address where the proposed business is to be located; the nature and character of the business to be carried on; if a partnership, the names of partners; if a corporation, the names of the officers and major stockholders, if any; and such other information as may be required by the business license manager or the police department, and be sworn by the applicant or agent thereof.
- (d) All applicants shall furnish all data, information and records requested by the business license manager. Failure to furnish such information within 30 days of the request shall automatically serve to dismiss, with prejudice, the application.
- (e) For the purpose of this chapter, the term “applicant” shall include, in the case of partnership or corporation, all partners, officers, directors, and major shareholders of the entity in whose name the license is to be issued.
- (f) Each application must be completed and accurate before being accepted for review and processing by the City. Any material omission or misrepresentation shall be grounds for denial or revocation.
- (g) Nothing in this section shall prohibit the City from establishing additional local review, intake, or approval processes, provided that such procedures remain consistent with the requirements of state law.

Sec. 5.3.1.7. Citizenship, residence and age requirements.

- (a) Where the applicant for a license under this chapter is a corporation, any license for the sale of alcoholic beverages shall be applied for by and shall be issued to the corporation and either the majority shareholder thereof, or a person employed full-time in a managing capacity by the corporation in the name of which the license is to be issued.
- (b) Where the applicant for a license under this chapter is a partnership, any license for the sale of alcoholic beverages shall be applied for by and shall be issued to the partnership and either the managing general partner thereof, or a person employed full-time by the partnership in a managing capacity.
- (c) Where the applicant for a license under this chapter is a sole proprietor, any license for the sale of alcoholic beverages shall be applied for by and shall be issued to the sole proprietor if he is working full-time in a managing capacity on the premises, and if not, then the sole proprietor and a person employed full-time by the sole proprietor in a managing capacity.
- (d) Each of the persons named in subsections (a), (b) and (c) of this section must be a U.S. citizen, or a legal resident alien prior to making application.

- (e) Each of the persons named in subsections (a), (b) and (c) of this section must be 25 years of age or older at the time the application for a license is filed.
- (f) If the licensee leaves employment with business or no longer qualifies as complying with the definition of "managing capacity" the alcoholic beverage license shall be void. However, when filing an application the applicant may file with the City business license a substitute licensee, who shall meet all the requirements as the original licensee and shall be approved by the business license manager. The substitute licensee may serve as licensee and the alcoholic beverage license shall remain valid in the event that the original licensee no longer qualifies as licensee.
- (g) The licensee shall notify the City business license office in writing and shall keep such notification current, of the name(s), addresses and telephone numbers of all managers and employees who are authorized to receive court documents, communications and notices required under this chapter at the location of the business. In the event none of the persons named by the licensee as authorized to receive service are at the business location at the time of service is attempted, service may be perfected by registered or certified mail or statutory overnight delivery, return receipt requested addressed to the licensee at the address provided in the application or at the address provided by the licensee subsequent to the filing of the application. The date of service shall be five days after deposit in the mail, as evidenced by the postmark, if mailed postage prepaid and correctly addressed. Failure to have a designated person at the business location to receive service of documents as aforesaid shall be grounds for revocation of the business license and denial of any application.

Sec. 5.3.1.8. False information in application.

Any material omission or untrue or misleading information contained in or left out of an original, renewal or transfer application for any license or permit issued under this chapter shall be unlawful, and shall be cause for a denial thereof. If any such license or permit has previously been granted under the above-described circumstances, such shall constitute cause for the revocation of such license or permit.

State law reference(s)—False swearing, O.C.G.A. § 16-10-71.

Sec. 5.3.1.9. Notice of intent to engage in business.

- (a) All applicants for licenses under this chapter shall give notice that application has been filed and of the purpose of making such application by publication of an advertisement once a week for two consecutive weeks by the business license manager while the application is being investigated. Such publication shall be made in the newspaper in the county in which legal advertisements are published. The notice shall contain a particular description of the location of the proposed business; the name of the applicant; and a statement that any objections to the issuance must be in writing and received by the business license manager on or before the date specified in the publication. The advertisement shall be of type not smaller than ten-point capital and lower case and shall be at least a one-inch column. The advertisement need not appear on the same days as legal advertisements are regularly published.

- (b) The applicant at locations where there is no then-existing City license for the same alcoholic beverages in effect shall cause to be placed upon the location of the proposed business a sign or signs stating the following:

City of Mableton license applied for. Any objection to this application must be in writing and received by the City of Mableton Business License Division at _____ (address) on or before _____ o'clock on the _____ day of _____ 20____.

The sign or signs shall be 18 inches by 24 inches in size and shall face toward all public streets, sidewalks or other public property which adjoin the location so as to be clearly legible by persons using such public area. The sign required by this section shall be posted on the property from the date of the first publication of the legal advertisement through the date for filing objections as specified on the signage and in the legal publication.

Sec. 5.3.1.10. Police investigation of applications; criminal history background checks.

All applications required by this chapter shall be investigated by the police department, which shall report its recommendation to the business license manager. No further action shall be taken by the City or by any applicant with respect to any application until completion by the police department of its investigation. Once the applicant has submitted all of the required information and provided any additional information requested by the business license manager or the police department, the police department shall make its recommendation within 60 days.

As part of the investigation process, the City is authorized to obtain state and national criminal history record information (CHRI) through fingerprint-based background checks conducted via the Georgia Applicant Processing Service (GAPS), pursuant to O.C.G.A. § 35.3-35 and applicable Federal Bureau of Investigation (FBI) regulations. This authorization applies to applicants, licensees, owners, managers, and any other individuals deemed necessary by the City who have substantial ownership interest in or operational control over the licensed establishment.

All CHRI obtained shall be used solely for evaluating the eligibility and suitability of individuals seeking licensure under this chapter and shall be maintained in a confidential manner in compliance with all applicable state and federal laws. The City Manager or designee shall serve as the official custodian of records and ensure compliance with all Georgia Crime Information Center (GCICI) security, access, dissemination, and retention policies.

Sec. 5.3.1.11. Initial consideration of application, mandatory training, and objection.

- (a) All new businesses at locations within the city of Mableton, where an alcoholic beverage license has not previously been issued, where there is a change of ownership of the alcoholic beverage license, or where there is any change of licensee, and the licensee has not previously attended a responsible alcohol sales and service policy workshop for owners and managers, the licensee shall attend a workshop which has been approved by the business license manager. The licensee shall attend said workshop prior to the issuance of any alcoholic beverage license. Such workshop shall be attended by the licensee at the licensee's expense. If at the time the application is considered by the business license manager the licensee has not provided evidence to the business license office that the licensee has successfully completed the alcohol sales and service workshop the application shall be denied. The provisions of this section shall apply to renewal applications as well. The workshop provision shall not be waived; wholesale distributors are exempt from this

requirement. Instructors, trainers or any persons associated or employed by the person or organization conducting the training referenced in this subsection shall not appear before the license review board or Mayor and City Council as a representative, attorney, advocate, or witness for any applicant.

- (b) All applications for licenses under this chapter shall be considered upon completion of investigation and advertisement. Licenses shall be granted by the business license manager if the application meets all the legal requirements of this chapter. If the application does not meet the legal requirements of this chapter, it shall not be granted by the business license manager. Any decision of the manager shall be final unless appeal is filed to the license review board by any aggrieved party, as provided for in section 5.3.1.5, or where an objection has been filed. The decision of the business license manager shall be transmitted to the applicant by mail.
- (c) Where an application for a license under this chapter otherwise meets all the criteria set forth in this chapter, and written objection is made to such application, such application shall be treated as follows:
 - (1) In order for a written objection to be sufficient to authorize a hearing, it shall describe how and why the person filing the objection, or the immediate surrounding neighborhood, will be negatively impacted by the issuance of such license or permit and shall specifically state the reasons therefor.
 - (2) Any written objection on any application shall be filed with the business license manager no later than the date and time set forth in the legal advertisement published in the legal organ in the City, related to such application.
 - (3) In order to meet the written objection definition as set forth in this section, the person filing the objection shall specify the property address and business of the applicant as well as the requirements of subsection (c)(1) of this section.
 - (4) If a citizen objects to more than one application, the person filing the objection shall provide separately for each application that is objected to and the information required in subsections (c)(1) through (c)(3) of this section.
 - (5) Upon the proper filing of any written objection as set forth in this section, the business license manager shall defer such application, without prejudice, and then schedule the matter for a hearing before the license review board within reasonable time thereafter; and such hearing shall be governed and handled in accordance with this chapter. The deferral contained in this subsection (b)(5) shall be without prejudice. If the person filing the objection does not attend the hearing, the license review board shall consider the application but may consider the fact that the person filing the objection is not present.
 - (6) Any decision of the manager of the business license office shall be final unless appeal is filed to the license review board by an aggrieved party on or before ten days of the date the decision by the supervisor is mailed to the applicant.

Sec. 5.3.1.12. License to be obtained within two weeks of approval of application.

- (a) All licenses under this chapter must be obtained and fees paid not later than two weeks from the date of the approval of the application; and if not so obtained, the permit granted shall be void.
- (b) When a license under this chapter has been approved and the applicant has deposited with the business license office the required fees, the license shall be issued.

Sec. 5.3.1.13. Time limit to begin business in licensed establishment; forfeiture for nonuse.

- (a) All holders of licenses under this chapter must, within 12 months after the issuance of the license, open for business the establishment referred to in the license. Failure to open the licensed establishment as referred to in this section within the 12-month period shall serve as an automatic forfeiture and cancellation of the unused license, and no refund of license fees shall be made to the license holder. No alcoholic beverages may be sold until such time as the business is open to the public.
- (b) Any holder of a license under this chapter who shall begin the operation of the business as authorized in the license, but who shall for a period of three consecutive months thereafter cease to operate the business as authorized in the license, shall upon completion of the three-month period automatically forfeit his license, which license shall then, by virtue of such failure to operate, be canceled without the necessity of any further action of the City.

Sec. 5.3.1.14. Annual license fee to be set by the Mayor and City Council.

- (a) There is hereby levied an annual license fee and tax on all persons in the City of Mableton for the manufacture, distribution, sale and consumption of alcoholic beverages, including spirituous malt and fermented wine. The annual license fee for each classification of license under this chapter shall be set by the Mayor and City Council.
- (b) The schedule of fees for each license classification under this chapter shall be on file with the City Clerk and business license office.
- (c) Any new license issued under this chapter shall be effective annually from the date the license is issued until December 31 of each year. In the case of revocation or surrender of such license before the expiration of a full year since payment of the license fee, the holder of the license shall not be entitled to receive any refund whatsoever.
- (d) All license fees required under this chapter shall be paid by certified or cashier's check, business check or credit card.

State law reference(s)—City license fees on sale of malt beverages, O.C.G.A. §§ 3-5.41, 3-5.43; maximum annual City license fee for distilled spirits, O.C.G.A. § 3-4-50.

Sec. 5.3.1.15. License fee on retail sales of spirituous liquors.

The license fee for sales of spirituous liquors by retailers or package stores is \$5,000.00 annually.

Sec. 5.3.1.16. Annual license fee, when due.

All annual license fees under this chapter shall accrue on January 1 of each year. All licenses shall be renewed prior to January 1 of each year.

Sec. 5.3.1.17. Renewal of license.

Any person subject to this chapter shall be required to renew his business license on or before December 31. Failure to pay or renew the license on or before December 31 of each year shall automatically revoke the license. Upon the expiration of the license to sell alcoholic beverages, the licensee shall cease the sale of alcoholic beverages until the grant of a current license. If the licensee operates without a license, which operation is hereby unauthorized, the licensee, in addition to other remedies and actions that may be taken by the City, shall be subject to the penalties as provided in section 5.1.5.

Sec. 5.3.1.18. Inspection of records.

Any holder of or applicant for an alcoholic beverage license must make available for audit any and all records concerning such business upon request of the business license manager or his representative. The books, records, inventory, stock and facilities of any alcoholic beverage license holder or applicant for same shall be open for inspection at any time for agents of the business license office, the finance department, and the police department.

Sec. 5.3.1.19. Removal of signs and alcoholic beverages from unlicensed premises.

When any license for selling alcoholic beverages is revoked, suspended or denied, or there is no valid state and City license in existence for the sale of those alcoholic beverages, the sale, dispensing or providing of those alcoholic beverages at that location shall immediately cease; and all signs indicating that such beverages may be sold or purchased at the location and all such alcoholic beverages shall be removed from the place of business, both outside and inside.

Sec. 5.3.1.20. Additional standards for issuance, renewal, transfer or denial of retail license.

In addition to the standards stated elsewhere in this chapter, the following standards shall apply for issuance, retention, renewal, transfer or denial of licenses for the retail sale of alcoholic beverages either by the package or for consumption on the premises:

- (1) Evidence that, even though there is compliance with the minimum distances from schools and churches, the type and number of schools or number of churches in the vicinity causes underage persons to frequent the immediate area.
- (2) Evidence that the location of the type of structure could create difficulty in police supervision.
- (3) Evidence that there are no licenses granted in the area or that the proposed area already is adequately supplied with such licenses.
- (4) Evidence that a license for the location would be detrimental to the property values in the area.

- (5) Evidence that the license in that location would be detrimental to traffic conditions or that there is a lack of sufficient parking which would result in parking on the streets or adjoining property.
- (6) Evidence that alcoholic beverages have been sold to an intoxicated person or to an underage person, unless such sale(s) involved persons or entities unrelated to or unassociated with the applicant or sale(s) that have been previously addressed in an administrative or judicial proceeding.
- (7) Evidence that the conducting of the business creates a disturbance, congregation of intoxicated persons, congregation of underage persons, or consumption of alcoholic beverages on the premises by underage persons, or causes the police to answer excessive complaints or make extra surveillance of the premises. More than three underage persons without supervision of a parent or one authorized by a parent shall be prima facie a congregation of underage persons. Excessive is defined as three or more complaints involving the business within any cumulative, three months, selected.
- (8) Evidence that any agent or employee of any corporation in which any shareholder of the applicant had any interest, violated any ordinance, law statute regulating the business.
- (9) In addition to the standards set out in subsections (1) through (8) of this section, the following evidence shall be considered in the public interest and welfare:
 - a. If the applicant is a previous holder of a license, the manner in which he conducted the business thereunder as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulations or ordinance relating to such business.
 - b. If the applicant's spouse shall not be able to meet the qualifications of an applicant, particularly if it appears that the applicant's spouse or another person is using the applicant as a guise or dummy to obtain a license.

DIVISION 2. ISSUANCE STANDARDS⁴

Sec. 5.3.2.1. Issuance of license to persons with prior convictions.

- (a) No license for the sale of alcoholic beverages or the operation of a bottle house for pecuniary gain shall be issued to any person where any individual having an interest either as owner, partner, principal shareholder, or licensee, directly or indirectly, beneficial or absolute, or spouse, shall have been convicted within ten years immediately prior to the consideration of the alcoholic beverage application for any felony, or for the violation of any City, County, state, or federal law of soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, gambling; or any charge relating to the sale of alcoholic beverages or serious traffic offense as defined in O.C.G.A., tit. 40, ch. 6,

⁴State law reference(s)—Governing authority to set forth ascertainable standards pertaining to the granting, refusal, suspension or revocation of alcoholic beverage permits or licenses, O.C.G.A. § 3-3-2(b)(1).

art. 15 (O.C.G.A. § 40-6-390 et seq.), the traffic offense of hit and run or leaving the scene of an accident, but excluding any first conviction for driving under the influence of alcohol or drugs, or for whom outstanding indictments, accusations or criminal charges exist charging such individual with any of such offenses and for which no final disposition has occurred.

- (b) For wholesale distributors, all requirements in section 5.116(a) apply except for those in reference to the spouse of the owner, partner, principal shareholder, or licensee.
- (c) If at the time of application the applicant is charged with any of the offenses prescribed in this subsection, consideration of the application shall be dismissed without prejudice and the applicant shall be allowed to reapply upon final disposition of any such charge. The license review board may waive a denial of an application based on any criteria in this section after hearing in all cases except those involving a felony conviction. The Mayor and City Council may waive a denial after hearing in all cases. The applicant shall appeal any denial by virtue of a felony conviction directly to the Mayor and City Council without hearing by the license review board.

Sec. 5.3.2.2. Circumstances prohibiting issuance.

- (a) No alcoholic beverage license may be issued where the application or other evidence shows any of the following conditions to exist:
 - (1) That the applicant is of bad moral character or has a bad reputation in the community or does not have sufficient mental capacity to conduct the business for which application is made.
 - (2) That the applicant has had any license issued under the police powers of any county, state, municipality or other governmental entity previously suspended or revoked.
 - (3) That the applicant has violated any law, regulation or ordinance relating to such business within a five-year period immediately preceding the date of application.
 - (4) That any applicant for a retail license under this chapter is related to any distributor or wholesaler of alcoholic beverages or employees thereof within the first degree of consanguinity or affinity as computed according to civil law. This subsection shall not restrict a farm winery from selling at retail and wholesale.
 - (5) That any applicant or any corporation or partnership of which the applicant is or was an officer, director, shareholder, general partner or managing agent is delinquent in payment of any property tax or other tax or license fee payable to the City, County or to the State.
 - (6) The applicant has demonstrated lack of knowledge of the City ordinances and federal and state law regulating the business. Prima facie evidence of lack of knowledge, as described in this subsection, would include but is not limited to violations of such law or regulation, regulating the business.
 - (7) The applicant fails to answer questions on the alcoholic beverage application accurately or failure of the applicant to provide accurate information to the Mayor and City Council, license review board, police, or business license staff regarding laws and regulations governing the business.

- (8) That the alcoholic beverage license is sought for use at a sexually oriented business, as defined in chapter 7, article III, division 8 of this Code.
- (b) Notwithstanding the circumstances set out in subsections (a)(1) through (a)(7) of this section, the license review board or the Mayor and City Council may waive such circumstances and grant a license. No waiver may be granted for the circumstance set out in subsection (a)(8).

Sec. 5.3.2.3. Previous denials of license.

No license shall be issued to an applicant if within 12 months immediately preceding the filing of an application any of the following occurred:

- (1) The same applicant for a license, transfer or renewal had been rejected for any location, if such rejection was based upon the applicant's failure to meet the terms of the ordinance applicable to the applicant, as opposed to rejection for reasons related to the location itself.
- (2) The location has been rejected.
- (3) The applicant has withdrawn, without permission of the license review board, an application at any time within seven days immediately preceding the time and date set for the hearing before the license review board.
- (4) When any application for a permit to transact any business within the control of the police powers is denied for cause or any license is revoked for cause by the Mayor and City Council.

The one-year waiting period will not apply where the applicant shall apply for a new location that has not been rejected within the past year.

Sec. 5.3.2.4. Denial on basis of license already held.

- (a) No application for a license to sell spirituous liquors by the package at retail shall be granted where the members of the applicant's family, including the applicant, either individually or collectively, already holds two interests in a license to sell liquor by the package at retail anywhere in the state.
- (b) As used in this section, an interest in a license shall be deemed to exist if the person involved is the outright owner of the license, a co-owner of the license, a partner in a partnership which owns all or any part of a license, a stockholder in any corporation organized for pecuniary gain which owns all or any part of a license, an owner, lessor, sublessor or stockholder in any corporation organized for pecuniary gain owning or leasing any real estate which is occupied by a retail liquor store or shares in any of the income or corpus of any trust fund or estate having any interest in a retail liquor store.
- (c) Upon any change in any relationship declared under this section, the licensee must notify in writing the business license office within 72 hours after such change is made, giving details of such change.

- (d) No retail licensee or person having an interest therein shall have any business or commercial transactions with a wholesaler or manufacturer of alcoholic beverages other than the purchase of and payment for alcoholic beverages.
- (e) No retail package license shall be approved where the licensee pays to any person any rent, management fee or other payment based on the profits or sales of such licensed store. Any legal, accounting, management or other consulting fees and all rentals shall be in amounts which are reasonable for the area and consistent with amounts paid by other businesses and other retail business establishments. All retail establishments will maintain books that correctly reflect all business transactions and shall make them available for inspections and audit by the City. Such records shall be maintained for a period of five years.
- (f) It shall be unlawful for any licensee or person having an interest therein to have any connection, either directly or indirectly, in any scheme or device to obtain an interest in a retail package store, being more than allowed by this chapter, or to engage in any scheme or device to use another person as a guise or dummy to obtain a retail license.

Sec. 5.3.2.5. Wholesale licensees prohibited from interest in other licenses.

No person who has any direct financial interest in a license for the sale of alcoholic beverages at wholesale shall hold any other license under the terms of this chapter. This section shall not apply to farm wineries.

Sec. 5.3.2.6. City officials and employees of public safety agency and community development department prohibited from interest in license.

No elected or full-time appointed official of the City or any employee of the city's public safety agency, or community development department, or his spouse or minor children shall have any whole, partial, or beneficial interest, as set forth in section 5.119(b), in any license to sell alcoholic beverage or license to operate a bottle house in the City.

Sec. 5.3.2.7. Architectural and zoning standards.

All applicants for licenses for premises that have not previously been in use for the same purpose as applied for shall furnish plans and renderings of the proposed premises. Such premises shall be constructed, renovated or built so as to be equal to and compatible with the surrounding neighborhood or better. The exterior shall be of finished building material such as brick, stone, steel or wood, but not concrete block. The applicant shall comply with all building, County health and similar City codes. An applicant for a retail or pouring license shall obtain and file with his application a certification of zoning compliance, certifying that the property where the applicant shall operate his business is zoned for the appropriate category as provided in this article.

Sec. 5.3.2.8. Zones where business permitted.

- (a) No license shall be issued to a wholesaler of alcoholic beverages unless the wholesaler's business is to be located in the area of the City which is zoned commercial or industrial.

- (b) No pouring license for the sale of alcoholic beverages by the drink or the operation of a bottle house shall be issued unless the location has been zoned NS, PSC, GC, TS, CRC, NRC, PVC, RRC, OHR, OMR, or O&I, but not industrial, under the zoning laws of the City, or is in use as a business under a specific special use permit; provided, that this section shall not apply to farm wineries, distilleries, breweries, or private clubs as defined in this chapter; and, provided, further, that a license under this chapter may be issued in a location which has been zoned for apartments, subject to approval by the license review board and Mayor and City Council. No license shall be issued for a location which operates as a nonconforming use. Notwithstanding the provisions of this subsection (b) an amusement park, as defined in section 5.1.1, may obtain an amusement park pouring license for the sale of alcoholic beverages by the drink under the limitations as hereinafter set forth for an amusement park contained in section 5.4.1.9.
- (c) Notwithstanding paragraph (b) above, a pouring license for the sale of alcoholic beverages by the drink may be issued in a location zoned UVC provided all other requirements of chapter 5 are met.
- (d) No license for the retail sale of alcoholic beverages in package form shall be issued to any person for the operation of such business, except within the areas zoned GC, NS, PSC, OHR, OMR, CRC, NRC, PVC, RRC, TS, UVC, or LRC; however, there shall be no sale of spirituous liquor by the package in LRC or UVC; provided, that this section shall not apply to farm wineries, distilleries, or breweries as defined in this chapter. Each alcoholic beverage package sale made in UVC must be accompanied by the sale of food prepared on the premise of the business. No license shall be issued for a location which is a nonconforming use. License package sales of alcoholic beverages to registered overnight guests of a hotel or motel shall be permitted. A farm winery will comply with current zoning regulations.
- (e) No license shall be issued to serve or pour alcohol shall be issued at any establishment which operates as a sexually oriented business.

Sec. 5.3.2.9. Distance requirements—From residences.

No license under this chapter shall be issued to any location which is within a 300-foot radius of a property line of a private residence; however, if the license review board, if appeal is filed, at a public hearing shall determine that the property values of the residence or residences will not be affected, that the quiet enjoyment of the premises by the residents thereof shall not be adversely affected, and that the grant of such license shall have no other adverse effect on the residents, the license review board or the Mayor and City Council may waive this provision of this section by granting a distance waiver. A distance waiver remains in effect for any alcoholic beverage license for that location provided that the establishment does not cease operation for 12 or more months, and the business activity does not change. This section shall not apply to residences located within commercial zones. The distance requirements from residences sited in this section do not apply to any residentially used structures that are contained in the PVC, RRC, UVC, and ROD zoning categories. The distance requirements in this section do not apply to structures that develop in accordance with the Mableton form-based redevelopment district. Wholesalers and distributors are exempt from this section.

Sec. 5.3.2.10. Distance requirements—From schools, churches, parks or libraries.

No license shall be issued under this chapter where the place of business of the applicant is located within a radius distance of 600 feet of a public library, church, public park, or school or college. However, at a public hearing the license review board or the Mayor and City Council may waive the distance requirements of this section by granting a distance waiver if satisfactory evidence shall be produced before the license review board or the Mayor and City Council that no adverse effect to property values or the use of the facilities for the purposes aforesaid would occur if a license was granted. A distance waiver remains in effect for any alcoholic beverage license for that location provided that the establishment does not cease operation for 12 or more months, and the business activity does not change. The distance requirements in this section do not apply to structures that develop in accordance with the Mableton form-based redevelopment district; however all state distance requirements remain in effect through the appropriate state code. Wholesalers and distributors are exempt from this section.

Sec. 5.3.2.11. Distance requirements—Exemption for existing establishments.

Any application for renewal or transfer of license under this chapter on an existing licensed location shall not be required to meet the distance requirements from churches, schools, private residences and other distance requirements set forth in this chapter. An application filed under this section shall meet and qualify under all other requirements of this chapter for the granting of a new license.

Sec. 5.3.2.12. Filing of plats.

- (a) Each application for an alcoholic beverage license at a location for which there is no existing City license within the preceding 12 consecutive months from the date the application was filed with the City of Mableton Business License Division for the same type of alcoholic beverage license in effect shall include a blue line copy of a surveyor's plat, 8½ inches by 11 inches in size, with a scale of one inch equals 200 feet, showing the location of the building or proposed building and location of all customer entries in relation and distance to all real property and buildings on such real property which fall within the distance requirements set forth in sections 5.3.2.9 and 5.3.2.10, together with the zoning classifications and present uses of all such real property. Each application for an alcoholic beverage license at a location which has not previously been occupied for other than residential purposes or on which there is or is to be new construction shall also include a copy of a site plan approved by the community development department.
- (b) All real property, locations, structures and improvements thereon shall comply with all City building codes, zoning and planning ordinances and requirements, and all other City ordinances. After issuance of any license under this chapter, no change in the location of the building or customer entry locations shall be made which would affect compliance with any distance requirements of this chapter.

Sec. 5.3.2.13. Completion of proposed licensed premises.

Where a building in which a retailer or bottle house operator intends to operate under the provisions of this chapter is, at the time of the application for such license, not in existence or not

yet completed or renovated, a license may be issued for such location provided the plans for the proposed building show clearly that they are in compliance with all other provisions of this chapter. No sales or consumption shall be allowed in such establishment until it has been completed in accordance with the plans and is in conformity with all of the other provisions of this chapter.

Sec. 5.3.2.14. Additional architectural standards for retail sales establishments.

- (a) No licensee for the sale of alcoholic beverages by the package shall operate under such license unless the front entrance to the licensed premises is clearly visible from the public street; provided, however, that this restriction shall not apply where the licensee is a hotel, motel, private club, farm winery, distillery, brewery, or is located in a shopping center or multiple story business building. Clearly visible shall mean that not less than 60 percent of the front area shall be glass. Front area shall mean the width of the premises from the ceiling to the floor.
- (b) No screen, blind, curtain, partition, article or thing which shall prevent a clear view into the interior shall be permitted in the window or upon the doors of any retail store for the sale of alcoholic beverages by the package, and no booth, screen, partition or other obstruction shall be permitted within the interior of any such store. Each such store shall be so lighted that the interior of the store is visible day and night. This subsection shall not apply to farm wineries, distilleries, or breweries.
- (c) Private clubs which have been granted licenses under this chapter to sell spirituous liquors at retail shall not have an outside or street entrance for such retail outlet to sell to the general public, nor shall any such establishments make any sales to any member of the general public who is not a member of the private club.

Sec. 5.3.2.15. Supplemental requirements for sale of alcoholic beverages for on-premises consumption.

- (a) No license for the sale of alcoholic beverages by the drink shall be issued to any applicant who does not meet the requirements of a restaurant, food hall café, amusement park, hotel, or private club, lounge, bar, or nightclub as defined in this chapter. No bottle house shall operate unless it shall obtain a pouring license. This subsection shall not apply to farm wineries, distilleries, or breweries.
- (b) Failure to produce satisfactory evidence that the business meets the percentage of food requirement of its total annual food and beverage sales from the sale of food as required to be a bar or restaurant shall be cause for denial or revocation of the alcoholic beverage licenses.

Sec. 5.3.2.16. License prohibited for package sales in connection with sales of alcoholic beverages by the drink; wine and/or beer sampling.

- (a) Except in a grocery store, farm winery, distillery, or brewery, no retail license for the sale of alcoholic beverages by the package shall be allowed where such sale would take place in, or in connection with, any restaurant, cafe or eating place, or in the same room where a bar is maintained for the dispensing and sales of alcoholic beverages.

- (b) Businesses with an adjacent or adjoining establishment for the sale of beer and wine by the package are required to obtain the respective beer and/or wine package license. An adjoining door may exist between establishments and may be used for customers during business hours, but must be locked when the sale of alcohol is not allowed.
- (c) Businesses other than convenience stores and drug stores, as defined in this chapter, which are licensed for wine and/or beer package sales, may allow sampling of wine and/or craft beers as defined in this chapter, provided there is no charge for admittance or for the wine or craft beer sample and the serving size of each sample does not exceed two ounces.
- (d) Notwithstanding any other provision of this title, retail package liquor stores shall be authorized to conduct up to 52 tasting events per calendar year, subject to the following terms and conditions:
 - (1) A tasting event shall only take place on the licensed premises and only at times at which such alcoholic beverages may be lawfully sold on such licensed premises;
 - (2) Only one tasting event per day may be held on the licensed premises and such tasting event shall not exceed four hours;
 - (3) Only one type of alcoholic beverage may be served at a tasting event, either malt beverages, wine, or distilled spirits; provided, however, that more than one brand of such type of alcoholic beverage may be offered so long as not more than four packages are open at any one time;
 - (4) If the tasting event is for malt beverages, a consumer shall not be served more than eight ounces of malt beverages during such tasting event. If the tasting event is for wine, a consumer shall not be served more than five ounces of wine during such tasting event. If the tasting event is for distilled spirits, a consumer shall not be served more than one and one-half ounces of distilled spirits during such tasting event;
 - (5) Only alcoholic beverages that the licensee is licensed to sell on the licensed premises may be offered as part of a tasting event, and such alcoholic beverages shall be part of the licensee's inventory;
 - (6) Only food that is lawful to sell on the licensed premises, under this title or under any rules or regulations of the commissioner, may be served as part of a tasting event. Such food shall be offered at no cost to the consumer;
 - (7) Any operator or employee of the licensee may refuse to provide any brand, type, or quantity of alcoholic beverage to any consumer;
 - (8) The licensee shall notify the governing authority of the City in which the licensed premises is located prior to holding a tasting event;
 - (9) Any broken package containing alcoholic beverages on the licensed premises that is not licensed for retail sales for consumption on the premises shall be kept locked in a secure room or cabinet by the operator of the licensed premises except when in use during a tasting event;
 - (10) Representatives and salespersons of manufacturers or wholesalers may attend a tasting event; provided, however, that such representatives and salespersons shall not host the

tasting event, pour any alcoholic beverage, or provide anything of value to any consumer or to the licensee or an employee of a licensee; and

- (11) Any other terms, conditions, and limitations as may be required or imposed from time to time by the Mayor and City Council where the licensed premises is located.

Sec. 5.3.2.17. Joint sales of alcoholic beverages by the drink and by the package prohibited.

A pouring license shall not permit the sale of alcoholic beverages by the bottle or package except as provided by section 5.3.2.8. This section shall not apply to farm wineries selling wine by the package.

Sec. 5.3.2.18. Special provisions and exemptions within certain mixed-use developments.

- (a) The provisions of this section are intended to set forth certain exceptions and provisions applicable only to licensees whose establishments are located within certain large mixed-use development districts, as hereinafter defined, holding licenses to sell alcoholic beverages for consumption on the premises. Except as specifically set forth in this section, all such licensees remain subject to all other provisions of the City's alcoholic beverage ordinance.
- (b) For the purposes of this section only, a mixed-use development district is defined as a development that is zoned RRC with a public event venue with permanent seating in excess of 20,000 seats (and to include attendant parking facilities) and may include a mixture of retail, restaurants, entertainment, office space, and hotel units.
- (c) The City minimum distance requirements for on-premises consumption establishments in a mixed-use district are waived. All state minimum distance requirements to properties outside of the boundaries of such certain mixed use development districts shall remain in effect.
- (d) Outside consumption of alcoholic beverages permitted as follows:
 - (1) The areas designated for the outside consumption of alcoholic beverages shall be depicted on a plan, presented by the applicant, that shall be approved by both the mixed-use development district management and the Mayor and City Council and include locations where free-standing vendors (as distinguished from a licensed premises) may sell alcoholic beverages within the designated area. Areas designated for the outside consumption of alcoholic beverages must include methods for verifying identification, determining eligibility for adults to purchase and consume alcoholic beverages, and ensuring minors will not be served alcohol beverages.
 - (2) *Drinking from glass bottle or other glass container prohibited.* It shall be unlawful for any person to drink or attempt to consume any alcoholic beverage from a glass bottle or other glass container, or to possess in an open bottle or glass any alcoholic beverage in the area designated for outside consumption of alcoholic beverages.
 - (3) *Purchase from licensed premises within mixed-use development districts.* Alcoholic beverages consumed, within the area designated for outside consumption, pursuant to these provisions must be purchased from a licensed premise or approved free standing vendor within the mixed-use development district.

- (4) *Consumption limited to lawful hours of operation.* No alcoholic beverage purchased pursuant to this provision shall be consumed except within the authorized hours of sale.
- (5) *Two drink on-street limit.* Any establishment or free-standing vendor licensed to sell alcoholic beverages by the drink for consumption is authorized to dispense alcoholic beverage(s) in a paper or plastic cup, or other container other than a glass bottle or other glass container, for consumption in the designated area as depicted in the approved plan as described in section 5.3.2.18(d)(1). However, no establishment shall dispense to any person more than two such alcoholic beverages at a time. No alcoholic beverage container shall be more than 24 fluid ounces in size. No individual shall have more than two open containers of alcoholic beverages in their possession.
- (e) Section 5.3.2.18 contains specific regulations pertaining to the sale and consumption of alcoholic beverages. Areas that are permitted to operate in conformity with section 5.3.2.18 are not considered a bottle house as defined in this chapter.
- (f) Violation of 5.3.2.18 is a misdemeanor. Any person who violates section 5.3.2.18 is guilty of a misdemeanor.
 - (1) *First conviction.* A fine of not less than \$100.00 nor more than \$1,000.00 and costs and/or imprisonment in the City jail for not more than 60 days or both.
 - (2) *Second conviction.* A fine of not less than \$200.00 nor more than \$1,000.00 and costs and/or imprisonment in the City jail for not more than 60 days or both.
 - (3) *Third conviction.* A fine of not less than \$500.00 nor more than \$1,000.00 and costs and/or imprisonment in the City jail for not more than 60 days or both.
 - (4) *Fourth conviction.* Any person convicted of four or more violations of this section shall be subject to a fine of not less than \$1,000.00 and costs and/or imprisonment in the City jail for not more than 60 days or both. A fourth conviction shall be considered a misdemeanor of a high and aggravated nature.

Sec. 5.3.2.19. Tailgating.

- (a) The provisions of section 5.3.2.19 are intended to set forth certain exceptions and provisions applicable only to areas that have been established as a location approved for tailgating.
- (b) Definitions for the purposes of section 5.3.2.19 only:
 - (1) *Mixed-use development district* means a development that is zoned RRC and may include a mixture of retail, restaurants, entertainment, office space, hotel units, and a public event venue with permanent seating in excess of 20,000 seats (and to include attendant parking facilities).
 - (2) *University* means an educational institution designed for instruction, examination, or both, of students in many branches of advanced learning, and authorized to confer various degrees.
- (c) Tailgating is permitted as follows:

- (1) The areas designated for tailgating shall be depicted on a plan, presented by the applicant, that shall be approved by both the mixed-use development district management or the university and the Mayor and City Council.
- (2) Tailgating area plans shall include:
 - a. Area(s) where the outside consumption of alcoholic beverage shall be allowed;
 - b. Locations of permanent or temporary public restroom facilities;
 - c. Locations of areas designated for outdoor cooking;
 - d. Locations of trash receptacles and recycling containers; and
 - e. Prohibition on littering.
- (d) Prohibition of the sale of alcoholic beverages, food products or other items related to the event activities. The outside consumption of alcoholic beverages shall be allowed when they are transported to the designated areas for personal consumption. No beverage, alcoholic or otherwise, or food product shall be sold or purchased within the area(s) designated for tailgating;
- (e) Drinking from glass bottle or other glass container prohibited. It shall be unlawful for any person to drink or attempt to drink any alcoholic beverage from a glass bottle or other glass container, or to possess in an open bottle or glass any alcoholic beverage in the area designated for outside consumption of alcoholic beverages.
- (f) Section 5.3.2.19 contains specific regulations pertaining to the consumption of alcoholic beverages. Areas that are permitted to operate in conformity with section 5.3.2.19 are not considered a bottle house as defined in this chapter.
- (g) Violation of 5.3.2.19 is a misdemeanor. Any person who violates section 5.3.2.19 is guilty of a misdemeanor.
 - (1) *First conviction.* A fine of not less than \$100.00 nor more than \$1,000.00 and costs and/or imprisonment in the City jail for not more than 60 days or both.
 - (2) *Second conviction.* A fine of not less than \$200.00 nor more than \$1,000.00 and costs and/or imprisonment in the City jail for not more than 60 days or both.
 - (3) *Third conviction.* A fine of not less than \$500.00 nor more than \$1,000.00 and costs and/or imprisonment in the City jail for not more than 60 days or both.
 - (4) *Fourth conviction.* Any person convicted of four or more violations of this section shall be subject to a fine of not less than \$1,000.00 and costs and/or imprisonment in the City jail for not more than 60 days or both. A fourth conviction shall be considered a misdemeanor of a high and aggravated nature.

DIVISION 3. FEE, SUSPENSION, REVOCATION OR TRANSFER⁵

Sec. 5.3.3.1. Violations of chapter.

The violation of any of the provisions of this chapter by the holder of a license under this chapter or the licensee's agents or employees, whether compensated or not, shall subject the holder of such license to revocation, suspension or probation of the license.

Sec. 5.3.3.2. Procedure for fee, suspension and revocation.

- (a) It is determined that the following are violations:
 - (1) When for any single offense, a licensee or anyone in the employ of the business holding the license is charged with, arrested for, or convicted of selling alcoholic beverages to an underage person or persons or on Sunday without necessary Sunday sales license; or
 - (2) When for any single offense, a licensee or anyone in the employ of the business holding the license is charged with, arrested for, or convicted of selling alcoholic beverages to an intoxicated person pursuant to O.C.G.A. § 3-3-22.
- (b) The police department shall notify the business license division of any violation of section 5.3.3.2(a).
- (c) Upon notice of a violation of section 5.3.3.2(a), the business license division shall notify the license holder of the pending suspensions as follows:
 - (1) First offense—One day suspension;
 - (2) Second offense occurring within the 12-month period immediately preceding the violation—Three-day suspension;
 - (3) Third offense occurring within the 12-month period immediately preceding the violation—Seven-day suspension;
 - (4) Fourth offense occurring within the 12-month period immediately preceding the violation—Ten-day suspension;

Such notice to the licensee shall also provide rights of appeal and other rights under this section.

- (d) The license holder that has been provided notice of a violation of section 5.3.3.2(a) may, within ten days of receipt of notice, appeal the suspension set out in subsection (c) of this section and request a hearing by the license review board which will be set down within 60 days of request for appeal. The hearing shall proceed as any due cause hearing and the board may consider mitigating and aggravating circumstances in reaching its determination.
- (e) Pursuant to section 5.3.3.2(d), if at any time, the business license department becomes aware of a fifth or subsequent violation of section 5.3.3.2(a), the matter shall be set down for hearing by the license review board.
- (f) For businesses with multiple physical locations under a single licensee, the suspension periods in section 5.3.3.2(c) are imposed per physical location.
- (g) No alcoholic beverage license which has been issued or which may hereafter be issued shall be suspended or revoked except for due cause as defined in this section, after a hearing and upon written notice to the holder of such license of the time, place and purpose of such hearing and a statement of the charge or charges upon which such hearing shall be held.

- (1) Once the business license manager becomes aware of any reason for a possible suspension or revocation, he/she shall place the matter for hearing by the license review board. A minimum of three days' notice of the hearing date shall be provided to the licensee.
- (2) Due cause for the suspension or revocation of such license shall consist of one or more of the following:
 - a. The violation of any laws or ordinances regulating such business or for the violation of any state or federal law;
 - b. Any deleterious change in the area where such business is located, which change is deemed by the Mayor and City Council to cause such business in such area to be undesirable;
 - c. Any reason such as increased crime or other nuisance or activity within 1000 feet of the establishment which would authorize the Mayor and City Council to refuse the issuance of a license;
 - d. Any violation of this chapter; or
 - e. A determination by the Business License Office or the Police Department that the applicant for the license was used as a guise, straw man or dummy for a person prohibited by this chapter from obtaining such license; or
 - f. A second offense of any violation of section 5.3.3.2(a).
- (3) Due cause hearing. The license review board at such hearing shall hear evidence of the circumstances of the possible due cause and after said hearing may recommend that the license to sell alcoholic beverages be suspended for a maximum of 12 months or revoked. The license review board, and the Mayor and City Council, if applicable, may consider mitigating and aggravating circumstances in considering sanctions, including but not limited to, attendance of a responsible alcohol sales and service (RASS) workshop, implementation and components of written policies, that employees have or do not have alcoholic beverage work permits, implementation and results of mystery shopper program, implementation and components of a training program, number of violations of business, number of violations of licensee, number of stores, length of time in business, compliance check was due to a complaint, identification was not checked, and any other facts deemed relative by the fact finder.
- (4) Affirmation by Mayor and City Council. If the license review board recommends suspension or revocation and the owner of the alcoholic beverage license, the licensee or both should fail to appeal such suspension or revocation recommendation, then the suspension or revocation shall become effective upon affirmation by the Mayor and City Council of such suspension or revocation recommendation and the owner of the alcoholic beverage license and the licensee shall be deemed to have acquiesced to such suspension or revocation. The Mayor and City Council shall, within 60 days of the license review board action, review a summary of the hearing before the license review board wherein the alcoholic beverage license was considered for suspension or revocation (the summary shall be prepared by the business license manager) and the Mayor and City Council after such review may place the matter down for a hearing or affirm or alter the decision of the license review board. Should the Mayor and City

Council place the matter down for hearing, the Mayor and City Council may suspend, for a maximum of 12 months, or revoke the alcoholic beverage license.

(5) Appeal.

- a. In the event the license review board recommends that the alcoholic beverage license be suspended or revoked, the owner of the alcoholic beverage license, the licensee or both may file an appeal with the business license manager of such recommendation within ten days to the Mayor and City Council. The Mayor and City Council shall conduct a de novo review and any additional evidence may be presented at the appeal hearing.
 - b. If a hearing occurred before the Mayor and City Council, such decision is final unless appeal is made to the Cobb County Superior Court. Any aggrieved party may appeal a decision of the Mayor and City Council by filing a petition for review pursuant to OCGA 5.3-5 to the Cobb County Superior Court within 30 days of the decision of the Mayor and City Council.
- (h) In all hearings held pursuant to this section, the proceedings shall be as informal as compatible with justice, the hearing shall be expedited and normally shall not exceed 30 minutes in length, and the following procedures shall prevail:
- (1) The charges and specifications against the licensee and the response as filed by the licensee shall be read.
 - (2) The City representative shall present evidence, and then the licensee shall present his evidence, with opportunity for each party to present rebuttal evidence, examination and cross examination of witnesses, and interrogation by the Mayor and City Council. No evidence shall be presented which is not relevant to the charges.
- (i) In the event a license to sell alcoholic beverages is suspended a sign issued by the business license office shall be placed at each entrance to the facility wherein alcoholic beverages were sold with the sign providing, "THE LICENSE TO SELL ALCOHOLIC BEVERAGES ISSUED TO THE OWNER AND LICENSEE OF THIS BUSINESS HAS BEEN SUSPENDED FROM _____ TO _____ AS A RESULT OF SELLING ALCOHOLIC BEVERAGES TO AN UNDERAGE PERSON, AN INTOXICATED PERSON OR AN UNAUTHORIZED SUNDAY SALE." In the event a license to sell alcoholic beverages is revoked, a sign issued by the business license office shall be placed at each entrance to the facility wherein alcoholic beverages were sold with the sign providing, "THE LICENSE TO SELL ALCOHOLIC BEVERAGES ISSUED TO THE OWNER AND LICENSEE OF THIS BUSINESS HAS BEEN REVOKED AS A RESULT OF SELLING ALCOHOLIC BEVERAGES TO AN UNDERAGE PERSON, AN INTOXICATED PERSON OR AN UNAUTHORIZED SUNDAY SALE." The sign shall stay in place for the period of suspension or in the case of a revocation for a period of 30 days.

Sec. 5.3.3.3. Administrative penalty.

- (a) In lieu of the suspensions set out in section 5.3.3.2(c), a business holding the license under which the violation occurred may elect to pay an administrative penalty in accordance with the following schedule:

- (1) An administrative penalty of \$750.00 for the first offense of the violations set forth in section 5.3.3.2(a).
 - (2) An administrative penalty of \$750.00 per day for each day of the corresponding suspension, if a second violation of section 5.3.3.2(a) occurs within the 12-month period immediately preceding the violation.
 - (3) An administrative penalty of \$750.00 per day for each day of the corresponding suspension, if a third violation of section 5.3.3.2(a) occurs within the 12-month period immediately preceding the violation.
 - (4) An administrative penalty of \$750.00 per day for each day of the corresponding suspension, if a fourth violation of section 5.3.3.2(a) occurs within the 12-month period immediately preceding the violation.
- (b) In addition to the appeal process set forth in section 5.3.3.2(d), if a business finds the above administrative penalties overly burdensome, the business may appeal the administrative penalty and request a hearing before the Mayor and City Council regarding the amount of the administrative penalty. The business has the burden of proof to show a financial hardship.

Sec. 5.3.3.4. Automatic revocation of City license upon revocation of state license.

Whenever the state shall revoke any permit or license to manufacture or sell at wholesale or retail any alcoholic beverages, the City alcoholic beverage license shall be automatically revoked without any action by the Mayor and City Council.

Sec. 5.3.3.5. Restrictions upon transfers.

Licenses under this chapter shall not be transferable as to location or ownership, except upon approval of the business license manager and issuance of and payment for the license, subject to the following:

- (1) In case of the death of any person holding such a license or any interest therein, the license may, in the discretion of the supervisor, be transferred to the administrator, executor or the lawful heirs of the deceased person.
- (2) Nothing in this section, however, shall prohibit one or more of the partners in a partnership holding a license to withdraw from the partnership in favor of one or more of the partners who were partners at the time of the issuance of the license. Such a withdrawal shall not, however, serve to bring any new ownership into the partnership.
- (3) Nothing in this section, however, shall prohibit one or more principal shareholders in a corporation holding a license to withdraw from the corporation, who were principal shareholders at the time of the issuance of the license. Such a withdrawal shall not, however, serve to bring any new ownership into the corporation.
- (4) Should a transfer of a location be approved, there shall be no pro rata return of any license fee, and the new location shall be considered under and meet the requirements of a new license; except that if the transfer involves no change in the ownership of the business, then the license fee paid for the old location shall be applied to the new location.

- (5) It shall be deemed a change of ownership when an owner or licensee add an additional partner or partners or an additional stockholder or stockholders.
- (6) All applications for transfer of location shall be posted as required by section 5.3.1.9.
- (7) A change in ownership as set forth in this section requires an application for a new license and the payment of a new license fee according to the procedures in this chapter.
- (8) It shall be the duty of each licensee to promptly report any changes of any kind in the ownership or distribution of ownership to the business license manager.
- (9) If a licensee desires to sell the business for which the license was issued, the purchaser of the business must be informed by the licensee that the purchaser of the business must make application for and obtain a license prior to operating the business. Any transfer of the business for which the license is issued without the new owners being licensed shall cause the automatic revocation of the license.

ARTICLE IV. OPERATING REGULATIONS FOR LICENSED ESTABLISHMENTS

DIVISION 1. GENERALLY

5.4.1.1. Requirements of wholesalers and distributors generally.

All wholesalers or distributors shall comply with this chapter before they can sell or deliver any alcoholic beverages to any establishment in the unincorporated area of the City. Deliveries shall be made in a conveyance owned and operated by a wholesaler or distributor licensed as set out in this chapter, and shall at all times when deliveries are being made be subject to inspection by any and all duly authorized authorities of the City. Deliveries of any alcoholic beverages shall be limited to premises that are covered by a retail license.

5.4.1.2. Storage of spirituous liquor by retailers.

All licensed retailers shall store all spirituous liquor on the premises for which the license was issued, and at no other place. All spirituous liquor stock shall be available at all times for inspection by authorized City officials. Any brand or type of spirituous liquors found in any retailer's stock that is handled by a wholesaler who is not licensed to make sales and deliveries in the unincorporated area shall be subject to immediate confiscation.

Sec. 5.4.1.3. Signs at retail package stores and airport restaurants.

- (a) A licensed retailer may display at his place of business only such signs as are allowed by O.C.G.A. § 3-4-3 and as are permitted by the city code. No other information of any type may be displayed in any show window.
- (b) A restaurant located on any airport premises that has a license to serve alcoholic beverages must display on any entrance door to the restaurant, on two walls within the restaurant and on the restaurant menu (the size, fonts and location of the notice on the door, walls and

menu must be approved by the manager of the City business license office) the following notice:

NOTICE TO ALL PILOTS

ALL PILOTS are hereby notified that it is a FELONY to operate a common carrier aircraft WHILE UNDER THE INFLUENCE OF ALCOHOL which carries a penalty of IMPRISONMENT for not more than fifteen years or a fine under TITLE 18 of U.S.C.A. or both. (See 18 U.S.C.A. § 342).

FAA Regulations provide:

- (a) No person may act or attempt to act as a crewmember of a civil aircraft:

Within 8 hours after the consumption of ANY ALCOHOLIC beverage.

While under the influence of ALCOHOL.

While having .04 percent by weight or more of alcohol in the blood.

(See FAA Regulation Part 91.17 Subpart (a)).

The content of said notice may be changed by the manager of the business license office. Should the notice be changed the manager of the business license office shall notify the owner and licensee of any such change and the notice shall be changed and displayed accordingly within 30 days.

Sec. 5.4.1.4. Prices to be conspicuously displayed.

Each retail licensee shall have conspicuously displayed within the interior of the licensed premises not less than four copies of a printed price list of the liquors offered for sale; however, a licensee, in lieu of having four copies of a printed list, may have the price placed on the bottles or on the bottom of the shelf where liquors are exhibited for sale.

State law reference(s)—Display of prices of distilled spirits, O.C.G.A. § 3-4-26.

Sec. 5.4.1.5. Discrimination by wholesaler.

No wholesaler may discriminate between retail dealers as to quantity, selections and brands sold to the retail dealer, nor use any business technique so as to control the retail dealer's business and pricing policy, nor in any way interfere with the free enterprise operation of the retail dealer.

Sec. 5.4.1.6. Sale or delivery to unlicensed premises or unlicensed caterers and distilled spirits to go.

- (a) A packaged goods retailer may deliver malt beverages, wine and distilled spirits in unbroken packages lawfully sold to and purchased by an individual for personal use and not for resale to an address designated by such individual subject to the requirements of O.C.G.A. 3-3-10 and any other applicable state law.
- (b) Any restaurant which is licensed to sell distilled spirits for consumption on the premises may sell mixed drinks for off-premises consumption in approved containers, provided that such mixed drinks are:

- (1) Sold to an individual 21 years of age or older who shall be limited to two mixed drinks per entree ordered;
 - (2) Accompanied by a food order and a sales receipt with a time stamp that indicates the date and time of such purchases;
 - (3) Sold for personal use and not for resale and picked up in person by the same individual customer to whom the mixed drinks and entrees were sold and from whom the restaurant received payment; provided, however, that such individual customer shall not include a delivery service or third-party agent; and
 - (4) Furnished with the accompanying food order to the customer on the premises or by way of curbside pick-up.
 - (5) If transported in a motor vehicle, the customer shall transport the mixed drink in accordance with O.C.G.A. § 3-3-11.
 - (6) Sales of mixed drinks for off-premises consumption shall be taxed in accordance with O.C.G.A. § 3-4-130 through 3-4-133.
- (c) It shall be unlawful for unlicensed individuals or caterers to sell alcoholic beverages.

Sec. 5.4.1.7. Retailers to purchase from licensed wholesalers only; exceptions.

Retail dealers in spirituous liquors licensed under the provisions of this chapter shall neither buy nor accept deliveries of spirituous liquors from wholesalers or other persons offering the same for sale except from wholesalers duly licensed by the City. Such retail dealers shall only accept deliveries of spirituous liquors directly to the premises for which their license and permit was issued, and by a conveyance owned and operated by a wholesaler licensed as required by this chapter; except that on written request to the business license office and upon written permission from that office, deliveries may in special instances be made otherwise upon terms and conditions as prescribed by the business license office as to each such delivery.

Sec. 5.4.1.8. Coin-operated devices, similar machines prohibited on licensed premises.

No retail dealer in spirituous liquors by the package shall permit on his premises any slot machines or mechanical music boxes or pinball machines of any kind or character or any coin-operated machines or any machines operated for amusement purposes.

Sec. 5.4.1.9. Requirements for sale of alcoholic beverages at an amusement park.

- (a) When an amusement park is not open to the general public, the amusement park may sell or dispense alcoholic beverages to its private party function participants. Alcoholic beverages shall not be removed from the amusement park premises, which premises shall not include the parking areas of the amusement park.
- (b) When the amusement park is open to the general public, the amusement park may sell or dispense alcoholic beverages at a private party function in restricted areas, which areas are not open to the general public; and have a fence or barrier which limits access to the restricted area.

- (c) The amusement park may sell or dispense alcoholic beverages in areas that are open to the general public, but have been designated as adult concession areas on a plan that shall be approved by both amusement park management and the Mayor and City Council. Areas designated as adult concession areas must have a clearly defined entrance for adults only (and minors within their care who will not be served alcohol beverages) to include methods for verifying identification as well as an exterior barrier or partition that reasonably deters minors (not within the care of an adult visiting the concession area) from entering the area. All operations and personnel associated with serving alcoholic beverages within adult concession areas must be in compliance with all applicable provisions of this Code.

Sec. 5.4.1.10. Alcoholic beverage caterers.

(a) *License requirements—Resident caterers.*

- (1) Any alcoholic beverage retail dealer possessing a valid license from the City of Mableton to sell malt beverages, wine or distilled spirits by the drink at a fixed location within the City may apply for an off-premises license that authorizes sales at authorized catered event(s) or function(s).
- (2) The off-premise catering license as authorized herein shall be valid only for the calendar year in which the license is issued. The regulatory fee for each such license shall be set by the Mayor and City Council.
- (3) It shall be unlawful for any person to engage in, carry on or conduct the sale or distribution of alcoholic beverages off-premise and in connection with a catered event or function without first having obtained a license as provided herein and as required by the State of Georgia. All entities conducting alcoholic beverage catering must meet all required state and local laws.
- (4) Bartenders and/or servers for licensed alcoholic beverage caterers must meet all state and local laws, age restrictions, and must obtain an alcohol permit pursuant to sections 5.4.3.1, 5.4.3.2, and 5.4.3.3.

(b) *Limitation of license.* A licensed alcoholic beverage caterer may sell only beer, wine, and/or spirituous liquor as authorized by their alcoholic beverage license.

(c) *Sunday sales.* An alcoholic beverage caterer wishing to cater an event or function on Sunday must possess a valid Sunday sales license and comply with the requirements of state law with respect to the service of alcoholic beverages on Sunday.

Sec. 5.4.1.11. Catering permits in conjunction with a special event.

- (a) Any person or entity who desires to sell or serve alcoholic beverages temporarily (no more than three days) for consumption on a non-licensed premises during a special event shall employ, use or contract with an alcoholic beverage caterer for such service.
- (b) If an existing alcoholic beverage licensee desires to sell or serve alcoholic beverages temporarily (no more than three days) for consumption on a non-licensed premise, said licensee must have an alcoholic beverage catering license pursuant to section 5.4.1.10 of this chapter in conjunction with a special event permit.

- (c) The alcoholic beverage caterer shall make separate application to the business license office for each special event permit.
- (d) A special event or special event facility is not considered a bottle house as defined in this chapter.

Sec. 5.4.1.12. Non-profit alcoholic beverage licenses.

A bona fide nonprofit civic organization that desires to sell or serve alcoholic beverages temporarily (no more than three days) for consumption on a non-licensed premise during a special event shall obtain a license authorizing the organization to sell or serve alcoholic beverages for consumption on the premises of the special event. No more than six licenses may be issued to an organization in any one calendar year.

Sec. 5.4.1.13. Temporary alcoholic beverage licenses for trade shows.

A trade show organization or entity that desires to serve alcoholic beverages temporarily (no more than three days) for tasting and/or sampling shall do so under the existing license provided to the facility where the trade show is occurring.

Sec. 5.4.1.14. Requirements for the sale of alcoholic beverages at public facilities.

- (a) When a public facility, or a portion of a public facility, is rented to a private entity or individual and is not open to the general public, the private event occurring at the public facility may sell alcoholic beverages to its private party function participants. Alcoholic beverages shall not be removed from the public facility premises by the participants. Entities involved in the sale of alcohol at said private events shall be an alcoholic beverage caterer as described in section 5.4.1.10 and the caterer shall obtain a special event permit as defined in section 5.4.1.11.

DIVISION 2. SALES TO UNDERAGE AND SIMILAR PERSONS

Sec. 5.4.2.1. Furnishing alcoholic beverages in violation of state law.

It shall be unlawful for any person knowingly, by himself or through another, to furnish or cause to be furnished, or permit any other person in his employ to furnish, distilled spirits, wines, malt beverages, or any other alcoholic beverages to any person under any circumstances that constitute a violation of state law, including but not limited to furnishing such beverages to underage persons under the age of 21 years.

State law reference(s)—Sale of alcoholic beverages to intoxicated persons, O.C.G.A. § 3-3-22; offenses involving alcohol and underage persons, O.C.G.A. § 3-3-23.

Sec. 5.4.2.2. Purchase, consumption of, possess by or for underage persons.

- (a) It shall be unlawful for any person under 21 years of age to purchase, drink or possess any alcoholic beverages except as provided under state law.
- (b) It shall be unlawful for any person to keep or maintain a place where persons under 21 years of age are knowingly allowed to come and purchase, drink or possess any alcoholic beverage.
- (c) It shall be unlawful for any parent or other person to buy beer or other alcoholic beverages and furnish such beverage for consumption by any person under 21 years of age except as permitted under state law.
- (d) It shall be the responsibility of the alcoholic beverage licensee, his agents and employees to examine the identification of patrons to be certain that such patrons are of legal age. A driver's license may be accepted by the licensee or his employee as evidence of age.

State law reference(s)—Offenses involving alcohol and underage persons, O.C.G.A. § 3-3-23.

Sec. 5.4.2.3. Misrepresentation of age by underage persons.

It shall be unlawful for any person under the age of 21 years, as applied to section 5.4.2.1, or under the age of 18 years, as applied to sections 5.4.3.2 and 5.4.3.3, to misrepresent his age in any manner whatsoever.

State law reference(s)—Similar provisions, O.C.G.A. § 3-3-23.

Sec. 5.4.2.4. Allowing underage persons on licensed premises.

- (a) No person who holds a license to sell alcoholic beverages in a lounge, nightclub or package store, nor his agents and employees, shall allow any person under 21 years of age to be in the premises of the licensee unless 1) such underage person is accompanied by a parent or legal guardian; or unless 2) such underage person is 18 years or older, employed by the licensee and not off duty.

DIVISION 3. EMPLOYEES

Sec. 5.4.3.1. Employment of persons with prior convictions.

- (a) No licensee shall employ, for compensation or otherwise, in any premises for the sale of alcoholic beverages, or the operation of a bottle house under this chapter, any person in a capacity requiring a work permit as defined in section 5.4.3.2 who meet any of the following:
 - (1) Is not a citizen of the United States, not an alien admitted for permanent residence, or does not otherwise possess employment authorization from the United States Citizenship and Immigration Services;
 - (2) Any person who has been convicted within five years immediately prior to the application for employment of the following:

- i. Any felony;
 - ii. Two or more convictions of driving under the influence;
 - iii. Two or more convictions of possession, consumption, or attempt to purchase alcohol by an underage person;
 - iv. One or more under 21 DUIs;
 - v. Any conviction relating to the sale or furnishing of alcoholic beverages to an underage person;
 - vi. Any conviction relating to the unlawful possession, use or manufacturing of an authentic or fraudulent driver's license or ID; or
 - vii. Any person on parole, probation, or convicted and released from incarceration, for any sexual related crimes, including but not limited to child molestation, aggravated child molestation, or child sexual abuse, as defined in O.C.G.A. § 16-6-4 or individuals required to register as sex offenders pursuant to O.C.G.A. § 42-1-12.
- (b) The omission or falsification of any material information in an application for an alcoholic beverage permit shall be a violation of this chapter and grounds for the denial, suspension or revocation of any such permit; however, any employees excluded from employment under the terms of this section shall have the right to appeal such exclusion to the license review board.
- (c) Section 5.4.3.2 shall not apply to private clubs as defined in this chapter.

Sec. 5.4.3.2. Work permits.

- (a) *For whom required.* It is the responsibility of the licensee and designee as stated in section 5.3.1.7(g) to ensure that the employees required under this Code section obtain and possess the required work permit issued by the police department prior to working. Employees for the purposes of this section shall include independent contractors. Failure of an employee to possess a work permit while selling or serving alcoholic beverages, as required by this section, shall be unlawful and will subject the employee and licensee to prosecution as provided in this chapter and shall be grounds for suspension or revocation of the license. A permit to work in any of the following establishments shall be required of the following:
- (1) All employees of package stores.
 - (2) All employees of convenience stores.
 - (3) All employees of businesses with a pouring license who serve or sell alcohol, which shall include waitresses, waiters, and bartenders.
 - (4) In all businesses for which an alcohol license has [been] issued, except as provided in section 5.4.3.2(b), all managers, employees serving in a managerial capacity, and any employee providing security whether or not any such persons sell or serves alcohol.
- (b) *Not required.* A work permit is not required of the following:
- (1) The licensee to whom an alcoholic beverage license has been issued under this chapter.

- (2) An approved substitute licensee, as approved by the business license office.
 - (3) Any person authorized by law to serve alcoholic beverages and is working at a temporary, non-profit fundraising event for which an alcoholic beverage license has been issued under this chapter.
 - (4) Any person authorized by law to serve alcoholic beverages and is working at a temporary trade show event for which a temporary alcoholic beverage license has been issued under this chapter.
 - (5) Any peace officer employed by the licensee for security, so long as the officer is certified by the Georgia Peace Officer Standards and Training Council, possesses arrest powers under the laws of this state, and is actively employed by a recognized public law enforcement agency.
- (c) *Application, issuance, denial.* Except as otherwise provided, no person requiring a work permit may be employed by an establishment holding a license under this chapter until such person has been issued a work permit from the police department indicating the person is eligible for employment. All applications required by this section shall be filed with and investigated by the police department, and such investigation shall include, among other things, an investigation of the criminal record, if any, of the applicant. No work permit shall be issued by the police department if the applicant has violated any of the provisions of section 5.4.3.1 hereof. Any applicant who is denied an alcoholic beverage work permit shall have the right to appeal such decision to the license review board. Appeals to the license review board regarding the denial of an alcoholic beverage work permit must be filed with the business license office within 30 days of the denial. After a hearing, the license review board may approve or deny the work permit. The decision shall be final unless appealed in accordance with 5.4.3.2(i). In addition, after the hearing, the license review board may approve or recommend to the Mayor and City Council approval of a work permit to an employee whose application was originally denied based upon any conditions deemed appropriate by the license review board, pursuant to section 5.4.3.2(i). Denied applicants who fail to file a timely appeal shall not be authorized to reapply for an alcoholic beverage work permit for 12 months from the date of the denial.
- (d) *Training of permit holders.*
- (1) Licensees are required to provide training to all permit holders on provisions of the law of this state and ordinances regarding the sale of alcoholic beverages to intoxicated and underage persons and the penalties for violating such laws and ordinances within ten days of employment.
 - (2) Licensees shall provide annual training regarding company alcohol sale/service policies, state laws and City ordinances, and training to all permit holders on the methods, procedures and measures to be taken in order to request, obtain and examine proper identification of patrons to be certain that such patrons are of legal age to purchase alcoholic beverages. Training shall include the methods, procedures and measures to be taken in order to refuse sale/service to underage or intoxicated patrons. Training shall provide permit holders with the opportunity to demonstrate and practice skills required in order to comply with company policies for responsible alcohol sale/service. Training shall include a discussion of how permit holder's alcohol

sale/service practices shall be monitored and enforced by management as well as law enforcement. Training shall include a discussion of the management and law enforcement consequences for violations. Training shall include a pre/posttest to determine whether training objectives were met and by whom. Evidence of such training records shall be made available upon request for inspection by the Police Department or Business License Office.

- (3) Detailed records of such training, including the content, date, time, persons attending and copy of any pre/post test(s), shall be maintained for a minimum of 36 months after the training. Evidence of such training records shall be made available upon request for inspection by the Police Department or Business License Office.
- (4) The failure of the licensee to comply with this subsection regarding the training of permit holders shall be grounds for due cause to suspend and/or revoke the license to sell alcoholic beverages.
- (e) *Permit term and physical characteristics.* A work permit issued under this section shall contain the permit number issued by the City Police Department, the permit holder's first and last name, a photograph of the permit holder and contain security features to inhibit unauthorized duplication. Permits shall expire 12 months from the date of issuance unless earlier suspended or revoked as provided in this section. Nothing herein shall prohibit the Police Department from issuing temporary permits, for a period not to exceed 30 days, when the applicant is unable to appear in order to be photographed, or as otherwise necessary for the Police Department to complete a thorough background investigation of the applicant.
- (f) *Possession of permits by employees.* Employees holding permits issued pursuant to this section shall at all times during their working hours have the permits available for inspection.
- (g) *Exclusion.* This section shall not apply to private clubs.
- (h) *Work permit requirement.* At all times that the business is open the licensee shall have at least one person on the premises who has a valid work permit.
- (i) *Grounds for suspension, revocation.* No permit which has been issued or which may hereafter be issued under this section shall be suspended or revoked except for due cause as defined in this subsection, and after a hearing and upon written notice to the holder of such permit of the time, place and purpose of such hearing and a statement of the charge or charges upon which such hearing shall be held. A minimum of three days' notice shall be provided to the applicant or permit holder. "Due cause" for the suspension or revocation of the permit shall consist of the violating of any laws or ordinances regulating the sale of alcoholic beverages or for the violation of any state, federal or local ordinances set out in section 5.4.3.1; or for the omission or falsification of any material in any application; or for any reason which would authorize the refusal of the issuance of a permit; or any violation of this chapter. All hearings shall be before the license review board and shall be conducted in the manner provided in section 5.3.3.2.

After the hearing, the license review board may decide to:

- (1) Approve the work permit by an affirmative vote by a supermajority of the license review board. In such cases, the approval shall be final;
- (2) Approve the work permit by an affirmative vote of less than a supermajority of the license review board. In such cases the Mayor and City Council shall, within 60 days of the license review board's decision, review a summary of the appeal or show cause hearing before the license review board wherein the work permit was considered for issuance and the Mayor and City Council after such review will either concur with recommendations of the license review board or choose to place the matter down for a hearing; or
- (3) Deny, suspend or revoke the work permit, when it is determined that due cause exists. The employee whose work permit was denied, suspended, or revoked may appeal the license review board decision to the Mayor and City Council. The Mayor and City Council shall, within 60 days of the license review board's decision, review a summary of the appeal or show cause hearing before the license review board wherein the work permit was considered for issuance, suspension or revocation (the summary shall be prepared by the business license manager) and the Mayor and City Council after such review will either concur with recommendations of the license review board or choose to place the matter down for a hearing.

Should the Mayor and City Council place the matter down for hearing the Mayor and City Council, after such hearing, may issue or deny the work permit, or suspend or revoke the work permit. After the final determination by the license review board or Mayor and City Council, a representative of the business license office will notify the Police Department of the decision. If the permit was approved for issuance, the Police Department will notify the applicant that the permit has been approved. The employee whose work permit was not issued or whose work permit was denied, probated, suspended or revoked may appeal the Mayor and City Council decision pursuant to section 5.3.3.2 hereof. The decision of the Mayor and City Council may be appealed to the Superior Court of Cobb County as allowed by law within 30 days of the decision of the Mayor and City Council.

- (j) Notwithstanding any of the provisions in this section, any permits issued through administrative error or an error in the completion of a background investigation may be terminated by the City Manager or his or her designee.

Sec. 5.4.3.3. Employment of minors.

- (a) No person shall allow or require a person in his employment under 18 years of age to dispense, serve, sell or take orders for any alcoholic beverages. It shall be unlawful for any person under the age of 18 years of age to dispense, serve, sell or take orders for any alcoholic beverages.
- (b) This section shall not prohibit persons under 18 years of age who are employed in supermarkets or drugstores from selling or handling alcoholic beverages which are sold for consumption off the premises if there is, at all times during which any person under 18 years of age is working, during hours within which alcoholic beverages are sold, either the licensee or at least one employee who has a valid work permit and who is serving in a

managerial capacity on the premises inside the building within which the alcoholic beverages are sold.

State law reference(s)—Employment of minors, O.C.G.A. § 3-3-24.

Sec. 5.4.3.4. List of employees to be filed with City.

Within 72 hours of employment, it shall be the duty of all licensees under this division to file with the City, through the Police Department and Business License Division, the names of all employees required to possess a work permit under Section 5.4.3.2, and their date of birth, home address, phone number, place of employment, their duties and services performed, and any other descriptive information that the Business License Office or Police Department may require in its investigation of the establishment and its employees. All changes in information shall be filed, in writing, via email or the online portal, by the licensee within 72 hours of the change.

DIVISION 4. HOURS OF OPERATION

Sec. 5.4.4.1. Generally.

- (a) *Sale by the package for off-premises consumption.*
 - (1) *Spirituous liquors.* Spirituous liquors by the package shall not be sold or dispensed except between the hours of 8:00 a.m. and 11:45 p.m. each day on Monday through Saturday and on Sundays between the hours of 11:30 a.m. and 11:30 p.m. (to the extent allowed by state law).
 - (2) *Malt beverages, and vinous beverages.* Malt beverages and vinous beverages by the package shall not be sold or dispensed except between the hours of 6:00 a.m. of one day and 2:00 a.m. the following day on Monday through Friday, and between the hours of 6:00 a.m. and midnight on Saturday and on Sundays between the hours of 11:30 a.m. and 11:30 p.m. (to the extent allowed by state law). However a farm winery, brewery and distillery may sell alcoholic beverages by the package in accordance with appropriate regulations contained in O.C.G.A. § 3-4-24.2, O.C.G.A. § 3-5.24.1, and O.C.G.A. § 3-6-21.2. Posting shall be provided that provides notice to the customer pertaining to the quantity of alcoholic beverages by the package that can be purchased.
- (b) *Sale by the drink for on-premises consumption and operation of a bottle house.* Alcoholic beverages by the drink for on-premises consumption shall not be sold or dispensed and no bottle house shall be operated except between the hours of 8:00 a.m. of one day and 2:00 a.m. of the next day, on Monday through Friday, and between the hours of 8:00 a.m. on Saturday until 2:55 a.m. the following Sunday. All alcohol shall be removed from the patrons within 30 minutes following the service hours. This section shall also apply to private clubs. A business which possesses a valid City pouring license for alcoholic beverages and a valid Sunday sales permit when New Year's Eve is on Sunday shall be authorized to sell, offer for sale, serve and/or permit the consumption of alcoholic beverages upon the license business premises between the hours of 12:00 a.m. (midnight) and 2:30 a.m. on New Year's Day.
- (c) *Wholesalers.* The business hours of any wholesaler licensed under this chapter shall only be from sunup to sundown each day, Monday through Saturday.

- (d) *Sundays*. Except as otherwise provided in this division, no alcoholic beverages of any kind shall be sold or dispensed, and no licensee for the sale of alcoholic beverages of any kind, or his agents or employees, shall permit his place of business to be open for the sale of alcoholic beverages or to sell alcoholic beverages on Sundays.

Sec. 5.4.4.2. Sundays; Monday morning sales.

- (a) A Sunday sales permit is required for the sale of alcoholic beverages on Sundays. The following conditions are applicable to such sales:
 - (1) The establishment holds a valid City alcoholic beverage pouring or package license.
 - (2) Alcoholic beverages may be sold and served for consumption on the premises on Sundays from 11:00 a.m. until 12:00 midnight in any licensed establishment which derives at least 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food, and in any licensed establishment which derives at least 50 percent of its total annual gross revenues from the rental of rooms for overnight lodging; and must qualify as a restaurant or hotel with a valid unlimited health permit.
 - (3) Applicants for Sunday sales permits shall complete an application form furnished by the business license office, supplying such information as may be requested. Prior to issuance of the permit, the applicant must make available records for determining whether the applicant for pouring sales meets the requirements of subsection (2) of this section. After the permit is issued the permit may be denied or revoked by the business license manager for failure to conform or failure to produce satisfactory evidence of conforming. The decision of the business license manager may be appealed to the license review board.
 - (4) Annual Sunday sales permit renewals shall be made in the same manner and during the same time periods as other alcoholic beverage license renewals.
 - (5) Sunday sales permits are not transferable.
 - (6) The fee for issuance of the Sunday sales permit may be established and/or changed from time to time by the Mayor and City Council, and a schedule of fees shall be available in the offices of the City Clerk and in the business license office.
 - (7) The Sunday sales permit shall be subject to the revocation procedures of sections 5.3.3.2 and 5.3.3.4, and shall be automatically revoked if the alcoholic beverage license is revoked.
 - (8) When any application for a Sunday sales permit has been denied for location, no application for a Sunday sales permit may be made for the same location for a period of 12 months from the date of filing of the application which was denied.
- (b) *Monday morning sales*. Notwithstanding the hours of operations set forth elsewhere in this division, alcoholic beverages by the drink for on-premises consumption may be sold or dispensed between the hours of 12:00:01 a.m. and 2:00 a.m. on Monday mornings provided the business possesses a valid City pouring license for alcoholic beverages.

State law reference(s)—Sunday sales, O.C.G.A. § 3-3-7.

Sec. 5.4.4.3. Election days.

Pursuant to O.C.G.A. § 3-3-20, the sale of alcoholic beverages is authorized on any election days.

DIVISION 5. ON-PREMISES CONSUMPTION**Sec. 5.4.5.1. Pricing of alcoholic drinks.**

- (a) This section shall be construed to cover, include and apply to every type of alcoholic beverages licensed to be sold in the City, including beer, wine, malt beverages and spirituous liquors.
- (b) Each licensee under this chapter shall maintain a daily schedule of the prices to be charged for all alcoholic beverages to be served and consumed on the licensed premises or in any room or part thereof. The licensee shall not vary the prices from hour to hour within a single day. The schedule of prices shall be maintained in a manner so as to be available to the paying public and law enforcement officers or agents of governmental authority. Such schedule shall be effective for not less than a 24-hour period beginning at 12:01 a.m. and ending at midnight, and shall show thereon the date for which the schedule is effective.
- (c) No licensee or holder of any license to sell alcoholic beverages for consumption on the premises or in any part thereof, or employee or agent of a licensee, shall:
 - (1) Offer or deliver any free alcoholic beverage to the general public. This subsection shall not apply to tasting rooms of farm wineries, distilleries, or breweries where wine, spirituous liquors, and malt beverages are offered in a quantity to only taste the product or for persons in compliance with appropriate state law and section 5.131 of this chapter.
 - (2) Deliver more than two alcoholic beverages to one person at one time or allow any patron to possess more than two alcoholic beverages at one time. The sale or service of flights of alcoholic beverages shall be permitted provided that a single flight does not exceed six individual servings, subject to the following limitations:
 - a. Individual servings of beer and malt beverages in a flight shall not exceed five fluid ounces;
 - b. Individual servings of wine in a flight shall not exceed three fluid ounces; and
 - c. Individual servings of spiritous liquors in a flight shall not exceed 0.5 fluid ounce.
 - (3) Sell, offer to sell, or deliver to any person or group of persons any alcoholic beverage at a price less than the price regularly charged for such alcoholic beverage during the same 24-hour period for which the price schedule required by this section is in effect, except at private functions not open to the public.
 - (4) Sell, offer to sell, or deliver to any person or group of persons two or more or an unlimited number of alcoholic beverages during any set period of time at a fixed price, except at private functions not open to the public.

- (5) Sell, offer to sell, or deliver alcoholic beverages, by the pitcher or carafe, except to two or more persons at any one time.
- (6) Increase the volume of alcohol contained in a drink without increasing proportionately the price regularly charged for such alcoholic beverage during the same 24-hour period for which the price schedule required by this section is in effect.
- (7) Encourage or permit on the licensed premises any game or contest or promotion which involves the drinking of alcoholic beverages or the awarding of alcoholic beverages as a prize.
- (8) Sell two or more alcoholic beverages for a price substantially the same as is charged for one such alcoholic beverage.
- (9) Require or encourage the purchase of a second or subsequent alcoholic beverage at the same time another alcoholic beverage is purchased.
- (10) Knowingly allow an alcoholic beverage purchased on the premises to be removed from the premises, except as provided in O.C.G.A. § 3-6-4 and O.C.G.A. § 3-3-11, without having been consumed. "Premises," for the purpose of this subsection, shall be construed to mean the entire area under the supervision, management or control of the licensee, excluding areas for parking of motor vehicles; a patio shall be part of the premises only when the patio is in compliance with the zoning ordinance and zoning of the location. The patio must be in compliance with the building and fire and life safety code. In the case of licensees whose licensed location is located on a portion of the premises of club, organization, establishment or entity offering outdoor recreation (for instance, golf or tennis), the word "premises" shall extend to cover all areas operated as a part of the club or entity excluding areas for parking of motor vehicles.
- (d) There shall be no advertisement or promotion in any way, whether within or without the licensed premises, of any of the practices prohibited under this section.
- (e) No provision of this section shall be construed to prohibit licensees from offering free food or entertainment at any time, or to prohibit licensees from including an alcoholic beverage as a part of a meal package; however, this subsection shall not be construed to allow a licensee to circumvent the intent of this section by offering meals which include an alcoholic beverage as a device or scheme to promote drink sales at a price per beverage less than the daily listed price.

Sec. 5.4.5.2. Misrepresentation of alcoholic beverages.

It shall be unlawful for licensees under this chapter or their agents to add to the contents of a bottle or to refill empty bottles or in any other manner to misrepresent the quantity, quality or brand name of any alcoholic beverage.

Sec. 5.4.5.3. Activities prohibited.

- (a) Whereas, Article III, Section VI, Paragraph VII of the Constitution of the State of Georgia, delegates authority to counties and municipalities "for the purpose of regulating, restricting, or prohibiting the exhibition of nudity, partial nudity, or depictions of nudity in connection with the sale or consumption of alcoholic beverages;" and

Whereas, the United States Eleventh Circuit Court of Appeals has upheld a municipal ordinance prohibiting the serving or consumption of alcoholic beverages in adult entertainment establishments; and

Whereas, the Supreme Court of Georgia has upheld a municipal ordinance prohibiting the serving or consumption of alcoholic beverages in adult entertainment establishments;

Whereas, among the undesirable community conditions identified with live nude entertainment and alcohol are depression of property values in the surrounding neighborhood, increased expenditure for the allocation of law enforcement personnel to preserve law and order; increased burden on the judicial system as a consequence of the criminal behavior, and acceleration of community blight; *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *5634 East Hillsborough Ave., Inc. v. Hillsborough County*, 2007 WL 2936211 (M.D. Fla. Oct. 4, 2007), *aff'd*, 2008 WL 4279670 (11th Cir. Sept. 18, 2008) (per curium); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); *Flanigan's Enterprises, Inc. of Georgia et al v. Fulton County, Georgia*, 2010 WL 520542 (11th Cir. 2010).

The state supreme court, in *Chambers d/b/a Neon Cowboy v. Peach County, Georgia*, 266 Ga. 318 (1996), held that local governments may adopt ordinances designed to combat the undesirable secondary effects of sexually explicit businesses, and further held that a governing authority seeking to regulate adult entertainment establishments must have evidence of a relationship between the proposed regulation and the undesirable secondary effects it seeks to control. The state supreme court further held in the same opinion that in passing its regulations, a local government may rely on the experience of other counties and municipalities to demonstrate such a relationship.

The United States Supreme Court, in *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), held that a local government may rely on the experience of other cities in enacting legislation to regulate adult entertainment businesses.

Whereas, federal and state appellate courts, have previously held that before enacting an ordinance to combat undesirable secondary effects of adult entertainment, a legislative body is required to consider specific evidence of the undesirable secondary effects of adult entertainment establishments that it reasonably believes relevant to the interests it seeks to address by passing the ordinance; and

Based on the experiences of other municipalities and counties including, but not limited to, Sandy Springs, Georgia, Adams County, Colorado; New York City, New York; Indianapolis, Indiana; Dallas, Texas; Sandy Springs, Georgia; Oklahoma City, Oklahoma; City of St. Mary's, Georgia; Hamilton County, Tennessee; Amarillo, Texas; Rome, Georgia; Gwinnett County, Georgia; Fulton County, Georgia; Austin, Texas; Phoenix, Arizona; Manatee County, Florida; City of Garden Grove, California; Fort Worth, Texas; Houston, Texas; St. Cloud, Minnesota; Whittier, California; and the City of Los Angeles, California which are found to be relevant to the problems faced by the City, the Mayor and City Council notes the documented negative economic, physical, and social impact adult entertainment businesses have on the community.

Whereas, based upon the experience of other urban counties and municipalities, which experiences the Mayor and City Council finds are relevant to the problems faced by the City, and which do not vary greatly among generally comparable communities within this country, the

Mayor and City Council finds that public nudity, under certain circumstances, particularly circumstances related to the sale and consumption of alcoholic beverages in adult entertainment establishments offering adult entertainment, begets criminal behavior and tends to create undesirable community conditions; and

Whereas, the Mayor and City Council of the City finds and declares that nudity and sexual conduct and depiction thereof, coupled with alcohol in public places, encourages undesirable behavior and is not in the interest of public health, safety, and welfare; and

Whereas, the Mayor and City Council has chosen to avoid the disturbances associated with mixing alcohol and nude dancing by means of a reasonable restriction upon establishments which sell spirituous or vinous liquors or malt or brewed beverages; and

Whereas, the ordinance furthers important governmental interests of reducing crime and protecting property values which are unrelated to the suppression of speech; and

Whereas, it is the intent of the Mayor and City Council to enact an ordinance, narrowly tailored, sufficient to combat the undesirable secondary effects of the serving and consumption of alcoholic beverages at adult entertainment facilities; and

Whereas, it is not the intent of the Mayor and City Council, in enacting this ordinance to deny to any person the right to speech or expression protected by the United States or Georgia Constitutions, nor it is the intent to deny or restrict the rights of any adult to obtain or view any sexually oriented performance or materials protected by the United States or Georgia Constitutions, but to adopt a content neutral ordinance to combat the undesirable secondary effects of adult entertainment where alcoholic beverages are served or consumed; and

Whereas, this section is enacted to further the health, safety, and welfare of the citizens of the City.

- (b) No person shall suffer or permit any person to engage in live conduct exposing to public view the person's genitals, pubic area, vulva, anus, anal cleft or cleavage or buttocks or any portion of the female breast below the top of the areola on the licensed premises.
- (c) No licensee shall allow any person to engage in sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual act prohibited by law on the licensed premises.
- (d) *Exception.* Nothing contained in subparagraph (b) of this section shall apply to the premises of any theatre, concert hall, art center, museum, or similar establishment primarily devoted to the arts or theatrical performances, where the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value. The exception contained in this subparagraph (d) shall not apply to any sexually oriented business.

Sec. 5.4.5.4. Employees prohibited from mingling with customers.

- (a) It shall be unlawful for any employees of a licensee under this chapter to dance or sit with customers in the premises or for any customer to be permitted to purchase food or drink for such employees during such employees' working hours.
- (b) Alcoholic beverages shall only be served by the licensee or the licensee's employees or agents.

- (c) It shall be unlawful for any employee of any licensee to consume alcoholic beverages on the premises of the licensee during such employee's working hours.

Section 2. It is hereby declared to be the intention of the city council that:

- (a) All sections, paragraphs, sentences and phrases of this Ordinance are or were, upon their enactment, believed by the City Council to be fully valid, enforceable and constitutional.
- (b) To the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. No section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.
- (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the city council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance.

Section 3. The city Attorney and City Clerk are authorized to make non-substantive editing and renumbering revisions to this Ordinance for proofing and renumbering purposes.

Section 4. The effective date of this Ordinance shall be the date of adoption, unless required otherwise by the City Charter, state and/or federal law. In the event that any effective date herein is determined by a Court of law to be invalid, said effective date shall instead be the earliest date allowed by law.

SO ORDAINED this _____ day of _____ 2025.

ATTEST:

CITY OF MABLETON, GEORGIA:

Susan D. Hiott, Interim City Clerk

Michael Owens, Mayor

APPROVAL AS TO FORM:

Emilia Walker-Ashby, Interim City



AGENDA ITEM MEMORANDUM

MEETING OF: July 16, 2025

DEPARTMENT: [DEPARTMENT]

ISSUE/AGENDA ITEM TITLE: First Reading and Public Hearing - An Ordinance Updating Chapter 7. Taxes, Fees and Assessments of the Code of Ordinances: Regulation Occupation Taxation and Business Licensure and For Other Lawful Purposes, Of Mableton Code of Ordinance - Community Development Director Michael Hughes Open and Close Public Hearing. No action at this time - this is First Read.

BACKGROUND/SUMMARY:

BUDGETED/FINANCIAL IMPACT – FUND:

RECOMMENDATION:

ATTACHMENTS:

1. Special Regulatory Licensing Ordinance Rev. 4.30.25
2. Special Regulatory Licensing Ordinance - Planning Commison Comments

**STATE OF GEORGIA
COBB COUNTY
CITY OF MABLETON**

ORD

**AN ORDINANCE UPDATING CHAPTER 7, TAXES, FEES AND ASSESSMENTS OF
THE CITY CODE OF ORDINANCES; REGULATING SPECIAL LICENSE AND
REGULATORY FEES AND FOR OTHER LAWFUL PURPOSES**

WHEREAS, the City of Mableton (“City”) is a municipal corporation duly organized and existing under the laws of the State of Georgia;

WHEREAS, the duly elected governing authority of the City is the Mayor and Council (“City Council”) thereof;

WHEREAS, the City Council is empowered by Sec. 6.14 of the City Charter to “to levy any other tax or fee allowed now or hereafter by law, and the specific mention of any right, power, or authority in this article shall not be construed as limiting in any way the general powers of this city to govern its local affairs;”

WHEREAS, the City Council desires through this Ordinance to adopt reasonable code provisions relating to special licensing and regulatory fees; and

WHEREAS, the City Council finds this Ordinance to be in the best interest of the health, safety and welfare of the City.

IT IS HEREBY ORDAINED, by the governing authority of the City of Mableton as follows:

Section 1. Division 2, Special License and Regulatory Fees, of Chapter 7, Taxes, Fees and Assessments, of the City of Mableton Code of Ordinances is hereby deleted in its entirety.

Section 2. A new Article 7, Special License and Regulatory Fees, is hereby created under Chapter 7, Taxes, Fees and Assessments, of the City of Mableton Code of Ordinances, to read as follows:

CHAPTER 7 - TAXES, FEES AND ASSESSMENTS

...

ARTICLE 7 - SPECIAL LICENSE AND REGULATORY FEES

DIVISION 1 – GENERALLY

Sec. 7.7.1.1. Purpose of article; statutory authority; applicability of general regulations.

- (a) **Purpose.** This division is enacted in accordance with the plan designed for the purposes, among others, of promoting the health and general welfare of the community, to establish reasonable and ascertainable standards for the regulation and control of astrologists, contractors, detective agencies, door-to-door salespersons, escort services, fortunetellers, handwriting analysts, health spas, hypnotists, weekend vendors, wrecker operators, taxicabs, security agencies and guards, modeling services, psychics, peddlers, amusement activities and rides, pawnshops, billiard parlors or rooms, flea markets and vendors therein, precious metals dealers or shops, adult entertainment establishments and any other business activities that from time to time may require additional police protection and regulation in order to ensure the health and safety of the community.
- (b) **Special business activities requiring prior approval.** It shall be unlawful for any person and/or business to engage in the business, trade, profession or practice of a sexually oriented business, precious metals dealer, amusement activity, peddler, door-to-door sales person, mobile food vendor, firework retail stand, pawnshop, vendor, ticket broker, special event parking, flea market, seller and/or distributor of alcohol, pool room and/or health spa, before obtaining approval for a special regulatory license and/or permit from the City.
- (c) **Occupation tax certificate pre-condition to special regulatory license/permit.** The provisions of this chapter enumerated in divisions I and II regarding the administration and enforcement of business licenses apply to all special licenses in addition to the provisions enumerated in this division. No person and/or business shall obtain and/or qualify for a special regulatory license and/or permit under this division, without having first obtained an occupation tax certificate from the city in accordance with this article, for the calendar year in which any new and/or special regulatory license/permit is sought.
- (d) **Local, state and federal compliance required.** All persons and/or businesses required to obtain a special regulatory license under this article, shall be subject to all applicable local, state and federal regulatory requirements.

Sec. 7.7.1.2. Registration.

All persons, businesses and organizations of all types who transact or engage in any business in the city shall be required to register with the business license bureau and shall pay a fee for such registration pursuant to schedule R. The registration shall include providing the name of such business, the name of the proprietor, the business address and the mailing address of the proprietor, telephone numbers, date of birth of the owner or proprietors, the social security number or employee identification number of such registrant and a description of the business activities of the registrant. If the registrant is other than a natural person, the registrant shall provide the names, addresses and telephone numbers of the principal officers, partners or associates which are part of the business. In addition to the other remedies available to the city for the collection of occupation taxes and regulatory fees due the city from persons subject to the tax or fee who fail or refuse to pay a tax or fee, the supervisor of the business license division or his designee may issue executions

against delinquent taxpayers for the amount of the taxes or fees due when the taxes or fees become due plus and any authorized interest imposed. The municipal court of the city, after notice to the taxpayer and hearing, may impose a civil fine for failure to pay the occupation tax or regulatory fee. Such a civil fine shall not exceed \$500.00 and may be enforced by the contempt power of the court.

Sec. 7.7.1.3. Regulatory fees.

The regulatory fees levied and charged for all persons and businesses subject thereto are set forth on the "City of Mableton Special License and Regulatory Fee Schedule," which shall also be known as "schedule R." A copy of Schedule R is on file in the city clerk's office and the business license office. Regulatory fees are levied and assessed in addition to any business or occupational taxes assessed and levied under this chapter. All businesses located outside of the city but operating within the city are required to register and pay the regulatory fee specified in schedule R.

Sec. 7.7.1.4. Proper zoning required.

No regulated business activity or enterprise regulated, permitted, allowed or licensed under this chapter shall be allowed in an area or location of the city for which such activity or enterprise is not a permitted use under the Mableton Zoning Code and/or other applicable ordinances and laws.

Sec. 7.7.1.5. Amusement machines.

Business owners and business operators who offer public play on bona fide Class B coin operated amusement machines as defined by O.C.G.A. § 48-17-1(2.3) are authorized to exceed the limitation of nine such machines as otherwise provided in O.C.G.A. § 48-17-15(b)(2).

Sec. 7.7.1.6. Temporary consumer fireworks retail stands.

- (a) Temporary consumer fireworks retail stands must obtain a temporary business license and shall post conspicuously in the place of business a notice stating the times during which the ignition of consumer fireworks is permitted under state law.
- (b) Temporary consumer fireworks retail stands in compliance with state law will not be considered "peddlers," as defined in division 4 of this article.

DIVISION 2 - PEDDLERS, DOOR-TO-DOOR SALESPERSONS, AND MOBILE FOOD VENDORS

Sec. 7.7.2.1. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Charitable organization. Any benevolent, philanthropic, patriotic, or eleemosynary (of, relating to, or supported by charity or alms) corporation, partnership, limited liability company, association, joint-stock company, trust, unincorporated organization or individual who solicits or

obtains contributions solicited from the general public, any part of which contributions is used for charitable purposes.

Charitable purpose. Any charitable, benevolent, philanthropic, patriotic, or eleemosynary purpose for religion, health, education, social welfare, arts and humanities, environment, civic or public interest.

Door-to-door salesperson. Any person who shall solicit orders on behalf of a firm, corporation, company, association, partnership or individual of any goods, wares or merchandise, or other things of value from house to house shall be deemed a door-to-door salesperson. Any person who obtains orders for merchandise or other things of value shall be deemed a door-to-door salesperson. Excluded from this definition are persons who solicit orders for goods, wares or merchandise, or other things of value from house to house for charitable organizations or purposes or on behalf of religious organizations, political organizations and political candidates.

Peddler. Any person who sells or solicits for sale in city any new or used goods, wares, merchandise, produce, service or other things of value from any location within the city that does not possess a certificate of occupancy, selling or offering for sale any of such things to either merchants or customers shall be deemed a peddler. Excluded from this definition are persons who sell or solicit for sale goods, wares or merchandise, or other things of value from house to house for charitable organizations or purposes or on behalf of religious organizations, political organizations and political candidates. Temporary consumer fireworks retail stands in compliance with state law will not be considered peddlers, but must obtain a temporary business license.

Vehicle. Motorized conveyance fully functioning and moving under its own power with valid vehicle tag, and registered in the name of the owner of the business. A vehicle shall not include a trailer or anything pulled by the vehicle. Vehicles shall not be in excess of 20 feet in length, ten feet in width, and eight feet in height.

Sec. 7.7.2.2. Peddler's license.

Every peddler shall be required to obtain a license. All licenses to peddle shall be paid for at the price fixed in the fee schedule as provided for in this chapter, or otherwise.

Sec. 7.7.2.3. Conduct of business by peddlers.

- (a) *Permit required.* No trader or peddler shall offer for sale any goods, wares or merchandise in the unincorporated areas of the city without first obtaining a permit from the license bureau of the city.
- (b) *Location.* Peddlers shall park the vehicle associated with the business on asphalt or concrete out of the right-of-way and conduct business only in locations zoned general commercial and in accordance with the city code.
- (c) *Merchandise to be kept on vehicle; business license and permission from property owner required.* Peddlers shall maintain all merchandise on a vehicle, and the peddler's business license shall be void if the peddler does not have in his possession at the location a business license and written notarized affidavit from the property owner authorizing the peddler to be engaged in business at the property owner's location.
- (d) All vehicles must be removed from the peddler's location each day.

- (e) No tents, tables, boxes, chairs, or any accessory to the business shall be allowed. Anything associated with the business, with exception of personnel, that is not on the vehicle shall be in violation of this division.
- (f) Only one sign permitted by the code enforcement division is allowed and shall meet the limits provided in the zoning ordinance and sign ordinance, and shall be on the vehicle.
- (g) Any violation of this division by any owner, licensee of the peddler business or any employee of the peddler within the past 12 months shall be cause for denial of the peddler's permit.
- (h) All vehicles shall be brought to the city business license division and approved by the business license supervisor or his designee prior to the approval of the permit. Only an approved vehicle may be used and in the event the peddler desires to use a substitute vehicle, the substitute vehicle must be approved by the business license division.
- (i) Only one vehicle is allowed for each location.
- (j) *Violations.* Any violations of the provisions in this section pertaining to peddlers shall subject the license to revocation.

Sec. 7.7.2.4. Door-to-door salespersons—Conduct generally; rights of occupants.

- (a) The supervisor of the license office shall provide to each door-to-door salesperson an information card, and the door-to-door salesperson shall present this card to each household he visits. It is the responsibility of the door-to-door salesperson to make sufficient copies of the information card to furnish to each household he visits. Such card shall contain information as required by the business license supervisor.
- (b) The door-to-door salesperson is not to enter a home except at the express invitation of the occupant.
- (c) The occupant has the right to refuse entry or to ask the door-to-door salesperson to leave the premises, and, if the salesperson should fail to leave the premises after such instructions, he shall be in violation of the laws of this state and ordinances of the city.
- (d) Any discourteous conduct should be reported to the business license office of the city.
- (e) If a person purchases the product of the door-to-door salesperson, the person has the right to cancel a home solicitation service agreement any time until midnight on the business day after the day on which he signs the agreement, provided he gives notice of the cancellation to the seller at the place of business as set forth in the agreement or by certified mail, return receipt requested, which shall be posted not later than midnight on the day following execution of the agreement.
- (f) A door-to-door salesperson shall place his name and permit number in the blank provided on the card and shall present it to the occupant of each home that he visits.

Sec. 7.7.2.5. Same—Failure to present information card to occupant.

It shall be unlawful for a door-to-door salesperson to fail to present the card described in section 7.7.2.5 to the resident or occupant of a home at which the door-to-door salesperson solicits business.

Sec. 7.7.2.6. Same—Announcement to occupant.

At each house, the door-to-door salesperson shall announce to the owner or occupant of the home his name and that he has been issued a permit by or has registered with the city license bureau as a home door-to-door salesperson, and shall announce the purpose of his call and present the card provided for by this division and shall allow time for the occupant or owner to read the card.

Sec. 7.7.2.7. Same—Invitation required to enter home; compliance with sign.

No door-to-door salesperson shall enter a home without the express invitation of the occupant or owner. If a "no soliciting" sign is posted, no soliciting shall be made.

Sec. 7.7.2.8. Same—Courtesy; leaving premises upon instruction.

A door-to-door salesperson shall at all times maintain a courteous decorum and shall not use opprobrious words to any homeowner or occupant. No door-to-door salesperson shall remain upon the premises of an occupant or owner after such occupant or owner has requested the door-to-door salesperson to leave or indicated that he is not interested in purchasing the door-to-door salesperson's product.

Sec. 7.7.2.9. Same—Misrepresentation of effect of permit issuance.

It shall be unlawful for any door-to-door salesperson to represent by word, action or deed that the issuance of a permit or registration by the city license bureau in any way represents approval or condonation of either the action of the door-to-door salesperson or his product or organization.

Sec. 7.7.2.10. Same—Duty to inform occupant of rights.

If a door-to-door salesperson shall secure an order from an owner or occupant, such door-to-door salesperson shall inform the owner or occupant as to his rights under the Home Solicitation Act of the state. This may be done by the door-to-door salesperson leaving a written card or document specifying the rights of a homeowner or occupant under the Retail Installment and Home Solicitation Sales Act (O.C.G.A. § 10-1-1 et seq.).

Sec. 7.7.2.11. Same—Records of license office; complaints.

- (a) The business license bureau shall maintain true and accurate records of the name and identification number of each door-to-door salesperson, together with other requirements of this division, and shall maintain a log of all complaints for each door-to-door salesperson or organization represented by such person. If the license office shall receive any ordinance violation complaints concerning a particular door-to-door salesperson, or three violation complaints concerning an organization, the business license office shall notify the door-to-door salesperson and organization such person represents of the complaints, and the business license supervisor may suspend the permit until such time as the door-to-door salesperson or organization can show cause that he or it is in compliance with the rules and regulations of this division.

- (b) The license office shall maintain a true and accurate log of each complaint showing the name of the complainant, the address of the complainant, and the substance of the complaint. Such records shall be available to the door-to-door salesperson, or his company or organization, and shall be deemed a public record. A hearing shall be set before the supervisor of the license office within five business days after notification of the door-to-door salesperson, at which time the license office shall investigate the nature of the complaints and the door-to-door salesperson may use witnesses or other evidence to show his compliance with this chapter. If the supervisor of the license office shall determine a violation on the part of the door-to-door salesperson of the ordinances of the city, he shall revoke the permit of the door-to-door salesperson.

Sec. 7.7.2.12. Same—Appeals to city business license division.

A door-to-door salesperson shall have the right to file an appeal from the ruling of the business license supervisor to the city council.

Sec. 7.7.2.13. Same—Appeals to court.

If any door-to-door salesperson or his company shall be dissatisfied with the decision of the city business license division, he shall have his right to appeal as provided by the laws of the state.

DIVISION 3 - MOBILE FOOD VENDORS

Sec. 7.7.3.1. Definitions.

Mobile food vendor shall mean a retail food establishment that is readily moveable, is a motorized wheeled vehicle, or is a towed wheeled vehicle and that is designed and equipped to prepare and serve food as defined by state law and in accordance with the rules and regulations for food service of the Cobb County Board of Health ("BOH").

Mobile food vendor event shall mean an assembly or congregation of two or more mobile food vendors in specified locations pursuant to the requirements of this subdivision II who have each complied in all respects with the requirements of this subdivision II.

Sec. 7.7.3.2. Business license and food service permit required.

- (a) It shall be unlawful for any person to sell, or offer for sale, food of any type from a commissary or mobile retail food establishment without a business license first having been granted under this section by the business license division manager or his/her designee, and without a valid food service permit first having been obtained from the Cobb Public Health Department ("health department").
- (b) Prior to the issuance of a business license under this subdivision II, an application for a food service permit(s) by a mobile food vendor, setting forth all required information, shall be submitted to the health department in accordance with its mobile/extended service units permit applications and the BOH food services rules and regulations.
- (c) The business license division manager shall require proof (a copy) of the food service permit from the health department prior to the issuance of a business license to a mobile food vendor.

- (d) A mobile food vendor(s) operating on city or other public property at the invitation or request of one or several of the authorized individuals specified in section 7.7.3.3(d) shall not be required to obtain a business license hereunder for such city or public entity sponsored event but must comply with all other requirements of this subdivision II.

Sec. 7.7.3.3. Conduct and requirements.

- (a) No mobile food vendor shall conduct business or operate in the public right-of-way unless otherwise invited or permitted pursuant to subsection (d) below.
- (b) Mobile food vendor(s) shall only be permitted to operate at mobile food vendor events or at private events not accessible or open to the general public and solely for guests or other designated individuals. For events involving mobile food vendors on other than public property, the owner of the private property in question, or his or her designee, must provide written consent to the community development agency director or his/her designee to include the dates and times and specific location for such temporary use.
- (c) When operating on public property, a mobile food vendor shall maintain and demonstrate to an individual specified in subsection (d) below, proof of a \$1,000,000.00 liability insurance policy issued by an insurance company licensed to do business in Georgia, protecting the mobile food vendor, the public, the health department, and the city, or such other public entity with control or ownership of the subject property, from all claims for damage to property and bodily injury, including death, which may arise from operation under or in connection with the license. Such insurance shall name the city or other public entity as an additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without 30 days advanced written notice to the individual in subsection (d) responsible for the operation of the mobile food vendor on the subject property. The provisions of this paragraph shall not be construed as a waiver of any immunity available to the health department, the city or such other public entity at law.
- (d) Any operation(s) on city or other public property must be at the request or invitation or with the permission of an authorized official, department head, director, manager or employee of such public entity with oversight or control of the property in question ("authorized individuals"). The authorized individuals shall obtain the indemnification required in subsection (e) below, verify proof of the insurance required in subsection (c) above and provide to the community development agency director or his/her designee written verification of the same. The authorized individuals shall also provide to the community development agency director or his/her designee written consent for the mobile food vendor to operate on the subject property including the date(s), time(s) and specific location(s) for such temporary operation on the public property in question.
- (e) Any mobile food vendor with authorization, permission or an invitation to operate on city or other public property or at a city-sponsored event shall execute an indemnity agreement, in a form acceptable to the city attorney or his/her designee, indemnifying and releasing the city or such other public entity with control and oversight of the property in question, its agents, employees, volunteers, officials, and elected officials from any and all liability for any and all claims, actions and suits of any type whatsoever. This provision shall not be construed to waive any immunity available to the city or any other public entity.

- (f) A mobile food vendor shall not create sounds, play music or make announcements to call attention to the mobile food vehicle either while traveling on the public rights-of-way or when the vehicle is stationary. At all times the mobile food vendor shall comply with the Cobb County noise ordinances.
- (g) Mobile food vending units shall not be left unattended or stored at any time on an open vending site when vending is not taking place or during restricted hours of operation.
- (h) The mobile food vendor shall comply with all state, federal and local health and safety regulations and requirements, shall comply with all provisions of this Code of Ordinances, and shall obtain and maintain any and all licenses required by any other health, or governmental organization or entity having jurisdiction over this subject matter.
- (i) The mobile food vendor may sell food and non-alcoholic beverage items only.

Sec. 7.7.3.4. Revocation and suspension.

The city shall have the right to revoke or suspend any business license granted hereunder for violations of any city ordinance or state law. Any revocation or suspension of a food service permit issued by the health department shall be in accordance with the BOH food service rules and regulations.

Sec. 7.7.3.5. Fee.

The fee for the business license required by this "Subdivision II. Mobile Food Vendors," shall be set by fee schedule adopted/approved by the city council. The fee for the food service permit issued and regulated by the BOH shall be as set and determined from time to time by the BOH.

DIVISION 5 - DOOR-TO-DOOR SALESPERSON'S PERMIT

Sec. 7.7.4.1. Scope of requirements.

- (a) A resident door-to-door salesperson shall obtain a door-to-door salesperson's permit and be subject to all rules and regulations of this division.
- (b) A resident door-to-door salesperson who solicits orders as described in this division and whose employer does not maintain a place for doing business in the city so as to be subject to the government rules and regulations of this chapter shall be deemed a nonresident door-to-door salesperson and shall comply with the regulations of this division.

Sec. 7.7.4.2. Application; registration; investigation and report; grounds for denial.

- (a) No door-to-door salesperson shall be authorized to solicit orders until he files an application from the license bureau and obtains a permit and registers as a door-to-door salesperson. The license bureau shall make an investigation, including but not limited to an investigation of the police record and moral character of the applicant. The license bureau shall furnish the police department a duplicate of the application for the door-to-door salesperson's permit. The police department, within ten days, shall furnish a report to the license bureau of the police record, if any, of the applicant. No permit shall be given to any applicant who

shall have either a pending charge or a conviction for a felony crime or an offense involving the elements of assault and battery, or any civil judgments involving unethical and improper business actions, including but not limited to actions which would constitute fraud and deceit under the laws of the state.

- (b) No application for a permit under this section shall be received or acted upon if the applicant has submitted the same or a similar application for a permit within the preceding 12 months, which prior application has been dismissed, denied or abandoned. No license shall be granted if the applicant is in violation of this division or has within 12 months preceding the application been in violation of this division or any other law or ordinance regulating the activities for which such permit is sought.

Sec. 7.7.4.3. Fee.

The applicant for the permit of door-to-door salesperson shall pay a fee set in the schedule of fees as cost for the investigation and regulation under this division. This fee shall be used for the cost of such registration, investigations and regulation of persons subject to this division.

Sec. 7.7.4.4. Duration; renewal.

A permit under this division shall be valid for 90 days from the date the license is issued. However, the permit may be renewed by filing a renewal application with the business license office upon forms prescribed by the office, and paying a renewal fee set in the schedule of fees to cover the expense of updating the investigative report.

Sec. 7.7.4.5. Solicitation permit.

All door-to-door salespersons, both nonresident and resident, who shall solicit orders from house to house shall first obtain from the supervisor of the license office a permit for such solicitation.

Sec. 7.7.4.6. Badge.

All door-to-door salespersons shall wear a badge, the design of which shall be in the discretion of the license office, but which shall be uniform as to all door-to-door salespersons, which badge shall provide the following information: the name of the door-to-door salesperson, the name of the company, and an identification number, in large enough type to be read and seen by persons with normal vision at a distance of ten feet. At all times, the door-to-door salesperson shall wear on either the left or right shoulder of his garment the badge prescribed by the license office so that such badge can be readily seen by the owner or occupant of the premises.

DIVISION 5 - Vending

Sec. 7.7.5.1. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Food truck means a retail food establishment that is readily moveable, is a motorized wheeled vehicle, or a towed wheeled vehicle designed and equipped to prepare and serve food as defined by state law.

Private property vending means vending activity, permitted by the city on privately owned property in the unincorporated area of the city, with the consent or approval of the property owner(s).

Public property and *public space* both mean any property owned by city and any street rights-of-way within the unincorporated area of the city, including any roadways and sidewalks.

Public property vending means vending activity authorized by city permit on publicly owned property under the jurisdiction of the city for a special event.

Special event means a temporary event or gathering using either private or public property that draws an estimated number of participants and spectators exceeding 250 present on any day of the event and that involves one or more of the following activities:

- (1) Closing of a public street;
- (2) Blocking or restricting streets, sidewalks, alleys, or other public places, in whole or in part;
- (3) Sale or distribution of food or beverages on streets, sidewalks, alleys, or other public property, or on private property where otherwise prohibited by ordinance;
- (4) Erection or placement of a tent, utility pole, or other temporary structure on a street, sidewalk, alley, or other public place;
- (5) Erection or placement of a stage, bandshell, trailer, van, portable building, grandstand, bleachers, or other apparatus used for entertainment purposes on public property, or on private property where otherwise prohibited by ordinance; or
- (6) Erection or placement of temporary signage, banners, or displays of any kind in or over a public right-of-way, or on private property where otherwise prohibited by ordinance.

This term shall not include any event or function held on private property entirely within the existing structure or appurtenances thereto of an establishment that has been operating continuously for 30 days or more prior to the start of a special event.

Vending activities mean the selling or distribution of retail or food items through a cart, kiosk, or temporary or non-permanent structure to the public.

Vending cart means a cart, kiosk, or temporary structure designated for food or retail vending activity.

Vendor means any person who is undertaking vending activities.

Sec. 7.7.5.2. Purpose and intent.

The city council, pursuant to its authority to regulate the conduct of business upon public property and public space and to promote the safety and welfare of its residents and visitors determines it necessary and proper to prohibit vending activities on public property to serve and protect the health, safety and welfare of the general public.

Sec. 7.7.5.3. Applicability.

- (a) Vending activities in the unincorporated area of the city on public property without a license for public property vending is unlawful.
- (b) Vending activities in the unincorporated area of the city on private property is regulated by article 4 of this chapter.
- (c) Private property alcoholic beverages vending is not subject to the regulations contained in this chapter.
- (d) Food trucks are not subject to the regulations contained in this subdivision, but are regulated by division 5 of this chapter.

Sec. 7.7.5.4. Violation.

- (a) Penalties for violations of this division shall be punished as set out by Georgia law under O.C.G.A. § 15-10-60.
- (c) *Suspension or revocation.* In addition to other remedies allowed by law, violations of the provisions in this subdivision pertaining to vendors shall subject the license to suspension or revocation. Violations of this division shall be considered due cause for suspension or revocation of any license issued under this division.

Sec. 7.7.5.5. Special provisions and exemptions within mixed-use development districts.

- (a) For the purposes of this article only, a mixed-use development district is defined as a development that is zoned RRC with a public event venue with permanent seating in excess of 20,000 seats (and to include attendant parking facilities) and may include a mixture of retail, restaurants, entertainment, office space, and hotel units.
- (b) Vending activity within mixed-use development districts is permitted in areas designated for vending activity as depicted on a plan that shall be approved by both the mixed-use development district management and the city council. The plan shall include locations where vendors may sell merchandise within the designated area, as well as specifics on the size and materials for signage and vending carts.
- (c) Every vendor shall be required to obtain a city license and/or any other appropriate state or local license.
- (d) All applicable sales taxes resulting from vending activity shall be remitted to the state per applicable law.
- (e) Food trucks are required to follow regulations contained in article 5 of this chapter.

DIVISION 6 - LICENSES REQUIRING PRIOR APPROVAL AND REGULATION

Sec. 7.7.6.1. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic beverages includes, but is not limited to, malt beverages, vinous liquors and spirituous liquors.

Amusement activity includes any fair, concert, carnival or sideshow and those activities, rides and games normally associated with such amusements wherein the general public is allowed to view or participate for a price.

Billiard room means any public place with two or more tables on which the game of billiards is permitted to be played.

Billiards means any of the several games played on a table surrounded by an elastic ledge of cushions, with balls which are impelled by a cue, and shall include all forms of the game known as carom billiards, pocket billiards and English billiards. The term shall apply to all tables, both coin-operated and non-coin-operated.

Health spa means a business establishment that derives its primary source of income from massage therapy as defined in state law, or any other hands-on therapy including foot massage and the practice of reiki, to help customers, reduce stress, provide therapy, enhance appearance, enhance or restore health and well-being, or experience sensory pleasure. This term shall not include professional healthcare establishments or fitness centers utilizing equipment only and having two or fewer massage tables or other equipment for massage.

Licensee means any person holding a license issued under this division who is full time employee responsible for the management of the establishment.

Manager means a full time employee who is responsible for the management and operation of the establishment. A manager or manager's designee must be on the premises at all times the business is in operation.

Pawn and *pledge* mean bailment of personal property as security for any debt or engagement, redeemable upon certain terms and with the express or implied power of sale on default.

Pawnshop means any business wherein a well-defined part thereof is to take or receive, by way of pledge, pawn or exchange, any goods, wares or merchandise, or any kind of personal property whatever, as security for the repayment of money lent thereon.

Pool room. See *Billiard room*.

Spa. See *Health spa*.

Sec. 7.7.6.2. Special licenses generally.

- (a) It shall be unlawful for any person to engage in the business, trade or profession or practice the business, trade or profession of an amusement activity, pawnshop, pool room, or health spa before obtaining approval for a license by the supervisor of the business license office.
- (b) All licenses specified in subsection (a) of this section shall be a mere grant of privilege to carry on such business during the term of the license subject to all the terms and conditions

imposed by this article and any other ordinance, resolution or law of the city, state or United States relating to such business.

- (c) All applicants for licenses specified in subsection (a) of this section shall be required to sign an acknowledgment that they have received, read and understood the provisions of this article prior to issuance of the license.

Sec. 7.7.6.3. Application; appeals; renewal.

- (a) Applications for any of the licenses detailed in section 7.7.6.2(a) shall be filed with the supervisor of the business license office on forms as prescribed by the city, and shall also meet the standards and specifications as enumerated in this chapter.
- (b) In the event of any adverse decision or ruling by the supervisor of the business license office, the applicant or aggrieved party shall have the right of appeal to the business city business license division as provided in section 6-90.
- (c) The decision of the business license supervisor shall be final unless appealed to the city council.
- (d) All licenses for pawnshops, pool rooms, and health spas shall be renewed with the business license office prior to December 31. All pawnshops, pool rooms, and health spas that currently possess a business license at the time of the adoption of the ordinance from which this section is derived shall renew their business license on or before the expiration date of their current license and those businesses shall renew their license prior to December 31.

Sec. 7.7.6.4. Standards for issuance.

- (a) No application for any license for amusement activities, pawnshops, pool rooms and health spas shall be granted where the application or other evidence shows any of the following conditions to exist:
 - (1) The applicant has had any license issued under the police powers of any city or other governmental subdivision previously suspended or revoked.
 - (2) The applicant, as a previous holder of a license for the business or business activity for which he now seeks a license, has violated any law, regulation or ordinance pertaining to such business within a five-year period immediately preceding the date of application.
 - (3) The applicant or any employee of the applicant has committed any of the acts enumerated in this division which constitute due cause for denial of a license.
- (b) In addition to the conditions set out in subsection (a) of this section, in determining whether or not any license applied for shall be granted, the following shall be considered in the public interest and welfare:
 - (1) If the applicant is a previous holder of a license, the manner in which he conducted the business thereunder as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinance relating to such business.

- (2) The location for which the license is sought as to traffic congestion, general character of the neighborhood and the effect the business that is applied for would have on the adjacent and surrounding property values.
- (3) The number of licenses already granted for similar businesses in the trading area of and the place for which the license is sought.
- (4) If the applicant's spouse shall not be able to meet the qualifications of an applicant, particularly if it appears that the applicant's spouse or another person is using the applicant as a guise or "dummy" to obtain a license.

Sec. 7.7.6.5. Fees.

The fees for licenses for amusement activities, pawnshops, pool rooms, and health spas shall be as established by the city council, and shall be available as part of the schedule of fees in the business license office. The city council may amend or revise these fees from time to time.

DIVISION 7. AMUSEMENT ACTIVITIES¹

Sec. 7.7.7.1. Condition of premises; orderly operation.

All premises of an amusement activity shall be kept clean and in proper sanitary condition, and, when food is served in connection with the amusement activity, full compliance shall be maintained with the provisions and regulations governing the conditions of premises used for the storage and sale of food for human consumption. It shall be unlawful to permit any disturbance of the peace or obscenity. No person including but not limited to, an operator, owner, employee, manager, vendor or invitee of the amusement activity shall be allowed to camp or reside overnight with or without a recreational vehicle, tent, sleeping bag, vehicle or other structure at an amusement activity unless authorized to do so via a land use permit, except that the owner may allow a reasonable number of overnight security personnel, who may be either the owner, contracted agents or employees of the owner. The operator or owner shall not employ any person with a felony conviction within five years of application for an amusement activity permit/license.

Sec. 7.7.7.2. License Required.

It shall be unlawful for any person to hold, maintain, conduct or sponsor any amusement activity within the meaning of this article without having first obtained a license and having complied with the provisions of division 7 of this chapter.

¹State law reference(s)—Amusement Ride Safety Act, O.C.G.A. § 34-12-1 et seq.

Sec. 7.7.7.3. Application.

All persons desiring a license to conduct an amusement activity shall make written application for such privilege upon forms available in the business license office. Such application shall state the name and address of the applicant; the place where the proposed activity is to be located; the nature and character of the activity to be carried on; if a partnership, the names of the partners; and, if a corporation, the names of the officers. The application shall further include the general plan and layout of how the area concerned is to be used, to include parking facilities, proof that all rides operated are in a safe and proper working condition, proof that first aid facilities are available to adequately meet the needs of those attending the amusement activity, and proof that the amusement activity has obtained approval from the state fire marshal's office.

Sec. 7.7.7.4. Qualifications of applicant.

No person shall be granted a license to conduct an amusement activity unless it shall appear to the satisfaction of the supervisor of the business license office that such person, or the officers and directors of any corporation, shall be of good moral character. In no event shall any such license be granted to any person or to any corporation where the person or the officers, stockholders and directors of any corporation have been convicted or have pled guilty or entered a plea of nolo contendere to any felony crime within a period of five years immediately prior to the date of application for such license.

Sec. 7.7.7.5. Additional standards for approval.

In the issuance of licenses for the purpose of conducting an amusement activity, the supervisor of the business license office may, in his discretion, consider the information required under section 7.7.7.4, as well as the standards enumerated in the provisions of division 8 of this chapter.

Sec. 7.7.7.6. Issuance; fee.

If the supervisor of the business license office approves the application for a license under this division, the license shall be issued for the designated location after payment of the established fee, which shall be a weekly fee according to the current schedules.

Sec. 7.7.7.7. Duration.

No license issued under this division shall be valid beyond a period of 21 days from the date of issuance where no expiration date is stated on the license. Otherwise, the expiration date is as stated on the license.

Sec. 7.7.7.8 Permitted zoning districts.

No license shall be issued for the purpose of conducting an amusement activity except where the amusement activity is to be located in the area of the city which has been, or may be, zoned for business purposes.

DIVISION 8. PAWNSHOPS²

Sec. 7.7.8.1. Records and information to be maintained; identification; digital photographs; fingerprints; records storage; electronic automated reporting system use required.

- (a) All pawnbrokers shall maintain records documenting accurate descriptions of all property pledged, traded, pawned, exchanged, or sold to the pawnbroker. Such description shall include, if reasonably available, the manufacturer, model, serial number, style, material, kind, color, design, number of stones if jewelry, and all other identifying names, marks, and numbers. The pawnbroker shall assign a unique pawnshop transaction number documenting each transaction.
- (b) Each item received, excluding audio and video recordings, shall be tagged with the pawnshop transaction number. The tag bearing the pawnshop transaction number must remain attached to the item until the property is disposed of by sale, trade, or other lawful means.
- (c) The pawnbroker shall require all persons pledging, trading, pawning, exchanging, or selling property to show proper identification prior to conducting a pawnshop transaction. Proper identification is defined as a government issued photo identification card such as a driver's license, military identification card, state identification card, or passport.
- (d) The pawnbroker shall document the name, address, telephone number, race, sex, height, weight, drivers license number, and date of birth of the person pledging, trading, pawning, exchanging, or selling the property, along with the date and time of transaction, the price paid or amount loaned, and the maturity date of the transaction. This documentation shall be made at the time of the transaction.
- (e) The pawnbroker shall photograph, with a digital camera, at the time of each transaction, the person pledging, trading, pawning, exchanging, or selling the property. The photograph shall clearly show a frontal view of the subject's face along with the pawnbroker's ticket transaction number. The pawnbroker shall also clearly photograph the property being pledged, traded, pawned, exchanged, or sold. Digital images shall be labeled and stored in such a manner that they are safe from corruption, readily identifiable, and readily available for review.
- (f) The pawnbroker shall obtain from each person pledging, trading, pawning, exchanging, or selling any property, the fingerprint of the right hand index finger, unless such finger is missing, in which event the print of the next finger in existence on the right hand shall be obtained with a notation as to the exact finger printed. The electronic digital fingerprint scanner will be the primary method of entry required. The fingerprint shall be imprinted onto the pawn transaction form in the designated area along with the signature of the person pawning, trading, pledging, exchanging, or selling the property. The fingerprint must be clear and legible. In the event that more than one pawn transaction form is required, a fingerprint and signature should be obtained for each form. Fingerprints and the information required herein shall be obtained each time such person pledges, trades, pawns, exchanges, or sells any property.
- (g) Items of property, that appear to be new, unused, and in their original packaging cannot be accepted by the pawnbroker unless the customer can supply a copy of the original sales

²State law reference(s)—Pawnbrokers, O.C.G.A. § 44-12-130 et seq.

receipt, or other proof of purchase from the place of purchase, to the pawnbroker who shall retain the receipt or proof of purchase on file.

- (h) The pawnbroker shall store the above records, digital images, and fingerprints for a period of four years and make them available to law enforcement personnel upon request.
- (i) Every pawnbroker shall enter each transaction, including all information, digital images and fingerprints required in subsections (a), (d), (e), and (f) above, as it occurs into the electronic automated reporting system via the internet, or upload electronically, via the internet, a batch file of all transactions for each business day, to the administrator of the electronic automated reporting system, immediately at the conclusion of each business day. The administrator of the electronic automated reporting system will electronically transmit all transactions to the Cobb County police department.

Sec. 7.7.8.2. Daily report to police; required format; vendor selection and fees; motor vehicle title pawn records.

- (a) Every pawnbroker shall make a daily report, including all information required in subsections 7.7.8.1(a), (d), (e), and (f), in such form as prescribed by the chief of police or his designee, of all pawnshop transactions that occurred during 24 hours ending at 8:00 p.m. on the date of the report. The requirements of subsection 7.7.8.1(i) shall satisfy the pawnbroker's daily reporting requirements.
- (b) Pawnshops that incur electronic system failures or other events that would cause partial or complete loss of electronic reporting should notify the Cobb County police department immediately with the reason for the failure. In either event, the pawnbrokers will be required to make records of transactions on paper forms. The records will include all of the information required in section 7.7.8.1. Pawnbrokers shall maintain a minimum three-day supply of these paper forms.
- (c) The city shall select the required automated reporting system. A fee for each transaction reported to the electronic automated reporting system will be assessed to each reporting business, by the system administrator. The amount of the fee will not be greater than that listed in the contract between the city and the system administrator, which is in effect at the time of the transaction for which the fee is assessed.
- (d) Every pawnbroker dealing exclusively with motor vehicle title pawns shall be excluded from the requirements of subsections 7.7.8.1(b) property tags; 7.7.8.1(e) photographs; 7.7.8.1(g) purchase receipts; 7.7.8.1(i) reporting to the electronic automated reporting system; and subsection 7.7.8.2(a) daily reports.

Sec. 7.7.8.3. Employee permit; qualifications of employees.

- (a) No person shall be employed by a pawnshop in any capacity who is not at least 18 years of age, a citizen of the United States or an alien admitted for permanent residence or a person who has otherwise been granted employment authorization by the United States Immigration and Naturalization Service and until such person has been issued a permit by the Cobb County police permit unit, authorizing such person to be employed by a pawnshop. Such permit shall not be issued to any person who has been convicted of a felony, unless ten years have expired from the date of completion of the felony sentence. No permit shall be issued to anyone who

has been convicted within five years immediately prior to the filing of the application for employment, of any misdemeanor involving theft, burglary, crimes against property, or controlled substances. For purposes of this section, the term "conviction" shall mean any adjudication of guilt, or plea of guilty or nolo contendere. No permit shall be issued so long as there are outstanding criminal warrants, criminal charges, accusations or indictments for any of the crimes enumerated in this section on which there has been no final disposition or adjudication, and any application involving such pending charges shall be held for final decision until final disposition or adjudication of the charges. No permit for employment in a pawnshop that deals in firearms shall be issued to any convicted felon, unless the applicant's right to possess firearms has been verifiably reinstated in the jurisdiction where the conviction occurred.

- (b) For whom required. It is the responsibility of the business licensee and/or designee as stated in subsection 7.7.8.1(b) to ensure that the employees required under this Code section obtain and possess the required work permit prior to working. Failure of an employee to possess a work permit shall be unlawful and will subject the employee and licensee and/or designee to prosecution as provided in this chapter.
- (c) Application, issuance, denial. Except as otherwise provided, no person requiring a work permit may be employed by an establishment holding a license under this chapter until such person has been issued a work permit from the Cobb County police department indicating the person is eligible for employment. The work permit is valid for employment at one business only. The permit may be transferred to another business location, without approval, provided that the ownership of the business is the same as the previous location. If the ownership of the business is different, the person with the work permit must apply and be approved by the Cobb County police department in order for the work permit to be valid. All applications required by this section shall be investigated by the police department to include, among other things, an investigation of the criminal record, if any, of the applicant. Any applicant who is denied a work permit shall have the right to appeal such decision to the city business license division. Appeals to the city business license division regarding the denial of a work permit must be filed with the city business license division within 30 days of the denial. In addition, after the hearing, the city business license division may recommend to the city council approval of a work permit to an employee whose application was originally denied upon any conditions deemed appropriate by the city business license division. Denied applicants that fail to file a timely appeal shall not be authorized to reapply for a work permit for 12 months from the date of the denial.
- (d) Time limit. All persons subject to the provisions of this section shall, prior to the date of their first work in a licensed establishment, make application for a work permit to the Cobb County police department.
- (e) Permit term; prescribing fee. Any permit for employment issued under this section shall expire 12 months from the date of issuance unless earlier suspended or revoked as provided in this section. The police department may prescribe regulations for certifying the eligibility for continued employment without the necessity of the employee's being fingerprinted and may prescribe reasonable fees for certifying the eligibility for employment.

- (f) Possession of permits by employees. Employees holding permits issued pursuant to this section shall at all times during their working hours have the permits available for inspection at the premises.
- (g) Grounds for suspension, revocation, probation. No permit which has been issued or which may hereafter be issued under this section shall be suspended, revoked or placed on probation except for due cause as defined in this subsection, and after a hearing and upon written notice to the holder of such permit of the time, place and purpose of such hearing and a statement of the charge or charges upon which such hearing shall be held. A minimum of three days' notice shall be provided to the applicant or permit holder. "Due cause" for the suspension or revocation of the permit shall consist of the omission or falsification of any material in any application; or for any reason which would authorize the refusal of the issuance of a permit; or any violation of this chapter. All hearings shall be before the city business license division. After the hearing if the city business license division determines due cause exists, the city business license division may recommend to the city council to suspend, revoke or place on probation for a maximum of 12 months, with or without conditions, the permit. The city council shall, within 60 days of the city business license division's recommendation, review a summary of the appeal or show cause hearing before the city business license division wherein the work permit was considered for issuance, suspension or revocation (the summary shall be prepared by the business license division manager) and the city council after such review will either concur with recommendations of the city business license division or choose to place the matter down for a hearing. Should the city council place the matter down for hearing the city council, after such hearing, may issue or deny the work permit, suspend or revoke the work permit or place the employee on probation. After the city council meeting, the representative of the business license office will notify the Cobb County police department permits unit of the decision. If the permit was approved for issuance by the city council, the Cobb County police department permits unit will notify the applicant that the permit has been approved. The employee whose work permit was not issued or whose work permit was denied, probated, suspended or revoked may appeal the city council. The decision of the city council may be appealed by filing a petition for writ of certiorari to the Superior Court of Cobb County within 30 days of the decision of the city council.
- (h) Notwithstanding any of the provisions in this section, any permits issued through administrative error or an error in the completion of a background investigation may be terminated by the director of public safety or his/her designee.

Sec. 7.7.8.4. Hours of operation.

No licensee under this division shall operate his place of business except during the hours of 7:00 a.m. and 8:00 p.m.

Sec. 7.7.8.5. Dealing with minors.

It shall be unlawful for any pawnbroker or his agents or employees to receive in pawn, pledge or sale goods of any character or description from a minor. For the purposes of this section a minor is any individual 17 years of age or under.

Sec. 7.7.8.6. Sale of knives, blackjacks or other weapons.

It shall be unlawful for any licensee under this division to sell, offer for sale or expose for sale any kind of metal knacks, dirks, sword-in-canes, spears, Bowie knives or switchblade knives, or any blackjacks or similar weapons. Any licensee or employee thereof violating this section shall be deemed guilty of an offense.

All personal property acquired by the licensee, whether by pawn, purchase, barter, trade or otherwise, shall be held and maintained by the licensee at the licensed location, or at such other impound location as may have been previously approved by the Cobb County police department in writing, for a minimum of 30 days prior to disposal of same by the licensee, except in instances where the property is redeemed as per a pawn transaction contract. The Cobb County police department has the authority to place property that is the subject of police investigation on "police hold." In that event, the Cobb County police department shall notify the licensee of the need for a police hold and identify all property subject to the police hold. Upon notification, it shall be the responsibility of the licensee to maintain the subject property until such time as the property is released from police hold status, confiscated as evidence or returned to its rightful owner.

Sec. 7.7.8.7. Violations; exemptions.

The failure of any licensee or employee thereof to comply with the provisions of this chapter shall constitute an offense, punishable as allowed by law. Transactions involving the purchase of property from licensed wholesale or distributor businesses, manufacturers, manufacturers' representatives, or other pawnbrokers are exempt from the requirements of this section.

Sec. 7.7.8.8. License Application.

- (a) *Required.* All persons, before beginning the business of operating a pawnshop, shall first file an application with the director of the business license office to obtain a license to conduct such a business.
- (b) *Contents.* All persons 25 years of age or older desiring to obtain a license required under this division shall make written application to the business license office for such privilege, and shall supply such information as may be required by the supervisor of the business license office or the police department, and such application shall be sworn to by the applicant or agent thereof.
- (c) *Failure to furnish required information.* All applicants shall furnish all data, information and records requested of them, and failure to furnish such data, information and records within 30 days from the date of such request shall automatically serve to dismiss, with prejudice, the application. An applicant, by filing an application, agrees to produce for oral interrogation any persons who are considered as being important in the ascertainment of the facts relative to such license, as may be requested by the supervisor of the business license office or his duly authorized representative, such as the police department or the city attorney. The failure to produce such persons within 30 days after being requested to do so shall result in the automatic dismissal of such application.

- (d) *Operation in conjunction with establishment dealing in secondhand goods.* No pawnshop shall be operated at the same location or in the same premises with the sale, dealing in, exchange or handling of other than new goods, wares or merchandise. No license for the sale, dealing in, exchange or handling of other than new goods, wares or merchandise shall be issued for a location licensed for a pawnshop.
- (e) *Notification of change in information.* Licensees shall immediately notify the city in writing through the supervisor of the business license division of any change in any information, material or data furnished in connection with an application for a license, or of any material change in the type of business, ownership or qualifications of the applicant or employees subsequent to license issuance.

Sec. 7.7.8.9. Citizenship, residence requirements.

- (a) No license shall be granted pursuant to this division to any applicant who is not a United States citizen or legal permanent resident, or a qualified alien or non-immigrant under the Federal Immigration and Nationalization Act, and who is lawfully present in the United States.
- (b) Where the applicant is a corporation, the majority stockholder must meet the residence requirements set out in subsection (a) of this section, and the license shall be issued to the corporation and the majority stockholder.
- (c) If the applicant is a partnership, the same requirements pertaining to corporations set out in subsection (b) of this section shall apply.

Sec. 7.7.8.10. Disqualification of applicants with prior convictions.

- (a) No license shall be issued under this division to any person, partnership or corporation for pecuniary gain where any individual having an interest either as owner, partner, principal stockholder, or licensee, such interest being direct or indirect, beneficial or absolute, or his spouse, shall have been convicted of a felony of any state or of the United States, unless ten years have expired from the date of completion of the felony sentence. No license shall be issued to anyone who has been convicted within five years immediately prior to the filing of the application, of any misdemeanor of any state or of the United States or any municipal or city ordinance which would have any effect on the applicant's ability to properly conduct such a business, except traffic offenses. For purposes of this section, the term "conviction" shall include an adjudication of guilt or plea of guilty, plea of nolo contendere or forfeiture of a bond when charged with a crime. Where the violation is for a misdemeanor, forfeiture of bond, or violation of a municipal or city ordinance, or where there is a plea of nolo contendere, the city business license division may, after investigation, waive such violation as a disqualification. No license shall be issued so long as there are outstanding criminal warrants, criminal charges, accusations or indictments for any of the crimes enumerated in this section on which there has been no final disposition or adjudication, and any application involving such pending charges shall be held for final decision until final disposition or adjudication of the charges. No license to operate a pawnshop that deals in firearms shall be issued to any convicted felon, unless the applicant's right to possess firearms has been verifiably reinstated in the jurisdiction where the conviction occurred.

- (b) The city council, on appeal, may waive any conviction as a disqualification, if it finds that it would have no material affect upon the applicant's ability to properly conduct its business if such license were granted.

Sec. 7.7.8.11. Investigation and report.

All applications for a license for a pawnshop shall be investigated, and the police department shall report its recommendations to the supervisor of the business license office, who shall keep a copy thereof on file.

Sec. 7.7.8.12. Time limit for obtaining license after approval; issuance.

- (a) All pawnshop licenses must be obtained and fees paid not later than two weeks from the date of the approval of the application by the supervisor of the business license office, and, if not so obtained, the approval granted by the supervisor of the business license office shall be void.
- (b) When a license has been approved and the applicant has deposited with the business license office the required fee, the license shall be issued.

Sec. 7.7.8.13. Display of license number.

Each pawnshop licensee shall have printed on the front window of the licensed premises the inscription "Mableton Pawnshop License Number _____," in uniform letters not less than three inches in height.

Sec. 7.7.8.14. Time limit for commencement of business; forfeiture for nonuse.

- (a) All holders of licenses under this division must, within three months after the issuance of the license, open for business the establishment referred to in the license, unless such period is extended by the supervisor of the business license office. Failure to open the licensed establishment as referred to in this subsection within the three-month period shall serve as an automatic forfeiture and cancellation of the unused license, and no refund of license fees shall be made to the license holder.
- (b) Any holder of a license under this division who shall begin the operation of the business as authorized in the license, but who shall for a period of three consecutive months thereafter cease to operate the business as authorized in the license, shall upon completion of the three-month period automatically forfeit his license, which license shall, by virtue of such failure to operate, be canceled without the necessity for any further action of the supervisor of the business license office.

Sec. 7.7.8.15. Transfer.

No license granted to a pawnshop shall be transferable except upon application to the supervisor of the business license office in the same form, manner and subject to the same requirements with respect to the transferee as are applicable in an original application; provided, however, any such license may be transferred only to another person, firm, partnership or corporation doing the same business and at the same place as the person, firm, partnership or corporation to whom the license was originally issued. When permission for transfer has been granted, the original licensee or transferee shall cause the license to be delivered to the supervisor

of the business license office, who shall record such transfer, and the transferee shall pay a fee therefor as a condition precedent to engaging in operations under the license. The fee for such transfer shall be kept on file as part of the schedule of fees in the business license office.

DIVISION 9. POOL ROOMS³

Sec. 7.7.9.1. Applicability of division.

The rules and regulations set forth in this division shall govern the operation of all pool rooms and billiard halls in the unincorporated area of the city.

Sec. 7.7.9.2. Exemptions from division.

This division shall not apply to billiard tables or billiard rooms operated by private industrial concerns, Young Men's Christian Associations, religious orders, charitable institutions, state, city or city institutions, fraternal orders or bona fide clubs using such tables for members or employees only.

Sec. 7.7.9.3. Enforcement of division.

It shall be the duty of the sheriff, police or other constituted authorities to inspect all public billiard rooms in the city for the purpose of ascertaining whether or not the provisions of this division are being observed; and it shall be his and their duty to report all violations promptly to the appropriate prosecuting attorney of the city and furnish him with such information and assistance as is necessary for the prosecution of such violations. Whenever the state shall revoke any permit or license held by the licensee, the license shall thereupon be automatically revoked without any action of the city council.

Sec. 7.7.9.4. Sanitary and toilet facilities.

The place of business of a billiard room shall have restrooms for males and females. Such restrooms must be kept clean, and the premises shall be in compliance with all applicable rules and regulations of the health department or other departments of the city.

Sec. 7.7.9.5. Health certificate required for establishments serving food.

If food is served at a billiard room, the applicant shall have a valid health certificate issued by the city health department before any license can be issued.

Sec. 7.7.9.6. Hours of operation.

Licensees for the operation of a billiard room shall be permitted to engage in such activities between the hours of 6:00 a.m. and 2:00 a.m.

³State law reference(s)—Authority to license, tax and regulate billiard rooms, O.C.G.A. § 43-8-2.

Sec. 7.7.9.7. License Application.

All persons 18 years of age or older desiring to obtain a license required for the operation of a pool room shall make written application at the business license office. Such application shall state the name and address of the applicant; the place where the proposed business is to be located; the nature and character of the business to be carried on; if a partnership, the names of the partners; if a corporation, the names of the officers and stockholders; and such other information as may be required by the director of the business license office or the police department, and be sworn to by the applicant or agent thereof.

Sec. 7.7.9.8. Investigation and report.

- (a) Any applicants for a license under this division who intends to sell alcoholic beverages for consumption on the premises, sell alcoholic beverages by the package, or allows alcoholic beverages to be consumed on the premises, shall be investigated by the Cobb County police department, and a report made to the business license office. This requirement shall be waived if a current investigation report is on file. For purposes of this section; the term "current" is defined as being within the past six months.
- (b) The police reports shall be sent to the business license office to be placed in the applicant's file.

Sec. 7.7.9.9. Grounds for denial.

- (a) *Disqualification of applicants with prior convictions.* In the event the applicant for a license intends to sell alcoholic beverages for consumption on the premises, sell alcoholic beverages by the package, or allows alcoholic beverages to be consumed on the premises, no license shall be issued to any person, partnership or corporation, or any individual having an interest, directly or indirectly, either as owner, partner or principal stockholder, who shall have been convicted or shall have taken a plea or nolo contendere, within the past five years immediately prior to filing of the application, for any felony of any state, or of the United States. For purposes of this subsection, the term "conviction" shall include an adjudication of guilt or plea of guilty or nolo contendere, or the forfeiture of a bond when charged with a crime.
- (b) *Other grounds.* No license shall be issued where there is evidence that the granting of such license will have an adverse effect on the community.

Sec. 7.7.9.10. Revocation of license for certain violations.

- (a) Any licensee who intends to sell alcoholic beverages for consumption on the premises, sell alcoholic beverages by the package, or allows alcoholic beverages to be consumed on the premises shall be subject to this section. Commission of any of the following acts by a licensee, agent or employee of a billiard room shall be a violation of law and shall be grounds for revocation or suspension of a billiard license:
 - (1) Permitting the use of any drug in any form in or around a place of business.
 - (2) Permitting any gambling or betting in the place of business or on the premises.
 - (3) Permitting illegal conduct, including, but not limited to, public drunkenness or disorderly conduct among patrons or employees after warning by police or city official.

- (4) If the licensee receives notice from police or city officials of any violations of any ordinance regulating its business without correction thereof.
- (5) In the event of a conviction for violating any federal, state, or local laws by the licensee or his agents or servants on the premises.
- (b) It shall be unlawful for any person under the age of 18 years to pay billiards in, or for any other purpose to enter or remain in, a billiard room during hours and times when alcoholic beverages are sold, consumed or dispensed therein. This subsection shall not apply to persons under 18 years of age who are accompanied by a parent or guardian or who possess a written permit from a parent or guardian, which permit is witnessed by a notary public with seal. Any person desiring admission thereto during hours and times when alcoholic beverages are sold, consumed or dispensed, who is or appears to be under the age of 21 years, shall produce satisfactory identification and age verification or certify his age in writing or produce a written permit before he shall be allowed entry.

Sec. 7.7.9.11. Transfer.

A license for the operation of a pool room shall not be transferable except by application to the business license office in the same form and manner as an original application.

DIVISION 10. HEALTH SPAS

Sec. 7.7.10.1. Enforcement of division; penalty.

- (a) *Penalty.* Any person violating any of the provisions of this division governing health spas shall be punished as allowed by law.
- (b) *Revocation or suspension of license.* Any person violating any of the provisions of this division governing health spas subjects any license under this division to revocation or suspension as provided in this division.
- (c) *Abatement of violations as nuisance.* Every violation of the terms of this division governing health spas shall be termed a nuisance and a continuing nuisance so long as such violation may be continued, and such violation may be subject to abatement as a nuisance as provided by laws of this state.
- (d) *Injunction.* The violation of any provisions of this division as they pertain to health spas may be enjoined by proceedings in courts of competent jurisdiction in this state. Such actions may be maintained notwithstanding that other adequate remedies at law exist.
- (e) *Remedies cumulative.* Each of the remedies set out in subsections (a) through (d) of this section is cumulative and is not to be construed as curtailing the right of any resident, property owner or other person from bringing any proper action for enforcement of this division as it pertains to health spas.

Sec. 7.7.10.2. Inspections.

The city, through its employees and agents of the city business license office, shall have the right to inspect the place of business and records of any licensee under this division during the hours authorized under this division for conduct of business to ensure compliance with this division.

Sec. 7.7.10.3. List of employees to be filed with city.

It shall be the duty of all licensees under this division to file with the city, through its business license division and/or police department, the names of all employees required to have a work permit and designated managers, their home addresses, home telephone numbers, places of employment, date of birth, their duties and services performed, a copy of their Georgia State Massage Therapy License (when applicable), and any other descriptive information that the business license division or police department may require in its investigation of the establishment and its employees, within 72 hours of employment. All changes in information shall be filed in writing, via email or via online portal within 72 hours of the change.

Sec. 7.7.10.4. Record of treatments.

It shall be the duty of any person granted a license under this division to maintain correct and accurate records at the place of business of the names and addresses of the persons receiving treatment at such establishment, the type of treatment administered, and the name of the person of the establishment administering such treatment. Records shall also be maintained as required under section 7.7.10.5. Such records shall be subject to inspection at any time by any member of the business license office.

Sec. 7.7.10.5. Hours and place of operation.

The owner of the health spa shall provide in writing to the city Business License Division the hours of operation of the health spa. No licensee under this division shall operate a health spa except during the hours of 6:00 a.m. and 10:00 p.m. The licensee or a designated manager shall be on the premises at all hours that the establishment is engaged in or open for business. No employee shall remain in the establishment between the hours of midnight and 5:00 a.m.

Sec. 7.7.10.6. Prohibited contact.

No independent contractor or any employees, apprentices or trainees of the health spa business, shall manipulate, fondle or handle the sexual organs or anus of any person.

Sec. 7.7.10.7. License Application.

No person shall engage in the business, trade, or profession or practice the business, trade or profession of a health spa unless such person shall, before engaging in such business, trade or profession, file an application for a license with the city as set forth in this division 8 of this chapter. Such application shall set forth or show compliance with the following:

- (1) Name and address of the applicant.
- (2) Name and address of any person having previously employed the applicant for a period of two years or longer in a health spa or business.
- (3) Qualifications, plainly stated, with all documentary exhibits annexed.

Sec. 7.7.10.8. Qualifications and investigation of applicant(s), licensee, and employees.

- (a) The applicant and licensee must be a U.S. citizen or a legal resident alien prior to making application.
- (b) The licensee is required to be a resident of the State of Georgia and a Georgia State Licensed Massage Therapist.
- (c) Where the applicant for a license under this chapter is a corporation, any license for the operation of a health spa shall be applied for by and shall be issued to the corporation and either the majority shareholder thereof, or a person deemed the licensee by the corporation.
- (d) Where the applicant for a license under this chapter is a partnership, any license for the operation of a health spa shall be applied for by and shall be issued to the partnership and either the managing general partner thereof, or a person deemed the licensee by the partnership.
- (e) Where the applicant for a license under this chapter is a sole proprietor, license for the operation of a health spa shall be applied for by and shall be issued to the sole proprietor if he is working full-time in a managing capacity on the premises, and if not, then the sole proprietor and a person deemed the licensee by the sole proprietor.
- (f) The Cobb County police department shall investigate the background of both the applicant(s) and the licensee, and their spouses, and employees and independent contractors, except for Georgia state licensed massage therapists, of the establishment and report its recommendation to the city business license division manager for a health spa license.

Sec. 7.7.10.9. Location and premises requirements.

- (a) An applicant for a health spa license under this subdivision, prior to making application for a license, must have a location in the city where the health spa is a permitted use in the underlying zoning district.
- (b) The establishment shall be subject to inspection at any time during business hours by the business license division manager or his or her designee and/or by the police department to ensure compliance with this article.
- (c) All employees and other persons on the premises, with the exception of customers receiving a massage from a state licensed massage therapist, shall be completely clothed at all times when administering a massage. For the purposes of this article, the term "completely clothed" means having on the upper portion of the body appropriate undergarments and either blouse or shirt which shall cover all the upper body save the arms and neck, and shall mean having on the lower body appropriate undergarments plus either pants or skirt, and said pants or skirt must cover from the waist down to a point at least two inches above the knee. All clothes worn in compliance with this article shall be entirely non-transparent.

- (d) Ordinary beds or mattresses shall not be permitted in any health spa establishment.
- (e) No licensee under this division shall operate a health spa except during the hours of 6:00 a.m. and 10:00 p.m.
- (f) The licensee or a designated manager shall be on the premises at all hours that the establishment is engaged in or open for business.
- (g) A sign or lettering shall be posted at the main entrance identifying the business as a health spa. Said sign shall have lettering a minimum of five inches in height and shall identify the premises as a health spa business. The sign and the front of the business shall not be illuminated by strobe or flashing lights.
- (h) The hours of operation must be posted on the front door or window, clearly visible from the outside. Any massage or services begun before 10:00 p.m. must conclude at or before 10:00 p.m. Patrons of the health spa may not be permitted to remain on the premises outside these hours of operation.
- (i) A list of services available and the cost of such services font size 12 or larger letters shall be posted in a conspicuous public place within the premises. Only those services listed may be performed. Nothing in this subsection shall preclude the operator from posting additional signs in other languages as long as at least one sign in English is posted pursuant to this subsection.
- (j) No person shall enter, be in or remain in any part of the health spa while in possession of, consuming, using, or under the influence of any alcoholic beverage or controlled substance. The operators(s) and on-duty manager shall be responsible to ensure that no such person shall enter or remain upon the premises.
- (k) All front, reception, hallway or front exterior doors (except back or exterior doors used solely for employee entrance to and exit from the massage business) shall be unlocked during business hours. No massage may be given within any cubicle, room, booth or any area within a massage business which is fitted with a lock of any kind (such as a locking door knob, padlock, dead bolt, sliding bar or similar device), unless the only door is an exterior door. Entry doors to any room shall not be obstructed by any means.

Sec. 7.7.10.10. Grounds for denial, suspension or revocation.

In addition to the causes for denial, suspension or revocation of a license specified in section 7.7.10.45(c), due cause for denial, suspension or revocation of a license for a massage practitioner or health spa shall include the following:

- (1) The applicant or licensee is or has been guilty of fraud.
- (2) The applicant or licensee is or has been engaged in business under a false or assumed name, or is impersonating another person of a like or different name.
- (3) The applicant or licensee is addicted to the habitual use of intoxicating liquors, narcotics or stimulants to such an extent as to incapacitate such person to the extent that he is unable to perform his professional duties.
- (4) No license for a health spa shall be issued to any person where any individual having an interest either as owner, partner, principal shareholder, or licensee, directly or indirectly,

beneficial or absolute, shall have been convicted within ten years immediately prior to the consideration of a health spa license of criminal attempt or conspiracy to violate any laws relating to racketeer-influenced and corrupt organizations as defined in the Georgia RICO (Racketeer Influenced and Corrupt Organizations) Act (O.C.G.A. § 16-14-1 et seq.), crimes against the person as defined in O.C.G.A. tit. 16, ch. 5 (O.C.G.A. § 16-5-1 et seq.), sexual offenses as defined in O.C.G.A. tit. 16, ch. 6 (O.C.G.A. § 16-6-1 et seq.), gambling offenses as defined in O.C.G.A. tit. 16, ch. 12, art. 2 (O.C.G.A. § 16-12-20 et seq.), obscenity and related offenses as defined in O.C.G.A. tit. 16, ch. 12, art. 3 (O.C.G.A. § 16-12-80 et seq.), or contributing to the delinquency of a minor, all as defined by state law as it presently exists or may be hereafter amended, or has been convicted of any felony under the laws of this state or any other state or of the federal government.

- (5) Failure of the applicant or licensee to have or maintain initial qualifications for obtaining the license.
- (6) The applicant, licensee, shareholder, partner, agent, employee or independent contractor has employed any person who is not a licensed massage practitioner and allowing or permitting such person to administer massage in an establishment except as may be allowed by state law.
- (7) The premises in which the business is located are in violation of any of the federal, state, city or municipal laws designed for the health, protection and safety of the occupants.
- (8) Failure of the applicant or licensee to actively supervise and monitor the conduct of the employees, customers and others on the premises in order to protect the health, safety and well-being of the general public and the customers.
- (9) The violation of any laws or ordinances regulating such businesses or for the violation of any state or federal law.
- (10) Any change in the area where such business is located, which does not conform with the zoning existing at the new location.
- (11) Any reason which would authorize the city council to refuse the issuance of a license.
- (12) Any violation of this chapter.

Sec. 7.7.10.11. Reapplication after denial or revocation.

Any applicant or licensee under this division who has his license application denied or his license revoked shall be disqualified from reapplying for such a license for 12 months immediately following the revocation or denial.

Sec. 7.7.10.12. Change of location of business.

No licensee under this division shall change the location of the business without applying for and receiving a new license for such location from the business license office.

Sec. 7.7.10.13. Transfer.

No license issued under this division shall be transferable.

Sec. 7.7.10.14. Employment of persons with prior convictions.

- (a) No licensee shall employ, for compensation or otherwise, in any health spa, any employee requiring a work permit as defined in section 7.7.10.299 who meet any of the following:
- Any person who is not a citizen of the United States; is not an alien admitted for permanent residence, or does not otherwise possess employment authorization from the United States Citizenship and Immigration Services;
 - Any person who has been convicted within five years immediately prior to the application for employment of the following:
 - Criminal attempt or conspiracy to violate any laws relating to racketeer-influenced and corrupt organizations as defined in the Georgia RICO (Racketeer Influenced and Corrupt Organizations) Act (O.C.G.A. § 16-14-1 et seq.), crimes against the person as defined in O.C.G.A. tit. 16, ch. 5 (O.C.G.A. § 16-5-1 et seq.), sexual offenses as defined in O.C.G.A. tit. 16, ch. 6 (O.C.G.A. § 16-6-1 et seq.), gambling offenses as defined in O.C.G.A. tit. 16, ch. 12, art. 2 (O.C.G.A. § 16-12-20 et seq.), obscenity and related offenses as defined in O.C.G.A. tit. 16, ch. 12, art. 3 (O.C.G.A. § 16-12-80 et seq.), or contributing to the delinquency of a minor, all as defined by state law as it presently exists or may be hereafter amended;
 - Any felony; or
 - Performs any immoral or indecent act to or in the presence of a person with the intent to arouse or satisfy the sexual desires of either the employee or another person on the premises.
 - Any person on parole, probation, or convicted and released from incarceration, for any sexually related crimes, including but not limited to child molestation, aggravated child molestation, or child sexual abuse, as defined in O.C.G.A. 16-6-4 or individuals required to register as a sex offender pursuant to O.C.G.A. 42-1-12.
- (b) The omission or falsification of any material information in an application for a health spa work permit shall be a violation of this chapter and grounds for the denial, suspension or revocation of any such work permit; however, any employees excluded from employment under the terms of the section shall have the right to appeal such exclusion to the city business license division.

Sec. 7.7.10.15. Work permits.

- (a) *For whom required.* It is the responsibility of the licensee and designee to ensure that the employees required under this Code section obtain and possess the required work permit issued by Cobb County Police Department Regulatory Services Unit prior to working. Employees for the purpose of this section shall include independent contractors. Failure of an employee to possess a work permit as required by this section, shall be unlawful and will subject the employee and licensee to prosecution as provided in this chapter and shall be grounds for suspension or revocation of the license. A permit to work in any of the following establishments shall be required of the following:

- (1) All employees of the health spa who are not State of Georgia Licensed Massage Therapists;
- (2) All independent contractors of the health spa who do not hold a State License.
- (b) *Permit term.* Any work permit issued under this section shall expire 12 months from the date of issuance unless suspended or revoked as provided in this section.
- (c) *Possession of permit by employees.* Employees holding permits issued pursuant to this section shall at all times during their working hours have the permits available for inspection.

Sec. 7.7.10.16. Violations of this chapter.

The violation of any of the provisions of this chapter by the holder of a license under this chapter or the licensee's agents or employees, whether compensated or not, shall subject the holder of such license to revocation, suspension or probation of the license.

Sec. 7.7.10.17. Hearings and appeals.

- (a) *Hearing.*
 - (1) *Due cause hearing.* The city business license division shall hear evidence of the circumstances of the possible due cause and after said hearing may recommend that the health spa license to be suspended for a maximum of 12 months or revoked. The city business license division, and the city council, if applicable, may consider mitigating and aggravating circumstances in considering sanctions, including but not limited to, implementation and components of written policies, that employees have or do not have health spa work permits, components of a training program, number of violations of business, number of violations of licensee, number of stores, length of time in business, compliance check was due to a complaint, identification was not checked, and any other facts deemed relative by the fact finder.
 - (2) *Affirmation by city council.* If the city business license division recommends suspension or revocation and the owner of the health spa license, the licensee or both should fail to appeal such suspension or revocation recommendation, then the suspension or revocation shall become effective upon affirmation by the city council of such suspension or revocation recommendation and the owner of the health spa license and the licensee shall be deemed to have acquiesced to such suspension or revocation. The city council shall, within 60 days of the city business license division action, review a summary of the hearing before the city business license division wherein the health spa license was considered for suspension or revocation (the summary shall be prepared by the business license division manager) and the city council after such review may place the matter down for a hearing or affirm or alter the decision of the city business license division. Should the city council place the matter down for hearing, the city council may suspend, for a maximum of 12 months, or revoke the health spa license.
- (b) *Appeal.*
 - (1) In the event the city business license division recommends that the health spa license be suspended or revoked, the owner of the health spa license, the licensee or both may file an appeal with the business license division manager of such recommendation within ten

days to the city council. The city council shall conduct a de novo review and any additional evidence may be presented at the appeal hearing.

- (2) If a hearing occurred before the city council, such decision is final unless appeal is made to the superior court of the city. Any aggrieved party may appeal a decision of the city council by filing a petition for writ of certiorari to the superior court within 30 days of the decision of the city council.
- (3) In all hearings held pursuant to this section, the proceedings shall be as informal as compatible with justice, the hearing shall be expedited and normally shall not exceed 30 minutes in length, and the following procedures shall prevail:
 - a. The charges and specifications against the licensee and the response as filed by the licensee shall be read.
 - b. The city representative shall present evidence, and then the licensee shall present his evidence, with opportunity for each party to present rebuttal evidence, examination and cross examination of witnesses, and interrogation by the city council. No evidence shall be presented which is not relevant to the charges.

DIVISION 11. SEXUALLY ORIENTED BUSINESSES

Sec. 7.6.11.1. Purpose; findings and rationale.

- (a) *Purpose.* It is the purpose of this division to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the city. The provisions of this division have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this division to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this division to condone or legitimize the distribution of obscene material.
- (b) *Findings and rationale.* Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports publicly available to the City Council, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); *Sewell v. Georgia*, 435 U.S. 982 (1978); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *City of Dallas v. Stanglin*, 490 U.S. 19 (1989); and
 - (i) Based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, "Correlates of Current Transactional Sex among a Sample of Female Exotic Dancers in Baltimore, MD," *Journal of Urban Health* (2011); "Does

the Presence of Sexually Oriented Businesses Relate to Increased Levels of Crime?" Crime & Delinquency (2012) (Louisville, KY); Metropolis, Illinois—2011-12; Manatee County, Florida—2007; Hillsborough County, Florida—2006; Clarksville, Indiana—2009, 2013-2019; El Paso, Texas—2008; Memphis, Tennessee—2006; New Albany, Indiana—2009; Louisville, Kentucky—2004; Fulton County, GA—2001; Chattanooga, Tennessee—1999-2003; Jackson County, Missouri—2008; Ft. Worth, Texas—2004; Kennedale, Texas—2005; Greensboro, North Carolina—2003; Dallas, Texas—1997; Houston, Texas—1997, 1983; Phoenix, Arizona—1995-98, 1979; Tucson, Arizona—1990; Spokane, Washington—2001; St. Cloud, Minnesota—1994; Austin, Texas—1986; Indianapolis, Indiana—1984; Garden Grove, California—1991; Los Angeles, California—1977; Whittier, California—1978; Oklahoma City, Oklahoma—1986; New York, New York Times Square—1994; the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota); Dallas, Texas—2007; "Rural Hotspots: The Case of Adult Businesses," 19 Criminal Justice Policy Review 153 (2008); "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; Sex Store Statistics and Articles; Indianapolis/Marion County Board of Zoning Appeals Documents; Law Enforcement and Private Investigator Affidavits (Adult Cabarets in Forest Park, GA and Sandy Springs, GA); DeKalb County Testimony and Reports—2014; and Strip Club-Trafficking Documents, the City Council finds:

- (1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, human trafficking, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation. Alcohol consumption impairs judgment and lowers inhibitions, thereby increasing the risk of adverse secondary effects.
- (2) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.
- (3) Each of the foregoing negative secondary effects constitutes a harm which the county has a substantial government interest in preventing and/or abating. The city's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the City. The City finds that the cases and documentation relied on in this chapter are reasonably believed to be relevant to said secondary effects.

(ii) Additionally:

- (1) The City is becoming an increasingly attractive place for the location of commercial enterprises and of residences for families, and the council is committed to adopting ordinances designed to protect the quality of life for its constituents.

- (2) The City Council desires to establish policies that provide the maximum protection of the general welfare, health, morals, and safety of the residents of the City.
- (3) The governing authority of each municipal corporation is authorized to enact ordinances which have the effect of restricting the operation of adult bookstores and video stores to areas zoned for commercial or industrial purposes, provided in O.C.G.A. § 36-60-3.
- (4) The state supreme court, in *Chambers d/b/a Neon Cowboy v. Peach County, Georgia*, 266 Ga. 318 (1996), held that local governments may adopt ordinances designed to combat the undesirable secondary effects of sexually explicit businesses, and further held that a governing authority seeking to regulate adult establishments must have evidence of a relationship between the proposed regulation and the undesirable secondary effects it seeks to control.
- (5) The state supreme court further held in the same opinion that in passing its regulation, a local government may rely on the experience of other counties and municipalities to demonstrate such a relationship.
- (6) The United States Supreme Court, in *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), held that a local government may rely on the experience of other cities in enacting legislation to regulate sexually oriented business.
- (7) Among the undesirable community conditions identified with live nude entertainment at which alcohol is served or consumed are depression of property values in the surrounding neighborhood, increased expenditure for the allocation of law enforcement personnel to preserve law and order, increased burden on the judicial system as a consequence of the criminal behavior, and acceleration of community blight.
- (8) The City Council further finds it has an important governmental interest in reducing crime and protecting surrounding properties from adverse impacts, which interest is unrelated to the suppression of speech.
- (9) It is the intent of the City Council to enact an ordinance, narrowly tailored, sufficient to combat the undesirable secondary effects of sexually oriented businesses, including the serving and consumption of alcoholic beverages at sexually oriented businesses.
- (10) The City Council desires to regulate the sexually oriented businesses within the City limits. Notwithstanding, this article is not to be construed as an endorsement from the City of these establishments. The City Council understands that sexually oriented businesses are actually protected under the free speech clause of the First Amendment of the Constitution of the United States for their role in communicating "erotic speech." The courts allow communities to regulate speech, not based on the content of the speech, but in time, place, and manner in which it is presented.
- (11) It is well established and has been the experience of other communities in the state and throughout the United States that adult entertainment, which includes public nudity, has been associated with and may encourage disorderly conduct, prostitution and sexual assault. This section advances the substantial government interest in promoting and protecting public health, safety, and general welfare, maintaining law

and order and prohibiting public nudity. The section is narrowly constructed to protect the First Amendment rights of citizens of the City while furthering the substantial governmental interest of combating the secondary effects of public nudity and sexually oriented businesses from areas and uses of the community that are incompatible. Areas and uses that are to be protected from sexually oriented businesses include, but are not limited to, residential, churches, day care centers, libraries, recreational facilities, and schools.

- (12) Based on the experiences of other counties and municipalities, the City Council takes note of the patent conditions and secondary effects attendant to the commercial exploitation of human sexuality, which do not vary greatly among the similar communities within our country.
- (13) The City Council further finds that public nudity (either partial or total) under certain circumstances, particularly circumstances related to the sale and consumption of alcoholic beverages in establishments offering live nude entertainment or "adult entertainment," whether such alcoholic beverages are sold on the premises or not, begets criminal behavior and tends to create undesirable community conditions. In the same manner, establishments offering cinematographic or videographic adult entertainment have the same deleterious effects on the community. Among the acts of criminal behavior found to be associated with the commercial combination of live nudity and alcohol consumption or sale, live commercial nudity in general, and cinematographic or videographic adult entertainment are disorderly conduct, prostitution, public solicitation, public indecency, fighting, battery, assaults, drug use and drug trafficking. *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *5634 East Hillsborough Ave., Inc. v. Hillsborough County*, 2007 WL 2936211 (M.D. Fla. Oct. 4, 2007), *aff'd*, 2008 WL 4276370 (11th Cir. Sept. 18, 2008) (per curiam). See also *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981).
- (14) Among the undesirable community conditions identified in other communities with the commercial combination of live nudity and alcohol consumption or sale, commercial nudity in general, and cinematographic or videographic adult entertainment are depression of property values and acceleration of community blight in the surrounding neighborhood, increased allocation of and expenditure for law enforcement personnel to preserve law and order, and increased burden on the judicial system as a consequence of the criminal behavior described in this article. The City Council finds it is reasonable to believe that some or all of these undesirable community conditions are occurring, and will continue to occur in the City.
- (15) The City Council further finds that other forms of adult entertainment including, but not limited to, adult bookstores, adult novelty shops, adult video stores, peep shows, and adult theaters have an adverse effect upon the quality of life in surrounding communities.
- (16) The City Council further finds that the negative secondary effects of adult establishments upon the City are similar whether the adult establishment features live nude dancing or sells books/videotapes depicting sexual activities. *H & A Land Corp.*

v. City of Kennedale, 480 F.3d 336 (5th Cir. 2007); High Five Investments, LLC v. Floyd County, No. 4:06-CV-0190-HLM (N.D. Ga. Mar. 14, 2008).

(17) Therefore, the City Council finds that it is in the best interests of the health, welfare, safety and morals of the community and the preservation of its businesses, neighborhoods, and of churches, schools, residential areas, public parks and children's day care facilities to prevent or reduce the adverse impacts of adult establishments by restricting hours of operation, prohibiting alcohol sale or consumption, and restricting the distance from other adult establishments and restricting the distance from residential areas, schools, public parks, churches, and children's day care facilities.

(18) The City Council finds that these regulations promote the public welfare by furthering legitimate public and governmental interests including, but not limited to, reducing criminal activity and protecting against or eliminating undesirable activities impacting adversely the community conditions and further finds that such will not infringe upon the protected Constitutional rights of freedom of speech or expression.

(c) The city hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses, including the judicial opinions and reports related to such secondary effects.

Sec. 7.7.11.2. Definitions.

For purposes of this division, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

Adult arcade means a commercial establishment to which the public is permitted or invited that maintains booths or rooms smaller than 100 square feet, wherein image-producing devices are regularly maintained, and where a fee is charged to access the booths or rooms or to view the images displayed on the image-producing devices.

Adult bookstore means a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas." A "principal business activity" exists where the commercial establishment meets any one or more of the following criteria:

- (1) At least 25 percent of the establishment's displayed merchandise consists of said items; or
- (2) At least 25 percent of the establishment's revenues derive from the sale or rental, for any form of consideration, of said items; or
- (3) The establishment maintains at least 25 percent of its floor space for the display, sale, and/or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items are rented or sold, shall be included in "floor space" maintained for the display, sale, or rental of said items); or

- (4) The establishment maintains at least 500 square feet of its floor space for the display, sale, and/or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items are rented or sold, shall be included in "floor space" maintained for the display, sale, or rental of said items); or
- (5) The establishment regularly offers for sale or rental at least 500 of said items; or
- (6) The establishment regularly makes said items available for sale or rental and holds itself out, in any medium, as an establishment that caters to adult sexual interests.

Adult cabaret means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment that regularly offers live semi-nude conduct. No establishment shall avoid classification as an adult cabaret by offering nude conduct.

Adult motion picture theater means a commercial establishment to which the public is permitted or invited that maintains viewing rooms that are 100 square feet or larger wherein films or videos characterized by their emphasis upon "specified sexual activities" or "specified anatomical areas" are regularly shown.

Characterized by means describing the essential character or quality of an item. As applied in this division, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

Church means a place where persons regularly assemble for religious worship.

County means Cobb County, Georgia.

Director means the director of the city's Community Development department or his or her designee.

Employ, employee, and employment describe and pertain to any person who works or engages in activity for pay on the premises of a sexually oriented business, on a full time, part time, temporary, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, lessee, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

Floor space means the floor area inside an establishment that is visible or accessible to patrons for any reason, excluding restrooms.

Hearing officer means an attorney, not an employee of the city, who is licensed to practice law in Georgia, and retained to serve as an independent tribunal to conduct hearings under this division.

Hospital means a building or portion thereof designed and used for therapeutic treatment of bed patients who are physically or mentally ill.

Influential interest means the actual power to control or influence the operation, management, or policies of the sexually oriented business or legal entity which operates the sexually oriented business. An individual is deemed to have an "influential interest" if he or she (1) is the on-site general manager of the sexually oriented business, (2) owns a financial interest of 30 percent or more of a business or of any class of voting securities of a business, or (3) holds an office (e.g., president, vice president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates the sexually oriented business.

Licensee means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In the case of an employee, it shall mean the person in whose name the sexually oriented business employee license has been issued.

Nudity or nude conduct means the showing of the human male or female genitals, pubic area, vulva, or anus with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola. For purposes of this division, a "fully opaque covering" must be non-flesh colored, shall not consist of any substance that can be washed or peeled off the skin (such as paint, make-up, or latex), and shall not simulate the appearance of the anatomical area that it covers.

Operate means to cause to function or to put or keep in a state of doing business.

Operator means any person on the premises of a sexually oriented business who manages, supervises, or controls the business or a portion thereof. A person may be found to be an operator regardless of whether such person is an owner, part owner, or licensee of the business.

Package store means a business establishment whose primary business activity is the retail sale of alcoholic beverages by the package.

Park means any lands or facility owned, operated, controlled or managed by any city, city or federal government or any governmental entity in and upon which recreational activities or places are provided for the recreation and enjoyment of the general public.

Person means an individual, proprietorship, partnership, corporation, association, or other legal entity.

Premises means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the sexually oriented business.

Regional shopping mall (enclosed) means a group of retail and other commercial establishments that is planned, developed, and managed as a single property, with on-site parking provided around the perimeter of the shopping center, and that is generally at least 40 acres in size and flanked by two or more large "anchor" stores, such as department stores. The common walkway or "mall" is enclosed, climate-controlled and lighted, usually with an inward orientation of the stores facing the walkway.

Regularly means the consistent and repeated doing of an act on an ongoing basis.

Residence means a house, apartment, mobile home, boardinghouse or rooming house, duplex or other multifamily housing for human dwelling, or any property zoned therefor.

School means state, city, city, church or other schools, public or private, as teach the subjects commonly taught in the common schools of this state, and vocational schools, colleges, post-high-school learning centers, kindergartens and day care centers for persons of all ages.

Semi-nude or semi-nudity means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by

a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

Sexual device means any three-dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, nipple, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

Sexual device shop means a commercial establishment:

- (1) Where more than 100 sexual devices are regularly made available for sale or rental; or
- (2) Where sexual devices are regularly made available for sale or rental and the establishment regularly gives special prominence to sexual devices (e.g., by using lighted display cases for sexual devices, having a room or discrete area of the establishment significantly devoted to sexual devices, positioning sexual devices near cash registers or similar points of sale, hosting events focused on sexual devices, or holding itself out to the public as a place that focuses on sexual devices).

This definition shall not be construed to include any establishment located within an enclosed regional shopping mall, an establishment containing a pharmacy that employs a licensed pharmacist to fill prescriptions on the premises, or an establishment primarily dedicated to providing durable medical equipment.

Sexually oriented business means an adult arcade, an adult bookstore, an adult cabaret, an adult motion picture theater, or a sexual device shop.

Specified anatomical areas means and includes:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified criminal activity means any of the following specified crimes for which less than five years has elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

- (1) Rape, child molestation, sexual assault, sexual battery, aggravated sexual assault, aggravated sexual battery, or public indecency;
- (2) Prostitution, keeping a place of prostitution, pimping, or pandering;
- (3) Obscenity, disseminating or displaying matter harmful to a minor, or use of minor in sexual performance;
- (4) Any offense related to any sexually-oriented business, including controlled substance offenses, tax violations, racketeering, crimes involving sex, crimes involving prostitution, or crimes involving obscenity;
- (5) Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or

- (6) Any offense in another jurisdiction that, had the predicate act(s) been committed in Georgia, would have constituted any of the foregoing offenses.

Specified sexual activity means any of the following:

- (1) Intercourse, oral copulation, masturbation or sodomy; or
- (2) Excretory functions as a part of or in connection with any of the activities described in subsection (1) of this definition.

Transfer of ownership or control of a sexually oriented business means any of the following:

- (1) The sale, lease, or sublease of the business;
- (2) The transfer of securities which constitute an influential interest in the business, whether by sale, exchange, or similar means; or
- (3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Viewing room means the room or booth where a patron of a sexually oriented business would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video on an image-producing device.

Sec. 7.7.11.3. License required.

- (a) *Sexually oriented business license.* It shall be unlawful for any person to operate a sexually oriented business in the city without a valid sexually oriented business license.
- (b) *Employee license.* It shall be unlawful for any person to be an employee, as defined in this division, of a sexually oriented business in the city without a valid sexually oriented business employee license, except that a person who is a licensee under a valid sexually oriented business license shall not be required to also obtain a sexually oriented business employee license. It shall be unlawful for any person who operates a sexually oriented business to employ a person at the establishment who does not have a valid sexually oriented business employee license.
- (c) *Application.* An applicant for a sexually oriented business license or a sexually oriented business employee license shall file in person at the office of the community development agency (or other office designated by the director) a completed application made on a form provided by the director. A sexually oriented business may designate an individual with an influential interest in the business to file its application for a sexually oriented business license in person on behalf of the business. The application shall be signed as required by subsection (d) herein and shall be notarized. An application shall be considered complete when it contains, for each person required to sign the application, the information and/or items required in this subsection (c), accompanied by the appropriate license fee:
 - (1) The applicant's full legal name and any other names used by the applicant in the preceding five years.
 - (2) Current business address or another mailing address for the applicant.

- (3) Written proof of age, in the form of a driver's license, a picture identification document containing the applicant's date of birth issued by a governmental agency, or a copy of a birth certificate accompanied by a picture identification document issued by a governmental agency.
- (4) If the application is for a sexually oriented business license, the business name, location, legal description, mailing address and phone number of the sexually oriented business.
- (5) If the application is for a sexually oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process.
- (6) A statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in this division, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable.
- (7) A statement of whether any sexually oriented business in which an applicant has had an influential interest, has, in the previous five years, and at a time during which the applicant had the influential interest:
 - a. Been found by a court of law to have been operating unlawfully;
 - b. Been enjoined from engaging in conduct prohibited by law;
 - c. Been held in contempt of court for operating contrary to a court order;
 - d. Been declared by a court of law to be a nuisance; or
 - e. Been subject to an order of closure.
- (8) An application for a sexually oriented business license shall be accompanied by a legal description of the property where the business is located and a sketch or diagram showing the configuration of the premises, including a statement of total floor area occupied by the business and a statement of floor area visible or accessible to patrons for any reason, excluding restrooms. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. Applicants who are required to comply with the stage, booth, and/or room configuration requirements of this division shall submit a diagram indicating that the setup and configuration of the premises meets the requirements of the applicable regulations. See sections 7.7.11.3 and 7.7.11.3. The director may waive the requirements of this subsection (8) for a renewal application if the applicant adopts a legal description and a sketch or diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
- (9) A signed and sworn affidavit verifying the applicant's lawful presence in the United States as required by O.C.G.A. § 50-36-1. If the applicant is a partnership, limited liability company, corporation, or other legal entity, a signed and sworn affidavit verifying the lawful presence of each individual that executes the application on behalf of the applicant. With regard to a renewal application, if an individual has previously complied with the requirements of this subsection (9), the director may waive the requirements of this subsection for that individual.

(10) If the application is for a sexually oriented business license, a signed and sworn affidavit attesting that the establishment either uses the federal work authorization program in accordance with federal regulations or that the applicant employs fewer than 11 people or otherwise does not fall within the requirements of O.C.G.A. § 36-60-6.

(11) If the application is for a sexually oriented business employee license, the name and address of the establishment where the applicant intends to use the employee license.

The information provided pursuant to this subsection (c) shall be supplemented in writing by certified mail, return receipt requested, to the director within ten working days of a change of circumstances which would render the information originally submitted false or incomplete.

(d) *Signature.* A person who seeks a sexually oriented business employee license under this section shall sign the application for a license. If a person who seeks a sexually oriented business license under this section is an individual, he shall sign the application for a license as applicant. If a person who seeks a sexually oriented business license is other than an individual, each person with an influential interest in the sexually oriented business or in a legal entity that controls the sexually oriented business shall sign the application for a license as applicant. Each applicant must be qualified under this division and each applicant shall be considered a licensee if a license is granted.

(e) The information provided by an applicant in connection with an application for a license under this division shall be maintained by the office of the director on a confidential basis, and such information may be disclosed only as may be required, and only to the extent required, by governing law or court order. Any information protected by the right to privacy as recognized by state or federal law shall be redacted prior to such disclosure.

Sec. 7.7.11.4. Issuance of license.

(a) *Sexually oriented business license.* Upon the filing of a completed application for a sexually oriented business license, the applicant shall be considered to hold a temporary license if the completed application is from a sexually oriented business that was lawfully commenced, and is lawfully operating, in the city and the completed application indicates that the applicant is entitled to an annual sexually oriented business license. The temporary license shall expire upon the final decision of the city to deny or grant an annual license. Within 30 days of the filing of a completed sexually oriented business license application, the director shall either issue a license to the applicant or issue a written notice of intent to deny a license to the applicant. The director shall issue a license unless:

(1) An applicant is less than 18 years of age.

(2) An applicant has failed to provide information required by this division for issuance of a license or has falsely answered a question or request for information on the application form.

(3) The license fee required by this division has not been paid.

(4) The sexually oriented business, as defined herein, is not in compliance with the interior configuration requirements of this division.

(5) The sexually oriented business, as defined herein, is not in compliance with this division or the location requirements of the city code.

- (6) Any sexually oriented business in which an applicant has had an influential interest, has, in the previous five years, and at a time during which the applicant had the influential interest:
 - a. Been found by a court of law to have been operating unlawfully;
 - b. Been enjoined from engaging in conduct prohibited by law;
 - c. Been held in contempt of court for operating contrary to a court order;
 - d. Been declared by a court of law to be a nuisance; or
 - e. Been subject to an order of closure.
 - (7) An applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this division.
 - (8) An applicant has, in the previous five years, engaged in any misrepresentation of fact, or omission of material fact, concerning the nature of the business for which the license is sought.
- (b) *Employee license.* Upon the filing of a completed application for a sexually oriented business employee license, the applicant shall be considered to hold a temporary license if the applicant seeks licensure to work in a licensed sexually oriented business and the completed application indicates that the applicant is entitled to an annual sexually oriented business employee license. The temporary license shall expire upon the final decision of the city to deny or grant an annual license. Within 30 days of the filing of a completed sexually oriented business employee license application, the director shall either issue a license to the applicant or issue a written notice of intent to deny a license to the applicant. The director shall issue a license unless:
- (1) The applicant is less than 18 years of age.
 - (2) The applicant has failed to provide information as required by this division for issuance of a license or has falsely answered a question or request for information on the application form.
 - (3) The license fee required by this division has not been paid.
 - (4) Any sexually oriented business in which the applicant has had an influential interest, has, in the previous five years, and at a time during which the applicant had the influential interest:
 - a. Been found by a court of law to have been operating unlawfully;
 - b. Been enjoined from engaging in conduct prohibited by law;
 - c. Been held in contempt of court for operating contrary to a court order;
 - d. Been declared by a court of law to be a nuisance; or
 - e. Been subject to an order of closure.
 - (5) The applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this division.

- (6) The applicant has expressed the intent to use the sexually oriented business employee license at an establishment that is not licensed by the city to operate a sexually oriented business.
- (c) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the issued license number and its expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be read at any time that the business is occupied by patrons or is open to the public. A sexually oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is then working.
- (d) No license under this division shall be considered valid if the applicant submitted false information to obtain the license.

Sec. 7.7.11.5. Fees.

The fees for sexually oriented business licenses and sexually oriented business employee licenses shall be as set forth in the schedule of fees as adopted by the city council.

Sec. 7.7.11.6. Inspection.

Sexually oriented businesses and sexually oriented business employees shall permit the director and his or her agents to inspect, from time to time on an occasional basis, the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this division, during those times when the sexually oriented business is occupied by patrons or is open to the public. This section shall be narrowly construed to authorize only reasonable inspections of the licensed premises pursuant to this division.

Sec. 7.7.11.7. Expiration and renewal of license.

- (a) Each license shall remain valid for a period of one calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in this division. When a renewal license is issued, it shall become effective the day after the previous license expires and shall remain valid for a period of one calendar year from its effective date unless otherwise suspended or revoked.
- (b) Application for renewal of an annual license should be made at least 90 days before the expiration date of the current annual license, and when made less than 90 days before the expiration date, the expiration of the current license will not be affected.

Sec. 7.7.11.8. Suspension.

- (a) The director shall issue a written notice of intent to suspend a sexually oriented business license for a period not to exceed 30 days if the sexually oriented business licensee has knowingly or recklessly violated this division or has knowingly or recklessly allowed an employee or any other person to violate this division.

- (b) The director shall issue a written notice of intent to suspend a sexually oriented business employee license for a period not to exceed 30 days if the employee licensee has knowingly or recklessly violated this division.

Sec. 7.7.11.9. Revocation.

- (a) The director shall issue a written notice of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if the licensee knowingly or recklessly violates this division or has knowingly or recklessly allowed an employee or any other person to violate this division and a suspension of the licensee's license has become effective within the previous 12-month period.
- (b) The director shall issue a written notice of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if:
 - (1) The licensee has knowingly given false information in the application for the sexually oriented business license or the sexually oriented business employee license;
 - (2) The licensee has failed to meet or maintain the qualifications to be issued or to hold the license;
 - (3) The licensee has knowingly or recklessly engaged in or allowed possession, use, or sale of controlled substances on the premises of the sexually oriented business;
 - (4) The licensee has knowingly or recklessly engaged in or allowed prostitution on the premises of the sexually oriented business;
 - (5) The licensee knowingly or recklessly operated the sexually oriented business during a period of time when the license was finally suspended or revoked;
 - (6) The licensee has knowingly or recklessly engaged in or allowed any specified sexual activity or specified criminal activity to occur in or on the premises of the sexually oriented business;
 - (7) The licensee has knowingly or recklessly allowed a person under the age of 21 years to consume alcohol on the premises of the sexually oriented business;
 - (8) The licensee has knowingly or recklessly allowed a person under the age of 18 years to appear in a semi-nude condition or in a state of nudity on the premises of the sexually oriented business; or
 - (9) The licensee has knowingly or recklessly allowed three or more violations of this division within a 12-month period.
- (c) The fact that any relevant conviction is being appealed shall have no effect on the revocation of the license, provided that, if any conviction which serves as a basis of a license revocation is overturned or reversed on appeal, that conviction shall be treated as null and of no effect for revocation purposes.
- (d) When, after the notice and hearing procedure described in this division, the city revokes a license, the revocation shall continue for one year and the licensee shall not be issued a sexually oriented business license or sexually oriented business employee license for one year from the date revocation becomes effective.

Sec. 7.7.11.10. Hearing; license denial, suspension, revocation; appeal.

- (a) When the director issues a written notice of intent to deny, suspend, or revoke a license, the director shall immediately send such notice, which shall state the grounds under this division for such action, to the applicant or licensee by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the director for the applicant or licensee. The notice shall also set forth the following: the applicant or licensee shall have ten days after the delivery of the written notice to submit, at the office of the director, a written request for a hearing. If the applicant or licensee does not request a hearing within said ten days, the director's written notice shall become a final denial, suspension, or revocation, as the case may be, on the 15th day after it is delivered to the applicant or licensee.
- (b) If the applicant or licensee (hereafter, "petitioner") does make a written request for a hearing within said ten days, then the director shall, within ten days after the submission of the request, send a notice to the petitioner indicating the date, time, and place of the hearing. The hearing shall be conducted not less than ten days nor more than 20 days after the date that the hearing notice is issued. The hearing may be transcribed by either party.
- (c) At the hearing, the petitioner shall have the opportunity to present all relevant arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the director's witnesses. The director may also be represented by counsel, present evidence and witnesses, and cross-examine any of the petitioner's witnesses. The hearing shall take no longer than one day, unless extended at the request of the petitioner to meet the requirements of due process and proper administration of justice. The hearing officer shall affirm the director's licensing decision if any substantial evidence in the record at the hearing supports any of the grounds set forth in the written notice of intent to deny, suspend, or revoke. The hearing officer shall issue a final written decision, including specific reasons for the decision pursuant to this division, to the petitioner within five days after the hearing.
- (d) If the decision is to deny, suspend, or revoke the license, the decision shall advise the petitioner of the right to appeal such decision to a court of competent jurisdiction, and the decision shall not become effective until the tenth day after it is rendered. If the hearing officer's decision finds that there is no substantial evidence to support the director's licensing decision, the hearing officer shall, contemporaneously with the issuance of the decision, order the director to immediately withdraw the intent to deny, suspend, or revoke the license and to notify the petitioner in writing by certified mail of such action. If the petitioner is not yet licensed, the director shall contemporaneously therewith issue the license to the applicant.
- (e) If any court action challenging a licensing decision is initiated, the city shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings. The following shall apply to any sexually oriented business that is lawfully operating as a sexually oriented business, or any sexually oriented business employee that is lawfully employed as a sexually oriented business employee, on the date on which the completed business or employee application, as applicable, is filed with the director: upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the city's enforcement of any denial, suspension, or revocation of a license, the director shall immediately issue the petitioner a

provisional license. The provisional license shall allow the petitioner to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the court's entry of a judgment on the petitioner's appeal or other action to restrain or otherwise enjoin the city's enforcement. While a provisional license is in effect, the provisional licensee shall comply with the regulations set forth in this division.

Sec. 7.7.11.11. Transfer of license.

A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application.

Sec. 7.7.11.12. Hours of operation.

No sexually oriented business shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day.

Sec. 7.7.11.13. Regulations pertaining to operation of adult arcade or adult motion picture theater.

- (a) A person who operates or causes to be operated an adult arcade or adult motion picture theater shall comply with the following requirements:
 - (1) Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The director may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
 - (2) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
 - (3) The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five foot candles as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.
 - (4) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no specified sexual activity occurs in or on the premises.

- (5) It shall be the duty of the operator to post conspicuous signs in well-lighted entry areas of the business stating all of the following:
 - a. That the occupancy of viewing rooms less than 100 square feet is limited to one person.
 - b. That specified sexual activity on the premises is prohibited.
 - c. That the making of openings between viewing rooms is prohibited.
 - d. That violators will be required to leave the premises.
 - e. That violations of these regulations are unlawful.
- (6) It shall be the duty of the operator to enforce the regulations articulated in this chapter.
- (7) The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed 32 square feet of floor area. If the premises has two or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.
- (8) It shall be the duty of the operator to ensure that no porous materials are used for any wall, floor, or seat in any booth or viewing room.
- (b) It shall be unlawful for a person having a duty under subsections (a)(1) through (a)(8) to knowingly or recklessly fail to fulfill that duty.
- (c) No patron shall knowingly or recklessly enter or remain in a viewing room less than 100 square feet in area that is occupied by any other patron.
- (d) No patron shall knowingly or recklessly be or remain within one foot of any other patron while in a viewing room that is 100 square feet or larger in area.
- (e) No person shall knowingly or recklessly make any hole or opening between viewing rooms.

Sec. 7.7.11.14. Loitering, exterior lighting and monitoring, and interior lighting requirements.

- (a) It shall be the duty of the operator of a sexually oriented business to:
 - (1) Ensure that at least two conspicuous signs stating that no loitering is permitted on the premises are posted on the premises;

- (2) Designate one or more employees to monitor the activities of persons on the premises by visually inspecting the premises at least once every 90 minutes or inspecting the premises by use of video cameras and monitors; and
 - (3) Provide lighting to the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. Said lighting shall be of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one foot candle as measured at the floor level. If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within an operator's station.
- (b) It shall be the duty of the operator of a sexually oriented business to ensure that the interior premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five foot candles as measured at the floor level and the illumination must be maintained at all times that any customer is present in or on the premises.
 - (c) No sexually oriented business shall erect a fence, wall, or similar barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right-of-way.
 - (d) It shall be unlawful for a person having a duty under this section to knowingly or recklessly fail to fulfill that duty.

Sec. 7.7.11.15. Penalties and enforcement.

- (a) A person who violates any of the provisions of this division shall be guilty of a violation and, upon conviction, shall be punishable by fines not to exceed \$1,000.00 per violation, or by imprisonment for a period not to exceed 60 days, or by both such fine and imprisonment. For violations of this division that are continuous with respect to time, each day that the violation continues is a separate offense. For violations of this division that are not continuous with respect to time, each violation is a separate offense.
- (b) Any premises, building, dwelling, or other structure in which a sexually oriented business is repeatedly operated or maintained in violation of this division shall constitute a nuisance and shall be subject to civil abatement proceedings in a court of competent jurisdiction.
- (c) The city's legal counsel is hereby authorized to institute civil proceedings necessary for the enforcement of this division to enjoin, prosecute, restrain, or correct violations hereof. Such proceedings shall be brought in the name of the city, provided, however, that nothing in this section and no action taken hereunder, shall be held to exclude such criminal or administrative proceedings as may be authorized by other provisions of this division, or any of the laws in force in the city or to exempt anyone violating this Code or any part of the said laws from any penalty which may be incurred.

Sec. 7.7.11.16. Applicability of division to existing businesses.

- (a) *Licensing requirements.* All sexually oriented businesses lawfully operating in the city in compliance with all state and local laws prior to the effective date of this division, and all sexually oriented business employees working in the city prior to the effective date of this division, are hereby granted a de facto temporary license to continue operation or employment

for a period of 90 days following the effective date of this division. Within 60 days following the effective date of this division, all sexually oriented businesses and sexually oriented business employees must apply for a license under this division.

- (b) *Interior configuration requirements.* Any sexually oriented business that is required to, but does not, have interior configurations or stages that meet at least the minimum requirements of section 7.7.11.332 and subsection 7.7.11.3(b) shall have 90 days from the effective date of this division to conform its premises to said requirements. During said 90 days, any employee who appears within view of any patron in a semi-nude condition shall nevertheless remain, while semi-nude, at least six feet from all patrons.
- (c) *Other requirements.* Except as provided for in subsections (a) and (b) above, sexually oriented businesses shall comply with this division on the date that it takes effect.

Sec. 7.7.11.17. Prohibited conduct.

- (a) No patron, employee, or any other person shall knowingly or intentionally, in a sexually oriented business, appear in a state of nudity or engage in a specified sexual activity.
- (b) No person shall knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the person is an employee who, while semi-nude, remains at least six feet from all patrons and on a stage at least 18 inches from the floor in a room of at least 600 square feet.
- (c) No employee who appears semi-nude in a sexually oriented business shall knowingly or intentionally touch a customer or the clothing of a customer on the premises of a sexually oriented business. No customer shall knowingly or intentionally touch such an employee or the clothing of such an employee on the premises of a sexually oriented business.
- (d) No person shall possess, use, or consume alcoholic beverages on the premises of a sexually oriented business.
- (e) No person shall knowingly or recklessly allow a person under the age of 18 years to be or remain on the premises of a sexually oriented business.
- (f) No operator of a sexually oriented business shall knowingly or recklessly allow a room in the sexually oriented business to be simultaneously occupied by any patron and any other employee who is semi-nude or who appears semi-nude on the premises of the sexually oriented business, unless an operator of the sexually oriented business is present in the same room.
- (g) No operator or licensee of a sexually oriented business shall violate the regulations in this section or knowingly or recklessly allow an employee or any other person to violate the regulations in this section.
- (h) A sign in a form to be prescribed by the director, and summarizing the provisions of subsections (a), (b), (c), (d), and (e) of this section, shall be posted near the entrance of the sexually oriented business in such a manner as to be clearly visible to patrons upon entry. No person shall cover, obstruct, or obscure said sign.

Sec. 7.7.11.18. Scienter required to prove violation or business licensee liability.

This division does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a reckless mental state is necessary to establish a violation of a provision of this division. Notwithstanding anything to the contrary, for the purposes of this division, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually oriented business licensee for purposes of finding a violation of this division, or for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

Sec. 7.7.11.19. Location of sexually oriented businesses.

- (a) It shall be unlawful to establish, operate, or cause to be operated a sexually oriented business in the city that is:
 - (1) Within 750 feet of a residence or residential zoning district;
 - (2) Within 1,500 feet of a church, school, governmentally owned or operated building, library, civic center, public park, hospital, community club, or prison;
 - (3) Within 1,000 feet of another sexually oriented business; or
 - (4) Within 500 feet of an establishment licensed to sell alcoholic beverages for consumption on the premises or to sell alcoholic beverages as a package store.
- (b) For the purpose of this section, measurements shall be made in a straight line from the closest part of any structure occupied by the sexually oriented business to the closest property line of the zoned property and uses identified in subsection (a), above. Where a use identified in subsection (a) is located in a multi-tenant development, the distance shall be measured to the closest part of the tenant space occupied by that use rather than the property line of the entire development, so as to maximize the number of locations available to sexually oriented businesses.
- (c) Notwithstanding any provision in the Official Code of Mableton, Georgia to the contrary, a sexually oriented business in a location that satisfies the standards in this section shall not be deemed noncompliant with this section by virtue of the subsequent establishment or expansion of a land use or zoning district identified in subsection (a).

DIVISION 12. PRECIOUS METALS DEALERS⁴

⁴State law reference(s)—Dealers in precious metals and gems, O.C.G.A. § 43-37-1 et seq.

Sec. 7.7.12.1. Definitions.

For purposes of this division, the term:

Gems means any precious or semiprecious stone which is cut and polished.

Precious metals means gold, silver, or platinum or any alloy containing gold, silver, or platinum.

Precious metals dealer means any person who under state law is defined as a dealer in precious metals, to include any partnership, sole proprietorship, corporation, association, or other entity engaged in the business of purchasing any precious metals or gems from persons or sources other than licensed wholesale or distributor businesses, manufacturers, manufacturers' representatives, or other dealers in precious metals.

Sec. 7.7.12.2. Registration and license required.

Any person, who under state law is defined as a dealer in precious metals, before engaging in business in the city, shall:

- (1) Register with the city business license office and provide all information as required under state law; and
- (2) Obtain a city business license.

Sec. 7.7.12.3. Records and information to be maintained; identification; digital photographs; fingerprints; records storage.

- (a) All precious metals dealers shall maintain records documenting accurate descriptions of all precious metals or gems or goods made from precious metals or gems purchased. Such description shall include, if reasonably available, the manufacturer, model, serial number, style, material, kind, color, design, number of stones if jewelry, and all other identifying names, marks, and numbers. The precious metals dealer shall assign a unique transaction number documenting each transaction, and ensure that each item received is tagged with the transaction number. The tag bearing the transaction number must remain attached to the item until the property is disposed of by sale, trade, or other lawful means.
- (b) The precious metals dealer shall require all persons selling precious metals or gems to show proper identification prior to conducting a transaction. Proper identification is defined as a government issued photo identification card such as a driver's license, military identification card, state identification card, or passport.
- (c) The precious metals dealer shall document the name, address, telephone number, race, sex, height, weight, drivers license number, and date of birth of the persons selling precious metals or gems, along with the date and time of transaction and the price paid for items sold. This documentation shall be made at the time of the transaction.
- (d) The precious metals dealer shall photograph the persons selling precious metals or gems, with a digital camera, at the time of each transaction. The photograph shall clearly show a frontal view of the subject's face along with the transaction number. The precious metals dealer shall also clearly photograph the property being sold. Digital images shall be labeled and stored in

such a manner that they are safe from corruption, readily identifiable, and readily available for review.

- (e) The precious metals dealer shall obtain from each person selling precious metals or gems, the fingerprint of the right hand index finger, unless such finger is missing, in which event the print of the next finger in existence on the right hand shall be obtained with a notation as to the exact finger printed. The electronic digital fingerprint scanner will be the primary method of entry required. The fingerprint shall be imprinted onto the transaction form in the designated area along with the signature of the person selling the property. The fingerprint must be clear and legible. In the event that more than one transaction form is required, a fingerprint and signature should be obtained for each form. Fingerprints and the information required herein shall be obtained each time such person sells any property.
- (f) Items of property that appear to be new, unused, and in their original packaging cannot be accepted by the precious metals dealer unless the customer can supply a copy of the original sales receipt, or other proof of purchase from the place of purchase, to the precious metals dealer who shall retain the receipt or proof of purchase on file.
- (g) The precious metals dealer shall store the above records, digital images, and fingerprints for a period of four years and make them available to law enforcement personnel upon request.
- (h) Every precious metals dealer shall enter each transaction, including all information, digital images and fingerprints required in subsections (a), (c), (d), and (e) above, as it occurs into the electronic automated reporting system via the internet, or upload electronically, via the internet, a batch file of all transactions for each business day, to the administrator of the electronic automated reporting system, immediately at the conclusion of each business day, The administrator of the electronic automated reporting system will electronically transmit all transactions to the Cobb County police department.

Sec. 7.7.12.4. Daily report to police; required format; vendor selection and fees.

- (a) Every precious metals dealer shall make a daily report in such form as prescribed by the chief of police or his designee, of all purchase transactions that occurred during 24 hours ending at 8:00 p.m. on the date of the report. The requirements of subsection 7.7.12.3(h) shall satisfy the precious metals dealer's daily reporting requirements.
- (b) In the event that the electronic automated reporting system becomes temporarily or permanently disabled, precious metals dealers will be notified as soon as possible by the Cobb County police department. Dealers that incur electronic system failures or other events that would cause partial or complete loss of electronic reporting should notify the Cobb County police department immediately with the reason for the failure. In either event, the precious metals dealers will be required to make records of transactions on paper forms. The records will include all of the information required in this division. Precious metals dealers shall maintain a minimum three-day supply of these paper forms.
- (c) The city shall select the required automated reporting system. A fee for each transaction reported to the electronic automated reporting system will be assessed to each reporting business, by the system administrator. The amount of the fee will not be greater than that listed in the contract between the city and the system administrator, which is in effect at the time of the transaction for which the fee is assessed.

Sec. 7.7.12.5. Employee permit; qualifications of employees.

- (a) No person shall be employed by a precious metals dealer in any capacity who is not at least 18 years of age, a citizen of the United States or an alien admitted for permanent residence or a person who has otherwise been granted employment authorization by the United States Immigration and Naturalization Service and until such person has been issued a permit by the Cobb County police permit unit, authorizing such person to be employed by a precious metals dealer. Such permit shall not be issued to any person who does not meet the requirements of O.C.G.A. § 43-37-2(d), or who has been convicted within five years immediately prior to the filing of the application for employment, of any misdemeanor involving theft, burglary, crimes against property, controlled substances, or any other felony. For purposes of this section, the term "conviction" shall mean any adjudication of guilt, or plea of guilty or nolo contendere. No permit shall be issued so long as there are outstanding criminal warrants, criminal charges, accusations or indictments for any of the crimes enumerated in this section on which there has been no final disposition or adjudication, and any application involving such pending charges shall be held for final decision until final disposition or adjudication of the charges.
- (b) *For whom required.* It is the responsibility of the business licensee and/or designee as stated in subsection 7.7.12.3(b) to ensure that the employees required under this Code section obtain and possess the required work permit prior to working. Failure of an employee to possess a work permit shall be unlawful and will subject the employee and licensee and/or designee to prosecution as provided in this chapter.
- (c) *Application, issuance, denial.* Except as otherwise provided, no person requiring a work permit may be employed by an establishment holding a license under this chapter until such person has been issued a work permit from the Cobb County police department indicating the person is eligible for employment. The work permit is valid for employment at one business only. The permit may be transferred to another business location, without approval, provided that the ownership of the business is the same as the previous location. If the ownership of the business is different, the person with the work permit must apply and be approved by the Cobb County police department in order for the work permit to be valid. All applications required by this section shall be investigated by the police department to include, among other things, an investigation of the criminal record, if any, of the applicant. Any applicant who is denied a work permit shall have the right to appeal such decision to the city business license division. Appeals to the city business license division regarding the denial of a work permit must be filed with the city business license division within 30 days of the denial. In addition, after the hearing, the city business license division may recommend to the city council approval of a work permit to an employee whose application was originally denied upon any conditions deemed appropriate by the city business license division. Denied applicants that fail to file a timely appeal shall not be authorized to reapply for a work permit for 12 months from the date of the denial.
- (d) *Time limit.* All persons subject to the provisions of this section shall, prior to the date of their first work in a licensed establishment, make application for a work permit to the Cobb County police department.

- (e) *Permit term; prescribing fee.* Any permit for employment issued under this section shall expire 12 months from the date of issuance unless earlier suspended or revoked as provided in this section. The police department may prescribe regulations for certifying the eligibility for continued employment without the necessity of the employee's being fingerprinted and may prescribe reasonable fees for certifying the eligibility for employment.
- (f) *Possession of permits by employees.* Employees holding permits issued pursuant to this section shall at all times during their working hours have the permits available for inspection at the premises.
- (g) *Grounds for suspension, revocation, probation.* No permit which has been issued or which may hereafter be issued under this section shall be suspended, revoked or placed on probation except for due cause as defined in this subsection, and after a hearing and upon written notice to the holder of such permit of the time, place and purpose of such hearing and a statement of the charge or charges upon which such hearing shall be held. A minimum of three days' notice shall be provided to the applicant or permit holder. "Due cause" for the suspension or revocation of the permit shall consist of the omission or falsification of any material in any application; or for any reason which would authorize the refusal of the issuance of a permit; or any violation of this chapter. All hearings shall be before the city business license division. After the hearing if the city business license division determines due cause exists, the city business license division may recommend to the city council to suspend, revoke or place on probation for a maximum of 12 months, with or without conditions, the permit. The city council shall, within 60 days of the city business license division's recommendation, review a summary of the appeal or show cause hearing before the city business license division wherein the work permit was considered for issuance, suspension or revocation (the summary shall be prepared by the business license division manager) and the city council after such review will either concur with recommendations of the city business license division or choose to place the matter down for a hearing. Should the city council place the matter down for hearing the city council, after such hearing, may issue or deny the work permit, suspend or revoke the work permit or place the employee on probation. After the city council meeting, the representative of the business license office will notify the Cobb County police department permits unit of the decision. If the permit was approved for issuance by the city council, the Cobb County police department permits unit will notify the applicant that the permit has been approved. The employee whose work permit was not issued or whose work permit was denied, probated, suspended or revoked may appeal the city council. The decision of the city council may be appealed by filing a petition for writ of certiorari to the Superior Court of Cobb County within 30 days of the decision of the city council.
- (h) Notwithstanding any of the provisions in this section, any permits issued through administrative error or an error in the completion of a background investigation may be terminated by the director of public safety or his/her designee.

Sec. 7.7.12.6. Holding period of purchased articles; police holds.

All property acquired by the licensee through any precious metals dealer transaction shall be held and maintained by the licensee at the licensed location, or at such other impound location as may have been previously approved by the county police department in writing, for a minimum of 30 days prior to disposal of same by the licensee. The county police department has the authority

to place property that is the subject of police investigation on "police hold." In that event, the Cobb County police department shall notify the licensee of the need for a police hold and identify all property subject to the police hold. Upon notification, it shall be the responsibility of the licensee to maintain the subject property until such time as the property is released from police hold status, confiscated as evidence or returned to its rightful owner.

Sec. 7.7.12.7. Dealing with minors.

It shall be unlawful for any precious metals dealer, his or her agents or employees, to purchase any precious metals or gems from any person under 18 years of age.

Sec. 7.7.12.8. Violations; exemptions.

The failure of any licensee or employee thereof to comply with the provisions of this chapter shall constitute an offense, punishable as allowed by law. Transactions involving the purchase of precious metals from licensed wholesale or distributor businesses, manufacturers, manufacturers' representatives, or other dealers are exempt from the requirements of this chapter.

Sec. 7.7.12.9. Application.

- (a) *Required.* All persons, before beginning the business as a precious metals dealer, shall first file an application with the director of the business license office to obtain a license to conduct such a business.
- (b) *Contents.* All persons 25 years of age or older desiring to obtain a license required under this division shall make written application to the business license office for such privilege, and shall supply such information as may be required by the supervisor of the business license office or the police department, and such application shall be sworn to by the applicant or agent thereof.
- (c) *Failure to furnish required information.* All applicants shall furnish all data, information and records requested of them, and failure to furnish such data, information and records within 30 days from the date of such request shall automatically serve to dismiss, with prejudice, the application. An applicant, by filing an application, agrees to produce for oral interrogation any persons who are considered as being important in the ascertainment of the facts relative to such license, as may be requested by the supervisor of the business license office or his duly authorized representative, such as the police department or the city attorney. The failure to produce such persons within 30 days after being requested to do so shall result in the automatic dismissal of such application.
- (d) *Notification of change in information.* Licensees shall immediately notify the city in writing through the supervisor of the business license division of any change in any information, material or data furnished in connection with an application for a license, or of any material change in the type of business, ownership or qualifications of the applicant or employees subsequent to license issuance.

Sec. 7.7.12.10. Citizenship, residence requirements.

- (a) No license shall be granted pursuant to this division to any applicant who is not a United States citizen or legal permanent resident, or a qualified alien or non-immigrant under the Federal Immigration and Nationalization Act, and who is lawfully present in the United States.
- (b) Where the applicant is a corporation, the majority stockholder must meet the residence requirements set out in subsection (a) of this section, and the license shall be issued to the corporation and the majority stockholder.
- (c) If the applicant is a partnership, the same requirements pertaining to corporations set out in subsection (b) of this section shall apply.

Sec. 7.7.12.11. Disqualification of applicants with prior convictions.

- (a) No license shall be issued under this division to any person, partnership or corporation for pecuniary gain where any individual having an interest either as owner, partner, principal stockholder, or licensee, such interest being direct or indirect, beneficial or absolute, or his spouse, does not meet the requirements of O.C.G.A. § 43-37-2(d), or shall have been convicted within five years immediately prior to the filing of the application, of any misdemeanor of any state or of the United States or any municipal or city ordinance which would have any effect on the applicant's ability to properly conduct such a business, except traffic offenses. For purposes of this section, the term "conviction" shall include an adjudication of guilt or plea of guilty, plea of nolo contendere or forfeiture of a bond when charged with a crime. Where the violation is for a misdemeanor, forfeiture of bond, or violation of a municipal or city ordinance, or where there is a plea of nolo contendere, the city business license division may, after investigation, waive such violation as a disqualification. No license shall be issued so long as there are outstanding criminal warrants, criminal charges, accusations or indictments for any of the crimes enumerated in this section on which there has been no final disposition or adjudication, and any application involving such pending charges shall be held for final decision until final disposition or adjudication of the charges.
- (b) The city council, on appeal, may waive any conviction as a disqualification, if it finds that it would have no material affect upon the applicant's ability to properly conduct its business if such license were granted.

Sec. 7.7.12.12. Investigation and report.

All applications for a license for a precious metals dealer shall be investigated, and the police department shall report its recommendations to the supervisor of the business license office, who shall keep a copy thereof on file.

Sec. 7.7.12.13. Time limit for obtaining license after approval; issuance.

- (a) All precious metals dealer licenses must be obtained and fees paid not later than two weeks from the date of the approval of the application by the supervisor of the business license office, and, if not so obtained, the approval granted by the supervisor of the business license office shall be void.

- (b) When a license has been approved and the applicant has deposited with the business license office the required fee, the license shall be issued.

Sec. 7.7.12.14. Time limit for commencement of business; forfeiture for nonuse.

- (a) All holders of licenses under this division must, within three months after the issuance of the license, open for business the establishment referred to in the license, unless such period is extended by the supervisor of the business license office. Failure to open the licensed establishment as referred to in this subsection within the three-month period shall serve as an automatic forfeiture and cancellation of the unused license, and no refund of license fees shall be made to the license holder.
- (b) Any holder of a license under this division who shall begin the operation of the business as authorized in the license, but who shall for a period of three consecutive months thereafter cease to operate the business as authorized in the license, shall upon completion of the three-month period automatically forfeit his license, which license shall, by virtue of such failure to operate, be canceled without the necessity for any further action of the supervisor of the business license office.

Sec. 7.7.12.15. Transfer.

No license granted to a precious metals dealer shall be transferable except upon application to the supervisor of the business license office in the same form, manner and subject to the same requirements with respect to the transferee as are applicable in an original application; provided, however, any such license may be transferred only to another person, firm, partnership or corporation doing the same business and at the same place as the person, firm, partnership or corporation to whom the license was originally issued. When permission for transfer has been granted, the original licensee or transferee shall cause the license to be delivered to the supervisor of the business license office, who shall record such transfer, and the transferee shall pay a fee therefor as a condition precedent to engaging in operations under the license. The fee for such transfer shall be kept on file as part of the schedule of fees in the business license office.

DIVISION 13. SPECIAL EVENT PARKING

Sec. 7.7.13.1. Special event parking.

The following division sets forth provisions for the registration of special event parking.

Sec. 7.7.13.2. Purpose.

The purpose of this division is to promote the health, safety, and welfare of the city's citizens and visitors and to preserve neighborhood integrity by addressing issues of traffic flow and pedestrian safety that may occur when paid parking is offered by private property owners to supplement parking provided for special events at major tourist attractions. These provisions are intended to promote the safety of area visitors, residents, and businesses, and to provide a systematic approach to parking and traffic management for such special events. Appropriate signage and barricades on public rights-of-way, and other safety-related measures during special events, are intended to reduce neighborhood impacts, improve traffic conditions, increase

pedestrian safety in the areas of the highest pedestrian volumes, and increase the ability of residents and public safety officials to obtain safe neighborhood access and parking. The establishment of special event parking registration is specifically intended to address problems anticipated in areas of high concentration that were not originally designed for special events; the safety of persons and property; traffic congestion arising from paid parking; motorized vehicle and pedestrian traffic management; emergency vehicle and public safety access; and/or operation/maintenance/safety by a lot owner/operator to ensure properly administered lots and adjacent areas. This article is not intended to create new or to expand existing legal obligations of the city, including specifically the Cobb County Police Department or Cobb County Sheriff's Office, or to establish a special duty or special relationship between those agencies and owners/operators of special event parking, invitees to special events or special event parking facilities, and/or pedestrians or operators of motor vehicles present at or in the vicinity of special event parking.

Sec. 7.7.13.3. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Major tourist attraction means a site of 12 acres or more devoted to a single use as an amusement theme attraction, park, convention center, performing arts center, amphitheater, stadium, or other like attraction that promotes tourism in the city.

Special event means an event or gathering using private or public property, that:

- (a) Will draw an estimated 2,000 participants and spectators to a major tourist attraction, or
- (b) Will draw participants and spectators to a major tourist attraction with seating capacity of at least 2,000 people present on any day of the event, and/or
- (c) Will require or involve one or more of the following activities:
 - (1) Closing of a public street;
 - (2) Blocking or restricting streets, sidewalks, alleys, or other public places, in whole or in part;
 - (3) Sale or distribution of food or beverages on streets, sidewalks, alleys, or other public places or public property, or on private property where otherwise prohibited by ordinance;
 - (4) Erection or placement of a tent, utility pole, or other temporary structure on a street, sidewalk, alley, or other public place;
 - (5) Erection or placement of a stage, bandshell, trailer, van, portable building, grandstand, bleachers, or other apparatus used for entertainment purposes on public property, or on private property where otherwise prohibited by ordinance; or
 - (6) Erection or placement of temporary signage, banners, or displays of any kind in or over a public right of way or on private property where otherwise prohibited by ordinance.

Special event parking means the provision of special event parking to the public for a fee in a parking area that normally provides required or excess parking for a particular nonresidential

establishment other than the project site of a major tourist attraction or where parking is the primary use.

Special event parking area means the designated area(s) to be used for special event parking as shown on the parking plan submitted by an applicant pursuant to section 7.7.12.5(f)(6).

Special event parking registration means the submission of required documents to the business license manager demonstrating the intent of the owner/operator to provide special event parking for the term of the registration, subject to the provisions of this division and any additional conditions; and/or the document issued by the business license manager as proof of registration.

Traffic and pedestrian safety management plan (TPSMP) means a plan for the control and flow of vehicular and traffic in the areas of a special event, as developed and devised by Cobb city officials.

Sec. 7.7.13.4. Traffic and pedestrian safety management plan responsibilities.

- (a) *County responsibilities.* Public safety officials shall be responsible for developing a traffic and pedestrian safety management plan(s) for a special event or series of events. In the performance of these duties, public safety, community development, and transportation officials shall work cooperatively to address traffic management, pedestrian safety and public safety generally relevant to special events and special event parking.
- (b) *Registrant responsibilities.* In addition to all other requirements set forth in this division, registrants must cooperate and comply with any measures required by city officials to effect the traffic and pedestrian safety management plan, including the following:
 - (1) Altering the flow of traffic on registrant's property to coincide with the public safety traffic and pedestrian management plan;
 - (2) Erecting signage, placing cones, and taking other measures to direct the flow of traffic on the property and/or to limit ingress/egress as directed by city officials;
 - (3) Responding or causing a representative or other responsible party to respond to the special event parking site upon request of city officials;
 - (4) Implementing other identified life-safety requirements of city officials;
 - (5) Obtaining a new registration or updating registration information if there is a change in address, contact information or transfer of possession of property; and
 - (6) Complying with all requirements of this division.

Sec. 7.7.13.5. Registration requirements for special event parking owners/operators.

- (a) *Registration required.* No person shall provide special event parking for a fee, including within the four-hour period before the scheduled start time of the special event, and the two-hour period after the completion of the special event, without having registered to operate special event parking. Once registered, the operator may provide special event parking during the term of the registration regardless of the type of special event occurring.
- (b) *Exemptions.* Governmentally-owned or controlled properties; and onsite parking lots that satisfy zoning requirements for major tourist attractions are not required to register.

- (c) *Multiple properties.* A separate registration is required for each property to be used for special event parking to ensure that parking impacts may be analyzed and addressed by city officials.
- (d) *Non-transferability; new registration required upon transfer of property.* Special event parking registration is not transferable. Upon transfer of the possession of the premises used for special event parking, the new owner/operator shall obtain registration for special event parking no later than seven days after acquisition of the property.
- (e) *Application contents and filing.* Each applicants for registration for special event parking shall submit a completed application, available through the community development agency, at least 30 days prior to the initial special event and any subsequent special events. The application must contain the following:
 - (1) The applicant's name, address, phone number, email address, and proof of identity;
 - (2) A description of the primary use of the property, copies of valid occupational tax certificates for all businesses located on the property, and an affidavit that the primary use, as set forth in the certificate of occupancy and occupational tax certificates for the property, is an active use at the property;
 - (3) The name of the property owner, address, phone number, e-mail, and evidence of payment of property taxes;
 - (4) Written, notarized statement of consent from property owner for use of the property for special event parking, if the applicant is not the owner;
 - (5) The name, address, phone number, email, and proof of identity of the person responsible for the operation of the special event parking area, if not the owner or the applicant. The applicant shall be responsible for providing to the community development director updated contact information for the person responsible for operations during special events. This contact needs to be available before and during the special event for consultation with public safety, as needed;
 - (6) A parking plan in compliance with the Cobb County Code and development standards indicating the address and name of the primary use on the property, as shown on the signage for the primary use, boundaries of the parking area, preservation of parking for the primary use, ingress and egress locations, the parking layout (no stacking is permitted, parking must be in existing striped parking spaces), parking sign locations, and the area on the property where payment will be received;
 - (7) If the parking plan includes spaces that have otherwise been leased to any other business, individual or entity, and such spaces will be utilized for special event parking, the applicant must present written approval from the other business, individual or entity leasing such spaces.
 - (8) An impact statement detailing how the applicant's operation will mitigate potential impact on roadway operations, incorporate safety features for pedestrians and address crime prevention or any other public safety concerns relevant to this property; and
 - (9) A registration fee in an amount as approved by the city council.
- (f) *Completed applications required.* Only completed applications will be considered. In the event an incomplete application package is received, community development shall notify the

applicant who shall forward the missing information within three business days. Registration is not complete and the application will not be processed until the completed application package is received by community development.

- (g) The community development agency shall be responsible for coordinating activities with the appropriate public safety office, department or agency based on the venue.
- (h) *Expiration.* Special event parking registration is valid for one year from the date of issuance and may be renewed only by subsequent application.

Sec. 7.7.13.6. Additional operational requirements for special event parking.

To effectuate the purposes of this division, owners/operators of special event parking must comply with the following operational requirements any time special event parking is provided for the public:

- (a) Operators of special event parking shall comply with all traffic and pedestrian safety management plans, as may be amended from time to time, as dictated by public safety officials. Public safety shall communicate changes as known to the person responsible as designated in section 7.7.12.406.4(f)(5);
- (b) On the day of a special event, a temporary sandwich-board sign must be displayed in the special event parking area near each entrance to the parking area in the location(s) shown on the parking site plan. The sign copy area must be at least 18 inches high and 24 inches wide (but no larger than 24 inches by 36 inches) with a maximum height from grade to the top of the sign of four feet, including a parking symbol, at least ten inches in height designated by the city, and include the following wording with the blanks filled in appropriately: "Special Event Parking Lot, Parking Fee \$ ____, Registration # ____, Operator Phone # ____-____-____." The parking fee must be in a font that is at least six inches in height. When the lot is full, a "lot full" sign must be displayed that is visible from the street. The sign is a traffic management device and a display of registration, so no other wording is permitted on the front of the sign. The sign must be of a durable material, such as plastic, metal, wood, or like material, and must be professionally fabricated and maintained in good repair. A sign permit is not required for this sign, which may be displayed four hours prior to the event and must be removed two hours after completion of the special event. The parking symbol, the wording, and the fee must be visible from the adjacent street. The parking fee must remain the same throughout the day of the special event unless decreased, and the amount charged for parking must not exceed the amount stated on the sign. The sign must be visible on the special event parking area from the time cars are admitted for the special event parking until the property has been cleaned of litter at the end of the special event.
- (c) The special event parking registration and parking plan must be available for immediate on-site inspection by city staff or public safety officials.
- (d) The special event parking area must be paved, striped, and lit in compliance with standards prescribed by city ordinances and development standards for parking areas. Vehicles must be parked on approved surfaces and in compliance with the parking plan.
- (e) The special event parking area must be staffed by at least one attendants, representative, or other responsible party capable who shall remain on the lot from the time the operator

begins accepting payment for parking until one hour after the end of the event. Said attendant/representative shall be capable of acting on behalf of the owner/operator in interactions with city officials. Attendants must be easily identifiable by uniform clothing indicating that they are employed to provide special event parking. During night time hours, reflective vests shall also be required to be worn by all attendants. Attendants shall guide vehicles in and out of the parking area and monitor the special event parking area.

- (f) The owner/operator must provide clean up service to remove litter, trash, junk, or other debris found throughout the special event parking area. Clean up service shall be completed within two hours of the end of the special event.
- (g) Operators of accessory special event parking shall comply with all traffic management plans for the major tourist attraction.
- (h) Special event parking must be operated in compliance with this division and any conditions set forth on the special event parking registration or in the traffic and pedestrian safety management plan.
- (i) Where a public safety issue occurs during the operation of the special event parking lot, the attendant(s) shall cooperate fully with the public safety agency which shall require such actions as are in the best interests of the public. Owners/operators shall take reasonable steps necessary to maintain a safe lot and assist in preventing crime.

Sec. 7.7.13.7. Offenses; official right to block access; prosecution.

- (a) *Prohibited acts.* It shall be unlawful to:
 - (1) Submit false documents, or otherwise make false statements of a material fact on an application for registration submitted under this division;
 - (2) Provide special event parking for any vehicle during a special event in violation of this division;
 - (3) Violate any other provision of this division.
- (b) *Failure to obtain a registration; right to block access.* Special event parking shall not be permitted unless the owner/operator first registers with the city. Public safety officials may block access from the public right-of-way to any special event parking area that has not obtained the necessary registration or may block access to any registered special event parking area that poses an immediate public safety threat or hazard or if attendants are not available on-site to resolve issues, in the sole discretion of the public safety official for the best interests of the public.
- (c) In the prosecution of an offense under this division, it is presumed that the property owner and applicant for the special event parking registration, and the responsible person named on the application for the operation of the special event parking area, are jointly and severally responsible for violations of and compliance with this division in the operation of the special event parking area.

Sec. 7.7.13.8. Penalties.

A violation of this division shall be punishable as allowed by law.

DIVISION 14. SHORT-TERM RENTALS

Sec. 7.7.14.1. Short-term rentals.

(a) *Purpose.*

- (1) The purpose of this section is to protect the public health, safety and general welfare of individuals and the community at large; to establish standards for short-term rentals of privately owned residential structures rented to transient occupants, minimize adverse effects of short-term rental uses on surrounding residential neighborhoods, and preserve the character of neighborhoods in which short-term rentals occurs.
- (2) This section is not intended to regulate hotels, motels, inns, boardinghouses, lodging houses, or rooming houses.

(b) *Applicability.*

- (1) It shall be unlawful for any owner of any property within the city to rent or operate a short-term rental of residential property contrary to the procedures and regulations established in this section, other provisions of this Code, or any applicable state law.
- (2) The restrictions and obligations contained in this section shall apply to short-term rental units at all times during which they are marketed and/or used as short-term rental units.
- (3) The allowance of short-term rental properties pursuant to this section shall not prevent private enforcement of additional restrictions that may be contained in restrictive covenants or other private contractual agreements or arrangements.
- (4) This division shall be effective January 1, 2024.

(c) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Noise ordinance: Those regulations contained in the official Code of Cobb County, Georgia, chapter 50, article VII.

Owner: A person or entity that holds legal and/or equitable title to private property, as shown on Cobb County tax records.

Private: Intended for or restricted to the occupants and/or guests of his or her short-term rental property; not for public use.

Property: A residential lot of record on which a short-term rental property is located.

Rental term: The period of time a responsible person rents or leases a short-term rental.

Short-term rental occupant means guests, tourists, lessees, vacationers or any other person or persons who, in exchange for compensation, occupy a dwelling unit for lodging for a period of time not to exceed 30 consecutive days.

Short-term rental property means an accommodation for transient guests where, in exchange for compensation, a residential dwelling unit is provided for lodging for a period of time not to exceed 30 consecutive days.

Short-term rental agent means a person or agency designated by the owner of a short-term rental property on the short-term rental certificate application. Such person or agency shall be available for and responsive to contact at all times and someone who is customarily present at a location within the city for purposes of transacting business.

Short-term rental certificate means a certificate issued by the business license division to owners or the designated rental agent of short-term rental properties who have submitted the required documentation and met the requirements set forth in this chapter for operation of a short-term rental.

(d) *Short-term rental certificate required.*

- (1) A short-term rental certificate is required to be obtained from the business license division for each short-term rental property.
- (2) No person shall rent, lease or otherwise exchange for compensation all or any portion of a property as short-term rental without first obtaining a short-term rental certificate from the city.
- (3) A separate short-term rental certificate shall be required for each short-term rental property.
- (4) The short-term rental certificate may not be transferred, assigned, or used, for any location other than the one for which it is issued.
- (5) When a change of ownership occurs, the new owners shall notify the business license division and apply for and obtain a new short-term rental certificate.

(e) *Application for short-term rental certificate.*

- (1) Applicants for short-term rental certificate shall submit, on an annual basis, an application for a short-term rental certificate to the business license division. The application shall be accompanied by a non-refundable application fee in the amount of \$55.00. Such application shall include:
 - a. The name, address, telephone and email address of the owner(s) of record of the property for which a certificate is sought. If such owner is a corporate entity or similar legal entity, the application shall identify all partners, members, officers and/or directors of any such entity, including personal contact information, unless the entity operates a leasing office on the property where the short-term rental agent is customarily present for purposes of conducting business.
 - b. The address of the property to be used as a short-term rental property;
 - c. The name, address, telephone number and email address of the short-term rental agent, which shall constitute his or her 24-hour contact information;
 - d. The short-term rental agent's sworn acknowledgement that he or she has received a copy of this section, has reviewed it, and understands its requirements;
 - e. The number and location of parking spaces allotted to the premises; and

- f. Any other information that this section requires the owner to provide to the city as part of an application for a short-term rental certificate. The community development agency director, or his or her designee, shall have the authority to request and obtain additional information from the applicant as necessary to achieve the objectives of this section.
- (2) Attached to and concurrent with the short-term rental certificate application, the owner or short-term rental agent shall provide:
 - a. Proof of the owner's current ownership of the short-term rental property;
 - b. A written certification from the short-term rental agent that he or she agrees to perform the duties subscribed as specified in section;
 - c. A sworn statement from the applicant that any applicable homeowners association or property owners association has been notified of the application; and
 - d. Adjoining property owners, as shown on the most current tax records, shall be notified of the application in writing, and proof of notification shall be submitted to the business license division.
- (3) If the short-term rental agent changes, the property owner shall notify the city within five business days.
- (f) *Short-term rental agent.*
 - (1) The owner of a short-term rental property shall designate a short-term rental agent on his or her application for a short-term rental certificate. An owner may serve as the short-term rental agent. Alternatively, the owner may designate a person or agency as his or her agent.
 - (2) The duties of the short-term rental agent are to:
 - a. Serve as the 24-hour contact and be available to handle any problems arising from use of the short-term rental property;
 - b. Keep his or her name and emergency contact phone number posted in a readily visible place in the short-term rental property;
 - c. Receive and accept service of any notice of violation related to the use or occupancy of the short-term rental property;
 - d. Monitor the short-term rental property for compliance with this section; and
 - e. List the short-term rental certificate number on each online listing.
 - (3) An owner may change his or her designation of a short-term rental agent temporarily or permanently; however, there shall only be one such agent for a short-term rental property at any given time. To change the designated agent, the owner shall notify the business license division in writing of the new agent's identity, a new written certification from the short-term rental agent that he or she agrees to perform the duties subscribed to her or her as specified in section, and proof that the name and contact information for the new rental agent has been posted in the short-term rental property.
- (g) *Grant or denial of application.* Review of an application shall be conducted in accordance with due process principles and shall be issued within 30 days of all required information

being received. Any false statements or information provided in the application are grounds for denial of the application, citations and/or imposition of penalties.

(h) *Standard conditions.* All short-term rental properties established pursuant to this section are subject to the following standard conditions:

- (1) Short-term rental properties are permitted in all Residential (R) zoning districts. No more than one short-term rental certificate shall be issued per dwelling unit.
- (2) Short-term rental properties shall only be permitted in residential structures with a valid certificate of occupancy.
- (3) Occupancy and parking for single-family dwelling units shall be in accordance with the city code.
- (4) Parked vehicles. Off-street automobile parking shall be provided in accordance with the city code.
- (5) Life safety and sanitation.
 - a. Short-term rental properties shall meet all applicable building regulations, as required by chapter 18.
 - b. Short-term rental properties shall meet all applicable fire prevention and protection regulations, as required by chapter 54.
 - c. Short-term rental properties shall meet applicable health and sanitation regulations, as required by chapter 62.
- (6) The short-term rental property must be properly maintained and regularly inspected by the owner or short-term rental agent to ensure continued compliance with applicable zoning, building, health and life safety code provisions.
- (7) Any advertising of the short-term rental property shall include short-term rental unit certificate number, notification of the maximum occupancy, maximum number of vehicles allowed, and provisions regulating noise. This information shall also be posted at the rental property.
- (8) A legible copy of the short-term rental certificate shall be posted within the unit and include all of the following information:
 - a. The name, address, telephone number and email address of the short-term rental agent;
 - b. The short-term rental unit certificate number;
 - c. The maximum occupancy of the unit;
 - d. The maximum number of vehicles that may be parked at the unit; and
 - e. Provisions regulating noise.

(i) *Enforcement.*

- (1) Complaints regarding a short-term rental property may be provided in writing, by email, through the online code enforcement system, or by telephone to the code enforcement division, which shall include a description of the complaint and the property address.

- (2) Complaints shall result in a notice of the complaint being directed to the short-term rental agent and owner. The short-term rental agent shall be responsible for contacting the short-term rental occupant to correct the problem.
- (3) If non-compliance with provisions of this section occurs, the code enforcement division shall conduct an investigation whenever there is reason to believe that an owner and/or short-term rental agent has failed to comply with the provisions of this section. Should the investigation support a finding that a violation occurred, the code enforcement division shall issue a written notice of the violation and intention to impose a penalty to the owner and/or short-term rental agent. The written notice may be served either by first class mail, by commercial overnight delivery, by personal service on the owner and/or short-term rental agent, or by any other reasonable means of delivery, including email, and shall specify the facts which, in the opinion of the code enforcement division, constitute grounds for imposition of the penalties.
- (4) To ensure the continued application of the intent and purpose of this section, the community development agency shall notify the owner of a short-term rental property of all instances in which nuisance behavior of the rental guest or the conduct of his or her short-term rental agent results in a citation for a code violation or other legal infraction.
- (5) The community development agency shall maintain, in each short-term rental property file, a record of all code violation charges, founded accusations, and convictions occurring at or relating to a short-term rental property.
- (6) The code enforcement division is also hereby authorized and directed to establish such procedures for issuing citations for violations of this section. The Cobb County Police Department shall also have authority to enforce this section and issue citations.

(j) *Penalties.*

- (1) The penalties for violations specified in this section shall be as follows:
 - a. For the first violation within any 12-month period, the penalty shall be a fine of \$500.00;
 - b. For a second violation within any 12-month period of the first violation, the penalty shall be a fine of \$750.00;
 - c. When a short-term rental agent has accumulated three violations for a particular property within a 12-month period of the first violation, the city shall revoke any pending certificates, the existing certificate for the subject property, and reject all applications for the subject premises for a period of 12 consecutive months.
 - d. For any violation that occurs when more than a 12-month period has transpired, it shall start again as a first violation.
- (2) A short-term rental property that is determined to be operating without the necessary short-term rental certificate shall subject the owner to a penalty of \$500.00. Each day the short-term rental is rented for overnight accommodation without a certificate is a separate violation.

- (k) *Taxes.* The short-term rental property owner shall be responsible for collection of all required hotel/motel taxes, tourism fees, or other state and local fees/taxes relating to the lodging of individuals. These payments shall be paid to the state and city as prescribed by state law and city Code. The city may seek to enforce payment of all applicable taxes to the extent provided by law, including injunctive relief.

DIVISION 15. FLEA MARKETS

Sec. 7.7.15.1. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Flea market means any business whereby there is operated a center for shopping among collected flea market vendors marketing merchandise and/or services to the public from booths, stalls, tables, benches, individual rooms or display areas, and similar display and marketing configurations and arrangements for the sale of merchandise and/or services. Flea markets shall not include shopping centers or regional shopping centers, antique stores, jewelry stores, coin shops, salvage operations, clothing stores or special sales events as accessory uses not to exceed 14 days, or other businesses of merchandise in common with flea markets where the vendor therein is not operating among a collection of vendors or renting or securing individual space within an overall operation.

Flea market promoter, operator or owner means all persons, firms, corporations, partnerships or other forms of business entities operating, maintaining, managing and promoting flea markets.

Vendor and *flea market vendor* mean all persons, individuals, firms, corporations, partnerships or other forms of business entities of every type and character operating among collections of other flea market vendors for sales to the public of merchandise and/or services in collected marketing centers for sales from stalls, booths, tables, benches, rooms and other similar displays or marketing configurations and arrangements.

Sec. 7.7.15.2. Penalty.

Violations of this article are punishable as allowed by law.

Sec. 7.7.15.3. Findings.

- (a) The number of flea markets in the unincorporated area of the city has increased in recent years, the operation of which has become unduly distracting to motorists and has created traffic hazards and other problems in connection with their operation.
- (b) The general appearance of the city, and specifically areas surrounding flea market locations, is marred when operations are unsightly, inappropriate and poorly maintained, and when, in some instances, unsafe structures, sheds and sales areas exist and debris and refuse

accumulate. Failure to properly construct and maintain improvements upon the premises further detracts from the general appearance of the area and presents safety hazards.

- (c) The aesthetic quality and economic value of both commercial and residential areas surrounding the flea markets as well as the economy of the city are adversely affected by the unregulated operation of flea markets.
- (d) Lives and property are endangered by traffic created by the flea markets which have been unregulated and uncontrolled and by vehicles for which no provisions for parking and safe ingress and egress have been made by flea market operators.
- (e) Flea markets create difficulty in police supervision because of lack of any controls over the number, identification and types of vendors and merchandise sold, and may become targets for sale or dealing in stolen merchandise.
- (f) Most flea markets fail to provide even minimum facilities for the protection of the health or comfort of persons on the premises in the nature of plumbing, electrical and bathroom facilities.
- (g) The public health, safety and welfare and property values in the city are detrimentally and adversely affected by the unregulated operation of flea markets.
- (h) Unless steps are taken to ensure more satisfactory present and future operation, the present appalling situation will become worse and more extensive through an increase in numbers or further deterioration in those establishments already existing.
- (i) In most instances presently existing, the flea market operations are incompatible with surrounding land uses.
- (j) Many problems have been experienced, particularly, but not limited to, temporary sheds or structures not intended to be permanent which are constructed in an unsafe and unsightly manner; electrical, plumbing and other construction not complying with minimum codes or built or improved without permits or inspections; failure to provide adequate parking; ingress and egress creating traffic hazards; lack of bathrooms, plumbing or sanitary facilities; failure to comply with commercial design standards; failure of vendors to obtain business licenses or to maintain records; failure to provide for minimum fire safety; failure to protect against wind uplift; difficulty of police supervision; and deterioration of property values.
- (k) There is a necessity for the adoption of provisions to regulate the location and operation of flea markets in the city in order to protect the health, safety and general welfare of its citizens and of the general public.

Sec. 7.7.15.4. Purpose of article.

The purpose of this article is to cure the existing ills and those foreseen to occur in the future through reasonable regulation, it being determined that the regulations contained in this article are minimum requirements needed to attempt to rectify identified problems.

Sec. 7.7.15.5. Applicability of article.

This article shall apply to all businesses and locations in the unincorporated area of the city which meet the definition of flea market and all flea market vendors, promoters, owners and

operators as defined in this article. This article shall not apply to developed and operating shopping centers, antique shops, jewelry stores, coin shops, salvage operations, clothing stores or special sales events not to exceed 14 days or other businesses dealing in merchandise common to that dealt in by flea markets, where vendors therein are not operating among a collection of vendors renting or securing individual spaces within an overall operation.

Sec. 7.7.15.6. General regulations.

- (a) *Parking.* There shall be no on-street parking at any flea market. Each flea market shall provide on-site parking as provided in chapter 134. No parking or parking spaces shall be located on or within any road right-of-way. It shall be the responsibility of the promoter, operator or owner to ensure at all times that no vehicle of any vendor, customer, patron, visitor, guest, invitee or other person frequenting the flea market is parked on any street or road or street or road right-of-way or off the site of the flea market, but is parked in a space acceptable under the city parking regulations and this section.
- (b) *Ingress and egress.* The flea market owner or operator shall do whatever is necessary, based upon the circumstances of his individual property, to ensure ingress and egress only at curb cuts and locations approved by the city department of transportation.
- (c) *Outside storage or sales.* There shall be no outside storage of any kind whatsoever. There shall be no outside sales of any kind whatsoever from any space, stall, shed or area which is not permanently covered by a roof and completely floored by a concrete floor of a minimum thickness of four inches except at locations designated as such and approved at the time of the granting of the use permit. However, no sales or displays shall occur within required parking areas or interfere with general traffic flow.
- (d) *Compliance with building regulations.* No sales of any kind whatsoever shall be made from any shed, structure or building of any kind unless the structure meets or exceeds the minimum requirements of all city codes (for example, the building code, fire code, plumbing code, electrical code, etc.). Structures shall require building permits and inspections by the city the same as for other construction. Flea markets shall be classified as group M, mercantile occupancy, under the city building code and shall meet all such requirements except that applications for permits for all open structures shall require plans to be submitted which are signed and sealed by an architect or engineer along with design calculations to substantiate compliance with code wind uplift requirements.
- (e) *Plumbing and toilet facilities.* All plumbing shall meet minimum code requirements, except that each flea market shall provide, at a minimum, for use by the public, facilities based on occupant loads as follows:
 - (1) For flea markets located within enclosed structures, the occupant load shall be determined the same as mercantile occupancy and exit capacity.
 - (2) For a flea market located in the open air, the occupant load shall be determined as two people for each table, counter or booth of no more than 20 square feet.
 - (3) After the occupant load is identified, toilet facilities will be provided the same as for commercial buildings of multiple tenants.

- (4) No temporary bathroom facilities shall be permitted.
- (f) *Overnight camping.* Notwithstanding the provisions of any other ordinances, no person, including, but not limited to, a flea market promoter, operator, owner, employee, manager, or vendor or invitee, shall be allowed to camp or reside overnight with or without a recreational vehicle, tent, sleeping bag, vehicle or other structure at a flea market, except that the owner may allow a reasonable number of overnight security personnel, who may be either the owner or agents or employees of the owner.
- (g) *Sale or keeping of animals.* No animal, fish, fowl or insect of any kind shall be sold, traded, housed, caged, bartered, swapped or given away at any flea market.

Sec. 7.7.15.7. Records.

- (a) Each flea market promoter, operator or owner shall maintain accurate records for each day of the flea market's operation, of each vendor conducting business from the flea market, which shall include, at a minimum, the name, address, telephone number, business license number, general type of merchandise, and the dates during which the vendor conducted business at the flea market. Such records shall also be maintained on the flea market promoter, operator or owner if he is also a vendor.
- (b) Each flea market vendor shall maintain accurate records in such form that annual sales can be determined for business license fee calculation purposes.
- (c) Any records required under this section shall be open for inspection by the city or any of its agents or employees at any reasonable time from 11:00 a.m. until 5:00 p.m. weekdays or at any other time the flea market or a vendor is open for business.

Sec. 7.7.15.8. License Generally.

- (a) *License required.* It shall be unlawful for any person to conduct a flea market business or for any flea market promoter, operator or owner to operate or allow to be operated such a business, or for any flea market vendor to display or sell wares of any kind at a flea market without a business license from the city. Business licenses issued for a flea market or any flea market promoter, operator or owner shall be valid only for the licensed location.
- (b) *Application.* All persons desiring to obtain a business license for a flea market or as a flea market promoter, operator or owner shall make written application to the city through the business license division on forms to be prepared and approved by the city. Applicants shall supply such reasonable information as may be required by the city. Such information shall include, but not be limited to:
 - (1) A list of vendors, including name, address, picture identification and telephone number;
 - (2) Dates when the vendor is on the premises; and
 - (3) A description of the items and services sold or provided by such vendors.

Upon the receipt by the business license division of such information, the vendors so listed will be entitled to transact business upon the licensed premises. If the license is for a flea market operation, the information shall include the square footage of sales area within the flea market. An application

fee, which is nonrefundable if a permit is not issued, shall be submitted with each application to operate a flea market.

(c) *Failure to furnish required information.* All applicants shall furnish all data, information and records reasonably related to evaluation of an application, as may be requested by the city or any interested city department. An applicant, by filing an application, agrees to produce for oral interrogatories any person under the applicant's supervision or control who might have information pertinent to the application, upon the request of the city to do so. Failure to furnish such information or produce persons within 30 days of the request shall automatically serve to dismiss the application.

(d) *Criteria for issuance.*

(1) No application for any license under this division shall be granted where the application or investigation shows any of the following to exist:

- a. The applicant is of bad moral character or has a bad reputation in the community or does not have sufficient mental capacity to conduct the business for which application is made.
- b. The applicant has had any license issued under the police powers of any city or other governmental entity previously suspended or revoked.
- c. The location, if applicable, is not properly zoned.
- d. The applicant, as a previous holder of a license as a flea market promoter, operator, owner or vendor, has violated any law, including this article, relating to such business, within a ten-year period immediately preceding the date of application.
- e. No flea market use permit is in effect for the location, if applicable.
- f. The applicant has supplied false information either upon his application or in any communication with any official of the city relative to his application.
- g. The applicant has failed to pay any fee required under this article or has otherwise failed to comply with the provisions of this article.
- h. The application, during the 12-month period next preceding the filing of his application, has engaged in any deceptive business practice.

(2) No original license under this division shall be issued to any person, partnership or corporation for pecuniary gain where any individual having an interest either as owner, partner, stockholder owning at least 25 percent of the stock of the corporation, such interest being direct or indirect, beneficial or absolute, or his spouse or manager of the operation, shall have been convicted or shall have taken a plea of nolo contendere within ten years immediately prior to the filing of the application for any felony or misdemeanor of any state or of the United States or any municipal or city ordinance except traffic violations. For purposes of this subsection, the term "conviction" shall include an adjudication or guilt or plea of guilty or nolo contendere, or the forfeiture of a bond when charged with a crime. Where the violation is for a misdemeanor, forfeiture of bond, or violation of a municipal or city ordinance or where there is a plea of nolo contendere, the city council may, after investigation, if appealed by the applicant, waive such violation as a disqualification.

- (3) In addition to the standards set out in subsections (1) and (2) of this subsection, in determining whether or not any license applied for shall be granted, the following shall be considered in the public interest and welfare:
 - a. If the applicant is a previous holder of a license, the manner in which he conducted the business thereunder, and particularly as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinance relating to such business.
 - b. The location for which the license is sought, if applicable, as to traffic congestion, general character of the neighborhood and the effect such an establishment would have on the adjacent and surrounding property values.
 - c. If it appears that the applicant's spouse or another person is using the applicant as a guise or "dummy" to obtain a license.
- (e) *Investigation and report.* All applications for business licenses for a flea market owner or operator required by this article shall be investigated by the Cobb County police department. The police department shall report its recommendations to the business license division. The applicant for a license to operate a flea market shall be fingerprinted and shall supply such other information as the Cobb County police department deems necessary to complete its investigation.
- (f) *Fees.* License fees for flea market owners, promoters or operators shall be as established by the city.
- (g) *Display of license.* Any license issued under this division shall be posted conspicuously at the place of doing business of the licensee.
- (h) *Transfer.* No license issued under this division shall be transferable.
- (i) *Separate license required for each place of business.* Each license for a flea market or flea market promoter, operator or owner shall be for one location only. Flea markets or flea market promoters, operators or owners shall obtain a separate license, paying a separate fee, for each place of business.
- (j) *Temporary license.* Those vendors operating in the city a maximum of three consecutive days selling merchandise as a part of a show, festival, fair or promotion shall be required to obtain a business license that shall be valid only for the period of time that special show, fair or promotion is being held. This temporary license shall not apply to flea market vendors, special tent sales, peddlers or any business not connected with a show, festival, fair or promotion. The fee for this license shall be as set out in the schedule of fees.

Sec. 7.7.15.9. Appeal of denial.

An applicant for a license under this division whose application is denied may make appeal to the business city business license division according to the provisions of section 6-90.

Sec. 7.7.15.10. Revocation, suspension or probation.

- (a) *Procedure.* No license or permit issued under this division shall be suspended, revoked or placed on probation with or without conditions, except for due cause as defined in this section,

and only after a hearing before the city council upon a prior written notice to the licensee or permittee of the time, place and purpose for such hearing and a statement of the charges upon which the license or permit may be revoked, suspended or placed on probation. Three days' notice shall be deemed reasonable, but shorter or longer periods of notice may be authorized by the city council as the circumstances may justify.

- (b) *Grounds.* Due cause for the suspension or revocation of such license shall consist of any of the following:
 - (1) Violation of any of the provisions of this article or any other city ordinance.
 - (2) Violation of any laws, ordinances or resolutions regulating such business, or violation of regulations made pursuant to authority granted for the purpose of regulating such business.
 - (3) If a licensee or permittee has supplied false information to the city either during or following application for a permit or license, regardless of when the city shall have become aware of such false information.
 - (4) If a licensee or permittee makes any misrepresentation of fact, whether through advertisement or through any form of direct communication, oral or written, which is intended to mislead the public or to mislead any party with whom the licensee or permittee deals in pursuance of the licensed or permitted business. The term "misrepresentation of fact" as used in this subsection shall embrace not only express misrepresentations but also misrepresentations arising by virtue of the licensee's or permittee's conduct, including acts and omissions.
 - (5) If any reason exists which would have been grounds for denial of the original or renewal license or permit.

Sec. 7.7.15.11. Use permit.

- (a) No flea market shall be operated upon any realty or in or upon any personalty located on any realty unless and until a special use permit for a flea market is granted by the city council. This special use permit for a flea market, called "flea market use permit" or "permit" in this section, shall be in addition to all other requirements of the city.
- (b) Applications for flea market use permits shall be applied for and advertised in the same manner as applications for rezoning, and public hearings will be held thereon in the same manner as applications for rezoning are conducted, as the same may be amended from time to time. Fees for filing and processing of applications shall be in an amount determined from time to time by resolutions of the city council. A schedule of the fees shall be maintained on file in the community development department.
- (c) Permits may be issued for such period of time as the city council deems appropriate under the circumstances of each application.
- (d) Flea market use permits shall be granted only if the city council determines that there will be no significant adverse effect on the surrounding neighborhood or area in which the proposed use will be located; that no nuisance as defined by state law would result to the general area; that the quiet enjoyment of surrounding property would not be adversely affected; and that property values of surrounding property would not be adversely affected. No permit shall be

issued where the application or any investigations shows the existence of any of the conditions enumerated in subsection 7.7.15.1(d).

Section 3. It is hereby declared to be the intention of the City Council that:

- (a) All Ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed.
- (b) All sections, paragraphs, sentences and phrases of this Ordinance are or were, upon their enactment, believed by the City Council to be fully valid, enforceable and constitutional.
- (c) To the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. No section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.
- (d) In the event any portion of this Ordinance shall be declared or adjudged invalid or unconstitutional, it is the intention of the City Council of the City that such adjudication shall in no manner affect the other sections, sentences, clauses or phrases of this Ordinance which shall remain in full force and effect, as if the invalid or unconstitutional section, sentence, clause or phrase were not originally a part of the Ordinance.

Section 4. The City hereby formally transitions from the County to the City the services, assessments, license, permitting regulated under Chapter 78, Article III of the Official Code of Cobb County, Georgia.

Section 5. Fees and other costs applicable under this Ordinance are hereby adopted and attached as the “City of Mableton Special License and Regulatory Fee Schedule” and shall be alternatively known as “Schedule R.”

Section 6. The provisions pertaining to sexually oriented businesses under this Ordinance are designed to promote the health, safety, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Ordinance to condone or legitimize the distribution of obscene material.

- (a) *Findings and rationale.* Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports publicly available to the City Council, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S.

50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); *Sewell v. Georgia*, 435 U.S. 982 (1978); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *City of Dallas v. Stanglin*, 490 U.S. 19 (1989); and

- (b) Based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, "Correlates of Current Transactional Sex among a Sample of Female Exotic Dancers in Baltimore, MD," *Journal of Urban Health* (2011); "Does the Presence of Sexually Oriented Businesses Relate to Increased Levels of Crime?" *Crime & Delinquency* (2012) (Louisville, KY); Metropolis, Illinois—2011-12; Manatee County, Florida—2007; Hillsborough County, Florida—2006; Clarksville, Indiana—2009, 2013-2019; El Paso, Texas—2008; Memphis, Tennessee—2006; New Albany, Indiana—2009; Louisville, Kentucky—2004; Fulton County, GA—2001; Chattanooga, Tennessee—1999-2003; Jackson County, Missouri—2008; Ft. Worth, Texas—2004; Kennedale, Texas—2005; Greensboro, North Carolina—2003; Dallas, Texas—1997; Houston, Texas—1997, 1983; Phoenix, Arizona—1995-98, 1979; Tucson, Arizona—1990; Spokane, Washington—2001; St. Cloud, Minnesota—1994; Austin, Texas—1986; Indianapolis, Indiana—1984; Garden Grove, California—1991; Los Angeles, California—1977; Whittier, California—1978; Oklahoma City, Oklahoma—1986; New York, New York Times Square—1994; the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota); Dallas, Texas—2007; "Rural Hotspots: The Case of Adult Businesses," 19 *Criminal Justice Policy Review* 153 (2008); "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; Sex Store Statistics and Articles; Indianapolis/Marion County Board of Zoning Appeals Documents; Law Enforcement and Private Investigator Affidavits (Adult Cabarets in Forest Park, GA and Sandy Springs, GA); DeKalb County Testimony and Reports—2014; and Strip Club-Trafficking Documents, the City Council finds:
- (1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, human trafficking, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation. Alcohol consumption impairs judgment and lowers inhibitions, thereby increasing the risk of adverse secondary effects.
 - (2) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.
 - (3) Each of the foregoing negative secondary effects constitutes a harm which the county has a substantial government interest in preventing and/or abating. The city's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the

City The City finds that the cases and documentation relied on in this chapter are reasonably believed to be relevant to said secondary effects.

(c) Additionally:

- (1) The City is becoming an increasingly attractive place for the location of commercial enterprises and of residences for families, and the council is committed to adopting ordinances designed to protect the quality of life for its constituents.
- (2) The City Council desires to establish policies that provide the maximum protection of the general welfare, health, morals, and safety of the residents of the City.
- (3) The governing authority of each municipal corporation is authorized to enact ordinances which have the effect of restricting the operation of adult bookstores and video stores to areas zoned for commercial or industrial purposes, provided in O.C.G.A. § 36-60-3.
- (4) The state supreme court, in *Chambers d/b/a Neon Cowboy v. Peach County, Georgia*, 266 Ga. 318 (1996), held that local governments may adopt ordinances designed to combat the undesirable secondary effects of sexually explicit businesses, and further held that a governing authority seeking to regulate adult establishments must have evidence of a relationship between the proposed regulation and the undesirable secondary effects it seeks to control.
- (5) The state supreme court further held in the same opinion that in passing its regulation, a local government may rely on the experience of other counties and municipalities to demonstrate such a relationship.
- (6) The United States Supreme Court, in *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), held that a local government may rely on the experience of other cities in enacting legislation to regulate sexually oriented business.
- (7) Among the undesirable community conditions identified with live nude entertainment at which alcohol is served or consumed are depression of property values in the surrounding neighborhood, increased expenditure for the allocation of law enforcement personnel to preserve law and order, increased burden on the judicial system as a consequence of the criminal behavior, and acceleration of community blight.
- (8) The City Council further finds it has an important governmental interest in reducing crime and protecting surrounding properties from adverse impacts, which interest is unrelated to the suppression of speech.
- (9) It is the intent of the City Council to enact an ordinance, narrowly tailored, sufficient to combat the undesirable secondary effects of sexually oriented businesses, including the serving and consumption of alcoholic beverages at sexually oriented businesses.
- (10) The City Council desires to regulate the sexually oriented businesses within the City limits. Notwithstanding, this article is not to be construed as an endorsement from the City of these establishments. The City Council understands that sexually oriented businesses are actually protected under the free speech clause of the First Amendment of the Constitution of the United States for their role in communicating

"erotic speech." The courts allow communities to regulate speech, not based on the content of the speech, but in time, place, and manner in which it is presented.

- (11) It is well established and has been the experience of other communities in the state and throughout the United States that adult entertainment, which includes public nudity, has been associated with and may encourage disorderly conduct, prostitution and sexual assault. This section advances the substantial government interest in promoting and protecting public health, safety, and general welfare, maintaining law and order and prohibiting public nudity. The section is narrowly constructed to protect the First Amendment rights of citizens of the City while furthering the substantial governmental interest of combating the secondary effects of public nudity and sexually oriented businesses from areas and uses of the community that are incompatible. Areas and uses that are to be protected from sexually oriented businesses include, but are not limited to, residential, churches, day care centers, libraries, recreational facilities, and schools.
- (12) Based on the experiences of other counties and municipalities, the City Council takes note of the patent conditions and secondary effects attendant to the commercial exploitation of human sexuality, which do not vary greatly among the similar communities within our country.
- (13) The City Council further finds that public nudity (either partial or total) under certain circumstances, particularly circumstances related to the sale and consumption of alcoholic beverages in establishments offering live nude entertainment or "adult entertainment," whether such alcoholic beverages are sold on the premises or not, begets criminal behavior and tends to create undesirable community conditions. In the same manner, establishments offering cinematographic or videographic adult entertainment have the same deleterious effects on the community. Among the acts of criminal behavior found to be associated with the commercial combination of live nudity and alcohol consumption or sale, live commercial nudity in general, and cinematographic or videographic adult entertainment are disorderly conduct, prostitution, public solicitation, public indecency, fighting, battery, assaults, drug use and drug trafficking. *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *5634 East Hillsborough Ave., Inc. v. Hillsborough County*, 2007 WL 2936211 (M.D. Fla. Oct. 4, 2007), *aff'd*, 2008 WL 4276370 (11th Cir. Sept. 18, 2008) (per curiam). See also *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981).
- (14) Among the undesirable community conditions identified in other communities with the commercial combination of live nudity and alcohol consumption or sale, commercial nudity in general, and cinematographic or videographic adult entertainment are depression of property values and acceleration of community blight in the surrounding neighborhood, increased allocation of and expenditure for law enforcement personnel to preserve law and order, and increased burden on the judicial system as a consequence of the criminal behavior described in this article. The City Council finds it is reasonable to believe that some or all of these undesirable community conditions are occurring, and will continue to occur in the City.

- (15) The City Council further finds that other forms of adult entertainment including, but not limited to, adult bookstores, adult novelty shops, adult video stores, peep shows, and adult theaters have an adverse effect upon the quality of life in surrounding communities.
- (16) The City Council further finds that the negative secondary effects of adult establishments upon the City are similar whether the adult establishment features live nude dancing or sells books/videotapes depicting sexual activities. *H & A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *High Five Investments, LLC v. Floyd County*, No. 4:06-CV-0190-HLM (N.D. Ga. Mar. 14, 2008).
- (17) Therefore, the City Council finds that it is in the best interests of the health, welfare, safety and morals of the community and the preservation of its businesses, neighborhoods, and of churches, schools, residential areas, public parks and children's day care facilities to prevent or reduce the adverse impacts of adult establishments by restricting hours of operation, prohibiting alcohol sale or consumption, and restricting the distance from other adult establishments and restricting the distance from residential areas, schools, public parks, churches, and children's day care facilities.
- (18) The City Council finds that these regulations promote the public welfare by furthering legitimate public and governmental interests including, but not limited to, reducing criminal activity and protecting against or eliminating undesirable activities impacting adversely the community conditions and further finds that such will not infringe upon the protected Constitutional rights of freedom of speech or expression.

Section 7. The City Attorney and City Clerk are authorized to make non-substantive editing and renumbering revisions to this Ordinance for proofing and renumbering purposes.

Section 8. The effective date of this Ordinance shall be June 1, 2025, unless ordained otherwise by the City, or required otherwise by the City Charter, state and/or federal law. In the event that any effective date herein is determined by a Court of law to be invalid, said effective date shall instead be the earliest date allowed by law.

SO ORDAINED this _____ day of _____, 2025.

ATTEST:

CITY OF MABLETON, GEORGIA:

Susan D. Hiott, Interim City Clerk

Michael Owens, Mayor

APPROVAL AS TO FORM:

Emilia Walker-Ashby, Interim City Attorney

Planning Commission Comments on Special Regulatory Licenses

Prepared by Robin Meyer

Staff reviewed 7.16.2025

7.7.1.5 – authorized to exceed state limitation but imposes not city implemented maximum

7.7.2.2 – “No Solicitation” sign acknowledgement to clarify permitted areas of solicitation

7.7.2.3 (f) – does code enforcement division issue sign permits?

7.7.2.3 (g) – how is the vehicle approval documented? Is it on the permit?

7.7.2.4 – make gender neutral

7.7.3.2 (b) – correct name is “Cobb & Douglas Public Health” – needs to be corrected in subsequent paragraphs, too.

7.7.3.3 (f) – mobile food vendors should be allowed to play music once parked.

7.7.4.2 (a) – reference to “license bureau” – should it be “business license division”?

7.7.4.3 & 4 – is it wise to earmark this revenue only for door-to-door sales regulation?

7.7.4.5 & 6 – “business license office” rather than “license office”

7.7.5.1 and 7.7.5.3(a) “Private property vending” reference “unincorporated area of the city” – is this correct?

7.7.5.1 “Public property vending and public space” and “public property vending” both reference property owned by the city. This should be broadened to include property rented by the city (such as Mableton Town Square, which is owned by County) and the Mable House Complex (which is leased to the County by private owners).

7.7.5.5 (a) - There is no RRC zoning in the City.

7.7.6.3 (b) - I can’t locate Section 6-90.

7.7.6.3 (b) (4) and 7.7.15.6 (d)(3)(c) – Consider rewording as “If it appears that the applicant is a “strawman,” “dummy applicant,” or operating under some other guise because the true operator of the business is would not be able to meeting the qualifications as an applicant.”

7.7.7.1 - Consider rewording second sentence “...any obscenities or disturbance of the peace.”

7.7.7.1 – What is the rationale for disallowing employment of ex-felons, if their sentences have been completed?

7.7.7.3 – The last sentence refers to the state fire marshal’s office. Does the Cobb Fire Marshal need to approve the site plan to ensure that emergency vehicles can access it properly?

7.7.7.4 – Outdated language “...of good moral character”

7.7.7.8 – “...for business purposes” too broad

Planning Commission Comments on Special Regulatory Licenses

Prepared by Robin Meyer

Staff reviewed 7.16.2025

7.7.8.1(g) delete comma after “property”

Police?

7.7.8.8 (b) The age requirement should be in section 7.7.7.4 (b). This section could be interpreted as applicants less than 25 need not obtain a license.

Division 9 – “Pool Room”, “Billiards”, “Billiard Halls”, “Billiard Tables” are all used to describe the same thing. Perhaps a definition of the most frequent term to mean all the others?

7.7.9.6 – Update hours of operations

7.7.9.7 – Reword to “All persons desiring to obtain a license required for the operation of a pool room must be 18 years of age or older and shall make written...”

7.7.10.5 – Update hours of operations (8:00 AM – 10:00 PM)

7.7.10.7 – This references “Division 8 of this chapter”, but Division 8 relates to pawnshops.

7.7.10.10 – reference to 7.7.10.45 must be incorrect; I can’t find that section.

7.7.10.14 – reference to 7.7.10.299 must be incorrect; I can’t find that section.

7.7.11.3 (c) (8) – “See Sections 7.7.11.3” refers to this section. Should this say “this section” or is another section actually the intended reference?

7.7.11.8 – Recommend 90 days suspension

7.7.11.16 (b) - reference to 7.7.11.332 must be incorrect; I can’t find that section.

7.7.12.9 (b) - Could be interpreted that persons 24 and under don’t need to obtain a license. Consider rewording to “All persons desiring to obtain a license required under this division must be 25 years of age and shall make...”

7.7.12.11 - (a) shouldn’t the 5 year period begin at the completion of the sentence?

7.7.13.3 "special event parking area" citation is incorrect; it refers to precious metal dealers.

7.7.13.3 “traffic and pedestrian safety management plan” should be developed by event promoter and presented to city, Cobb DOT and Cobb Public Safety for review and approval.

7.7.13.3 – redefine special event to include events that draw less than 2,000 participants

7.7.13.4 (b) and subsequent sections – reference to “registrant” should be changed to “applicant.” “Registration” is a process under which the governing authority has no exercise of discretion; “application” is a process by which the applicant must prove that they meet certain criteria and the governing authority uses its discretion to determine if the standards have been met.

Planning Commission Comments on Special Regulatory Licenses

Prepared by Robin Meyer

Staff reviewed 7.16.2025

7.7.13.6 (a) - reference to 7.7.12.406.4(f)(5) must be incorrect; I can't find that section.

7.7.14.1 (b) (4) – is the applicable date correct?

7.7.14.1 (c) Noise ordinance – shouldn't the citation be to the city noise ordinance?

7.7.14.1 (c) Short term rental agent – when this applied to Cobb County, this definition was reasonable. When applying it to the city, it seems too restrictive. Perhaps “within the city or within 5 miles of the city”?

7.7.14.1(e) (2) (c) – The sworn statement should be from the HOA that it has been notified; if the HOA cannot be located/contacted, then the applicant can submit a sworn statement that they have tried.

7.7.14.1 (h) (5) – several citations are apparently to Cobb County Code; is there an applicable city code?

7.7.14.1(i) (3) – are methods of delivering written notices the same as in the code enforcement ordinance?

7.7.14.1 (j) – update to include fines that are more punitive (Max fine \$1,000?)

7.7.15.3 (a) – I don't think it is true that there have been an increase in flea markets. It might have been the case for the county when the county adopted this ordinance. Also, there are no “unincorporated areas” in the city.

7.7.15.6 (a) – reference to Cobb County code

7.7.15.6 (d) – does the city code have a “group M”?

7.7.15.9 – I can't find section 6-90

7.7.15.11 – shouldn't most of this section be included in the zoning ordinance where other SLUP and LUP requirements are listed? Is this a SLUP or a LUP? This contemplates a temporary use, whereas SLUPs generally are not limited in time.

General:

Recommend updating language throughout the ordinances to ensure it is gender-neutral and/or inclusive

Public Comments:

- 1) Raised concerns regarding the numbering logic and overall structure of the ordinance
- 2) Echoed several of the concerns previously noted by the Planning Commission, as outlined above.



AGENDA ITEM MEMORANDUM

MEETING OF: July 16, 2025

DEPARTMENT: [DEPARTMENT]

ISSUE/AGENDA ITEM TITLE: Second Reading and Public Hearing of An Ordinance Creating Article 5, Subdivisions, under Chapter 8, Buildings and Construction, of the City of Mableton Code of Ordinances - Community Development Director Michael Hughes

BACKGROUND/SUMMARY: This ordinance will adopt subdivision regulations for the City of Mableton.

BUDGETED/FINANCIAL IMPACT – FUND: Not Applicable

RECOMMENDATION: Staff recommends adoption of the ordinance.

ATTACHMENTS:

1. Subdivision Regulation Ordinance Rev. 5.9.25 (2)

**STATE OF GEORGIA
COBB COUNTY
CITY OF MABLETON**

ORD

**AN ORDINANCE CREATING ARTICLE 5, SUBDIVISIONS, UNDER CHAPTER 8,
BUILDINGS AND CONSTRUCTION, OF THE CITY OF MABLETON CODE OF
ORDINANCES AND FOR OTHER LAWFUL PURPOSES**

WHEREAS, the City of Mableton (“City”) is a municipal corporation duly organized and existing under the laws of the State of Georgia;

WHEREAS, the duly elected governing authority of the City is the Mayor and Council (“City Council”) thereof;

WHEREAS, Sec. 1.13(23) of the City Charter authorizes the City “[t]o provide subdivision regulation and the like as the city council deems necessary and reasonable to ensure a safe, healthy, and aesthetically pleasing community”;

WHEREAS, the City Council desires through this Ordinance to exercise its powers and authority under the City Charter and other applicable laws to promotion the health and general welfare of the City; and

WHEREAS, the City Council finds this Ordinance to be in the best interests of the health, safety, and general welfare of the City.

IT IS HEREBY ORDAINED by the governing authority of the City of Mableton, as follows:

Section 1: The City Code of Ordinances is hereby amended to create Creating Article 5, Subdivisions, under Chapter 8, Buildings and Construction, to read as follows:

CHAPTER 8 - BUILDINGS AND CONSTRUCTION

ARTICLE 5 - SUBDIVISIONS

DIVISION 1 - GENERALLY

Sec. 8.5.1.1 - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Block means a piece or parcel of land entirely surrounded by public highways or streets other than alleys. In cases where the plotting is incomplete or disconnected, the subdivider may determine the outline of the block.

Building line means the minimum horizontal distance between the street right-of-way line, or the street centerline where appropriate, and the building or any projection thereof, except any of the following:

- (1) Steps, terraces and open fire escapes.
- (2) Balconies, canopies or cornices projecting no more than three feet beyond the main building wall.
- (3) Offset or overlapping portions of the floor of the main building that do not extend more than three feet beyond the main building wall.

Condominium means a development providing individual ownership of units within a multifamily zone, together with the joint ownership of common areas of the buildings and grounds.

Controlling financial interest means 51 percent or more, legal or equitable ownership interest of the total assets or capital stock of a business entity.

Controlling property interest means any ownership of real property, direct or indirect, and includes any percentage of ownership less than total ownership.

Crosswalk means a right-of-way within a block dedicated to public use, ten feet or more in width, intended primarily for pedestrians and from which motor-propelled vehicles are excluded. It is designed to improve or provide access to adjacent roads and lots.

Department means the city community development department and/or any entity designated by the city to perform duties of the city community development department.

Department of transportation means the city and/or county's department of transportation.

Director means the director of the community development department or his designee.

Director, department of transportation means the director of the department of transportation.

Engineer means the city engineer and/or the city manager's designee.

Final plat means a plat of a tract of land which meets the requirements of this chapter and Georgia Law for recording in the office of the clerk of the superior court of the county.

Frontage. See *Lot width*.

Lot means a portion of a subdivision intended as a unit for transfer of ownership or for development or both. In determining the area and dimensions of a lot, no part of the right-of-way of a road or crosswalk may be included.

Lot width means the distance between the side lot lines measured as a tangent to the front building line as described by the city zoning code.

Major thoroughfare plan means an engineered or designed comprehensive plan or program of arterial, collector and minor streets and roads for all or a portion of the city.

Master plan means a comprehensive plan which may consist of several maps, data and other descriptive matter for the physical development of the city or any portion thereof. This includes any amendments, extensions or additions thereof recommended by the planning commission indicating the general location for major roads, parks or other public open spaces, public building sites, routes for public utilities, zoning districts or other similar information.

Person means any business entity, subdivider, developer, corporation, partnership, limited partnership, joint venture, firm, enterprise, franchise, association, trust or other entity of any kind.

Sediment control regulations means city code chapter 11, article I, and/or any other applicable regulation dealing with sediment control during construction.

Standard design specifications means standards and specifications in use by the city which shall apply to the physical improvements required to be provided and installed by a subdivider in a subdivision.

Streets and alleys means as defined according to the major thoroughfare plan.

Subdivider means any person who undertakes the subdivision of land as defined in this section.

Subdivision means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, legacy or building development, and includes all division of land involving a new street or a change in existing streets, and includes re-subdivision and, where appropriate to the context, relates to the process of subdividing or to the land or area subdivided. Provided, however, that the following are not included within this definition:

- (1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to the standards of the city.
- (2) Any subdivision of land, provided that all such lots are within the boundaries of a pre-existing platted subdivision or no lots hereby produced contain less than 80,000 square feet each and has a minimum frontage of 200 feet. Also, where no new streets, roads, or other rights-of-way are involved and provided further that such subdivision shall be platted and recorded. For lots of 80,000 square feet or more the property shall be zoned for R-80 purposes as defined in the city's zoning code.

- (3) A division or sale of land by judicial decree.
- (4) The sale or exchange of a parcel of land between owners of adjoining properties; provided, that additional lots are not thereby created.
- (5) In those instances where the Board of Zoning Appeals grants a variance for a subdivision of property lacking the minimum public road frontage and an easement is necessary for ingress and egress to the property, there shall be a maximum of three lots permitted, a minimum of 80,000 square feet per lot, a minimum of 25 feet width easement, and the easement and the subdivided lots shall be platted and required to be recorded as restrictive covenants running with the land in the clerk's office of the Cobb County superior court. The Board of Zoning Appeals shall be authorized and directed to consider any variance application to this provision so long as the lots shall be a minimum of 40,000 square feet in size (as recommended to the city council), a minimum of 20 feet width easement, and a maximum of three lots. Cobb County Fire and Emergency Services shall review and approve all one- and two-family residential dwelling units accessing private easements with respect to applicable codes including but not limited to emergency vehicle access and hydrant placement. In the event that these applicable codes cannot be met, Cobb County Fire and Emergency Services may require indemnification in a form approved by the County or city.

Subdivision administrator means any person in the department to whom the duties of subdivision administrator are assigned, or successor to his duties, by whatever title designated.

Traffic engineer means the city engineer to whom the duties of traffic engineer are assigned, or successors to his duties, by whatever title designated.

Variance means a change in the general design of a subdivision but which shall in no way make null the standard design specifications of the Director or the city zoning regulations.

Water and sewer system means the Cobb County Water and Sewer System.

Sec. 8.5.1.2 - Jurisdiction; compliance; violations and penalties; enforcement; appeals.

- (a) This chapter shall govern all subdivisions of land within the city limits, and shall govern all undeveloped units of existing subdivisions. No plat of subdivision of land within the city shall be submitted or approved excepting in full compliance with the provisions of this chapter.
- (b) Until acceptance of the subdivision or development by the city, it shall be the duty of the existing owner of real property subject to this chapter to notify the director of any change in address or ownership. Any notice required by the city to the owner pursuant to this chapter shall not be deemed invalid or defective due to the failure of the owner to notify the director of the change of address or ownership.

(c) Full compliance with all rules, regulations and requirements authorized by or made in pursuance of this chapter shall be a prerequisite to the issuance of any permit. The city is authorized to withhold the issuance of all permits or to refuse inspection to any subdivider or person on the property or subdivision in dispute or any other property or subdivision in the city in which the subdivider or person may have a controlling financial interest or controlling property interest, who violates or fails to comply with this chapter.

(d) Any subdivider or person or combination of both, or their agent, servant, employee, officer, contractor, or combination of both, who fails to comply or violates any provision of this chapter or any restriction or condition imposed by the authority of this chapter or violates any restriction of any city authority made in pursuance of this chapter shall be subject to the following:

(1) Whenever the director determines that a subdivider or person has failed to comply with or violates any provision of this chapter or any restriction or condition imposed by the authority of this chapter or violates any restriction or any city authority made in pursuance of this chapter, the director shall order all work stopped in writing by notifying the subdivider or persons and proper city authorities. All work shall stop when ordered by the director, except corrective work as directed by the director, and shall be suspended until compliance with this chapter or correction of the violation is made and the director lifts the stop work order and authorizes continuance of the work.

(2) The director shall be authorized to assess a civil penalty of up to \$1,000.00 per day for each offense which may be continuing until the offense is remedied; provided, however, that before any such fine is imposed the following procedures must take place:

a. The director shall notify the party in writing of any violation or failure to comply with the terms of this chapter;

b. The party shall have five days from receipt of such written notice from the director to respond and be heard on the failure to comply or violation;

c. Immediately upon hearing the matter the director shall issue a written order of his or her decision which shall be delivered by US first class mail regarding the matter heard. Each day of such violation shall constitute a separate offense.

(3) Violations of this chapter are punishable as allowed by law.

(e) Any person or subdivider severally or jointly aggrieved by any decision of an administrative officer of the city with regard to this chapter may take an appeal to the city council by notifying the clerk of the city council in writing stating the reasons for the appeal, except, however, that such appeal must be filed within ten days from the date of the decision being appealed. A hearing before the city council shall be scheduled within 30 days after filing of the

appeal. Upon failure to file such appeal within ten days of the decision being appealed, the decision shall be binding and final upon the parties.

Sec. 8.5.1.3 - Purpose, objective and intent.

The city council hereby finds and determines the following:

- (1) Many interests are affected when new homes are built, therefore, a reasonable regulation and control of development is necessary to protect these interests.
- (2) The first interest to consider is that of the subdivision owner or developer. This chapter requires the developer to meet certain standards in designing his subdivision that will provide him with desirable, saleable lots. This, in turn, will give his investors a certain guarantee of return.
- (3) A carefully planned development can install certain neighborhood pride even before the first individual homeowner moves in. The homeowner's interests were protected before he purchased the home by ensuring the installation of proper facilities and recreational areas. Further, if the natural beauty has been retained and protective covenants established on the development, the homeowner's property value should increase rather than decline as has been the case in too many neighborhoods in the past.
- (4) Probably the greatest error in the past has been the lack of recognition of the long-term responsibilities involved in subdividing land. This error has proven to be costly and affects a third interest, the city government, which, in turn, affects the city taxpayer. Therefore, as representatives of the taxpayer and his family, the city government intends to protect the taxpayer's interests and other interests involved by the adoption and enforcement of this chapter.
- (5) A development must first fit into a master plan which is adopted by and recommended by the planning commission after a comprehensive study of the city. The director then studies the design and facilities, which are eventually left in the hands of the city for maintenance, to ensure that they are suitable and will require a minimum of maintenance in the future. Past experiences have pointed to the dire need for a regulation of this content to serve the best interest of the public while providing all developers with a minimum standard policy and procedure outline.
- (6) The intent of this chapter is to provide for the harmonious development of the city and to ensure a coordinated layout with adequate provisions for traffic, recreation, drainage, sewers and other technical elements of land subdivision. This control is necessary to assure the maximum return on the local and government investments and at the same time to assure the homeowner protection and the subdivider full consideration of his interests and responsibilities.

DIVISION 2 - PLATS AND PLAT APPROVAL PROCEDURE

Sec. 8.5.2.1 - Procedure for plat approval for subdivisions.

Any owner of land lying within the area of jurisdiction of these subdivision regulations wishing to divide such land into two or more lots, sites or divisions for the purpose, either immediate or future, of sale or building development, or wishing to re-subdivide for this purpose, shall submit a plan of such proposed subdivision to the subdivision administrator and, if using septic tanks, to the county health department for its consideration. The following requirements shall govern the procedure for plat approval for subdivisions:

- (1) Prepare a complete set of construction plans which shall include at a minimum:
 - a. Preliminary site plan.
 - b. Site grading plans.
 - c. Roadway development plans (see city development standards).
 - d. Stormwater management plan (see city development standards).
 - e. Fire safety standards.
 - f. Water and sanitary sewer plans (see city development standards).
 - g. Erosion and sediment control plans (see chapter 11, article 1).
 - h. Tree protection and replacement plan (see city development standards).
 - i. Additional site-specific information as may be necessary.
- (2) Submit two sets of the construction plans, to the subdivision administrator for consideration by the development review committee. The action and/or recommendations shall be noted on the plans and returned to the submitter. Upon resubmittal of revised plans, and verification that all staff comments have been properly addressed, the project will be made eligible for permitting. Upon receiving construction plan approval as outlined in the city development standards, a land disturbance permit shall be issued.
- (3) Upon completion of site grading, paving, utility and infrastructure installation, prepare a final plat. No building permits shall be issued before approval of the final plat.
- (4) Submit final plat for health department approval if septic tanks are to be used for sewerage disposal.
- (5) Submit final plat and the platting fee to the subdivision administrator for approval on the basis of the approved construction plans.

Note: Approval of the final plat does not constitute final acceptance of the improvements.

(6) The applicant shall have the final plat recorded after the necessary signatures have been placed upon it.

(7) The subdivider may begin to sell lots.

(8) Ensure that all inspections have been made at proper phases of road construction, so that, after the provision of a warranty bond or proper maintenance warranty security is secured, the one-year maintenance period may begin promptly.

Sec. 8.5.2.2 - Construction plans.

Construction plans shall contain the information as specified in the requirements for plan review in the city available through appropriate city and county departments.

Sec. 8.5.2.3 - Platting fee and recording plat.

(a) A platting fee in the amount established by the city council shall be required when the final plat is submitted for approval.

(b) The subdivision administrator shall record the final plat when approved and shall have copies reproduced for the various utilities and government departments.

(c) The final plat original shall be returned to the developer or his engineer, surveyor or authorized representative.

(d) Approval of the final plat before the improvements are completed shall require an amount of money sufficient to cover the cost of improvements be placed in an escrow account to be released only upon written acceptance by the community development department. This amount is to be based on actual estimate of improvements or \$20.00 per running foot of street.

State law reference(s)—Approval by planning commission or governing authority on plat of subdivision required for filing or recording in superior court clerk's office, O.C.G.A. § 15-6-67(d).

Sec. 8.5.2.4 - Final plat specifications.

(a) The final plat shall be clearly and legibly drawn on permanent reproducible material. The scale of the final plat shall be no more than 100 feet to one inch. Sheet size shall not exceed 48 inches by 36 inches. If the complete plat cannot be shown on one sheet, several sheets with an index map indicated on each sheet shall be used. In no case shall sheet size be less than 8½ inches by 11 inches.

(b) The final plat shall conform to the approved construction plans and it may constitute only that portion of the approved construction plans which the subdivider proposes to record and

develop at any time, provided that such portion conforms to the staging established in approved construction plans and to the requirements of this chapter.

- (c) The final plat shall contain the following information:
 - (1) Name of the subdivision and street names.
 - (2) Property address numbers, as furnished by the community development department and coordinated with the Cobb County Fire and Emergency Services Department.
 - (3) Reference to record subdivision plats of adjoining land by record name.
 - (4) Date of plat drawing, graphic scale, and north arrow.
 - (5) Location of tract, by land lot and district.
 - (6) Name of former subdivision if any or all of the final plat has been previously subdivided.
 - (7) Location sketch at a scale of one-inch equals 2,000 feet.
 - (8) Index map on each sheet when more than one sheet is required.
 - (9) Courses and distances to the nearest existing street, intersections, or other recognized permanent monuments or benchmarks.
 - (10) Exact boundary lines of the tract, to be indicated by a heavy line, giving distances to the nearest one-tenth foot and angles to the nearest second, which shall be balanced and closed. The error of closure shall be stated, and further the error of closure shall exceed 1' in 10,000'. Tract boundaries shall be determined by accurate survey in the field.
 - (11) Reserved.
 - (12) Exact locations, width and names of all streets and alleys within and immediately adjoining the plat and the exact location and widths of all crosswalks.
 - (13) Street centerlines showing angles of deflection and standard curve data of intersection, radii, length of tangents and arcs, and degree of curvature with basis of curve data.
 - (14) Lot lines with dimensions to the nearest one-tenth foot, necessary internal angles, arcs and chords and tangents or radii of rounded corners.
 - (15) Building setback lines with dimension.
 - (16) Lots or sites numbered in numerical order and clockwise lettered alphabetically.

(17) Location, dimensions, drainage area and purpose of all drainage structures and of any easements, including slope easements, flood hazard areas, public service utility right-of-way lines, and any areas to be reserved, donated or dedicated to public use or sites for other than residential use with notes, stating their purpose and limitations; and of any areas to be reserved by deed covenant for common uses of all property owners.

(18) A statement of the private covenants, if they are brief enough to be put directly on the plat; otherwise a statement as follows: "This plat is subject to the covenants set forth in the separate document(s) attached hereto dated _____, which hereby becomes a part of this plat, recorded _____" and signed by the owner.

(19) Accurate location, material and description of monuments and markers. Monuments to be placed after final street improvements shall be designated as future.

(20) Seal of surveyor or engineer responsible for work.

(21) Variances, if any, and date approved by the Board of Zoning Appeals.

(d) Certificates for the final plat shall be provided as follows:

(1) *Owner's acknowledgment:*

I hereby certify that I am the owner of the land shown on this plat (or a duly authorized agent thereof) whose name is subscribed hereto. I acknowledge that this plat was made from an actual survey, and for value received the sufficiency of which is hereby acknowledged, I do hereby convey all streets and rights-of-way, sidewalks, water mains and sewer lines shown hereon in fee simple to the city of Mableton, Georgia which shall also include at the filing and acceptance of a limited warranty deed in favor of the city of Mableton, Georgia, and further dedicate to the use of the public forever all alleys, parks, watercourses, drains, easements, and public places hereon shown for the purposes and considerations herein expressed. In consideration of the approval of this development plan and other valuable considerations, I further release and hold harmless the city of Mableton, Georgia, from any and all claims, damages, or demands arising: on account of the design, construction, and maintenance of the property shown hereon; on account of the roads, fills, embankments, ditches, cross drains, culverts, water mains, sewer lines, and bridges within the proposed rights-of-way and easements shown; and on account of backwater, the collection and discharge of surface water, or the changing of courses of streams.

And further, I warrant that I own fee simple title to the property shown hereon and agree that the city of Mableton, Georgia, shall not be liable to me, my heirs, successors, or assigns for any claims or damages resulting from the construction or maintenance of cross drain extensions, drives, structures, street, culverts, curbs, or sidewalk, the changing of courses of streams and rivers, flooding from natural creeks and rivers, surface waters, and any other matter whatsoever. I further

warrant that I have the right to sell and convey the land according to this plat and do hereby bind owners and myself subsequent in title to defend by virtue of these presents.

Signature Printed Name Date

(2) *Surveyor's acknowledgment:*

I hereby certify that the plan shown and described hereon is a true and correct survey made on the ground under my supervision, that the monuments have been placed as shown hereon, and is to the accuracy and specifications required by the city of Mableton, Georgia, development standards.

Signature Printed Name Date
Registered Ga. Land Surveyor

(3) *City development certification:*

This plat, having been submitted to the city of Mableton, Georgia and having been found to comply with city of Mableton, Georgia, development standards and the city of Mableton, Georgia zoning ordinance, is approved subject to the installation and dedication of all streets, utilities, easements and other improvements in accordance with applicable standard design specifications and the posting of a one-year maintenance security and filing of limited warranty deeds for any property to be dedicated to the city .

Cobb County Water System Date

Community Development Department Date

City Engineer Date

City Engineer Date

(4) *Certification of Cobb County Public Health (only on plats to be served by septic tanks):*

This plat or survey has been approved for development utilizing onsite sewage management systems except as noted. Unauthorized excavation or filling of lots may render their approval void.

Environmental Health District

Director for Cobb County
Public Health Date

Note on Individual Septic Systems

Out: Currently unsuitable for on-site sewage management systems.

SP: Approval of individual site plan required prior to issuance of on-site sewage management system permit.

SPA: Approval of individual site plan utilizing an alternative on-site sewage management system required prior to permit issuance.

(5) Cobb County Water and Sewer System sign off

(6) *Surveyor's certification:*

(a) Provide the appropriate surveyor's certification as set forth in OCGA § 15-6-67.

(7) Cobb County Fire & Rescue

Sec. 8.5.2.5 - Revisions.

(a) Revisions to the record plat shall be approved by the director. All changes shall be noted on the record plat with a statement of what revisions were made.

Sample: "This plat supersedes the plat recorded in Plat Book ____, page _____. The revisions made are: _____"

APPROVED BY:

city community development department

Date

(b) Revision of an approved plat shall be submitted to the planning and zoning administrator with a fee in the amount established by the city council per plat for approval and recording.

DIVISION 3 - SUBDIVISION DESIGN STANDARDS AND REQUIRED IMPROVEMENTS

Sec. 8.5.3.1 - Existing subdivisions.

The provisions of this chapter shall remain in effect, even if inconsistent with the amendments effective upon adoption, as to those subdivisions existing and as to any subdivider or person who has initiated the approval procedure for subdivisions delineated in the zoning regulations on or before June 1, 2025 for that subdivision phase, unit or like entity only. The applicable provisions of this chapter and the terms of this chapter existing on June 1, 2025 are specifically incorporated by this reference; provided however, that all other subdivision phases, units, or like entities initiated after June 1, 2025, including subdividers or persons who may have been previously grandfathered, shall be subject to this article, as amended, upon adoption of these amendments.

Sec. 8.5.3.2 - Variances.

Where the subdivider can show that a provision of this article would cause unnecessary hardship if strictly adhered to, and/or where, because of topographical or other conditions peculiar to the site, and/or where, in the opinion of the Board of Zoning Appeals , a departure may be made without otherwise nullifying the standard design specifications of the director and the intent of this article or the city zoning regulations, the appeals board may authorize a variance per the standards set forth herein for variances. Any variance thus authorized shall be noted on the final plat before approval of the plat.

Sec. 8.5.3.3 - Conformance with zoning and other regulations.

No final plat affected by an existing zoning ordinance shall be approved unless it conforms with such ordinance. Whenever there is a discrepancy between minimum standards of dimensions noted in this chapter and those contained in the zoning regulations, building code or any other official regulation of the city, the more stringent standard shall apply.

Sec. 8.5.3.4 - Maintenance bond.

A maintenance bond, cash bond, or other equivalent form of security as approved by the city Attorney, running in favor of the city , in a minimum amount of \$5,000.00 or any amount equal to at least ten percent of the actual construction improvement total cost, whichever is greater, shall be posted with the Community Development Department by all subdividers or persons where street or other improvements are made and offered to the city for acceptance and maintenance except as noted in this section. Twenty-five percent of the actual construction improvement total cost or \$5,000.00, whichever is greater, shall be posted with the city by all subdividers or persons where street or other improvements are made requiring bridges, box culverts, or pipes with diameters equal to or exceeding 48 inches, and offered to the county for acceptance and maintenance. The maintenance bond, cash bond or other equivalent form of security shall guarantee all improvements against defects in design, material and workmanship and further guarantee that all such improvements shall be maintained in first class condition for the required period and faithful performance by the subdivider or other person of all provisions of this chapter.

(1) Any bond, except cash bond or other equivalent form of approved security shall be on forms supplied by the city and shall not be terminated or otherwise allowed to expire without at least 30 days' prior written notice to that effect to both the city and the subdivider or person. Such bond, cash bond or other equivalent form of approved security along with evidence of payment of the required premiums shall be filed with the city.

(2) Such bond, cash bond or other equivalent form of security shall be posted prior to commencement of the maintenance period and following installation of the improvements and inspection and approval by the city of the method of installation. No final plat shall be approved or recorded by the city and no lots shall be sold by the subdivider until and unless a satisfactory bond is posted.

(3) Separate bonds required by this section shall be required for each subdivision unit, phase or like entity approved by the city pursuant to this chapter.

Sec. 8.5.3.5 - Maintenance.

The subdivider or person shall maintain all improvements in the subdivision to be dedicated to the city for a minimum of one year from the date of written notification by the city commencing the one-year maintenance period of such improvements and inspection and approval by the city of the method of installation, whichever is longer. No dedication of improvements shall be accepted by the city until the expiration of one year from such date and inspection and determination by the city at the expiration of such time that all the improvements are in first class condition and meet all city specifications and requirements under this chapter.

(1) At the end of the maintenance period, the city may inspect the development, and shall inspect at the written request, submitted at the end of the tenth month of the maintenance period or thereafter prior to expiration of the maintenance period, by the subdivider or person. If the improvements to be dedicated are free from defects and comply with city specifications and requirements under this chapter, dedication of the improvements shall be accepted by the city for permanent maintenance by the city. The subdivider or person shall be notified in writing of the acceptance and any security shall be released.

(2) If upon inspection as provided in subsection (1) of this section, the city determines that work or repairs are needed in order for the improvements to meet city specifications or requirements under this chapter, the subdivider or person shall be notified in writing by the department of the deficiencies, failure to comply or violations. Thereafter, the subdivider shall have 60 days from receipt of such notification to correct such deficiencies, noncompliance or violations. If the deficiencies, noncompliance or violations are not corrected within such time, then the maintenance bond, cash bond, letter of credit or equivalent form of approved security posted by the subdivider shall be forfeited and called upon up to the cost of the repairs or the total amount of the bond. Should the amount of the bond be inadequate to pay for the cost of correcting the

deficiencies, noncompliance or violations, then the subdivider shall pay any and all costs beyond bond coverage.

(3) The subdivider shall pay to the city for each inspection, subsequent to the initial inspection provided under subsection (1) of this section, a reinspection fee in an amount set from time to time by resolution of the city council to defray the cost of reinspection. A copy of the schedule of reinspection fees shall be maintained in the offices of the community development agency.

(4) If a period of 18 months elapses from the commencement of the maintenance period for any subdivision and defects, noncompliance or violations still exist to the extent that the subdivision has not been accepted by the city, the city is authorized to withhold the issuance of any and all permits or to refuse inspection to any subdivider or person on the project in dispute or any other project in which the subdivider or person may have a financial interest, or both, who violates or fails to comply with this chapter.

Sec. 8.5.3.6 - Guarantee of installation and performance.

(a) Each subdivider or person shall guarantee installation of improvements and faithful performance of all provisions of city specifications and this chapter. The subdivider shall maintain a performance bond, letter of credit or other equivalent form of security in an amount that is 110 percent of the construction cost of all improvements, including landfill, as established by the subdivider's professional engineer and verified by the director. Such bond, letter of credit or other equivalent form of security shall be on forms supplied by the city. In lieu of installation of improvements, surety bond, letter of credit or other equivalent form of security, the subdivider or person may provide a first mortgage to the city on its property to satisfy the subdivider's or person's guarantee.

(b) Separate bonds as required by subsection (a) of this section shall be required for each subdivision unit, phase or like entity approved by the city pursuant to this chapter.

Sec. 8.5.3.7 - Blocks.

(a) *Maximum length.* Blocks shall not be more than 1,200 feet in length except where the director considers it necessary to secure efficient use of land or desired features of street pattern.

(b) *Minimum width.* Blocks shall be wide enough to allow two tiers of lots of minimum depth except where prevented by topographical conditions or size of the property, in which case the city council may approve a single tier of lots of minimum depth.

Sec. 8.5.3.8 - Large tracts or parcels.

When land is subdivided into larger parcels than ordinary building lots (larger than two acres), such parcels shall be arranged so as not to land-lock any adjacent property.

Sec. 8.5.3.9 - Lots.

Lots in subdivisions shall comply with the following:

- (1) *Arrangement.* Side lot lines should be at right angles (90 degrees) to straight street lines or radial to curved street lines. Side lot lines should be radial to the radius points of all culs-de-sac. Each lot shall front upon a dedicated public street having a right-of-way of not less than 50 feet.
- (2) *Building lines.* Building lines shall conform with the city zoning regulations.
- (3) *Corner lots.* All corner lots, regardless of zoning, shall have no less than 100 feet of road frontage on each street and shall meet the requirements in the city zoning regulations. The street side yard shall not be less than 25 feet as measured from the street right-of-way. Driveways shall be located according to city development standards.
- (4) *Double frontage lots.* Access to double frontage lots shall be restricted to the interior street.
- (5) *Septic tanks and sewage disposal systems.*

Sec. 8.5.3.10 - Monuments.

- (a) Permanent benchmarks shall be placed at all land lot corners on the boundary of the property being developed. These benchmarks shall be concrete with brass marking. Placement, to be verified by visual inspections, shall extend no less than six inches above the finished grade.
- (b) All other corners shall be marked with an iron pin, one-half inch in diameter and 24 inches long and driven so as to extend no less than one inch above the finished grade.

Sec. 8.5.3.11 - Easements.

- (a) Easements shall be cleared and opened at the time of development to control surface water runoffs. Runoffs slope and side slopes shall be specified by the developer's engineer, according to good engineering practices. Drainage ditches shall conform to standard swale ditch, as specified in the standard design specifications.
- (b) Permanent sanitary sewer easements of 20 feet in width shall be provided for necessary lines.
- (c) No permanent structures shall be constructed within ten feet of the edge of a permanent water or sanitary sewer easement on front and rear setbacks, or within two feet on side setbacks. The water system director may grant a variance to this requirement provided that it can be demonstrated to his or her reasonable satisfaction that such structure will not impede future installation or maintenance within said easement.

(d) Easements for sanitary sewers and drainage purposes shall not overlap unless approved by the county water system.

(e) Drainage easements shall be provided where a subdivision is traversed by a watercourse, drainageway, natural stream or channel. It shall conform substantially to the limits of such watercourse plus any additional width as is necessary to accommodate future construction as recommended by the director.

(f) Drainage easements off the street right-of-way shall be clearly defined on the plat and deed of the individual property owner, and property owner will be required to keep such easements free of obstructions and will maintain the easements in such a way as to assure free and maximum flow at all times.

(g) All easements shall be cleared of debris, excess dirt and other materials. The ground shall be smoothed down and grassed within ten days of completing construction work. The use of sediment control measures may be required to protect the area until a vegetative cover is obtained.

Sec. 8.5.3.12 - Suitability of land.

Land deemed unsuitable for residential purposes may be set aside for such uses that shall not be harmed by the existing condition of the land.

Sec. 8.5.3.13 - Utilities.

The design and construction specifications for all public utilities shall conform to the city's standard design specifications.

DIVISION 4 - STREETS

Sec. 8.5.4.1 - Width requirements for right-of-way.

(a) Additional right-of-way on existing streets shall be provided to meet the minimum street width requirements.

(b) When the subdivision is located on only one side of an existing street, one-half of the required right-of-way as measured from the centerline of the existing right-of-way shall be provided.

Sec. 8.5.4.2 - Alleys.

Alleys shall be provided to the rear of all lots used for business purposes and shall not be provided in residential blocks except where the subdivider produces evidence satisfactory to the director of community development or his designee of the need for such alleys.

Sec. 8.5.4.3 - Conformity to major thoroughfare plan.

The location and width of all streets and roads shall conform to the official major thoroughfare plan. Street plans and profiles shall be approved by the traffic engineer of the city.

- (1) Lot access for property fronting on arterial, major collector, and minor collector streets shall be restricted to interior streets.
- (2) Developers or persons constructing or causing to be constructed subdivisions on existing public streets and roads shall be required to convey to the city property for use as right-of-way or future right-of-way for public streets and roads as provided in the existing thoroughfare plan of record in the community development department.

Sec. 8.5.4.4 - Curves.

- (a) *Super-elevated curves.* Super-elevated curves shall be provided in accordance with state highway design for arterial and collector type streets.
- (b) *Horizontal curves.* See standard engineering (AASHTO) design specifications for horizontal curves.

Sec. 8.5.4.5 - Cul-de-sac streets.

Dead-end streets designed to have one end permanently closed shall be no more than 800 feet in length unless necessitated by topography.

Sec. 8.5.4.6 - Half streets.

Half streets shall not be allowed.

Sec. 8.5.4.7 - Intersections.

- (a) Street intersections shall be as nearly at right angles as is possible.
- (b) No intersection shall be at an angle of less than 60 degrees.
- (c) Wherever necessary to permit the construction of a curb having a desirable radius without curtailing the sidewalk at a street corner to less than normal width, the property line at such street corners shall include a miter to permit such construction.
- (d) Sight distance at intersections shall meet the requirements of standard city DOT design specifications for the number of lanes and posted speed limit of the roadway.

- (e) Islands at intersections shall be subject to standard GDOT and city DOT design specifications and approval by the city engineer.
- (f) Adjoining street intersections shall meet or exceed a minimum spacing per standard city design specifications for the classification of the roadway.

Sec. 8.5.4.8 - Jogs.

Street jogs shall have centerline offsets as detailed in standard city development specifications.

Sec. 8.5.4.9 - Names.

- (a) The city is divided into four street number quadrants designated NE, NW, SE and SW. All streets shall bear the proper quadrant suffix.
- (b) Proposed streets that are obviously in alignment with other already existing and named streets shall bear the names of such existing streets.
- (c) No proposed street name shall duplicate an existing street name within the city regardless of the use of the suffix street, avenue, boulevard, drive, place, way, court, or however otherwise designated.
- (d) All street names are subject to the approval of the community development department.
- (e) New street names shall follow the guidelines established in the city Addressing Manual.

Sec. 8.5.4.10 - Address numbers.

Property address numbers shall be provided by the community development department.

Sec. 8.5.4.11 - Private streets.

- (a) *Private streets in new developments.*
 - (1) Every subdivided property shall be served from a dedicated public street which shall have been constructed to city specifications and/or shall be maintained by city forces.
 - (2) Any private street that is platted in a subdivision or other residential project, as approved by the city council, must be noted as such on the plat.
 - (3) All private streets shall be indicated with a blue, post mounted street sign consistent with city street sign standards.
 - (4) Private streets must be surfaced with the same type of materials that are used by the city for the surfacing and resurfacing of public streets or with materials that are as protective as those

used by the city to surface and resurface public streets so long as such alternative materials are approved by the city engineer.

(5) All private streets must comply with the city requirements for public streets regarding roadway/lane widths, superelevation and run-off, intersection design, street grades and design speed, vertical alignment, horizontal alignment, curbs and gutters, sub-grade preparation, signing and striping.

(6) In the case of private streets, maintenance of all stormwater infrastructure shall be the responsibility of a property owners association.

(7) Access to all private streets by emergency and law enforcement vehicles shall be provided and all private streets shall be constructed to allow access to all emergency vehicles.

(8) Any development that includes private streets, whether residential, commercial, institutional, industrial, or office development, must organize and establish a property owners' association or homeowners' association, as appropriate. Such association shall be formed prior to the sale of any properties within the development. Membership in the appropriate association must be mandatory for each original and successive purchaser of a lot, building or unit within the development. The declaration of covenants must be recorded with the clerk of the county superior court, again prior to the sale of any properties within the development, and the recorded declaration of covenants must provide that all private streets and associated improvements are owned by the association or are held in common by the property owners within the development. The declaration of covenants shall show clear legal authority to maintain and exercise control over the private streets and required improvements associated with private streets, including, but not limited to, sidewalks, bikeways, curbs and gutters, traffic signs and markings, associated landscaping and lighting, entry signs, monuments, perimeter walls and fences, entry gates and gatehouses. As well, the declaration shall set forth the right of the association to collect sums from the members for such maintenance of the private streets and related improvements. The streets must be properly maintained and insured with no liability or maintenance responsibilities accruing to the city. The recorded declaration of covenants must specifically require the appropriate association to repair and maintain each private street in the same manner as similar public streets are maintained by the city and such maintenance and repair must be performed in compliance with all city standards and all applicable provisions of law.

(9) Within nine months following approval of the final plat, the city's community development director or their designee must inspect the private streets to ensure compliance with all city standards and all applicable provisions of this Code including, but not limited to, the requirements set forth in law for public streets, curbs, sidewalks, signage and street lighting. The developer must be notified of any deficiencies in writing and such deficiencies must be corrected within 60 days of the written notice of deficiencies unless the city agrees to an extension of that period in writing.

(10) Failure to correct the complete list of deficiencies constitutes a violation of this section and will subject the developer to prosecution for a code violation in the magistrate court. Any person found to have violated this section is subject to a fine of not less than \$500.00 for each violation. Each day that the violation exists is a separate and distinct offense.

(11) The community development director or their designee shall deny issuance of certificates of occupancy until all deficiencies have been corrected.

(12) This section shall be effective June 1, 2025, for new requests for private streets.

(b) *Hazardous private streets.*

(1) Hazardous private streets shall mean any private street which is open for access for vehicular traffic and which the director of the department of transportation or their designee has determined to contain any or all of the following defects:

a. A roadway, the surface material of which has loosened, buckled, split, crumbled, eroded or in any other way deteriorated so as to make it unsafe for vehicular traffic or so as to constitute a roadway obstruction to the adequate access by emergency vehicles or public utility vehicles.

b. A roadway, the surface of which has become blocked in whole or in part by the deposit of earth or other materials thereon, or by reason of any other cause.

c. A roadway, all or any portion of which is likely to collapse due to deterioration, decay, faulty construction, or by reason of the removal or movement of any portion of the ground necessary for the support thereof.

(2) It is found and declared that hazardous private streets on properties within the city limits are an endangerment to the public safety as a result of unsafe conditions to those persons residing or working in the vicinity and constitutes a public nuisance.

(3) When the director of the department of transportation or their designee determines that any private street is a hazardous private street, as defined above, they shall serve a mandate requiring the correction of the hazardous condition. One copy of the mandate shall be served on each owner of record of the land constituting the private street and upon the owner of each contiguous or adjacent parcel having access on the private street, as shown on county tax records. Such mandate shall be served either personally or by certified mail. Notice shall be deemed complete and sufficient when personally delivered or mailed. The mandate shall include:

a. The street address and legal description, sufficient for identification of the parcel or parcels constituting the private street;

b. The defects causing the street to be a hazardous private street and their location;

c. A statement of work required to be done in order to correct said defects and place the streets in a state of repair that is consistent with city standards;

d. That all repairs shall commence within 60 days following the issuance of the mandate and shall specify a reasonable time in which the work shall be completed. The director of the department of transportation may extend the time for completion for good cause upon written request for such an extension;

e. A statement that if the work is not completed within the time stated, the city may elect to remedy the condition and a lien shall be placed on the property for the cost of such repairs;

f. A statement that the record owner of the property may, at any time prior to the date specified in the mandate for the work to commence, make a written appeal to the city council for the purpose of showing that the cited conditions do not constitute a violation.

(4) In addition to requiring the repair of a hazardous private street, the director of the department of transportation may order the immediate closing thereof until the repair work has been satisfactorily completed if the director determines that the hazard presents immediate threat to life, limb, health, property safety and general welfare.

(5) Any person served with a mandate to repair may, at any time prior to the date specified in the mandate for the work to commence, file a written appeal to the city council, upon such form as the board shall prescribe, for review of any requirements of said mandate. The filing of such an appeal shall stay all requirements for the mandate until a determination of the matter is rendered by the board. The board shall promptly set a date for the hearing of the appeal and shall at least ten days prior thereto, give public notice thereof, as well as due notice to the parties in interest. The board shall make such investigations as it deems necessary and shall upon the date set for hearing of the appeal from the order to repair, hear and consider evidence offered by any interested person. Thereafter, but in no event later than 60 days from receipt of the appeal, the board shall make a determination as to whether or not the private street is a hazardous private street within the terms of this chapter, and may affirm, change, or modify any requirements of the repair mandate.

(6) Failure to repair any private street as required by the city within the time set by the director of the department of transportation, or within any additional time the director extends for good cause, may cause the private street to be repaired by any means deemed advisable by the city council.

(7) In the event the city repairs the hazardous private street, the costs of repair shall be certified to the director of finance. All certified costs incurred by the city plus an administrative charge to repair a hazardous private street will be a special assessment lien and charge shall be attached to the property upon which the private street is located. Said lien shall be payable with interest at the rate of eight percent per annum from the date of certification until paid. Such lien shall be in favor

of the city and may be satisfied at any time by payment thereof, including accrued interest. Notice of such lien shall be filed in the office of the Clerk of the Superior Court and recorded among the public records of Cobb County, Georgia. The city reserves the right to pursue these costs as a personal obligation against the owner of the real property, recoverable by the city in an action before any court of competent jurisdiction.

(8) It shall be unlawful for any person to obstruct, impede or interfere with any representative of the city whenever such representative is engaged in the repair of such private street pursuant to the provisions of this chapter or is performing any necessary act preliminary to or incidental to such work.

Sec. 8.5.4.12 - Relation to adjoining street system.

The proposed street system shall extend existing streets or projects at the same or greater width, but in no case less than the required minimum width.

Sec. 8.5.4.13 - Restriction of access.

When a subdivision fronts on an arterial street or highway, the director or the zoning department may require any double frontage lots to be provided with frontage on an interior street with no access to the arterial street.

Sec. 8.5.4.14 - Minimum pavement widths.

The minimum width of right-of-way, as measured from the lot line, shall be as shown on the major thoroughfare plan, and/or as described for the roadway classification within the city development standards.

Sec. 8.5.4.15 - Curbs and gutters.

(a) Developers of subdivisions abutting and located on existing city streets and roads shall be required to provide curbing and guttering along the public road frontage of the property provided, that the rear of the structure erected on the lots face the existing street or road and that there are no points of egress or ingress other than as provided for in this section. Further provided that no other portions of the existing street or road have existing curb and gutter to which to coordinate with.

(b) This section shall apply only to subdivisions to be constructed on existing public streets or roads in the city. "Existing public streets or public roads" as used in this section means those that are of record on the official public street or road registry in the community development department and other appropriate city departments as of the date of the enactment of this section, or public streets or roads which are hereafter constructed and maintained by the city after dedication and acceptance as provided by law.

DIVISION 5. CONDOMINIUMS

Sec. 8.5.5.1 - Applicability.

This article applies to condominium projects.

Sec. 8.5.5.2 - Variances.

Where the subdivider can show that a provision of this article would cause unnecessary hardship if strictly adhered to and/or where, because of topographical or other conditions peculiar to the site, and/or where, in the opinion of the appeals board, a departure may be made without otherwise nullifying the standard design specifications of the director and the intent of this chapter or the city zoning regulations, the appeals board may authorize a variance. Any variance thus authorized shall be noted on the final plat before approval of the plat.

Sec. 8.5.5.3 - Conformance with zoning and other regulations.

No final plat affected by an existing zoning ordinance shall be approved unless it conforms with such ordinance. Whenever there is a discrepancy between minimum standards of dimensions noted in this article and those contained in the zoning regulations, building code or any other official regulation of the city, the highest standard shall apply.

Sec. 8.5.5.4 - Procedure for plan review.

Review and approval of all plans and final plats of condominiums shall be in accordance with the requirements for plan review in the city, which is available through appropriate city departments.

Sec. 8.5.5.5 - Final plat specifications.

(a) The final plat shall be clearly and legibly drawn on permanent reproducible material. The scale of the final plat shall be 100 feet to one inch. Sheet size shall not exceed 48 inches by 36 inches. If complete plat cannot be shown on one sheet, several sheets with an index map indicated on each sheet shall be used. In no case shall the sheet size be less than 8½ inches by 11 inches.

(b) The final plat shall contain the following information:

- (1) Name of the project and street names.
- (2) Property address numbers (furnished by the community development department).
- (3) Reference to record subdivision plats of adjoining land by record name.
- (4) Date of plat drawing, graphic scale and north point.

- (5) Location of tract by land lot and district.
- (6) Location sketch at a scale of one-inch equals 2000 feet (see note following subsection (b)(9) of this section).
- (7) Index map on each sheet when more than one sheet is required.
- (8) Courses and distances to the nearest existing street, intersections, or other recognized permanent monuments or benchmarks.
- (9) Exact boundary lines of the tract, to be indicated by a heavy line, giving distances to the nearest one-tenth foot and angles to the nearest minute, shall be balanced and closed. The error of closure shall be stated, and further the error of closure shall exceed one to 10,000. Tract boundaries shall be determined by accurate survey in the field.

Note: Unit plats shall provide a location sketch for location within the master plat.

- (10) Land lot lines shall be accurately tied to boundary lines of the subdivision by angles and distances when such lines traverse the subdivision; when the subdivision does not intersect a land lot line, then the lines of a major controlling street shall be projected and tied to a land lot line by angles and distances. In both cases, the measured distance from land lot tie to a respective land lot corner shall be shown with the magnetic bearing of the land lot line. No approximate land lot lines shall be shown on the subdivision plat.
- (11) Exact locations, width and names of all streets and alleys within and immediately adjoining the plat and the exact location and widths of all crosswalks.
- (12) Street centerlines showing angles of deflection and standard curb data of intersection, radii, length of tangents and arcs, and degree of curvature with basis of curve data.
- (13) Lot lines with dimensions to the nearest one-tenth foot, necessary internal angles, arcs and chords and tangent or radii or rounded corners.
- (14) Building setback lines with dimensions.
- (15) Legal description of individual condominium units shall be provided as follows:
 - a. The individual condominium unit shall be referenced as a lot by numeric data only, limited to 999 units.
 - b. Each building shall be referenced as a unit by numeric data only, limited to 99 units.
 - c. Each development phase shall be referenced as a block by alpha data.

d. Parcel numbers shall be assigned by the tax office.

e. Plats of the development shall be separated into different development phases when individual units or buildings reach the limits set in this subsection (b)(15)a and (b)(15)b.

(16) Location, dimensions, drainage area and purpose of all drainage structures and of any easements, including slope easements, flood hazard areas, public service utility right-of-way lines, and any areas to be reserved, donated or dedicated to public use or sites for other than residential use with notes stating their purpose and limitations; and of any areas to be reserved by deed covenant for common uses of all property owners.

(17) Accurate location, material and description of monuments and markers.

(18) A statement referencing the protective covenants by record book and page number.

(19) Registered land surveyor's certification and stamp required for master plat.

(20) Registered professional engineer certification and stamp accepted for as-built condition on unit plats only.

(21) Registered architect certification and stamp may be used to certify the acceptability of the structural work.

(22) Variances, if any, and date approved by the appeals board.

(c) Certification for the final plat shall be provided as follows:

(1) *Registered professional engineer's certification:*

The undersigned Registered Professional Engineer hereby certifies that the plan to which this certification is affixed fully and accurately depicts the layout, location, number/letter identification and dimension of the buildings resident shown thereon as built.

Stamp	
Signature	P.E. Number

(2) *Registered professional architect:*

The undersigned Registered Professional Architect hereby certifies that the building and residence units shown on this location plat are, within reasonable construction tolerances, constructed in accordance with the approved set of construction plans on file in the city.

Signature	Register Number
-----------	--------------------

(3) *Registered land surveyor's certification:*

The undersigned Registered Land Surveyor hereby certifies that the plan shown and described hereon is a true and correct survey made on the ground under my supervision, that the monuments have been placed as shown hereon, and is to the accuracy and specification required by city subdivision regulations.

Signature	Register Number
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Sec. 8.5.5.6 - Platting fee and recording of plat.

- (a) A platting fee in the amount established by the city council shall be required when the final plat is submitted for approval.
- (b) The subdivision administrator shall record the final plat when approved and shall have copies reproduced for the various utilities and government departments.
- (c) Projects with multiple plats shall reference the master plat.
- (d) Protective covenants shall be recorded by the developer and a copy supplied to the community development department.
- (e) Existing apartment projects which are converted to condominium projects shall meet the final plat requirements set forth in this article.

Sec. 8.5.5.7 - Design standards.

The design of the project shall conform to the requirements of the city zoning regulations and to the standard design specifications.

Sec. 8.5.5.8 - Monuments.

- (a) Permanent benchmarks shall be placed at all land lot corners on the boundary of the property being developed. These benchmarks shall be concrete with brass marking. Placement, to be verified by visual inspections, shall extend no less than six inches above the finished grade.

(b) All corners other than as provided in subsection (a) of this section shall be marked with an iron pin, one-half in diameter, 24 inches long and driven so as to extend no less than one inch above the finished grade.

Sec. 8.5.5.9 - Easements.

(a) Easements shall be cleaned and opened at the time of development to control surface water runoffs. Runoff slope and side slopes shall be specified by the developer's engineer, according to good engineering practice.

(b) Permanent sanitary sewer easements of 20 feet in width shall be provided for necessary lines.

(c) No permanent structures shall be constructed within ten feet of the edge of a permanent water or sanitary sewer easement on front and rear setbacks, or within two feet on side setbacks. The water system director may grant a variance to this requirement provided that it can be demonstrated to his or her reasonable satisfaction that such structure will not impede future installation or maintenance within said easement.

(d) Easements for sanitary sewers and drainage purposes shall not overlap unless approved by the Cobb County water & Sewer System.

(e) Drainage easements shall be provided where the project is traversed by a watercourse, drainage way, natural stream or channel. It shall conform substantially to the limits of such watercourse plus any additional width as is necessary to accommodate future construction as recommended by the director.

(f) Drainage easements within the project and off the dedicated street right-of-way shall be clearly defined on the final plat of the project. The owners of the property shall be required to keep the easement open and free of undue obstructions at all times.

(g) All easements shall be cleared of debris, excess dirt and other materials. The ground shall be smoothed down and grassed within ten days of completing construction work. The use of sediment control measures may be required to protect the area until a vegetative cover is obtained.

Sec. 8.5.5.10 - Street names.

(a) The city is divided into four street number quadrants designated NE, NW, SE and SW. All streets shall bear the names of such existing streets.

(b) Except within the same project, no proposed street name shall duplicate an existing street name within the city, regardless of the use of the suffix street, avenue, boulevard, drive, place, way, court, or however otherwise designated.

(c) All street names are subject to the approval of the community development department.

Sec. 8.5.5.11 - Address numbers.

Property address numbers shall be provided by the community development department.

Sec. 8.5.5.12 - Suitability of land.

Land deemed unsuitable for residential purposes may be set aside for such uses that shall not be harmed by the existing condition of the land.

Sec. 8.5.5.13 - Utilities.

The design and construction specifications for all public utilities shall conform to the city's standard design specifications.

Section 2. It is hereby declared to be the intention of the City Council that:

- (a) All Ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed.
- (b) All sections, paragraphs, sentences and phrases of this Ordinance are or were, upon their enactment, believed by the City Council to be fully valid, enforceable and constitutional.
- (c) To the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. No section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.
- (d) In the event any portion of this Ordinance shall be declared or adjudged invalid or unconstitutional, it is the intention of the City Council of the City that such adjudication shall in no manner affect the other sections, sentences, clauses or phrases of this Ordinance which shall remain in full force and effect, as if the invalid or unconstitutional section, sentence, clause or phrase were not originally a part of the Ordinance.

Section 5. The City Attorney and City Clerk are authorized to make non-substantive editing and renumbering revisions to this Ordinance for proofing and renumbering purposes.

Section 6. The effective date of this Ordinance shall be June 1, 2025, unless required otherwise by the City Charter, state and/or federal law. In the event that any effective date herein is determined by a Court of law to be invalid, said effective date shall instead be the earliest date allowed by law.

SO ORDAINED this _____ day of _____, 2025.

ATTEST:

CITY OF MABLETON, GEORGIA:

Susan D. Hiott, Interim City Clerk

Dr. Michael Owens, Mayor

APPROVAL AS TO FORM:

Emilia Walker-Ashby, Interim City Attorney



AGENDA ITEM MEMORANDUM

MEETING OF: July 16, 2025

DEPARTMENT: [DEPARTMENT]

ISSUE/AGENDA ITEM TITLE: OZI-2025-002: Public Hearing - To consider amending the stipulations of United Security Services Agency c/o Matthew Herbert regarding rezoning application Z-13 of 2009 - located at 1140 Old Powders Springs RD SW in Land Lot 36 of the 18th District - Public Hearing - Community Development Director Michael Hughes
Staff is recommending deferral to August 11, 2025 meeting.

BACKGROUND/SUMMARY: Please see information attached. Staff is recommending deferral to August 11, 2025 meeting for any consideration of approval of OZI 2025-002 following the Public Hearing.

BUDGETED/FINANCIAL IMPACT – FUND:

RECOMMENDATION:

ATTACHMENTS:

1. OZI-2025-002 Application
2. OZI-2025-002 Staff Report
3. OZI-002 Matthew Herbert (1)

021-2028-002

MC: 6/25



City of Mableton Community Development
6116 Mableton Parkway, Ste 144
Mableton, GA 30126

Application for "OZI" City of Mableton, GA

City Council Hearing Date Requested: 6/25

UNITED SECURITY AGENCY

Applicant: MATTHEW HERBERT Phone #: 404-807-9548
(applicant's name printed)

Address: 1140 OLD BUNDEL SPRINGS RD SW, MABLETON GA E-Mail: MHERBERT@UNITEDAGENCY.ORG

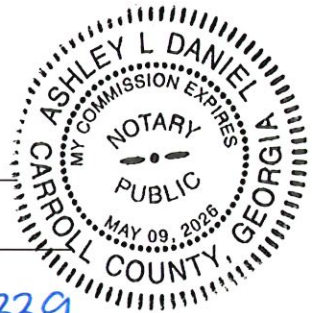
MATTHEW HERBERT Address: 301 FIELDCREST DR DALLAS GA 30132
(representative's name, printed)

[Signature] Phone #: 404-807-9548 E-Mail: MHERBERT@UNITEDAGENCY.ORG
(representatives signature)

Signed, sealed and delivered in presence of:

Ashley L. Daniel
Notary Public

May 9, 2026
My commission expires:



Titleholder(s): Tyler Sang Phone: (678) 449-1339
(property owner's name printed)

Address: 2523 Veterans Memorial Hwy SW Austell, GA 30168 E-mail: tyler@bisonplumbinginc.com

[Signature]
(Property owner's signature)

Signed, sealed and delivered in presence of:

Ashley L. Daniel
Notary Public

May 9, 2026
My commission expires:





City of Mableton Community Development
6116 Mableton Parkway, Ste 144
Mableton, GA 30126

Council District: 3 Zoning Case: Z-13

Size of property in acres: 1.0 AC Original Date of
Hearing: 2/18/2025

Location: 1140 OLD POWDER SPRINGS RD SW, MABLETON, GA 30126
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): _____ District(s): _____

State specifically the need or reason(s) for Other Business:

REZONING
NEED TO CHANGE ZONE FOR PUBLIC SAFETY / SECURITY USE.

(City of Mableton Zoning Division – 470-417-4220)

Presnell, Lori

From: LARRY EUBANKS [eubankslarry@bellsouth.net]
Sent: Friday, May 29, 2009 10:32 AM
To: Homan, Murray
Cc: benclopper@yahoo.com; King, Karen; Presnell, Lori
Subject: Zone app z-13- stipulations

Min. Bk. 58 Petition No. 2-13
 Doc. Type email correspondence
Larry Eubanks
 Meeting Date 7/21/09

From:
 E & E Capital, Inc.
 1165 Old Bankhead Hwy.
 Mableton, Ga. 30126

5/29/09

Re: Zone App. Z-13

Dear Mr. Homan,

We are in agreement with certain stipulations in our "GC" Zone request, as proposed by the Mableton Improvement Coalition in conjunction with those required by the county.

Those stipulations are outlined below, and there being no other known challenges, we seem to be in full compliance with all requirements for approval for our request.

General

- 1) The rezoning is site plan specific with minor changes to be approved by the district commissioner with recommendation from MIC;
- 2) All staff recommendations from all departments of the County will be adhered to;
- 3) All County landscaping rules will be adhered to;
- 4) All minimum buffer stipulations in the Cobb County Code will be adhered to unless specifically detailed and agreed to by the district commissioner with input from the Mableton Improvement Coalition;
- 5) Curb, gutter and sidewalks conforming to Cobb County DOT standards will be constructed or replaced as necessary along the entire property frontage with Old Powder Springs Road and Old Bankhead Highway, and where possible, connect to existing sidewalks on adjacent properties;
- 6) The trash dumpster will be located as shown on the site plan

Structures

- 1) An architectural review committee will be established which will consist of a representative of the applicant, MIC and the Cobb County staff, with the County representative being the final arbiter with respect to any differences that may arise. The architectural review committee will have the responsibility to review and approve the final building renderings and materials during the plan review process;
- 2) HVAC equipment shall be screened from view.
- 3) The new building shall be a two story metal building with an architecturally decorative, non-metal, facade on the south and east sides;
- 4) All lighting will be fitted with non-glare lenses and cut off shields to prevent light from extending beyond the property lines;

Landscaping

- 1) A landscape review committee will be established which will consist of a representative of the applicant, MIC and the Cobb County staff, with the County representative being the final arbiter with respect to any differences that may arise. The landscape review committee will have the responsibility to review and approve the final landscape plan, as well as the location of proposed fencing, during the plan review process;
- 2) The landscape plan will include a row of new evergreen trees along the border of these parcels and the adjoining residential

Fencing

- 1) Any chain link fencing will be black or green vinyl coated.
- 2) Metal bollards surrounding the property will be painted black or green to match the fencing;
- 3) Any outside storage will be limited to the area between the existing building on Old Bankhead and the new building so as to be screened from view of the street.

Signage

- 1) There will be no sign located along the right of way of Old Powder Springs Road.
- 2) No placards or signs will be allowed in the windows of the business;
- 3) Advertising banners are limited to 30 days;
- 4) No vehicles with advertising will be parked in front of the building(s);

Uses

- 1) The property will be zoned for use only by a Contractor (specialized) without heavy equipment

Modifications

- 1) The property owner will notify Mableton Improvement Coalition of all requests to modify these stipulations two weeks prior to

5/29/2009

them being heard in the "Other Business" section of the Cobb County Board of Commissioners meeting at which they entertain other business.

Sincerely,
Larry B. Eubanks-President

copies:
Mr. Ben Clopper- MIC
Ms Karen King-Clerk
Ms Loi Presnell-Clerk

Petition No. 2-13
Meeting Date 7/21/09
Continued

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
JULY 21, 2009
PAGE 6**

CONTINUED CASES:

Z-13 **E & E CAPITAL, INC.** (owner) requesting Rezoning from **GC, LRO** and **R-20** to **GC** for the purpose of Electrical Contractors Office in Land Lot 36 of the 18th District. Located on the north side of Old Powder Springs Road, east of Old Bankhead Highway and on the south side of Old Bankhead Highway, west of Cliff Drive.

The public hearing was opened and Mr. Larry Eubanks addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Thompson, second by Lee, to **approve** Rezoning to the **GC** zoning district **subject to:**

- site plan received by the Zoning Division March 11, 2009, with the District Commissioner approving minor modifications (attached and made part of these minutes)
- May 29, 2009 email correspondence from Mr. Larry Eubanks detailing agreeable stipulations (attached and made part of these minutes)
- **electrical contractor use only**
- **Fire Department comments and recommendations**
- **Water and Sewer Division comments and recommendations**
- **Stormwater Management Division comments and recommendations**
- **Cobb DOT comments and recommendations**
- **owner/developer to enter into a Development Agreement pursuant to O.C.G.A. §36-71-13 for dedication of system improvements to mitigate traffic concerns**

VOTE: **ADOPTED** unanimously



City of Mableton
Community Development | Planning and Zoning Division
6116 Mableton Parkway, Suite 144
Mableton, GA 30126
(470) 417-4220
www.mableton.gov

OTHER ZONING AGENDA STAFF REPORT

GENERAL INFORMATION

CASE NUMBER: OZI-2025-002

APPLICANT: Matthew Herber

REQUEST: To amend stipulations of rezoning case Z-13 of 2009, to allow for a private security business.

PROPERTY LOCATION: 1140 Old Powder Springs Road, Mableton, Georgia

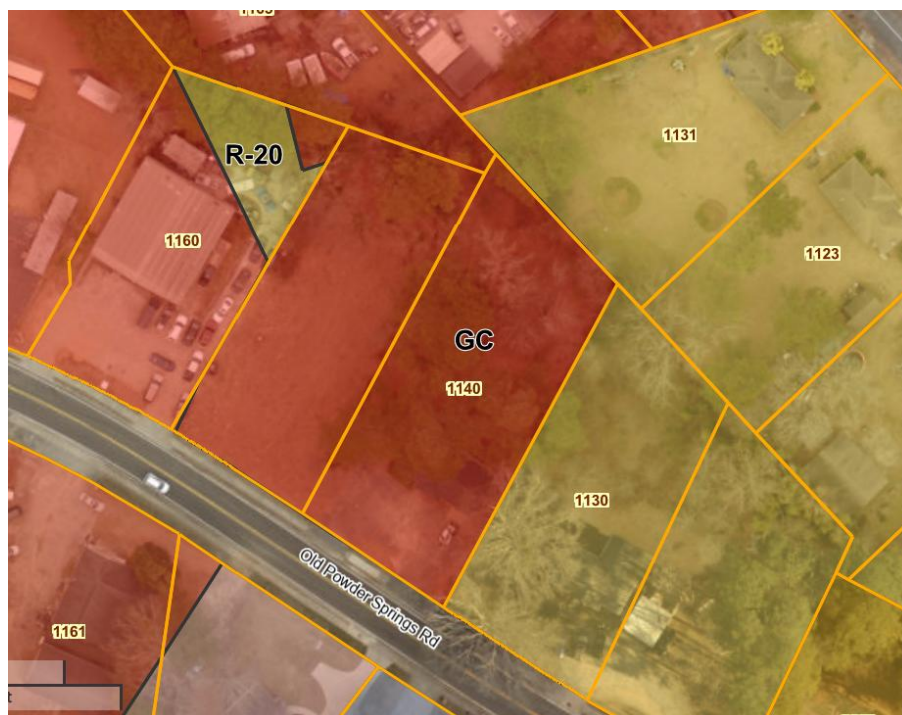
PARCEL ID: 18003600380

ACREAGE: 0.532

HEARING DATE: June 25th 2025

DISTRICT: 3 Councilwoman Jeffcoat

ZONING MAP



I. Purpose of Request

The applicant is seeking a formal amendment to the zoning stipulations outlined in Cobb County Zoning Case Z-13, which was enacted in 2009. The purpose of this amendment is to facilitate the establishment and operation of a private security business within the designated area. In December of the previous year, the applicant submitted a comprehensive application for a business license to the city; however, this request was denied based on the prevailing zoning regulations that currently govern the property. The applicant aims to address these restrictions to enable the lawful operation of the proposed private security services.

II. Staff Recommendation

The planning and zoning staff recommend the application to be deferred until the next regularly scheduled city council meeting. According to the Z-13 zoning stipulations, any modification, the property owner will notify the Mableton Improvement Coalition of all requests to modify the conditions. No notification has occurred at this date.



July 15, 2025

Mableton City Council
1400 Veterans Memorial Highway SE
Suite 134-200
Mableton, Georgia 30126

Re: OZI-002 Matthew Herbert

Dear Mayor Owens and City Councilmembers:

I am writing on behalf of the Mableton Improvement Coalition to recommend this case be approved with conditions. We believe this is an appropriate, low impact commercial use for a parcel surrounded by residential properties in three directions.

1. Approval is for office use for this business only (United Security Agency).
2. All applicable stipulations remain from 2009 unless explicitly stated.
3. Applicant will reseal and restripe the parking lot. Install in ground swing arm gates at entrances to deter loitering or misuse of property outside of business hours, painted a dark color to avoid rust and blend in with landscaping.
4. Install fencing on the west and rear property lines where one does not already exist, either wooden privacy or vinyl coated chain link as outlined in the original stipulation letter.
5. Install an evergreen landscape buffer on the east side of the property to screen residential property.
6. Environmentally sensitive, downward facing, non-glare exterior lighting that does not extend past property lines.
7. No signage on the right of way of Old Powder Springs Road; however, non-illuminated decals on the business window are permitted.

The applicant is already making great improvements to this property, including some outlined here. They indicate an understanding and respect for the surrounding residential properties. We are pleased Mr. Herbert has taken an interest in our community. As always, thank you for the opportunity to be a part of the public comment process. If you have any questions, please feel free to contact me at 404 213-3705.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rebecca E Ford", is written over a horizontal line.

Rebecca E Ford
Zoning Committee Chair

Cc: Mableton City Council, Chris Wheeler, Susan Hiott, Teresa M. Goggins, Michael Hughes, Matthew Herbert, MIC Board of Directors and Zoning Committee

Mableton Improvement Coalition P.O. Box 491 Mableton, GA 30126 www.mableton.org
MIC is a nonprofit, nonpartisan organization and does not endorse political parties or candidates.



AGENDA ITEM MEMORANDUM

MEETING OF: July 16, 2025

DEPARTMENT: [DEPARTMENT]

ISSUE/AGENDA ITEM TITLE: OZI-2025-003: To consider amending the stipulations for Kingdom Business c/o Tommy Orok regarding rezoning application Z-30 of 2014, property located at 4511 Austell Rd SW in Land Lot 1067 of the 19th District - Public Hearing - Community Development Director Michael Hughes
Staff is recommending deferral until the August 11, 2025, meeting.

BACKGROUND/SUMMARY: Please see information attached. Staff is recommending deferral to August 11, 2025 meeting before any consideration of approval of OZI 2025-003 following Public Hearing.

BUDGETED/FINANCIAL IMPACT – FUND:

RECOMMENDATION:

ATTACHMENTS:

1. OZI-2025-003 Application
2. OZI-2025-003 Staff Report

OZI-2025-003
MC: 6/23



City of Mableton Community Development
6116 Mableton Parkway, Ste 144
Mableton, GA 30126

Application for "OZI" City of Mableton, GA

City Council Hearing Date Requested: 6/25

KINGDOM BUILDERS INTERNATIONAL

Applicant: MINISTRIES Phone #: 678-618-0517
(applicant's name printed)

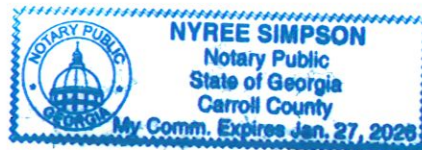
Address: 4511 AUSTELL RD E-Mail: tommyorok@yahoo.com

THOMAS OROK Address: 448 SCHOFIELD DR POWDER SPRING
(representative's name, printed)

Thomas Orok Phone #: 678-618-0517 E-Mail: tommyorok@yahoo.com
(representatives signature)

Signed, sealed and delivered in presence of:

Nyree Simpson
Notary Public



My commission expires:

KINGDOM BUILDERS INTERNATIONAL

Titleholder(s): MINISTRIES Phone: 678 618 0517
(property owner's name printed)

Address: 4511 AUSTELL RD E-mail: tommyorok@yahoo.com

Thomas Orok
(Property owner's signature)

Signed, sealed and delivered in presence of:

Notary Public

My commission expires:



City of Mableton Community Development
6116 Mableton Parkway, Ste 144
Mableton, GA 30126

Council District: 5 Zoning Case: 2014 Z-30 of 2014

Size of property in acres: 2 Original Date of
Hearing: Jun 17, 2014

Location: 4511 AUSTELL RD AUSTELL GA 30101
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): _____ District(s): _____

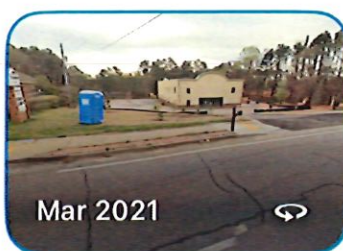
State specifically the need or reason(s) for Other Business:

FOR CHILD DAYCARE AND CHURCH

(City of Mableton Zoning Division – 470-417-4220)



4511 GA-5





4511 GA-5



5:21

LTE 97%



Google
© 2025 Google



4511 GA-5

CONSENT AGENDA

MOTION: Motion by Lee, second by Birrell, to **approve** the following cases on the Consent Agenda as *revised*:

Z-29 **MIGUEL ALVAREZ** (Miguel Z. Alvarez, owner) requesting Rezoning from NS and R-20 to R-20 for the purpose of Single-Family Residential in Land Lot 351 of the 17th District. Located on the south side of Concord Drive, east of Old Concord Road (1741 Concord Drive).

To **approve** Rezoning to the R-20 zoning district **subject to**:

- Front setback variance to 30 feet for existing encroachments *only*
- One driveway to be removed
- For single-family use *only*; duplex to be converted to single family home
- Driveway to meet current Development Standards
- Fire Department comments and recommendations
- Water and Sewer Division comments and recommendations
- Stormwater Management Division comments and recommendations
- Cobb DOT comments and recommendations

Z-30 **EGBEL FAIBILLE** (owner) requesting Rezoning from R-20 to O&I for the purpose of an Office in Land Lot 1067 of the 19th District. Located on the east side of Austell Road, south of Fairview Drive (4511 Austell Road).

To **approve** Rezoning to the O&I zoning district **subject to**:

- Site plan received by the Zoning Division April 2, 2014 with the District Commissioner approving minor modifications (attached and made a part of these minutes)
- Building architecture to be substantially similar to the elevation received by the Zoning Division April 2, 2014 with the District Commissioner approving the final plan (attached and made a part of these minutes)
- **For this Applicant and this use *only***
- Driveway access to be right-in/right-out and left-in *only* (no left-out)
- 20 foot landscape buffer to be installed along property line adjacent to Silver Comet Trail for the purpose of visual screening
- Existing structure to be demolished within one year of final approval by the Board of Commissioners
- Fire Department comments and recommendations
- Water and Sewer Division comments and recommendations
- Stormwater Management Division comments and recommendations
- Cobb DOT comments and recommendations



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OTHER ZONING AGENDA STAFF REPORT

GENERAL INFORMATION

CASE NUMBER: OZI-2025-003

APPLICANT: Kingdom Builders International Ministries

REQUEST: To amend stipulations of rezoning case Z-30 of 2014, to allow for a church and daycare.

PROPERTY LOCATION: 4511 Austell Road, Mableton, Georgia

PARCEL ID: 191606700060

ACREAGE: 2.0

HEARING DATE: June 25th 2025

DISTRICT: 5 Councilwoman Ferguson

ZONING MAP



I. Purpose of Request

The applicant is seeking a formal amendment to the zoning stipulations established in Cobb County Zoning Case Z-30, enacted in 2014. The objective of this amendment is to facilitate the establishment and operation of a church and daycare within the designated area. The applicant submitted a comprehensive application for a business license to the city; however, this request was denied based on the existing zoning regulations that currently govern the property. The applicant intends to address these restrictions to enable the lawful operation of the proposed church and daycare.

II. Staff Recommendation

The planning and zoning staff recommend the application to be deferred until the next regularly scheduled city council meeting to allow for the applicant to submit a traffic circulation plan to the Cobb County DOT per Section 4.02 Special Exception Use (4) of the Mableton Zoning Ordinance.



AGENDA ITEM MEMORANDUM

MEETING OF: July 16, 2025

DEPARTMENT: [DEPARTMENT]

ISSUE/AGENDA ITEM TITLE: Presentation and Discussion of the City of Mableton's Grant Writing Services - Sustainability, Waste, and Beautification Director Emily Groth and Chris Brewer of Fund it Forward

BACKGROUND/SUMMARY: This is an informational presentation intended to provide the City Council with an update regarding the City's grant writing services. It will be presented by our contracted grant writer from Fund It Forward, Christopher Brewer.

BUDGETED/FINANCIAL IMPACT – FUND: There is no financial impact related to the discussion.

RECOMMENDATION: N/A - no action or recommendation necessary.

ATTACHMENTS:

1. SWB - 07.16.25 - Grants Update

Discussion of the City of Mableton's Grant Writing Services

Prepared for: City Council Regular Meeting, July 16, 2025

*Prepared by: Emily Groth - Sustainability, Waste, and Beautification
(SWB) Director*



The City of Mableton

Grants Update – Agenda

1. Introductions
2. Contract Terms
3. City Operations
4. Grants Status



Grants Update – Introductions

1. Introductions

Fund It Forward Grant Consulting

- Established in 2018, Fund It Forward works with non-profits & local governments throughout the US & internationally, with a focus in the state of Georgia
- Secured over \$ 18 million in grant funding, specializing in:
 - Housing & Homelessness
 - Education
 - Youth Development
 - Arts & Culture
 - Mental Health & Substance Abuse
 - Public Safety
 - Municipal Infrastructure
 - City Planning



*Christopher Brewer,
Founder & Lead
Writer*

2. Agreement Terms

3. City Operations

4. Grants Status



Grants Update – Agreement Terms & City Operations

Agreement Terms

- Council approval on March 26, 2025
- 12-month term (*March 2025 – March 2026*)
- Monthly flat fee \$1,645 (*\$19,740 total*)
- Services include:
 - Research and identification of worthwhile opportunities
 - Unlimited amount of written grant proposals per month
 - Manages reporting, invoicing, and award oversight

City Operations

- Help Chris determine the best staff POC for related grants
- Manage scope and monthly payments
- Update the Council on proposed grant projects and obtain approval to apply
- Grants Policy is forthcoming and will include:
 - Approvals process
 - Matching requirements



Grants Update – Status Report

Status Report

Recently Applied:

- Georgia Beverage Association Community Recycling
- U.S. DOT's Safe Streets and Roads For All (SS4A)

Awaiting Notification:

- Senator Warnock Congressional Spending Funds
- Congresswoman McBath Congressional Spending Funds

Upcoming Opportunities:

- GA DNR: Georgia Outdoor Stewardship Program (GOSP)
- GA DNR: Recreational Trails Program (RTP)



Questions

Thank you!





AGENDA ITEM MEMORANDUM

MEETING OF: July 16, 2025

DEPARTMENT: [DEPARTMENT]

ISSUE/AGENDA ITEM TITLE: Approval of June 25, 2025 Work Session Minutes (5:15 pm)

BACKGROUND/SUMMARY:

BUDGETED/FINANCIAL IMPACT – FUND:

RECOMMENDATION:

ATTACHMENTS:

1. June 25, 2025 Council Work Session 515 pm Minutes



CITY OF MABLETON, GEORGIA

Riverside EpiCenter
135 Riverside Pkwy, Austell, GA 30168
June 25, 2025 at 5:15 PM

The Honorable Michael Owens, Mayor
The Honorable Ron Davis, District 1 Councilmember
The Honorable Dami Oladapo, District 2 Councilmember
The Honorable Keisha Jeffcoat, Mayor Pro Tem/District 3 Councilmember
The Honorable Patricia Auch, District 4 Councilmember
The Honorable TJ Ferguson, District 5 Councilmember
The Honorable Debora Herndon, District 6 Councilmember

CITY COUNCIL WORK SESSION MINUTES

1. CALL TO ORDER

Mayor Owens called the meeting to order at 5:24 pm.

2. ROLL CALL

City Clerk Hiott conducted the roll call. Mayor Owens and Councilmembers were present except Councilmember Ferguson. A quorum was established.

3. AGENDA ITEMS AND DISCUSSION

a. FY2024 Annual Audit Presentation

Mayor Owens introduced the item and noted that supporting documents were provided for the Mayor and Council. He recognized City Manager Tanks, who gave background on the audit process and acknowledged Rushton, the City's auditing firm, along with Finance Director Karen Ellis and Finance Manager Denise Lowe. Mayor Owens then recognized Director Ellis to present the 2024 Audit Report, which is available in the official record.

Director Ellis acknowledged the management letter presented to Council and recognized Sam Latimer, CPA and Managing Partner at Rushton. Mr. Latimer acknowledged that this was the City's first audit and provided an overview of the supporting documents submitted to the Mayor and Council.

Mr. Latimer noted that the audit report covers the fiscal year ending June 30, 2024, and includes an unmodified opinion issued under governmental auditing standards. He outlined the distinction between the City's responsibilities and those of Rushton's firm. He also reviewed the government-wide financial statements, the City's net position, and various City revenue sources. Mayor Owens clarified that the reported 47% of property tax revenue refers to the Title Ad Valorem Tax (TAVT), a vehicle tax, not a traditional property tax.

Mr. Latimer detailed the City's expenditures, noting that 91% currently go toward General Government expenses, which he expects to evolve as the City advances. He reviewed the major City funds and provided a briefing on the internal controls and compliance report, including the management letter of findings. Lastly, he outlined upcoming reporting changes, including:

- GASB 101 – Compensated Absences (effective FY ending June 30, 2025)
- GASB 102 – Certain Risk Disclosures (effective FY ending June 30, 2027)
- GASB 103 – Financial Reporting Model Improvements (effective FY ending June 30, 2027)
- GASB 104 – Disclosure of Certain Capital Assets (effective FY ending June 30, 2027)

Mr. Latimer highlighted key points from the audit committee letter, noting the committee's agreement with the City's management approach. He stated that the implementation of GASB 100 had no significant impact on the City. He reported no difficulties during the audit and thanked City staff for their cooperation. Additionally, he confirmed that the City has signed a management representation letter assuming responsibility for the financial statements.

Mr. Latimer invited questions from Mayor and Council. Councilmember Jeffcoat asked about the audit duration, and he replied it was efficient, lasting about 60 days. She also inquired about the ten findings and recommendations and whether follow-up would be needed. He confirmed, explaining that the findings stemmed from the City's lack of infrastructure as a new city, and that the next audit will include a follow-up on these recommendations.

City Manager Tanks responded that the staff will continue to work with internal auditing services and consult with them to implement necessary recommendations. He assured that staff will perform regular self-checks with internal auditors, and assured Council that some recommendations have already been addressed.

Mayor Owens asked if there were any further questions; there were none.

b. Fiscal Year 2025 – 2026 City Events Review - Dr. Ashlee Houston

Mayor Owens introduced the item and recognized Dr. Ashlee Houston, the City's event coordinator. Her presentation is part of the official record. Dr. Houston highlighted several upcoming events and their proposed budgets for the City's FY26, including:

- Food Truck Fridays: July 18, 2025; August 15, 2025; September 19, 2025; May 22 & June 26, 2026
- Fall Concert: September 26, 2025
- Seniors Thanksgiving Luncheon: November 13, 2025
- Holiday Movie Night Series: October 17, 2025 – December 5, 2026
- Mableton Anniversary Living Legends Seniors Brunch: May 29, 2026
- Mableton Day Festival: May 30, 2026

Mayor Owens asked if a location had been selected for the Seniors Brunch. Dr. Houston responded that she plans to use the same venue as last year, depending on RSVPs. Councilmember Herndon asked if it would be free for senior residents, and Dr. Houston confirmed.

Councilmember Auch asked for the location of the Holiday Movie Night Series, and Dr. Houston confirmed it will be held at Mableton Square Park. Mayor Owens inquired about purchasing, rather than renting, equipment for the series.

Councilmember Herndon asked if the proposed budgets include marketing and where it is being distributed or announced. Dr. Houston confirmed, noting the use of iHeart Radio, Eventbrite (with over 3,000 subscribers), yard signs, and flyers at local businesses.

She concluded by summarizing the total proposed events budget at approximately \$40,000.

Councilmember Oladapo asked about the location, budget, and artist lineup for the Fall Festival jazz event. Dr. Houston confirmed it would be held at Mableton Town Square Park and noted that performers are included in the budget. She added that the artists have not yet been selected and that sponsor support will help offset some of the costs. Councilmember Oladapo emphasized the importance of promoting the event to ensure strong attendance.

Mayor Owens suggested conducting a cost-benefit analysis for purchasing equipment that will be used regularly for City events.

City Manager Tanks commended Dr. Houston for her improvements and contributions in advancing the City's progress. He remarked that the City has "a parks department, without a parks department," and emphasized the Communication Director's role in amplifying the Events Department's efforts.

4. PRE REGULAR MEETING AGENDA REVIEW

Mayor Owens reviewed the regular meeting agenda. He requested confirmation of the appointment of BZA members. Clerk Hiott identified those still needing to take the oath.

Mayor Owens mentioned the New Business items. He introduced the RFQ (Request for Qualifications) for on-call engineering services and named the selected firms. He then recognized City Manager Tanks, who highlighted the new Purchasing Manager and her expertise on the process.

Mayor Owens highlighted the City's application for the "Safe Streets and Roads for All" grant. He emphasized the only way to get grants is to apply for them and noted that the city will continue to actively pursue grants. He acknowledged Mr. Brewer's work as the City's contracted grant writer. He noted that some grants may require matching funds and stressed the importance of keeping Council informed and ensuring the City is financially prepared.

Councilmember Auch asked if a resolution is required for every grant. City Manager Tanks responded that it is good practice to bring any formal grant application before the Council for approval. Mayor Owens agreed, stressing the need for the Council to act quickly on grants while being mindful of potential financial burdens. If no burden exists, he encouraged, "Go get it!" He emphasized not delaying beneficial grant opportunities. City Manager Tanks highlighted the important role of a grant writer.

Councilmember Jeffcoat asked how many grants have been applied for so far. City

Manager Tanks assured that Mr. Brewer is actively pursuing grants and emphasized the City's need to be prepared to manage them. Mayor Owens added that they hope to hire a grant administrator in the future.

Mayor Owens addressed the item about changing the summer break meeting dates. Councilmember Auch sought clarification about moving both the Work Session and Regular Meeting. City Attorney Ashby-Walker requested clarification on the proposed dates. Mayor Owens explained the request to move the meeting from July 23rd to July 9th. The City Attorney suggested pushing it back to July 16th to allow the Community Development department to meet publication requirements.

Mr. Hughes noted that rezoning cases on tonight's agenda will be deferred for various reasons, but the Alcohol and Regulatory Ordinances must proceed. The City Attorney emphasized the need for adequate advertising and a Planning Commission meeting. Director Hughes confirmed his team will publish this week and will verify the Planning Commission can meet on July 10th. The City Attorney recommended July 16th as the meeting date.

Council requested clarity on which items are deferred, and Director Hughes provided it. The new meeting date was confirmed as July 16th. City Manager Tanks noted that he would be out of town, but Director Hughes would cover in his absence.

The City Attorney requested a URA meeting on July 16th as well. The recommendation is to cancel the Work Session meeting and hold a URA meeting instead.

5. ANNOUNCEMENTS

6. EXECUTIVE SESSION (IF NEEDED) FOR LITIGATION (O.C.G.A. 50-14-3(B)(1)(A)REAL ESTATE(O.C.G.A. 50-14-3 (B)(1)) PERSONNEL (O.C.G.A. 50-14-3 (B)(2)) AND MISC. EXEMPTIONS (O.C.G.A. 50-14-3 (B)(4)&(5))

Mayor Owens recommended entering into executive session for real estate, litigation, and personnel.

Motion was made by Councilmember Ferguson and seconded by Councilmember Oladapo to enter into Executive Session for real estate, litigation and personnel. The motion carried. Yeas: Owens, Davis, Oladapo, Jeffcoat, Auch, Ferguson and Herndon (6:14pm)

(A motion was made during the recess of the regular meeting to address a procedural oversight in exiting executive session and adjourning the work session.)

Motion was made by Councilmember Oladapo and seconded by Councilmember Auch to close the executive session for real estate, litigation and personnel. The motion carried. Yeas: Owens, Davis, Oladapo, Jeffcoat, Auch, Ferguson and Herndon 6:48 pm

7. ADJOURNMENT

Motion was made by Councilmember Jeffcoat and seconded by Councilmember Davis to Adjourn.

Mayor Owens adjourned the meeting at 6:49pm.

(Clerk's note: A motion was made during the recess of the regular meeting to address a procedural oversight in exiting executive session and adjourning the work session.)

Dr. Michael Owens, Mayor

Susan Hiott, City Clerk



AGENDA ITEM MEMORANDUM

MEETING OF: July 16, 2025

DEPARTMENT: [DEPARTMENT]

ISSUE/AGENDA ITEM TITLE: Approval of June 25, 2025 Regular Meeting Minutes

BACKGROUND/SUMMARY:

BUDGETED/FINANCIAL IMPACT – FUND:

RECOMMENDATION:

ATTACHMENTS:

1. June 25, 2025 Regular Meeting Minutes



CITY OF MABLETON, GEORGIA

Riverside EpiCenter
135 Riverside Pkwy, Austell, GA 30168
June 25, 2025 at 6:30 PM

The Honorable Michael Owens, Mayor
The Honorable Ron Davis, District 1 Councilmember
The Honorable Dami Oladapo, District 2 Councilmember
The Honorable Keisha Jeffcoat, Mayor Pro Tem/District 3 Councilmember
The Honorable Patricia Auch, District 4 Councilmember
The Honorable TJ Ferguson, District 5 Councilmember
The Honorable Debora Herndon, District 6 Councilmember

CITY COUNCIL REGULAR MEETING MINUTES

1. CALL TO ORDER

Mayor Owens called the meeting to order at 6:47 pm.

2. ROLL CALL

City Clerk Hiott called the roll. Mayor Owens and Council were present. A quorum was present.

3. INVOCATION

Councilmember Davis led the Invocation.

4. PLEDGE OF ALLEGIANCE

Councilmember Ferguson led the Pledge of Allegiance.

5. APPROVAL OF AGENDA

Motion was initiated by Councilmember Ferguson to approve the agenda as written.
Councilmember Jeffcoat seconded.

City Attorney Walker-Ashby asked Council to recess the regular meeting to close the work session and the executive session held in the previous work session before continuing the regular meeting.

Motion was made by Councilmember Oladapo to recess the regular meeting.
Councilmember Davis seconded. The motion passed unanimously.

Motion was made by Councilmember Oladapo to exit executive session. Councilmember Auch seconded. The motion passed unanimously.

Motion was made by Councilmember Jeffcoat to adjourn the Work Session.
Councilmember Davis seconded. The motion passed unanimously.

Motion was made by Councilmember Ferguson to reopen the Regular Meeting.
Councilmember Herndon seconded. The motion passed unanimously.

The vote for the motion that was previously made by Councilmember Ferguson and seconded by Councilmember Jeffcoat to approve the regular meeting agenda as written passed unanimously.

6. PUBLIC HEARINGS

Mayor Owens announced item and recognized Finance Director Karen Ellis. This is brief presentation and only one change.

Presentation:

calendar

etc. from power point

Special Services District Fund - Six Flags, approx 240 parcels - added

a. Second Public Hearing on FY 2026 Budget and Consideration and Approval of Second Read of Ordinance - Finance Director Karen Ellis

Mayor Owens announced the item and recognized Finance Director Karen Ellis who provided a summary of the proposed FY 2026 Budget:

- This was the final presentation, and there have not been any changes since the first presentation on June 11th.
- The total General Fund Budget is \$16,026,093.
- The Tree Fund is \$160,000.
- The Six Flags Special Services District is \$1,250,000.
- The Hotel Motel Fund is \$375,000.
- The Capital Projects Fund is \$1,400,000.
- The total proposed balanced budget for all operating, special revenue, and capital funds total \$19,211,093.

Mayor Owens asked the Council if they had any questions. Councilmember Ferguson asked for the location in the agenda packet of the numbers just referenced.

Mayor Owens opened the Public Hearing and asked if there was anyone who wanted to speak in favor of the proposed FY 2026 Budget.

Mayor Owens asked if there was anyone against the proposed FY2026.

A gentleman (name not stated clearly) who lived in the Six Flags area had concerns about the \$150,000 for beautification for planting trees when trees were being cut down by development. He asked about the \$16 million expenditures/spending when revenue taken in was just \$13 million. He asked how the City would make up the deficit without property taxes.

Denny Wilson referenced that there were rumors in the community that the Council were considering purchasing land. She opined that the City should satisfy the debt of \$9.5

million with the County for law public safety and DOT services before purchasing land.

Mr. Tanks added that the Council and public are always welcome to contact staff to go over the budget in detail.

Mayor Owens asked Director Ellis to come back to the podium. Ms. Ellis explained the budget is a balanced budget. The City is using the prior year's fund balance. It is a one-time use. The City has more than adequate reserves.

Mayor Owens asked if there were any more questions. There was none.

Motion was made by Councilmember Ferguson and seconded by Councilmember Davis to approve the Ordinance approving the FY 2026 Budget, to establish an effective date, to repeal conflicting ordinances, and for other purposes. The motion passed unanimously.

Mayor Owens congratulated Director Ellis and Mr. Tanks for their work in getting the first official budget adopted.

b. Rezoning Case 2025-001 - TKHC Ministries - Rezone Tax Parcel 17010700480 and 17010700100 from GC (General Commercial) to R-20 (Residential Single-Family) District for construction of a Church - Public Hearing - Community Development Director Michael Hughes

Mayor Owens announced the item Z-2025-001 and recognized Community Development Director Michael Hughes who asked Planning and Zoning Manager Chris Wheeler to present the application. Mr. Hughes gave the Council a paper presentation from the applicant. The information is available in the agenda packet. City Attorney Emilia Walker-Ashby asked that the public hearing be heard that night, but the consideration of the vote will take place at another meeting on July 16.

Mr. Wheeler presented Case Number Z-2025-001, applicant TKHC Ministries. Mr. Wheeler reported the applicant was requesting rezoning from General Commercial (GC) to R-20 (Single Family District) for property located at 550 Lions Club Drive and Lions Club Drive to establish a church facility. He referenced the map and site plan displayed on the screen and located within the agenda packet record. The church will be 4800 square feet with 71 parking spaces. There is a 35-foot landscape buffer located to the north and east of the subject property. The property has access off of Lions Club Drive. The property is not tied to the Cobb County sewer. It will have septic, and the applicant will get approval from Cobb County Water and Sewer and Cobb County Douglas Public Health. The property is located in the Veterans Memorial Design Overlay and will have to adhere to the design standards and Mableton's Zoning Code. The conceptual landscape map was shown. The proposed elevation was shown and is available in the record.

Mr. Wheeler stated staff recommended approval with 11 conditions. The Planning Commission recommended approval with additional conditions, totaling 13 conditions. The list of conditions is located in the agenda packet and public record.

Mayor Owens opened the public hearing and recognized the applicant, Pastor Teresa M. Goggins, who spoke about the unique blend of marketplace and ministries. She referenced the hand out presentation that was given to the Mayor and Council. There are almost five

acres to build with a tremendous vision for the City. She thanked the Mayor and Council for the time to speak.

Mayor Owens asked if there was anyone else who would like to speak in favor of the zoning application. Those who spoke:

- Chasity commented on how the THKC ministries would be a dependable asset to Mableton.
- Latoria Harris, who served as a minister, spoke with deep respect and humble heart about the continued investment and impact of the church in the City of Mableton. She named the various ways the ministry has touched the lives of the Mableton community.

Mayor Owens asked if there were any comments in opposition to the application. The following spoke:

- Steve Young of the Mableton Improvement Coalition spoke in general support, but wanted to make sure the elevations are accurate, and they adhere to the Mableton Veterans Memorial guidelines.
- Denny Wilson was not in opposition, but asked how a church was zoned for a single family.
- Brenda Nash of District 3 was not in opposition to the church, but she commented that there seemed to be more details given to the Planning and Zoning commissioners and council, and the residents were not seeing enough information in the packet. All residents need to be involved in this information.

A gentleman (name not stated clearly) expressed concern about the size of the church being on a septic tank. He stated the information was not presented for the public to see.

Mayor Owens asked if there were any additional comments. There was none. Mayor Owens closed the public hearing.

Mr. Wheeler explained the supplemental information provided by the applicant was not for the Council to base their decision upon. Decisions should be based on the staff report and other information that is made online. The information is on the City's website. As far as a septic tank, the applicant will still have to get approval from the Cobb and Douglas County Public Health Department. The septic tank had been addressed to Cobb County. Mr. Wheeler stated it was not unusual for churches to be in single-family zoned districts. Additional explanations ensued. Councilmember Oladapo thanked Mr. Wheeler for explaining.

Councilmember Auch pointed out that the Veterans Memorial Highway Overlay required new buildings to be predominately brick, and the elevation submitted appears to be stucco. Mr. Wheeler explained that this is a rezoning and Council could make an exception. Mr. Wheeler addressed how there is a limitation money-wise, and the building is in the node of the Veterans Memorial Highway District. He addressed not doing all brick and that a water table could be considered. Staff would have to adhere to the regulations of the Veterans Memorial corridor.

Councilmember Jeffcoat asked about being close to the power grid. She saw the unhoused in the information. Mr. Wheeler stated he was not aware of any environmental issues related to the power grid.

Councilmember Auch asked if the site plan was the current up-to-date site plan. Mr. Wheeler replied yes.

Councilmember Ferguson asked questions about other plans for the site, such as the homeless. Ms. Goggins explained the church's vision regarding the unhoused.

Councilmember Oladapo asked if there was a marketplace component. Ms. Goggins stated a lot of staff were in corporate marketing. Councilmember Herdon asked if code enforcement would be involved with the unhoused. Ms. Toggins stated they have been working with the County and Police Departments. They have been removed, but they come back and wreck the area with trash and litter. Code Enforcement Supervisor Al Ferrell explained there are some concerns to be considered by social services, government, police, and fire, and all will have to be discussed at some point. Staff will have to work with applicant to address the concerns. Homelessness is a problem throughout the nation.

Councilmember Ferguson asked about the timeline for the project. Ms. Goggins stated the septic and soil have been approved by the County. But, now the applicant is dealing with zoning with the City of Mableton.

Councilmember Auch asked why the vote was being postponed to July 16th, and Attorney Walker-Ashby explained how the format was changed to an ordinance. She wanted to make sure the staff were comfortable with the change. Councilmember Herndon asked Mr. Wheeler to summarize the staff and Planning Commission conditions.

Mr. Wheeler summarized the 13 conditions listed in the staff report:

On Tuesday June 5th 2025 the Mableton Planning Commission recommends the approval of

SLUP-2025-01, subject to specific conditions;

1. The property shall be used for a church and related accessory uses only.
2. The development shall abide by all applicable standards of the City of Mableton Zoning Ordinance unless otherwise specified in these conditions or through approval of a variance by the Zoning Board of Appeals.
3. Property to be developed in accordance with the site plan submitted March 13, 2025.
4. No expansion of the proposed building or additional building due to the lack of sewer capacity.
5. Building Architectural Design will follow the Veterans Memorial Highway Design Guidelines, and final approval by the Community Development Director.
6. Ground signage shall be limited to monument-type sign(s) and shall be subject to review and approval by the Director of Community Development. The sign shall include a minimum two-foot high brick or stacked stone base, complementing the building's architectural treatment. The masonry base shall extend at least the full width of the sign cabinet, and the sign cabinet shall be fully recessed and surrounded by the same materials. Ground sign(s) shall not exceed six feet in height.
7. Final site plan shall be reviewed and approved by the Planning & Zoning Division

prior to building permit issuance.

8. Landscape plan subject to review and approved by the Planning and Zoning Division prior to building permit issuance.

9. Cobb County Fire Department recommendations and conditions.

10. Cobb County Water/Sewer Department recommendations and conditions.

11. Cobb County Stormwater recommendations and conditions.

12. Cobb County Department Transportation recommendations with modifications to recommendation number three, removing “paying fee in lieu to comply with recommended County standards if constraints exist and subject to City of Mableton approval”.

13. Building architectural design to be substantially similar to the design prese

Councilmember Auch wanted the applicant to adhere to Veterans Memorial Guidelines and architectural standards. The City wants the applicant to provide sidewalk and gutter. Mayor Owens addressed with the elevation shown has stucco and brick. Mr. Wheeler added the Planning Commission recommended having a hybrid, trying to do a little bit of both. Applicant will need to submit engineered architectural plans. Mayor Owens noted the elevation is partially brick. Mr. Wheeler clarified that there would be majority brick, but play around with the 51% threshold. The applicant will provide architectural plans and staff will determine if it meets the guidelines. Applicant wants to adhere to Veterans Memorial Guidelines but wants some wiggle room. Discussion continued.

Mr. Hughes explained how when the application goes through staff review, staff will make sure the applicant is going through the guidelines.

Ms. Goggins, the applicant, stated if the project were to go all brick, it would be over budget. She described the area, noting there are no houses in the area. That type of budget changes everything. The City Attorney asked Community Development to provide the wording for the ordinance to come back to the Council. Mr. Hughes said the Planning Commission meets on the first Thursday of the month. There are usually stipulations already identified before coming to the Planning Commission.

Michael Hughes explained how the public hearing is the second step in the process. The Planning Commission hears the application first. The public is welcome to attend the meetings.

7. PRESENTATIONS/ACKNOWLEDGEMENTS/PROCLAMATIONS

None.

8. APPOINTMENTS

a. Appointment of Communications Director - Mayor Owens

Mayor Owens announced the appointment of the City's inaugural Communications Director, describing it as a long-anticipated and essential role. He shared that the City conducted a nationwide search and followed a hiring process consistent with that used for other director-level positions.

He officially nominated Mr. Gregory Woods for the role, noting that Council has had the opportunity to meet him and review his background. He also confirmed that the City

Manager supports and recommends this appointment.

Motion was made by Councilmember Auch to appoint Gregory Woods, as the Inaugural Communications Director. Councilmember Herndon seconded. The motion passed unanimously.

Mr. Woods expressed gratitude to City leadership for the opportunity to continue the important work already underway. He affirmed his commitment to promoting transparency, building public trust, and engaging with residents, and shared that he is excited to join the team. He also highlighted that his bilingual capabilities will enable him to effectively reach a wider range of the City's population.

b. Appointment of the Municipal Court Administrator - Mayor Owens

Mayor Owens announced the appointment of the City's first Municipal Court Administrator, stating that the selected candidate stood out among all applicants. He proudly nominated Ms. Mallory Minor, noting that her reputation and work speak for themselves.

Motion was made by Councilmember Jeffcoat to appoint Mallory Minor as the Inaugural Municipal Court Administrator. Councilmember Oladapo seconded. The motion passed unanimously.

Ms. Minor thanked the Mayor, Council, staff, and citizens, expressed that she is truly honored to serve as the City's first Municipal Court Administrator. She spoke about the responsibility of building the court from the ground up and emphasized that collaboration will be essential in shaping a court that reflects the values and needs of the community.

c. Swearing in of Board of Zoning Appeals - Mayor Owens

Mayor Owens announced that the Board of Zoning Appeals had held its first meeting and noted that a few members had not yet been sworn in. He acknowledged the District 2 appointee, Ms. Gerri Alridge, and officially administered her oath.

He concluded by congratulating all the evening's appointees.

- 9. PUBLIC COMMENTS** - 2 minutes per speaker - no more than 30 minutes for all speakers. Anyone wishing to make a public comment should complete and submit the public comment card to the City Clerk prior to the start of the meeting.

Ms. Denny Wilson requested a breakdown of public service expenditures by district from the Cobb County Board of Commissioners. She presented a document to the Council that was previously provided during the establishment of the Six Flags Special Service District and explained its contents in detail. She emphasized that while the County has the capability to provide similar information specific to the City of Mableton, it has not done so.

Ms. Cassandra Brown shared that she has lived in the community for 23 years and has observed an increase in homelessness. She urged the Mayor and Council to engage with

community partners to help address the issue and emphasized the importance of connecting individuals experiencing homelessness with necessary resources. She also highlighted a hotel on Lions Club Drive, explaining its role in the ongoing cycle of homelessness in that area.

Brenda Nash spoke on the importance of zoning, noting that Mableton residents chose cityhood to gain greater control over zoning decisions. She shared that she had contacted City staff regarding how to access zoning information but had not received a response. Ms. Nash pointed out that residents were previously accustomed to detailed zoning information from the County and stressed the need to adhere to clear zoning rules and regulations. She expressed ongoing concerns and confusion about the City's zoning processes and urged the City to keep residents informed and engaged.

Mayor Owens asked City Manager Tanks to provide an update on the City's current position in the zoning process. City Manager Tanks explained that there have been several challenges with Mableton assuming zoning responsibilities. He explained that in the City's Charter it states that the Council should not hear any zoning cases until the information has been shared with the public. He detailed the differences between the City and County's zoning processes. He noted that while the City currently lacks the capacity to implement certain aspects of the County's zoning process, it is actively working to build that capacity as the City continues to grow. He will work with the City Clerk and Community Development department to better communicate zoning information to the public.

Director Hughes described the City's current Zoning processes. He expressed interest in exploring the publication of completed zoning applications online to enhance public access and transparency. He also shared Rob Hosack's recommendation for Planning Commission training, suggesting the Mayor, Council, and BZA may attend future training sessions. City Clerk Hiott clarified the information that is available on her page of the City's website and how to find it. Councilmember Ferguson and Mayor Owens discussed website functionality.

Mayor Owens expressed appreciation for all the comments. He reported that he had a recent discussion with the Georgia Municipal Association about exploring other options to host a planning and zoning training for the City and other interested cities. There are still opportunities for additional training.

10. CONSENT AGENDA

Motion was made by Councilmember Ferguson to approve the Consent Agenda. Councilmember Herndon seconded. The motion passed unanimously.

a. Approval of June 11, 2025 Regular Meeting Minutes

11. UNFINISHED BUSINESS

12. NEW BUSINESS

- a. Consideration and Approval of RFQ for On-Call Engineering Services to Atlas Engineers, Croy Engineering, American Engineers Inc. DBA STV Services, and, Patterson & Dewar and to authorize the mayor to finalize and execute the**

agreements - City Manager Bill Tanks

Mayor Owens announced the item and recognized City Manager Tanks to provide additional information. Mr. Tanks explained how the Finance Department and Purchasing Manager conducted a thorough vetting process for the engineering services. The RFQ submittals were evaluated on a set of criteria and those who met qualifications were selected as top four firms. The on-call engineering services can be called upon for services such as transportation, civil, environmental, structural, stormwater, and utility design. He asked Council to approve the firms.

Motion was made by Councilmember Ferguson to approve the RFQ for on-call engineering services to Atlas Engineers, Croy Engineering, American Engineers, Inc. DBA STV Services, and Patterson & Dewar and to authorize the mayor to finalize and execute the agreements.

b. Consideration of a Resolution of the City of Mableton Georgia to Apply for a Georgia Beverage Association Community Grant - Sustainability, Waste, and Beautification Director Emily Groth

Mayor Owens announced the item and recognized Sustainability, Waste and Beautification Director Emily Groth. The presentation is available in the record.

Highlights of the presentation:

- The grant is for a health and wellness or environmentally-based initiative.
- The financial award is \$25,000 or less.
- No match is required.
- The proposed project could be a branded recycling trailer for mobile collection at events and as needed.
- The City can partner with local recyclers to drop-off collected items.
- The steps included approval of the resolution to apply, and submit the application.
- Awards determined by the Georgia Beverage Board of Directors and the Keep Georgia Beautiful Foundation.

Motion was made by Councilmember Auch and seconded by Councilmember Herndon to approve the Resolution of the City to apply for a Georgia Beverage Association Community Grant. The motion passed unanimously.

c. Consideration of a Resolution of the City of Mableton Georgia to Apply for a Safe Streets and Roads For All (SS4A) Grant - Sustainability, Waste, and Beautification Director Emily Groth

Mayor Owens announced the item and recognized Sustainability, Waste and Beautification Director Emily Groth. The presentation is available in the agenda packet record.

Highlights of the presentation:

- The grant is a Federal Grant.
- Metropolitan planning organizations, local governments, or tribal governments may apply.
- Grant requests are estimated at \$300,000.

- There is a 20% minimum match.
- A targeted traffic safety study & implementation plan conducted city-wide to prevent roadway fatalities and serious injuries.
- The implementation would be to begin procurement process for planning consultant once grant funds have been confirmed.
- The next steps include approve the resolution to apply, submit the application, and the expected time for planning grants is between 12 months and 5 years depending on the scope and extent of the grant activities.

Mayor Owens noted he had spoken with the City's grant writer about this grant. Mayor Owens directly asked the Department of Transportation in Washington DC what the City could do to get Federal funds to find out what the City of Mableton needs from a safe streets and roads perspective. The grant was suggested.

Councilmember Ferguson asked who would do the work if the grant was awarded. Mayor Owens explained the City would find someone to do this. If the City gets the Comprehensive Safety Action Plan grant and can get the action plan, the City would apply for another grant to get the work completed. The grant would allow the City to execute such plans for pedestrian activity, how to better connect corridors and neighborhoods, pedestrian crossings and allow people to safely navigate throughout the City. Councilmember Ferguson asked how the grant would be considered in regard to the Comprehensive Plan. Community Development Director Michael Hughes added the Comp Plan will, in addition to land use, address transportation as well. There is a transportation consultant on the team that will look at major arterial roads and local streets. The end product Comp Plan has a short-term work program and will have specific projects, with some additional studies to be done. This grant could provide the funding.

Director Grant reported the grant writer would be available for a presentation at the July 16th meeting.

Motion was made by Councilmember Oladapo and seconded by Councilmember Jeffcoat to approve the Resolution to apply for the Safe Streets and Roads for All Grant. The motion passed unanimously.

13. OTHER BUSINESS/DISCUSSION

- a. Consideration and Discussion of Switching Summer Break of July 9th (No Meeting) to a Regularly held Meeting and having a Summer Break at the July 23, 2025 (No Meeting) - Mayor Owens**

Mayor Owens and Council agreed to hold only one City Council meeting in July, scheduled for July 16th at 6:30 PM at the EpiCenter. Mayor Owens will exercise his authority to call a URA meeting if necessary. If the EpiCenter is unavailable to host the meeting on that day, alternative accommodations will be arranged. City Clerk Hiott was directed to confirm the EpiCenter's availability.

- b. OZI-2025-002: To consider amending the stipulations of United Security Services Agency c/o Matthew Herbert regarding rezoning application Z-13 of 2009 - located at 1140 Old Powders Springs RD SW in Land Lot 36 of the 18th District -**

Public Hearing - Community Development Director Michael Hughes

Mayor Owens introduced the item and provided the case details, then recognized Director Hughes. Director Hughes, in turn, acknowledged Planning and Zoning Manager Chris Wheeler to present.

Mr. Wheeler announced that he would forgo his presentation, explaining that the Mableton Improvement Coalition was not notified two weeks in advance of the hearing, as required. As a result, he recommended deferring the case to the next regularly scheduled meeting, at which time the public hearing will also take place.

Mayor Owens asked City Clerk Hiott to note the deferment and opened the floor to Council for discussion. Councilmember Ferguson requested an explanation of the zoning application process, which Mr. Wheeler provided this in detail. Councilmember Ferguson also asked for clarification regarding the Mableton Improvement Coalition (MIC) notification requirement. Mr. Wheeler explained and highlighted that the notice requirement applies only to this specific zoning application.

Motion was made by Councilmember Jeffcoat to defer this item to the next regular meeting on July 16th. Councilmember Ferguson seconded. The motion passed unanimously.

c. OZI-2025-003: To consider amending the stipulations for Kingdom Business c/o Tommy Orok regarding rezoning application Z-30 of 2014, property located at 4511 Austell Rd SW in Land Lot 1067 of the 19th District - Public Hearing - Community Development Director Michael Hughes

Mayor Owens introduced the item, provided the case details, and recognized Planning and Zoning Manager Chris Wheeler.

Mr. Wheeler requested that this item be deferred to the next regularly scheduled meeting. He explained that staff had asked the applicant to provide a traffic circulation plan for the proposed new use of the facility, to be reviewed by Cobb DOT. The applicant has prepared the requested materials and is ready to present them to City staff. City Attorney Walker-Ashby requested a motion to defer.

Motion was made by Councilmember Oladapo to defer this item to the next regular meeting on July 16th. Councilmember Ferguson seconded. The motion passed unanimously.

14. CITY MANAGER'S ANNOUNCEMENTS/COMMENTS

City Manager Tanks reflected on the goals he set upon being appointed to the position. He shared that his three primary objectives were to:

1. Achieve active city status by establishing three operational city services,
2. Prepare and support Council through service negotiations,
3. Lead the City in formally adopting an official budget.

He proudly noted that, as of tonight, all three goals have been accomplished. He extended his sincere thanks to Director Ellis and her team.

City Manager Tanks expressed heartfelt gratitude to the Mayor, Council, and City Team

for their support and continued efforts during his time away as he mourned the loss of his beloved wife, Lee Ann Tanks. Lastly, he mentioned that he and Mayor Owens attended the first SPLOST meeting held by the County, where Mableton was formally acknowledged. He emphasized that moving forward, his primary focus will be on building a strong team and implementing efficient city processes and policies. He also highlighted to the Council that, pending the approval of the engineering firms tonight, he will be able to advance the SPLOST project and move the process forward.

15. CITY ATTORNEY/CITY CLERK/STAFF ANNOUNCEMENTS/COMMENTS

City Attorney Walker-Ashby addressed a prior Council inquiry regarding accessory dwelling units (ADUs) in the zoning code. She conducted a brief audit and explained that ITBS was hired to amend the code using a “lift, sift, and shift” approach based on Cobb County’s code. She noted that the draft, including ADU language, was previously presented to Council with corresponding dates.

She clarified that the City’s zoning code closely mirrors Cobb County’s, with the primary difference being formatting—Cobb enumerated ADUs in each subsection, while Rob and his team consolidated identical language. She referred Council to page 6 of the Table of Contents for details.

If Council wishes to remove the ADU language, she recommended scheduling a conference call with her and Community Development to structure a proposal for future Council consideration.

16. MAYOR AND COUNCIL ANNOUNCEMENTS/COMMENTS

Councilmember Davis congratulated Mayor Owens on his appointment to the Georgia Municipal Association Board of Directors and recognized Mayor Pro Tem Jeffcoat for earning her Certificate of Recognition for completing GMA’s required training hours. He asked everyone to pray for the nation, acknowledging the challenges ahead and expressing gratitude for the Nation’s resilience. He emphasized the importance of supporting the armed forces and government leaders through prayer and concluded by wishing everyone a good night.

Councilmember Oladapo congratulated her appointee, Ms. Gerri Aldridge, on her swearing-in to the Board of Zoning Appeals. She also congratulated the newly appointed directors, Ms. Mallory Minor and Mr. Gregory Woods.

Councilmember Jeffcoat thanked everyone for attending and acknowledged the summer season, encouraging seasonal activities. She extended her congratulations to the newly appointed directors. She also addressed the zoning process, expressing gratitude for the public’s patience. She noted that the City is actively working to improve communication, provide more information, and resolve any outstanding issues.

Councilmember Jeffcoat highlighted the Juneteenth holiday and its importance. She mentioned the GMA Conference that Council was able to attend. She emphasized the importance of training and noted the opportunity to create relationships with cities across the state of Georgia. Lastly, she wished a Happy belated Birthday to Councilmember Auch.

Councilmember Auch thanked Director Ellis for her work on the City's first budget and expressed appreciation to City Manager Tanks for his leadership and efforts. She welcomed the new directors and commended all department directors for their contributions. She acknowledged the dedicated individuals who make the City's progress possible, specifically recognizing the "feet on the ground" efforts of City staff. She also thanked the City Manager for assembling an outstanding team.

Councilmember Ferguson thanked everyone for showing up and continuing to support the City. He mentioned that he loved to see staff growing in number. He expressed gratitude for the support of staff. Lastly, he acknowledged the ongoing growth and development of the City.

Councilmember Herndon thanked everyone for attending and gave special acknowledgment to the 15 online viewers. She extended her congratulations to the newly appointed directors and welcomed them to the City of Mableton, noting that there is much work ahead. She concluded by wishing everyone a good night and safe travels.

Mayor Owens shared that the GMA Conference was both enjoyable and productive, noting that most members of the Council and some staff were able to attend. He emphasized that Mableton was well represented throughout the event. He recognized Mayor Pro Tem Jeffcoat for receiving training recognition and expressed his gratitude for being appointed to the GMA Board of Directors, where he will serve for the upcoming year. Mayor Owens highlighted the value of the GMA Conference, noting that it offers informative classes and meaningful discussions, providing cities across Georgia with opportunities to learn from one another.

Mayor Owens shared that he led a well-attended discussion on artificial intelligence and technology during the GMA Conference, and he recognized the panelists who contributed to the discussion. He encouraged Mableton to position itself as a model city and recognized initiatives aimed at enhancing citizen access to information.

Mayor Owens noted that Mableton has the unique advantage of learning from the experiences of other cities and emphasized the importance of using that insight to guide the City's growth. He expressed pride in Mableton's progress, stating that "the best is yet to come," and concluded by encouraging everyone to enjoy their summer and have a happy July 4th holiday.

17. EXECUTIVE SESSION (IF NEEDED) FOR LITIGATION (O.C.G.A. 50-14-3(B)(1)(A) REAL ESTATE (O.C.G.A. 50-14-3 (B)(1)) PERSONNEL (O.C.G.A. 50-14-3 (B)(2)) AND MISC. EXEMPTIONS (O.C.G.A. 50-14-3 (B)(4)&(5))

No Executive Session was held.

18. ADJOURNMENT

Motion was made by Councilmember Jeffcoat and seconded by Councilmember Oladapo to adjourn. The motion passed unanimously.

Mayor Owens adjourned the meeting at 9:00pm.

Dr. Michael Owens, Mayor

Susan Hiott, City Clerk

A RESOLUTION AUTHORIZING THE PURCHASE OF ELEVEN FLEET VEHICLES FROM WADE FORD FOR THE CITY FLEET DEPARTMENT.

WHEREAS, the City of Mableton (“City”) is a municipal corporation duly organized and existing under the laws of the State of Georgia; and

WHEREAS, the City is in need of purchasing fleet vehicles for City operational departments; and

WHEREAS, the City Manager requests approval to purchase (11) Ford vehicles from Wade Ford in the amount of Four Hundred Seventy-Thousand, Four Hundred and Twenty-five Dollars and 00/100 Cents (\$470,425.00) shall be purchased through the FY2026 approved Capital Projects Fund Budget; and

WHEREAS, the approval of this purchase of these vehicles is necessary to execute the work associated with the City of Mableton.

Section 1. NOW, THEREFORE, BE IT RESOLVED by the City Council of Mableton as follows:

1. The City Mayor is hereby authorized to enter into an agreement with Wade Ford with the purpose of purchasing fleet vehicles.
2. The agreement shall be for the purchase of (10) Ford Lightning Trucks and (1) Ford Mach E.
3. The total cost of the agreement shall not exceed \$470,425.00.
4. The Mayor is authorized to execute any necessary documents related to this agreement.

FURTHER RESOLVED, that this resolution shall take effect immediately upon adoption.

Section 2. It is hereby declared to be the intention of the City Council that:

- a. All sections, paragraphs, sentences, clauses and phrases of this Resolution are or were, upon their enactment, believed by the City Council to be fully valid, enforceable and constitutional.
- b. To the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Resolution is severable from every other section, paragraph, sentence, clause or phrase of this Resolution. No section, paragraph, sentence, clause or phrase of this Resolution is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Resolution.
- c. In the event that any phrase, clause, sentence, paragraph or section of this Resolution shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the City Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Resolution.

Section 3. The City Attorney and the City Clerk are authorized to make non-substantive editing and renumbering revisions to this Resolution for proofing and renumbering purposes.

STATE OF GEORGIA
COUNTY OF COBB
CITY OF MABLETON

RES 2025-07-XX

Section 4. The effective date of this Resolution shall be the date of adoption, unless provided otherwise by the City Charter, state and/or federal law.

BE IT SO RESOLVED, this 16th day of July, 2025.

ATTEST:

CITY OF MABLETON, GEORGIA

Susan D. Hiott, City Clerk

Michael Owens, Mayor

APPROVAL AS TO FORM:

Emilia Walker-Ashby, City Attorney

ATTACHMENTS

1. Pricing Proposals from Wade Ford



AGENDA STAFF MEMO

TO: Honorable Mayor and City Council Members
FROM: Xavier Ross, Special Projects Manager
DATE: Submitted on July 7, 2025, for the July 16, 2025, Regular City Council Meeting

AGENDA ITEM: Approval of a Purchase Agreement between the City of Mableton and Wade Ford for the Purchase of 11 Electric Fleet Vehicles.

SUMMARY:

The City of Mableton successfully launched the first phase of its fleet integration in March of 2025. As the city continues to evolve, it is now imperative to expand the vehicle inventory to meet the needs of the staff as it relates to providing effective services to the community at large. These fleet vehicles will be used by all city departments, respectively. In the interest of fuel efficiency, we are recommending the purchase of (11) Ford Vehicles.:

- (10) NEW 2025 Ford Mach-E electric sedans
- (1) Ford F-150 Lighting Truck.

These vehicles are electric vehicles. The purchase of these vehicles is in alignment with the DOAS cooperative contract 99999-001-SPD0000183-0006 not to exceed the base price. The City will receive a returning vendor/preferred electric price (\$8,000 below market and \$10,000 below State Contract) of \$42,185 per sedan and \$48,575 per truck. The anticipated total will be \$470,425.00. Please note this is a blanket approval with the vendor and to purchase while understanding all vehicles will be purchased as needed throughout the budget year.

Budget is available as funding was set aside in the FY2026 Capital Projects Fund budget.

FUNDING AND FINANCIAL IMPACT:

This is a budgeted item.

PROCUREMENT SUMMARY *(if applicable)*

Purchasing method used: State Contract

Account Number: 300-1565-542200.00

Requisition Total:

\$421,850.00	10 – 2025 Mach E
\$48,575.00	1 – 2025 Lightning F-150
\$470,425.00	Total Purchase



REVIEW & APPROVALS:

Financial Review: Karen Ellis, Finance Director – July 14, 2025
Legal Review: Emilia Walker-Ashby, City Attorney – July 14, 2025
Concurrent Review: William Tanks, City Manager – July 14, 2025

ATTACHMENT(S):

Wade Ford Pricing Proposals



PRICING PROPOSAL

DATE Friday, May 16, 2025

GA Statewide Contract 99999-001-SPD0000183-0006

Account Manager: RON MORGAN (404) 637-3924

CUSTOMER CITY OF MABLETON
 CONTACT 1400 VETERANS MEMORIAL HWY SE
 PHONE MABLETON, GA 30126
 EMAIL xavier.ross@mableton.gov
 ADDRESS

VEHICLE		TRADE	
Vehicle	2025 MACH E		
Color	GLACIER GRAY METALLIC		
Stock #	UNITS TO BE ORDERED		
		VIN	Miles
PRICING		Actual Value	
PRICE	\$43,985.00	Tires	-
STOCK FEE	\$0.00	Mileage Adjustment	-
Tag/Registration Fee (estimate)	\$0.00	Mechanical repairs	-
LIFT GATE-	\$0.00	Brakes	-
Vehicle Selling Price	\$43,985.00	Scratches / Paint	-
TOTAL UPFIT	\$0.00	Body Damage / Dents	-
Discount / GPC	- (\$1,800.00)	Extra Allowance	+
Difference	\$42,185.00	Allowance:	\$0.00
		FLEETTAIL	
Taxes 7%	+ \$0.00	Name	
Trade Payoff	+ \$0.00	Address	
PREM EXTENDED 5YR / 100	+ \$0.00	Phone	
Service PLAN 7 / 100	+ \$0.00	Email	
Shipping Fee	+ \$0.00		
Balance Due (estimate)	\$42,185.00		
Total Quantity	10		
Order Total	\$421,850.00		
NOTES			
<i>This sales order does not guarantee availability A purchase order is required to guarantee availability.</i>			

X _____

Ron Morgan

Buyer Date Account Manager Date 5/16/2025



PRICING PROPOSAL

DATE Friday, May 16, 2025

GA Statewide Contract 99999-001-SPD0000183-0006

Account Manager: RON MORGAN (404) 637-3924

CUSTOMER CITY OF MABLETON
 CONTACT 1400 VETERANS MEMORIAL HWY SE
 PHONE MABLETON, GA 30126
 EMAIL xavier.ross@mableton.gov
 ADDRESS

VEHICLE		TRADE	
Vehicle	2025 LIGHTNING	VIN Miles	
Color	AGATE BLACK		
Stock #	UNITS TO BE ORDERED		
PRICING		Actual Value	
PRICE	\$49,975.00	Tires	-
STOCK FEE	\$0.00	Mileage Adjustment	-
Tag/Registration Fee (estimate)	\$0.00	Mechanical repairs	-
LIFT GATE-	\$0.00	Brakes	-
Vehicle Selling Price	\$49,975.00	Scratches / Paint	-
TOTAL UPFIT	\$0.00	Body Damage / Dents	-
Discount / GPC	- (\$1,400.00)	Extra Allowance	+
Difference	\$48,575.00	Allowance:	\$0.00
		FLEETTAIL	
Taxes 7%	+ \$0.00	Name	
Trade Payoff	+ \$0.00	Address	
PREM EXTENDED 5YR / 100	+ \$0.00	Phone	
Service PLAN 7 / 100	+ \$0.00	Email	
Shipping Fee	+ \$0.00		
Balance Due (estimate)	\$48,575.00		
Total Quantity	1		
Order Total	\$48,575.00		
NOTES			
<i>This sales order does not guarantee availability A purchase order is required to guarantee availability.</i>			

X _____

Ron Morgan

Buyer Date Account Manager Date 5/16/2025