



CITY OF MABLETON, GEORGIA

Riverside EpiCenter
135 Riverside Pkwy, Austell, GA 30168
August 13, 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**
 - a. OZI-2025-001: To consider amending the stipulations for Felleke Seyoum regarding other business application OB-28 of 2023, property located at 1025 Veterans Memorial Hwy in Land Lot 166 of the 18th District - Community Development Director Michael Hughes**
 - b. Case # V-2025-01: A request by Jeff Kerlegrand Tax Parcel # 18016100020 (5995 Allen Rd) to reduce 75' lot frontage to 60' lot frontage, a lot reduction for a lot split - Community Development Director Michael Hughes**
 - c. Second Reading - Consideration of an Ordinance creating Chapter 5, Alcoholic Beverages, and for Other Lawful Purposes -Community Development Director Michael Hughes**
 - d. Second Reading - 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**
 - e. 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**
- 7. PRESENTATIONS/ACKNOWLEDGEMENTS/PROCLAMATIONS**
 - a. South Cobb Library Update - Jo Lahmon, South Cobb Library Region Manager**
- 8. APPOINTMENTS**

- a. **Appointment of the Human Resources Director - Mayor Owens**
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.
10. **CONSENT AGENDA**
 - a. **Approval to allow the Mayor to sign the stormwater maintenance agreement for the Leydenview subdivision. Property is located in Land Lot 338, 18th District, Cobb County. PIN 18038800010**
 - b. **Approval of July 16, 2025 Regular Meeting Minutes**
11. **UNFINISHED BUSINESS**
12. **NEW BUSINESS**
 - a. **Presentation and Consideration of a Services Agreement between the City of Mableton and Trees Atlanta for Tree Planting Services - Sustainability, Waste, and Beautification Director Emily Groth**
 - b. **Consideration and Approval of a Resolution for the City of Mableton to amend the Purchasing Card Policy - Finance Director Karen Ellis**
 - c. **Consideration and Approval of City of Mableton Causing for the Six Flags Area Special Services District to be Levied at Same Amount Prior to the City's Incorporation - City Attorney Emilia Walker-Ashby**
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: August 13, 2025

DEPARTMENT: [DEPARTMENT]

ISSUE/AGENDA ITEM TITLE: OZI-2025-001: To consider amending the stipulations for Felleke Seyoum regarding other business application OB-28 of 2023, property located at 1025 Veterans Memorial Hwy in Land Lot 166 of the 18th District - Community Development
Director Michael Hughes

BACKGROUND/SUMMARY:

BUDGETED/FINANCIAL IMPACT – FUND:

RECOMMENDATION:

ATTACHMENTS:

1. OZI-2025-001 Staff Report-combined (1)



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-2025-001

APPLICANT: Plaza Package 2.0, LLC

REQUEST: To amend stipulations of rezoning case O.B 28. of 2023, to allow for a liquor store on the subject property.

PROPERTY LOCATION: 1025 Veterans Memorial Hwy, Mableton, Georgia

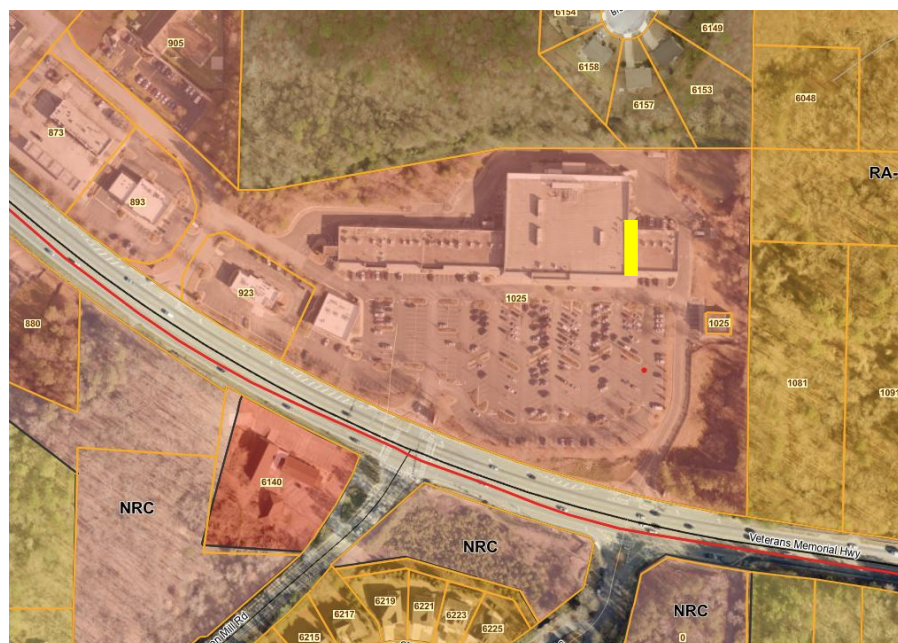
PARCEL ID: 18016600330

ACREAGE: 13.99

HEARING DATE: August 13th 2025

DISTRICT: 4

ZONING MAP



*Yellow Rectangle = Approx Location of Business

I. Purpose of Request

The applicant is requesting a formal amendment to the zoning stipulations established under Cobb County Zoning Case O.B. 28, enacted in 2023, that prohibit any new liquor stores from operating at the subject property without council approval.

II. Background

This amendment seeks to permit the establishment and operation of a liquor store within the designated area. The applicant previously submitted a business license application to the city; however, it was denied due to existing zoning restrictions on the property. According to the zoning minutes, the previous applicant, Matthew Bowman, petitioned the Cobb County Board of Commissioners to remove the zoning stipulation (Z-37) from 2003 in order to allow for a liquor store to operate in the shopping plaza located at 1025 Veterans Memorial Highway, Suite 310. Additionally, it was stipulated that future tenants must appear before the City Council to request removal of the liquor store from the list of prohibited uses. All other zoning stipulations remain in effect.

Should the requested zoning amendment be approved, the applicant intends to obtain all necessary licenses to lawfully operate the proposed business.

III. Staff Comments

The subject property is currently zoned Community Retail Commercial (CRC). This zoning classification is intended to provide locations for retail commercial and service uses that are designed and oriented to serve multiple neighborhoods within a community. The proposed use is permitted by right and is also allowable in less intensive commercial zoning districts, such as the Neighborhood Retail Commercial District.

Furthermore, the use requested by the current applicant is identical to that previously approved by the Cobb County Board of Commissioners for a prior applicant. In the staff's professional opinion, there is no material difference between the two requests. Therefore, staff recommends approval of the proposed use, subject to the same stipulations imposed on the property in the 2023

ATTACHMENTS

Other Zoning Agenda Item Application and supporting documents.

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
JUNE 20, 2023
PAGE 14

OTHER BUSINESS (CONT.)

O.B. 25 (CONT.)

6. Fire Department comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)
7. From the June 6, 2023, Site Plan, Parcel A is going to be restricted to RSL (Senior Living, age 55+), while all units are for sale, there is a 10% rental restriction to be rented to those 55 and older; Parcel B is for sale *only*, but not age restricted

VOTE: **ADOPTED** 5-0 (*Statements read in by Commissioner Gambrell and Commissioner Birrell are attached and made a part of these minutes.*)

- O.B. 28** To consider amending the stipulations for Matthew Bowman, Jr. regarding rezoning application Z-37 of 2003, for property located on the north side of Veterans Memorial Highway, southeasterly of Buckner Road in land lots 165 and 166 of the 18th district (1025 Veterans Memorial Highway, Suite 310).

The public hearing was opened; Matthew Bowman, Robin Meyer, Marisa Elliott, and Brenda Nash addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Sheffield, second by Birrell, to **approve** O.B. 28, subject to:

1. The previous stipulation that prohibits liquor stores (stipulation 1t from the April 16, 2003 letter – attached and made a part of these minutes) be removed for this Applicant and this Applicant *only*
2. Future tenants at the Plaza must come before the Board of Commissioners with an Other Business Item to have the *liquor store prohibited* use considered for removal
3. There are to be no window decals at the location
4. Allowance of one liquor store *only* on the entire property
5. All previous stipulations and conditions, *not otherwise in conflict*, to remain in effect
6. All other Staff comments and recommendations, *not otherwise in conflict*

VOTE: **ADOPTED** 5-0 (*Statements read in by Commissioner Gambrell and Commissioner Birrell are attached and made a part of these minutes.*)

- O.B. 29** To consider a reduction of required minimum lot size from 20,000 square-feet to 15,974 square-feet, and a rear setback variance from 35-feet to 20-feet for Turren Construction, LLC. The property is located at the northeast intersection of Atlanta Road and Peach Lane in land lot 748 of the 17th district (2133 Peach Lane).



City of Mableton Community Development
6116 Mableton Parkway, Ste 144
Mableton, GA 30126

Application for "Other Business" City of Mableton, GA

BOC Hearing Date Requested: _____

Applicant: PLAZA PACKAGE 2.0 L.L.C Phone #: (404) 583-2334
(applicant's name printed)

Address: 1025 VETERANS MEMORIAL HWY E-Mail: FSEYOUN@GMAIL.COM

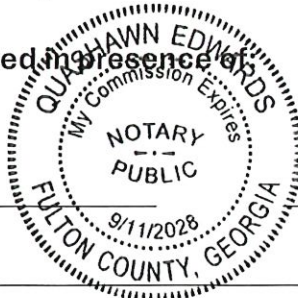
FELLEKE SEYOUN Address: 1075 PEACHTREE WALK NE #A50
(representative's name, printed) ATLANTA, GA 30309

[Signature] Phone #: (404) 583-2334 E-Mail: FSEYOUN@GMAIL.COM
(representative's signature)

Signed, sealed and delivered in presence of

[Signature]

Notary Public



9/11/2028

My commission expires:

PROVIDENCE Fee, LLC
By: PROVIDENCE m.w. SE LLC, its sole MANAGER
By: PROVIDENCE MANAGER, INC, its MANAGER

Titleholder(s): MARC R. WILKOW, President Phone: (312) 726-9622

(property owner's name printed)

205 CLARK Street/Suite 3000

Address: Chicago, IL 60603 E-mail: pskontos@wilkow.com

[Signature]
(Property owner's signature)

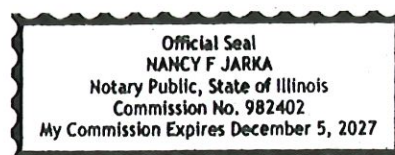
Signed, sealed and delivered in presence of:

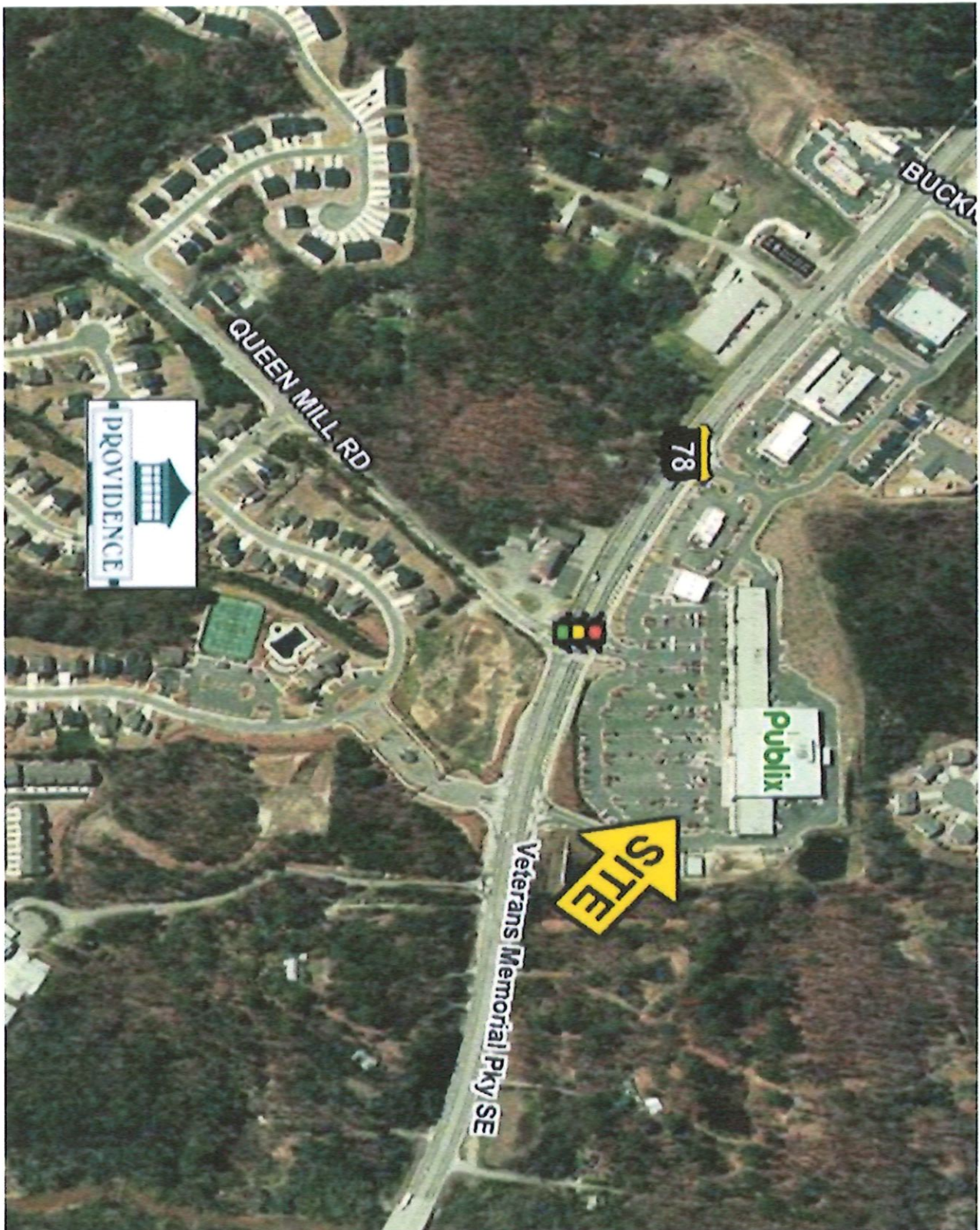
Nancy F. Jarka

Notary Public

12/5/27

My commission expires:





Site Plan

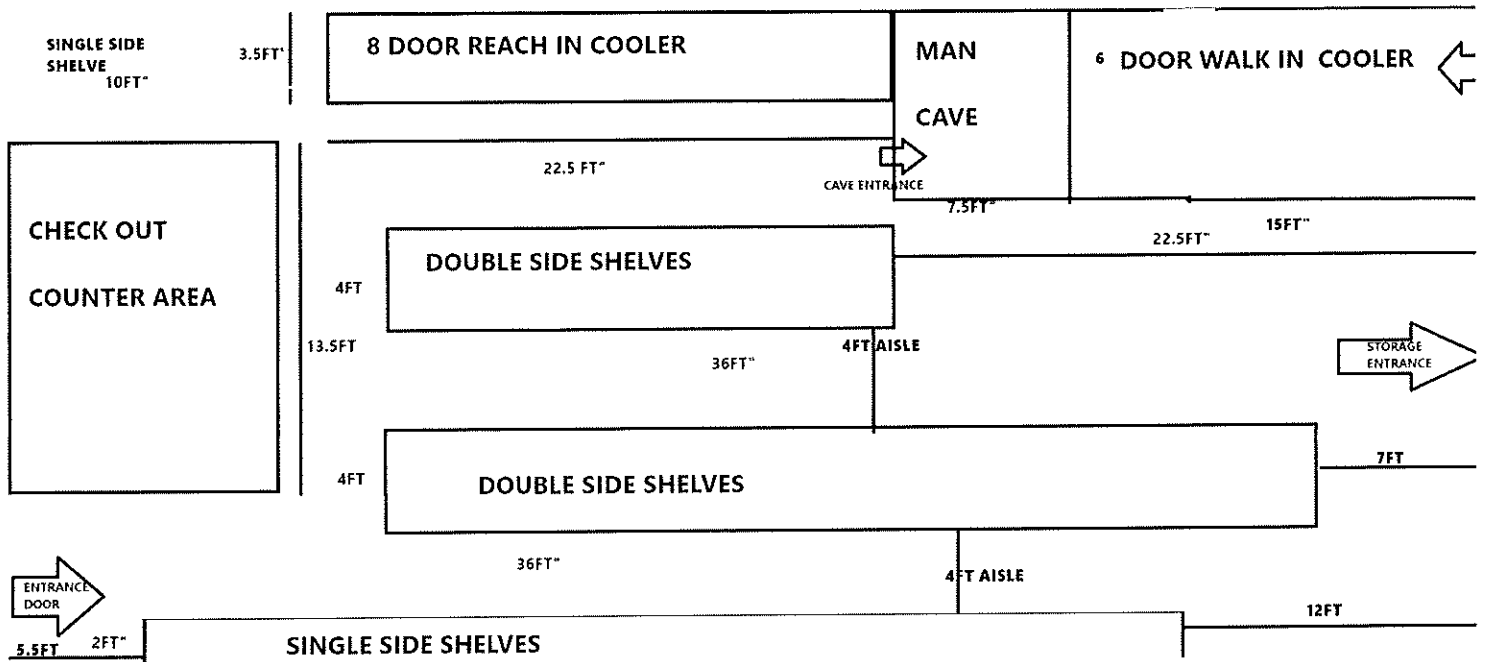


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Google



Application for Zoning Approval Extension for Plaza Liquor 2.0

I respectfully request that you extend the existing zoning approval to Plaza Liquor 2.0 at 1025 Veterans Memorial Hwy. Just over a year ago, this location was approved for a liquor store under the Prohibition Liquor name by a former owner whose business is no longer in operation. Since the zoning requirements remain unchanged, I kindly ask that this same approval be transferred to my operation of Plaza Liquor 2.0, where my deep understanding of the community and local business will continue to benefit the area.

For over 15 years, I have managed Plaza Liquor Store, and for the past decade, I have proudly owned it. Located at 6200 Mableton Parkway, Plaza Liquor has always been committed to more than just providing quality products—it's about building and nurturing a strong sense of community.

Our dedication to hiring locally is at the heart of this mission. Four of our staff members—Ebony Coleman, who joined in 2016, Fonchea Stewart, who came aboard in 2020, Anthony Coleman, who started in 2022, and Dennis Munn, who has been with us since 2021—are from the Mableton community. Together, we've created a family-like environment by offering competitive pay and prioritizing employee well-being, resulting in an impressively low turnover rate.

Looking ahead, Plaza Liquor is committed to further strengthening the local workforce by creating at least four new jobs, providing stable employment opportunities for Mableton residents. Our focus remains on hiring locally, offering competitive wages, and investing in employee growth, ensuring that each hire not only supports the success of our business but enriches the community at large.

In 2024, Plaza Liquor paid a payroll totaling \$132,696 annually. With the upcoming launch of Plaza Liquor 2.0, I fully expect to match or exceed this figure within the next year or two, continuing our tradition of supporting the local economy and fostering a thriving community.

Economic Growth and Synergy

Building on the success of our first location, we expect to replicate these proven economic benefits at Plaza Liquor 2.0 within a few years. Our projections indicate that the new store will generate approximately:

- **\$10,000 per year** in license fees, (Tobacco & Liquor License)
- **\$7,696 per year** in property taxes,
- **\$141,717 per year** in sales taxes.

These estimates, grounded in our current performance, will not only boost local government revenue but also drive substantial community development.

Strategic Retail Placement.

Positioned alongside bustling retailers like Publix, Plaza Liquor 2.0 will serve as a key element in creating a comprehensive market destination. This strategic location is poised to attract significant foot traffic, which will in turn boost business for neighboring establishments and further solidify the strength of the local economy. Moreover, I plan to invest over \$100,000 to ensure that the store meets the high-class standards required by my lease agreement—enhancing the overall appeal of our business district.

Commitment to Safety and Compliance

Our proven commitment to strict regulatory compliance is another cornerstone of our community responsibility. Plaza Liquor 2.0 will follow the same rigorous employee training that has kept our first store citation-free—even during numerous undercover inspections. This focus on responsible practices ensures a safe environment for our customers and contributes to the broader well-being of the community.

In summary, Plaza Liquor 2.0 is poised to enhance Mableton both economically and socially by creating jobs, boosting local revenues, and providing an inviting community space. I am confident that this expansion will continue the positive legacy of my current operations and further solidify community trust.

Thank you for your time and thoughtful consideration of this proposal. I welcome any questions you might have and look forward to discussing how Plaza Liquor 2.0 can serve as a valuable asset to our community.

Sincerely,

Felleke Seyoum ,

Plaza Package 2.0 LLC



AGENDA ITEM MEMORANDUM

MEETING OF: August 13, 2025

DEPARTMENT: [DEPARTMENT]

ISSUE/AGENDA ITEM TITLE: Case # V-2025-01: A request by Jeff Kerlegrand Tax Parcel # 18016100020 (5995

Allen Rd) to reduce 75' lot frontage to 60' lot frontage, a lot reduction for a lot split -
Community Development Director Michael Hughes

BACKGROUND/SUMMARY:

BUDGETED/FINANCIAL IMPACT – FUND:

RECOMMENDATION:

ATTACHMENTS:

1. V-2025-001 Staff Report



City of Mableton
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BOARD OF ZONING APPEALS STAFF REPORT

Board of Zoning Appeals Staff Report

Case No: BZA-25-001

Date: 7-10-2025

Location: 5995 Allen Rd SE, Mableton, GA 30126

Applicant: Jeffery Kerleguand

Zoning: R-20 (Single Family Residential District)

Council District: 3

Request

Type: Development Standards Variance (Lot Frontage)

Variance Requested: Reduce the required lot frontage from 75' to 60'.

- Article 3 Section 3.05 R-20 Single Family Residential District (4) Bulk Regulations, Table 3-3, Lot Frontage 75'

Case Summary

The applicant is seeking approval to modify the existing requirement regarding the division of the subject property, which encompasses an area of 1.1 acres (47,916 square feet). This modification would allow for the construction of an additional single-family detached residence on the newly established parcel.

Criteria for Consideration

The Board may grant a variance if the applicant demonstrates:

- There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography;
- The application of this chapter to this particular piece of property would create an unnecessary hardship;
- Such conditions are peculiar to the particular piece of property involved; and

- Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this chapter.
- No variance may be granted for a use of land or building m structure that is prohibited by this chapter. No variance may be granted that would conflict with or alter a stipulation or condition imposed by the city council, except for setback variances which are less than twenty-five (25) percent than the underlying requirement and do not alter the basic tenets of any site plan included and approved as a stipulation.

Staff Analysis

Current Zoning:

- The property is zoned R-20 and is surrounded by R-20 (Single-Family Residential) parcels.
- Future Land Use is Low Density Residential and is located in an established residential area. The subject property is not part of platted subdivision.

Development Standards Variances Requested:

Standard	Required	Proposed (Variance)
Single Family Lot Frontage	75 ft. minimum	60 ft.

Staff Finding/Opinion

Staff recommend approval of the variance as the request meets the criteria for consideration and addresses a practical difficulty not self-imposed by the applicant.

On July 10th the Mableton Board of Zoning Appeals recommended to approval the variance request of reducing the lot frontage from the required 75' to 60'.



AGENDA ITEM MEMORANDUM

MEETING OF: August 13, 2025

DEPARTMENT: [DEPARTMENT]

ISSUE/AGENDA ITEM TITLE: Second Reading - Consideration of an Ordinance creating Chapter 5, Alcoholic Beverages, and for Other Lawful Purposes -Community Development
Director Michael Hughes

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. 8.12.25

**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 cafes, 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 cafes within the food hall. A food hall café may utilize one or more other food hall cafes 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 cafes 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;
 - (4) At a City sponsored special event; or
 - (5) As otherwise permitted by the City Council.
- (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.
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- (b) The license review board established by this section shall have the following duties:
 - (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 seven 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

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).

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, 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, City Clerk

Michael Owens, Mayor

APPROVAL AS TO FORM:

Emilia Walker-Ashby, Interim City



AGENDA ITEM MEMORANDUM

MEETING OF: August 13, 2025

DEPARTMENT: [DEPARTMENT]

ISSUE/AGENDA ITEM TITLE: Second Reading - 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

BACKGROUND/SUMMARY:

BUDGETED/FINANCIAL IMPACT – FUND:

RECOMMENDATION:

ATTACHMENTS:

1. Special Regulatory Licensing Ordinance Rev. 8.7.25 @ 3.45pm

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. ~~16.13~~(4) of the City Charter to "~~to levy and to provide for the collection of regulatory fees and taxes on privileges, occupations, trades, and professions~~" and "~~to permit and regulate the same 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 Chapter 7, Taxes, Fees and Assessments includes regulations regarding adult uses; and

WHEREAS, based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Mayor and City Council, including the following documents and reports and transcripts and minutes from public hearings from other jurisdictions detailing first-hand accounts of secondary effects occurring in and around sexually oriented businesses, including, but not limited to: A Digest of Research: The Evidence of Relationships Between Adult-Oriented Businesses and Community Crime and Disorder prepared for The Mayor and Council of the City of St. Marys, Georgia July 1996; Adams County, Colorado Nude Entertainment Study 1987; Adult Entertainment Businesses in Indianapolis 1984; Adult Entertainment Business Study for Manatee County 1987; Adult Entertainment Zoning in New York City; An Analysis of the Effects of SOBs on the surrounding neighborhoods in Dallas, Texas prepared for Assistant City of Dallas, April 1987; Community Protection Committee's Final Report on Vice in Hamilton County with Recommendations to Hamilton County Executive Board of Commissioners, the Mayor and Members of the Chattanooga City Council, May 1997; *Do "Off-Site" Adult Businesses Have Secondary Effects? Legal Doctrine, Social Theory, and Empirical Evidence*, Richard McCleary and Alan C. Weinstein, 218 Law and Policy, April 2009; Survey of Appraisers Fort Worth and Dallas, Effects of Land Uses on Surrounding Property Values prepared for City of Fort Worth, Texas, September 2004; Final Report to the City of Garden Grove, The Relationship Between Crime and Adult Business

Operations on Garden Grove Boulevard, October 23, 1991; December 20, 2005 Transcript of the Regular City Council meeting, City of Sandy Springs, Georgia; December 27, 2005 Transcript of the Regular City Council meeting, City of Sandy Springs, Georgia; National Law Center Summaries of "SOB Land Use" Studies, Crime Impact Studies by Municipal and State Governments on Harmful Secondary Effects of Sexually Oriented Businesses, March 31, 1996; Adult Entertainment Businesses in Oklahoma City, A Survey of Real Estate Appraisers, March 3, 1986; Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses, June 6, 1989; Report on the Secondary Effects of the Concentration of Adult Use Establishments in the Times Square Area, April 1994; Report on Adult Oriented Businesses in Austin, Texas prepared for the Mayor and City Council of Austin, May 19, 1986; March 6, 1985 meeting minutes of the Rome City Commission; Sexually Oriented Business Ordinance Revision Committee Legislative Report to the Houston City Council, January 7, 1997; Staff Report amendments to Zoning Regulations Adult Businesses in C-2 zone with conditional use permit, January 9, 1978; Study of the Effects of the Concentration of Adult Entertainment Establishments in the City of Los Angeles, Department of City Planning City of Los Angeles, June 1977; Summary of Review and Conclusions Regarding the City of St. Cloud's Regulation of Adult Businesses, December 1994; August 7, 2001 Transcript of the Gwinnett County Board of Commissioners meeting; August 3, 2011 Deposition of Robert J. Stevens, Flanigan's Enterprises v. City of Sandy Springs, Georgia, Civil Action File No. 1:09-CV-2747, U.S. District Court for the Northern District of Georgia, Atlanta Division; August 3, 2011 Deposition of Terry Sult, Flanigan's Enterprises v. City of Sandy Springs, Georgia, Civil Action File No. 1:09-CV-2747, U.S. District Court for the Northern District of Georgia, Atlanta Division; Deposition of Corazalla, Flanigan's Enterprises v. City of Sandy Springs, Georgia, Civil Action File No. 1:09-CV-2747, U.S. District Court for the Northern District of Georgia, Atlanta Division; Quality of Life: A Look at Successful Abatement of Adult Oriented Businesses in Oklahoma City, Oklahoma, 1984-1989; City of Littleton, Colorado v. Z.J. Gifts D-4, LLC, 541 U.S. 774, 124 S.Ct. 2219, 159 L.Ed. 84 (2004); California v. LaRue, 410 U.S. 948, 93 S.Ct. 1351 (1973); City of Renton v. Playtime Theatres, Inc., 475 U.S. 1132, 106 S.Ct. 1663 (1986); New York State Liquor Authority v. Bellanca, No. 80-813, Supreme Court of the United States, June 22, 1981; 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); Young v. American Mini Theatres, 427 U.S. 50 (1976); Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991); Artistic Entertainment, Inc. v. City of Warner Robins, 331 F.3d 1196 (11th Cir. 2003); Artistic Entertainment, Inc. v. City of Warner Robins, 223 F.3d 1306 (11th Cir. 2000); Williams v. Pryor, 240 F.3d 944 (11th Cir. 2001); Daytona Grand, Inc. v. City of Daytona Beach, Florida, 490 F. 3d 860 (11th Cir. 2007); Flanigan's Enterprises, Inc. of Georgia v. City of Sandy Springs, Georgia, 703 Fed. Appx. 929 (11th Cir. 2017); Peek-A-Boo Lounge of Bradenton, Inc. v. Manatee County, Florida, 630 F. 3d 1346 (11th Cir. 2011); Sammys of Mobile, LTD v. City of Mobile, 140 F. 3d 993 (11th Cir. 1998); Wise Enterprises, Inc. v. Unified Government of Athens-Clarke County, Georgia, 217 F. 3d 1360 (11th Cir. 2000); Zibtluda, LLC v. Gwinnett County, Georgia, 411 F. 3d 1278 (11th Cir. 2005); Flanigan's Enterprises, Inc. of Georgia v. Fulton County, 2010 WL 520542 (11th Cir.); Flanigan's Enterprises, Inc. of Georgia v. Fulton County, 242 F. 3d 976 (11th Cir. 2001); 5634 East Hillsborough Avenue, Inc. v. Hillsborough County, Florida, 2008 WL 4276370 (C.A. 11 Fla.); Williams v. A.G. of Alabama, 378 F.3d 1232 (11th Cir. 2004); Gary v. City of Warner Robins, 311 F.3d 1334 (11th Cir. 2002); Ward v. County of Orange, 217 F.3d 1350 (11th Cir. 2002); David Vincent, Inc. v. Broward County, 200 F.3d 1325 (11th Cir. 2000); Sammy's of

Mobile, Ltd. v. City of Mobile, 140 F.3d 993 (11th Cir. 1998); Lady J. Lingerie, Inc. v. City of Jacksonville, 176 F.3d 1358 (11th Cir. 1999); This That And The Other Gift and Tobacco, Inc. v. Cobb County, 285 F.3d 1319 (11th Cir. 2002); Grand Faloona Tavern, Inc. v. Wicker, 670 F.2d 943 (11th Cir. 1982); DLS, Inc. v. City of Chattanooga, 107 F.3d 403 (6th Cir. 1997); International Food & Beverage Systems v. Ft. Lauderdale, 794 F.2d 1520 (11th Cir. 1986); Gammoh v. City of La Habra, 395 F.3d 1114 (9th Cir. 2005); World Wide Video of Washington, Inc. v. City of Spokane, 368 F.3d 1186 (9th Cir. 2004); Ben's Bar, Inc. v. Village of Somerset, 316 F.3d 702 (7th Cir. 2003); Sensations, Inc. v. City of Grand Rapids, 526 F.3d 291 (6th Cir. 2008); Richland Bookmart, Inc. et al. v. Knox County, Tennessee, 555 F.3d 512 (6th Cir. 2009); 10950 Retail, LLC, d/b/a Love Shack v. City of Johns Creek, A09A0374, July 9, 2009; Fairfax MK.I, Inc. v. City of Clarkston, 274 Ga. 520 (2001); Morrison v. State, 272 Ga. 129 (2000); Sewell v. Georgia, 233 S.E.2d 187 (Ga. 1977), dismissed for want of a substantial federal question, 435 U.S. 982 (1978) (sexual devices); Flippin Alliance for Community Empowerment, Inc. v. Brannan, 601 S.E.2d 106 (Ga. Ct. App. 2004); Oasis Goodtime Emporium I, Inc. v. DeKalb County, 272 Ga. 887 (2000); Chamblee Visuals, LLC v. City of Chamblee, 270 Ga. 33 (1998); World Famous Dudley's Food & Spirits, Inc. v. City of College Park, 265 Ga. 618 (1995); Airport Bookstore, Inc. v. Jackson, 242 Ga. 214 (1978); Maxim Cabaret, Inc. v. City of Sandy Springs, Georgia, 816 S.E.2d 31 (Ga. 2018); Modified Permanent Injunction Order, People of the State of Illinois et al. v. The Lion's Den, Inc., Civil Action File No. 04-CH-26, Fourth Judicial Circuit Effingham County, Illinois, July 13, 2005; Order Upholding Constitutionality of Chapter 807 of the Revised Code of the Consolidated City and County of Indianapolis, Annex Books, Inc. et al. v. of Indianapolis, Civil Action File No. 1:03-cv-00918, U. S. District Court Southern District of Indiana, Indianapolis Division; Blue Movies, Inc. v. Louisville/Jefferson County Metro Government, 317 S.W. 3d 23 (Ky. 2010); Cami, Inc. et al. v. Louisville/Jefferson County Metro Government, 2007 WL 2893435 (Ky. App.); Foster v. City of El Paso, 2013 WL 632962 (2013); Peek-A-Boo Lounge of Bradenton, Inc. v. Manatee County, Florida, 2009 WL 4349319 (M.D. Fla.); Plaza Group Properties, LLC v. Spencer County Plan Commission, 877 N.E.2d 877 (Indiana Court of Appeals 2007); Plaza Group Properties, LLC v. Spencer County Plan Commission, 911 N.E. 2d 1264 (Indiana Court of Appeals 2009); Order granting motion for judgment on the pleadings, Enlightened Reading, Inc. v. Jackson County, Missouri, Civil Action File No. 08-0209-CV-W, U.S. District Court for the Western District of Missouri Western Division; Order granting summary judgment, High Five Investments, LLC et al v. Floyd County, Georgia, Civil Action File No. 4:06-CV-0190, U.S. District Court Northern District of Georgia, Rome Division ; Richland Bookmart, Inc. et al. v. Knox County, Tennessee, 2007 WL 4480138 (E.D. Tenn); Sensations, Inc. v. City of Grand Rapids, 2006 WL 5779504 (W.D. Mich.); 5634 East Hillsborough Avenue, Inc. v. Hillsborough County, Florida, 2007 WL 2936211 (M.D. Fla.), the City 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, 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.
2. Based upon the experience of other urban counties and municipalities, which experiences the city finds are relevant to the problems faced by the city, and which do not vary greatly among generally comparable communities within this country, the City finds that public

nudity, under certain circumstances, particularly circumstances related to the sale and consumption of alcoholic beverages in adult cabarets begets criminal behavior and tends to create undesirable community conditions. The City finds that nudity and the depiction thereof, coupled with alcohol in public places, encourages undesirable behavior and is not in the interest of public health, safety, and welfare. The City has chosen to avoid the disturbances associated with mixing alcohol and nude dancing by means of a reasonable restriction upon sexually oriented businesses in relation to the consumption of alcohol on premise.

3. 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.
4. Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the county's rationale for this article, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, 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 Ordinance are reasonably believed to be relevant to said secondary effects; ~~and~~

WHEREAS, following a review of the above referenced information and balancing the respective interests of First Amendment freedoms of protected speech and expression and the protection of the public's interest in the health, safety and welfare, the City of Mableton, Georgia hereby finds that the Ordinance herein strikes an appropriate balance of these interests; 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 12. 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 6—BUSINESS LICENSE AND OCCUPATION TAX~~

ARTICLE 7 - SPECIAL LICENSE AND REGULATORY FEES

DIVISION 1 – GENERALY

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/business license office](#) 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~~ planning and zoning 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 and Douglas 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 45 - 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~~business license office and obtains a permit and registers as a door-to-door salesperson. The ~~business license office~~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~~business license office 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~~business license office 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 within city limits~~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 city limits~~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~~within city limits on public property without a license for public property vending is unlawful.
- (b) Vending activities ~~in the unincorporated area of the city~~within city limits 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 ~~in a retail commercial district-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. A licensee must be a resident of the state of Georgia and must work on-site a minimum of one day per week.

Massage Therapist means a person licensed by the State of Georgia as a licensed massage therapist.

Commented [TG1]: Did Cobb remove this language in latest ordinance?

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.

Massage Therapy or Massage means the application of a system of structured touch, pressure, movement, and holding to the soft tissue of the body by a state licensed massage therapist in which the primary intent is to enhance or restore health and well-being. Such term includes complementary methods including without limitation, lubricants, salt scrubs, or other topical preparations.

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 city council, business-city business license division as provided in section 56-90.
- (c) The decision of the business license supervisor shall be final unless appealed to the city council within 20 days of the adverse decision or ruling.
- (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.
 - (4) It reasonably appears another person is using the applicant as a guise, strawman or "dummy" to obtain a license and such other person shall not be able to meet the qualifications of an applicant.
- (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.

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.

¹State law reference(s)—Amusement Ride Safety Act, O.C.G.A. § 34-12-1 et seq.

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.

²State law reference(s)—Pawnbrokers, O.C.G.A. § 44-12-130 et seq.

- (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 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.

³State law reference(s)—Authority to license, tax and regulate billiard rooms, O.C.G.A. § 43-8-2.

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.

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, [the county police department, or any other regulatory unit of the city or county](#) shall have the right to inspect the place of business and records, [not protected by HIPAA](#), 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 [owners](#), licensees, [or managers](#) 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, upon hire and prior to the employees first day of employment at the licensed health spa 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 prior to the employee's first day of employment at the licensed health spa.

Sec. 7.7.10.4. Record of treatments.

It shall be the duty of any person operating a business granted a license under this division to maintain in English, correct and accurate records at the place of business of the names, telephone numbers, and addresses of the persons receiving treatment at such establishment, the type of treatment administered, cost of treatment and the name of the person of the establishment administering such treatment. The record of treatment must be completed prior to providing the service. ~~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. Entries required under this section shall be maintained for three (3) years.

Sec. 7.7.10.5. Hours and place of operation.

The owner, licensee, or manager of the health spa shall provide in writing to the city Business License Division the hours of operation of the health spa. No licensee-business operating 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 person in a Health Spa shall conduct the practice of massage therapy without a valid Massage Therapy license from the State of Georgia.

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. Name to include preferred name, chosen name, and aliases. Current business, residential, and mailing addresses for the applicant.
- (2) Name, to include preferred name, chosen name, and aliases, 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.

- (4) A diagram of the establishment's floorplan must be submitted with the application. Floorplan should include the location of all rooms and equipment located within.

Sec. 7.7.10.7.0 Time limit to begin business in licensed establishment; forfeiture for nonuse.

- (a) All holders of licenses under this division 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 division 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 massage therapy may be conducted until such time as the business is open to the public.
- (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 then, by virtue of such failure to operate, be canceled without the necessity of any further action of the city.

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 permanent 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) ~~(a)~~—At no time will any person reside or lodge either temporarily or permanently in the health spa establishment. Evidence that premises are used for residential or lodging purposes may include, but is not limited to:
- a. ~~Beds or mattresses, other than professional massage tables;~~
 - b. ~~Bedding, such as pillows, blankets, and sheets, other than those used for professional massage tables;~~
 - c. ~~Sleepwear, including pajamas, nightgowns, and lingerie;~~
 - d. ~~Groceries, that require cooking, such as raw meats, poultry, fish, and grains;~~
 - e. ~~Cookware, utensils, and cooking equipment;~~
 - f. ~~Clothing in an amount that exceeds one change of clothing for each employee or independent contractor who is present on the premises; or~~
 - g. ~~Personal grooming and hygiene items.~~
- (b) 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.
- (c) ~~(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 or any other regulatory unit of the city or county to ensure compliance with this article.
- (d) ~~(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.~~
- (e) ~~(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)

(g)

~~(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.~~

(h) ~~(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.

(m) Model notice regarding human trafficking notice must be displayed in all public bathrooms, and near public entrances or a location where the signage is visible, as required by State law.

(ml) Foot massages must be performed in chairs in an open space. No foot massage should be conducted in a room behind a closed door or out-of-view. Patrons must be appropriately clothed when receiving foot massage services.

(n) Camera systems monitoring the establishment must have onsite access which allows the viewing of camera footage from within the establishment. There must be cameras at all points of entry and exit.

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) The licensee or work permit holder has recklessly allowed three or more violations of this article within a 12-month period.
- (13) Any violation of this chapter. 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.

(14) 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.

(15) The applicant has demonstrated lack of knowledge of the county 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.

~~(1216)~~ 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. Work permit applicants must provide a current business address, residential, and mailing address for the application. Any employees who work at more than one establishment shall obtain a separate work permit for each establishment and must have their work permit prior to working at any health spa location within the city of Mableton. 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 and a government issued ID that matches the name on the Work Permit.
- (d) No applicant for a massage/health spa establishment work permit shall work at a massage establishment or a health spa establishment in the county until the applicant receives, the establishment posts, and the operator has added the new permit holder to the list of employees and submitted same to the city.. A receipt issued by the city is not a valid massage/health spa establishment work permit and does not authorize the person to work in a massage establishment or health spa establishment.
- (e) It shall be unlawful for an employee whose work permit has been suspended or revoked to refuse to return the work permit to the Cobb County Police Department Regulatory or designee or to alter, conceal, deface, or destroy the work permit.

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, 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

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

⁴State law reference(s)—Dealers in precious metals and gems, O.C.G.A. § 43-37-1 et seq.

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) *City/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.

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- (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 [City of Mableton's noise ordinance, 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 required under the city code, ~~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 the minimum requirements of all city codes ~~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 ~~5-906-90~~.

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).

ARTICLE 8 - INSURERS

DIVISION 1 – GENERALY

Sec. 7.8.1.1 - Insurers license fees.

- (a) There is hereby levied for the year 2026 and for each year thereafter an annual license fee upon each insurer doing business within the City of Mableton in an amount of \$100.00. For each separate business location in excess of one not covered by section 7.8.1.2, which is operating on behalf of such insurers within the City of Mableton, there is hereby levied a license fee in the amount of \$100.00. For the purposes of this ordinance, the term "insurer" means a company which is authorized to transact business in any of the classes of insurance designated in O.C.G.A. § 33-3-5.
- (b) The license fee amounts levied under this section are derived from the population fee schedule contained in O.C.G.A. § 33-8-8(b)(1). The exact dollar amount levied is based on the 2020 official census report for the City of Mableton, Georgia (40,834 citizens). Fees for subsequent years may change in accordance with subsequent population census reports for the City of Mableton in order to properly reflect the statutory fee owed.

Sec. 7.8.1.2 - License fees for insurers insuring certain risks at additional business locations.

- (a) For each separate business location, not otherwise subject to a license fee hereunder, operated and maintained by a business organization which is engaged in the business of lending money or transacting sales involving term financing and in connection with such loans or sales offers, solicits or takes application for insurance through a licensed agent of an insurer for insurance said insurer shall pay an additional license fee of \$35.00 per location for the year 2026 and for each year thereafter.
- (b) The additional license fee levied under this section is derived from O.C.G.A. § 33-8-8(b)(2); the greater of \$10.00 or 35 percent of the amount due under O.C.G.A. § 33-8-8(b)(1). Such additional fees for subsequent years may change with subsequent population census reports for the City of Mableton in order to properly reflect the statutory amount owed under O.C.G.A. § 33-8-8(b)(2).

Sec. 7.8.1.3 - Insurers agency license fees; independent insurance agencies, brokers, etc., not otherwise licensed.

There is hereby levied for the year 2026 and for each year thereafter an annual license fee upon independent agencies and brokers for each separate business location from which an insurance business is conducted and which is not subject to the company license fee imposed by section 7.8.1.1 hereof in the amount of \$100.00 for each such location within the City of Mableton, Georgia.

Sec. 7.8.1.4 - Gross premiums tax imposed on life insurers.

There is hereby levied for the year 2026 and for each year thereafter an annual tax based solely upon gross direct premiums upon each insurer writing life, accident and sickness insurance within the State of Georgia in an amount equal to the one percent of the gross direct

premiums received during the preceding calendar year in accordance with O.C.G.A. § 33-8-8.1. Gross direct premiums as used in this section shall mean gross direct premiums as used in O.C.G.A. § 33-8-4. The premium tax levied by this section is in addition to the license fees imposed by section 7.8.1.1 of this article.

Sec. 7.8.1.5 - Gross premiums, all other insurers.

There is hereby levied for the year 2026 and for each year thereafter an annual tax based solely upon gross direct premiums upon each insurer, other than an insurer transacting business in the class of insurance designated in subsection 1 of O.C.G.A. § 33-8-5, doing business within the State of Georgia in an amount equal to two and one-half percent of the gross direct premiums received during the preceding calendar year in accordance with O.C.G.A. § 33-8-2. Gross direct premiums as used in the section shall mean gross direct premiums as used in O.C.G.A. § 33-8-4. The premium tax levied by this section is in addition to the license fees imposed by section 7.8.1.1 of this article.

Sec. 7.8.1.6 - Due date for license fees.

License fees imposed in sections 7.8.1.1, 7.8.1.2 and 7.8.1.3 of this article shall be due and payable on the first day of January 2026 and on the first date of each subsequent year.

Section 32. 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 43. 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 54. 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 65. 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 76. 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 87. The effective date of this Ordinance shall be ~~June 1, 2025~~the date of its adoption by the City Council, 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

Dr. Michael Owens, Mayor

APPROVAL AS TO FORM:

Emilia Walker-Ashby, Interim City Attorney



AGENDA ITEM MEMORANDUM

MEETING OF: August 13, 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 is the second reading of the subdivision ordinance. The subdivision ordinance states the procedure for recording a final plat, as well as the language used for public infrastructure to be dedicated to the City of Mableton.

BUDGETED/FINANCIAL IMPACT – FUND:

RECOMMENDATION: Staff recommend adoption of the ordinance.

ATTACHMENTS:

1. Subdivision Regulation Ordinance Rev. 8.13.25

**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 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.

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 not prioritized. 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 or his/her designee.

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.

Property interest means any ownership of real property, direct or indirect, and includes any percentage of ownership less than total ownership.

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 conform 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 are produced that contain less than 80,000 square feet each

have 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 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. 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.

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 unless it is 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, , 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 rendered, 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.
- (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, the subdivider shall prepare a final plat. No building permits shall be issued before approval of the final plat.

(4) The subdivider shall submit final plat for health department approval if septic tanks are to be used for sewerage disposal.

(5) The subdivider shall submit final plat and the platting fee to the subdivision administrator for approval on the basis of the approved construction plans. Approval of the final plat does not constitute final acceptance of the improvements.

(6) The subdivider shall have the final plat recorded after the necessary signatures have been placed upon it.

(7) The subdivider may begin to sell lots.

(8) The subdivider shall 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, these plans are 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 applicant shall record the final plat when approved and shall have copies reproduced for the various utilities and government departments.

(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, whichever is greater

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) For use when a public dedication is involved:

OWNER'S CERTIFICATE AND DEDICATION

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 to Cobb County, Georgia all water mains, water lines, sanitary sewer lines and the like to function as part of the Cobb County Water System and further convey all streets and rights-of-way and major stormwater easements indicated as stormwater structures located in the right-of-way, shown hereon in fee simple to the City of Mableton 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. Drainage easements and stormwater ponds are dedicated to allow water to flow and are to be maintained by the owner of the property. In consideration of the approval of this final plat and other valuable considerations, I further release and hold harmless the City of Mableton

and Cobb County 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 liens, 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 and Cobb County 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, streets, culverts, curbs, or sidewalks, 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.

Owner's name: _____

Owner's address: _____

Date: _____

(ii) For use when for public dedication and private streets are involved:

OWNER'S CERTIFICATE AND DEDICATION

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, with the express exception of the streets which are shown to remain private, I do hereby convey to Cobb County, Georgia all water mains, water lines, sanitary sewer lines, and the like to function as part of the Cobb County Water System and further dedicate to the use of the City of Mableton and the public forever, with the express exception of any detention or retention pond or ponds, all alleys, parks, watercourses, drains, easements, and public places hereon shown for the purposes and considerations herein expressed. Drainage easements are dedicated to allow water to flow and are to be maintained by the owner of the property. In consideration of the approval of this final plat and other valuable considerations, I further release and hold harmless the City of Mableton and Cobb County 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 liens, 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.

Owner's name: _____

Owner's address: _____

Date: _____

(iii) For use when no public dedication is involved:

OWNER'S CERTIFICATE AND DEDICATION

I hereby certify that I own fee simple title to the property 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, In consideration of the approval of this final plat and other valuable considerations, I release and hold harmless the City of Mableton and Cobb County from any and all claims, damages, or demands arising: on account of the design, construction, and maintenance of the property shown hereon. 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.

Owner's name: _____

Owner's address: _____

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 .

Community Development Department Date

City Engineer Date

Mayor, City of Mableton

(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

This plat, having been submitted to Cobb County Water System and having been found to comply with Cobb County Development Standards, is approved for recording.

(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 - Construction of detention and retention ponds.

The following construction standards shall apply to any and all detention or retention ponds constructed within the city:

- (1) All retention and detention ponds which exceed four (4) feet in depth, as measured vertically from the lowest point of the pond to the lowest point on the top of the dam, berm, or dike of the structure, shall be fenced with a chain link fence or privacy fence not less than six (6) feet in height. The type of fence shall be specified by the city manager at or before approval of the final subdivision plat.
- (2) Posts for such fences shall be set on centers not less than ten (10) feet apart.
- (3) All such fences shall have a minimum of one (1) ten-foot-wide gate for access, which gate shall remain locked at all times.
- (4) Such fences shall be installed completely around the pond and any dike, dam, or berm forming a portion of the pond. No fence shall be installed across the slope of a dam, dike, or berm.
- (5) An easement across private property to access the retention or detention pond shall be provided by each owner of property abutting or adjoining the pond.
- (6) All retention and detention ponds and ponds shall not be dedicated to the city, but shall be constructed and maintained by the owner or owners on whose property or properties the ponds exist. except as otherwise provided for by the state and federal laws and regulations.
- (7) Notwithstanding anything to the contrary contained herein, should the owner of stormwater management systems and facilities fail to maintain such stormwater

management systems and facilities, the city may perform such maintenance as is necessary in the public interest to keep the systems and facilities functional. In the case of residential subdivisions where title has not been assumed by the homeowner's association, or if there is no homeowner's association in existence, or when there is a homeowner's association which has title to the stormwater management systems and facilities but has failed to adequately maintain, the cost of the city's maintenance activities shall be a special assessment against the improved properties authorized and constructed under the land disturbance permit issued for the development for which the stormwater management system infrastructure or system was installed to control or manage post-development stormwater runoff associated with such development. For the purposes of this subsection, "development" shall have the same definition that is has under the zoning ordinance of Mableton, Georgia. The city may place reasonable conditions upon such work, such as requiring temporary or permanent access and maintenance easements.

Sec. 8.5.3.5 - 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. 8.5.3.6 - 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. 8.5.3.7 - 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. 8.5.3.8 - 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. 8.5.3.9 - 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. 8.5.3.10 - 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 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 on the exterior of the perimeter of the subdivision, 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 system requirements*

Sec. 8.5.3.11 - 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. 8.5.3.12- 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. Drainage easements 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 erosion and sediment control measures may be required to protect the area until a vegetative cover is obtained.

Sec. 8.5.3.13 - 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. 8.5.3.14 - 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 except where the subdivider produces evidence satisfactory to the director of community development or his designee of the need for such alleys. Alleys in residential subdivisions should be encouraged to allow rear entry units where appropriate.

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 county 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 and/or against the improved properties authorized and constructed under the land disturbance permit issued for the development for which

the roads were constructed. For the purposes of this subsection, "development" shall have the same definition that is has under the zoning ordinance of Mableton, Georgia. 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,gutters and sidewalks

(a) Developers of subdivisions abutting and located on existing city streets and roads shall be required to provide curbing and guttering and sidewalks 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
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(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
-----------	--------------------

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 applicant 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 county 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: August 13, 2025

DEPARTMENT: [DEPARTMENT]

ISSUE/AGENDA ITEM TITLE: South Cobb Library Update - Jo Lahmon, South Cobb Library Region Manager

BACKGROUND/SUMMARY:

BUDGETED/FINANCIAL IMPACT – FUND:

RECOMMENDATION:

ATTACHMENTS:

1. SouthCobbLibrary Presentation

So... About The Library



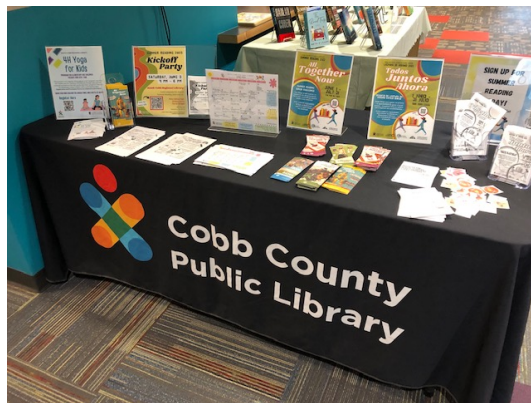
**Jo Lahmon
Regional Manager
Cobb County Public Library
South Cobb Region**



**Nakisha McNeal
Adult Services Librarian I**



Summer Recap



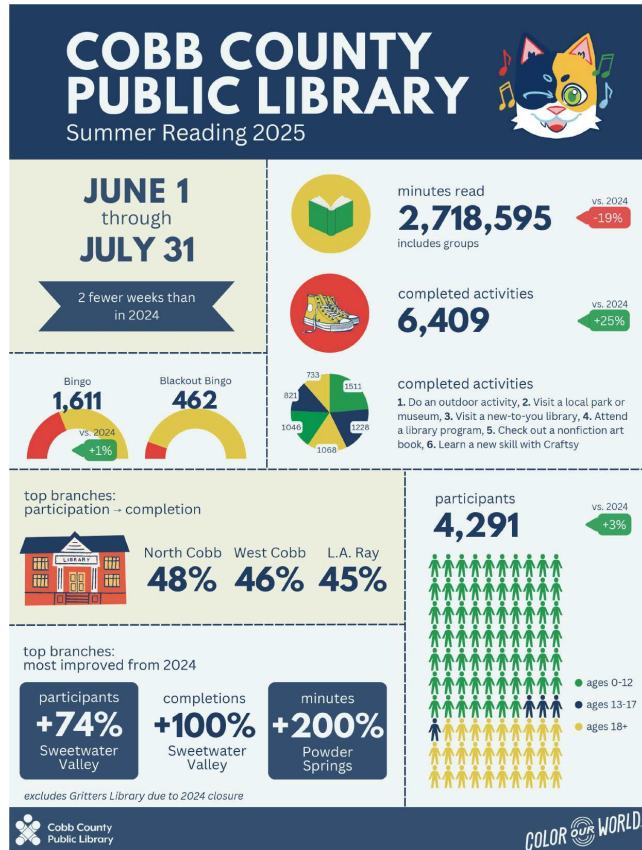
Summer Reading Program 2025



1,500 people attended the summer reading kickoff party held at Switzer.



Summer Reading Program 2025



The total reported reading minutes for the South Cobb Region Was 499,117.

Age	Readers	% Change '24-'25	Completions	% Change '24-'25	Activities	% Change '24-'25	Minutes	% Change '24-'25
0-12	2,858	-3%	957	-9%	4,268	+23%	1,317,432	-30%
13-17	171	-26%	54	-41%	244	-14%	95,003	-45%
18+	1,264	+30%	547	+16%	1,897	+38%	1,259,547	+5%

	Total Participants	% Change '24-'25	Total Completions	% Change '24-'25	Total Logged Minutes	% Change '24-'25
Bookmobile	17	-15%	3	-62.5%	13,934	-15%
East Cobb	696	-13%	223	-25%	424,847	-35%
Gritters	461	+620%	116	+383%	150,707	+423%
Kemp	168	+31%	74	+35%	86,404	-30%
LA Ray	61	+17%	28	+27%	69,232	+42%
Mt. View	739	-23%	289	-21%	516,444	-21%
North Cobb	391	+3%	187	+5%	230,092	-22%
Powder Springs	148	+14%	30	+7%	156,809	+233%
Sewell Mill	198	-11%	84	+38%	123,900	+9%
Sibley	60	-12%	24	-11%	39,855	+3%
South Cobb	294	-10%	81	-6%	148,872	-58%
Stratton	88	+21%	35	-13%	47,383	-34%
Sweetwater	33	+74%	12	+100%	30,793	+200%
Switzer	359	-4%	109	-26%	158,488	-36%
Vinings	134	+1%	59	+4%	93,411	-10%
West Cobb	444	+12%	204	-1%	378,811	-15%
Library Totals	4,291		1,631		2,671,982	

Happy Helpings



Summer Food Service Program

Cobb County Public Library hosted its annual summer food service program at three branches (North Cobb Regional Library, South Cobb Regional Library, and Gritters Library).

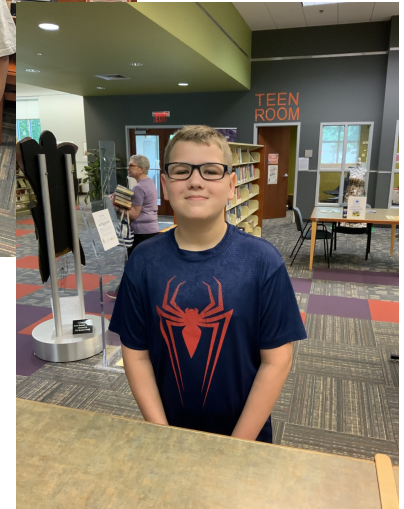
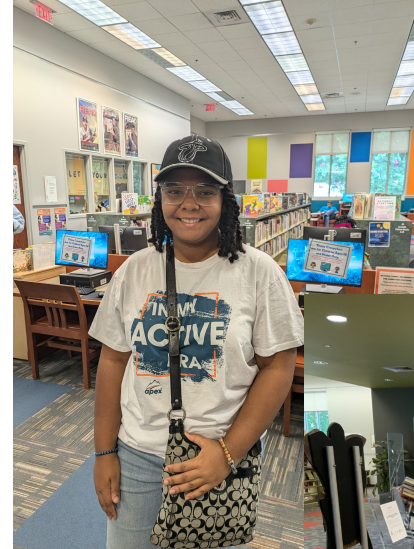
South Cobb served breakfast and lunch until the end of July. In June, 142 were served breakfast and 296 were served lunch.



Vision to Learn

Vision To Learn mobile clinics at Cobb County libraries in June through mid-July provided more than 400 eye exams, resulting in glasses for over 300 students, all at no cost for the children and their families. The professional eyecare teams of VTL have worked through about two-thirds of the exam appointments at the nine host Cobb library locations on the 2025 summer break calendar.

About 3,000 children have been given exams by Vision To Learn through the Cobb Library partnership since 2018, the year Cobb libraries became the first library system in Georgia to host Vision To Learn. A national nonprofit, VTL partners with school systems to provide eyecare on-site at schools. Marietta City Schools has been a local VTL partner since 2021.



Updates & Info



Cobb County Schools & the Library



PASS Access/Account

Cobb County Public Library and Cobb County Public Schools, Marietta City Schools, and Georgia Cyber Academy have partnered to provide Cobb students public library access with their student number.

Library PASS provides students with convenient access to valuable resources, promotes lifelong learning, and strengthens the connection between schools and libraries.

Cobb County Schools & the Library

Educator Cards

The educator card is a special card that entitles educators to borrow materials for use in the classroom. It does not replace the personal library card. The following educators are eligible to apply for a Cobb County Public Library Educator Card at any Cobb County library location.

Educators from:

Licensed childcare centers

Preschools

K-12, including public, private, and parochial schools

Cobb homeschool parents and guardians

Educators who live outside Cobb County but teach in Cobb County.





Book Sale

Cancelled

Cobb County Public Library has announced the cancellation of its Fall 2025 Book Sale, traditionally held at the Cobb Civic Center during the month of October. The decision was made due to limited storage.

The library typically hosts two major book sales each year—one in the spring and one in the fall. These sales serve as key fundraisers for the library, with proceeds contributing directly to the library's operating budget.





Book Sale

Cobb County Public Library remains committed to offering book sale opportunities in other formats.

In response, the library has expanded its in-house branch book sales and reduced prices to match those of our larger sale events, allowing patrons to shop for books at their local library branch in a more intimate setting.



Budget Update!

Approved!

\$3M commitment from the county has
been included in the FY26 Capital
budget.

Project start date
TBA



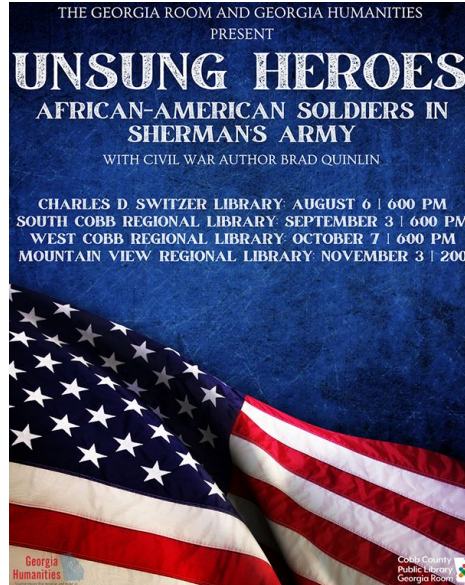
What's Happening



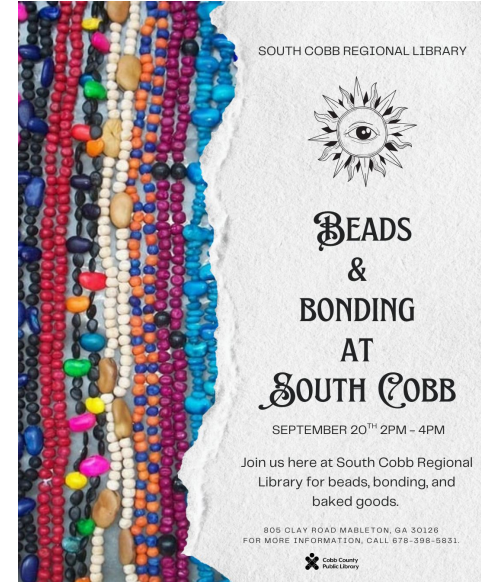
Events & Programs



August 15th



September 3rd



September 20th



Events & Programs

BELLY DANCE SOUTH COBB REGIONAL LIBRARY

FREE CLASSES MONDAYS 5PM-6PM



● AUGUST
4TH
11TH
18TH
25TH

• SHIMMY • UNDULATE • HAVE FUN

FOR MORE INFORMATION, CALL 678-398-5831

805 CLAY ROAD MABLETON GA 30126

August 18th & 25th



American Red Cross

Give blood.
Every 2 seconds someone in the U.S. needs blood.
American Red Cross

Blood Drive

September 22nd



More Than Sad: Suicide Prevention for Parents

Thursday, October 23
11:00 am - 12:00 pm

South Cobb Regional Library
805 Clay Rd.
Mableton, GA 30126

The *More Than Sad* family of programs has taught over a million students, parents and educators how to be smart about mental health.

For More Information
Call 678-398-5831 or
Visit Cobbcounty.gov/Library

Parents will learn how to recognize signs of depression and other mental health problems, initiate a conversation with their child, and get him or her help.



Cobb County Public Library

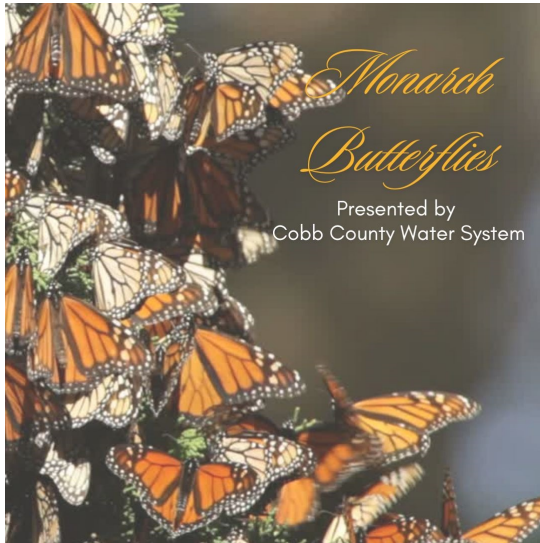
afsp.org/MoreThanSad



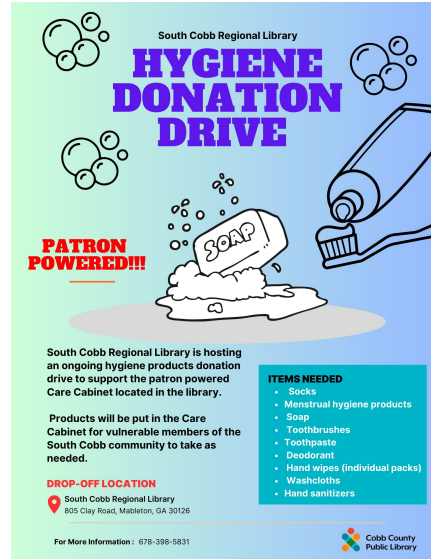
American Foundation for Suicide Prevention

October 23rd

Events & Programs



October 29th



Ongoing



November 15th

Lastly...



Remember....

Outreach
Community Engagement
Provide access to resources
Education



SUPPORT YOUR LOCAL LIBRARY!!!



Questions Or Comments





AGENDA ITEM MEMORANDUM

MEETING OF: August 13, 2025

DEPARTMENT: [DEPARTMENT]

ISSUE/AGENDA ITEM TITLE: Appointment of the Human Resources Director - Mayor Owens

BACKGROUND/SUMMARY: The City of Mableton is excited to welcome Jeanne Pope as our new Director of Human Resources. Ms. Pope brings over 15 years of HR leadership experience across municipal government, healthcare, and the private sector. She most recently served as HR Director for the City of Hamilton, Ohio, where she led award-winning workforce initiatives and managed a \$1.2M budget. Jeanne holds advanced HR certifications and degrees from Ashford University and Xavier University. Known for her collaborative leadership and commitment to employee development, she believes that excellence is a benchmark to which we should all aspire.

BUDGETED/FINANCIAL IMPACT – FUND:

RECOMMENDATION:

ATTACHMENTS: None



AGENDA ITEM MEMORANDUM

MEETING OF: August 13, 2025

DEPARTMENT: [DEPARTMENT]

ISSUE/AGENDA ITEM TITLE: Approval to allow the Mayor to sign the stormwater maintenance agreement for the Leydenview subdivision. Property is located in Land Lot 338, 18th District, Cobb County. PIN 18038800010

BACKGROUND/SUMMARY: This is a townhouse development which was approved and developed under Cobb County regulations. Infrastructure has been installed and is in the review process with Cobb County Water, Fire and DOT. The stormwater maintenance agreement is a requirement of the final plat process and a requirement of the intergovernmental agreement with Cobb County.

BUDGETED/FINANCIAL IMPACT – FUND: Not applicable

RECOMMENDATION: Recommend approval of the final plat, subject to review and approval from Cobb County DOT, Cobb County Water System and Cobb County Fire.

ATTACHMENTS:

1. 22043 Leydenview - Final Plat
2. Stormwater Maintenance Agreement - Leydenview

SURVEYOR:

GUNNIN LAND SURVEYING, LLC
141 RAILROAD STREET, SUITE 116
CANTON, GEORGIA, 30114
PHONE: 678.880.7502

ENGINEER:

CRESTLINE ENGINEERING
2000 S. DAIRY ASHWOOD ROAD, SUITE 200
HOUSTON, TEXAS 77077
PHONE: 770.868.7591

OWNER/DEVELOPER:

ASHTON ATLANTA RESIDENTIAL, LLC
3820 MANSSELL ROAD, SUITE 300
ALPHARETTA, GEORGIA 30022

24HR CONTACT:

MR. GREG HASTY
PHONE: 404.557.9781

SITE DATA

TOTAL SITE AREA 12.217 ACRES
TOTAL NUMBER OF LOTS 93
SITE DENSITY 7.61 UNITS/ACRE
TOTAL GUEST PARKING SPACES 50
ZONING FST (PER Z-6-2021)
MAX IMPERVIOUS COVERAGE 45%

BMP NOTE:

IT IS THE OWNERS/DEVELOPERS/BUILDERS RESPONSIBILITY TO ESTABLISH AND MAINTAIN ADEQUATE BEST MANAGEMENT PRACTICES (BMPs) FOR EROSION CONTROL UPON COMMENCEMENT OF ANY LAND DISTURBING ACTIVITIES. ALL LAND DISTURBING ACTIVITIES ARE SUBJECT TO INSPECTION BY THE COBB COUNTY COMMUNITY DEVELOPMENT AGENCY TO DETERMINE COMPLIANCE WITH THE EROSION/SEDIMENT CONTROL ORDINANCE. FOR ANY PROJECT WITH A DISTURBED AREA OF 10,000 OR LARGER, A NOTICE OF INTENT (NOI) MUST BE FILLED WITH THE GEORGIA ENVIRONMENTAL PROTECTION DIVISION (EPD) AND THE LOCAL ISSUING AUTHORITY (COBB COUNTY).

COBB COUNTY FIRE NOTES:

ALL ACCESS ROADS SHALL MEET THE AASHTO DESIGN MANUAL LIVE LOAD STANDARD HS20 (75,000 LBS.).

FIRE LAND REQUIREMENTS, WHERE DESIGNATED ON THE PLANS:

- BOTH SIDES OF SIGNS SHALL READ: "NO PARKING, FIRE LANE"
- LETTERS SHALL NOT BE LESS THAN 2 INCHES IN HEIGHT
- ONE SIGN SHALL BE POSTED AT THE BEGINNING OF THE FIRE LANE AND ONE AT THE END OF THE FIRE LANE WITH SIGNS NOT MORE THAN 100 FEET APART
- SIGNS SHALL NOT BE MORE THAN 4 FEET FROM THE EDGE OF CURB AND SHALL BE VISIBLE FROM BOTH DIRECTIONS OF DRIVING SURFACE
- HEIGHT OF SIGN FACE AS MEASURED FROM THE BOTTOM OF THE SIGN SHALL BE A MINIMUM OF 4 FEET AND A MAXIMUM OF 7 FEET FROM GROUND LEVEL
- LANES 20 TO 28 FEET WIDE, SIGNS AND MARKINGS WILL BE REQUIRED ON BOTH SIDES
- LANES 29 TO 237 FEET WIDE, SIGNS AND MARKINGS WILL BE REQUIRED ON ONE SIDE
- LANES IN EXCESS OF 37 FEET WIDE REQUIRE NO SIGNS OR MARKINGS REQUIRED
- CURBING OR LINEAGE DELINEATING FIRE LANES SHALL BE PAINTED RED AND TOP FACE OF THE CURB SHALL BE PAINTED
- THE LIFE SAFETY INSPECTOR WILL MAKE FINAL DETERMINATION OF FIRE LANES BEFORE FINAL INSPECTION IS MADE
- ONE AND TWO FAMILY RESIDENTIAL OPTIONS TO ABOVE SEE 11-231. SEE COUNTY CODE SECTION 118-231.

ALL FIRE LINES SHALL BE DUCTILE IRON CONFORMING TO ANSI A21.51 OR AWWA C151 (CCDS 503.01.02). FIRE LINES IN SINGLE FAMILY RESIDENTIAL THAT SERVE MORE THAN 1 HYDRANT OR ARE MORE THAN 500 FEET LONG SHALL BE MINIMUM OF 8-INCH DIP, OTHERWISE SINGLE FAMILY CAN BE 6-INCH DIP.

NO GATE WILL BE INSTALLED WITHOUT FIRE MARSHAL APPROVAL.

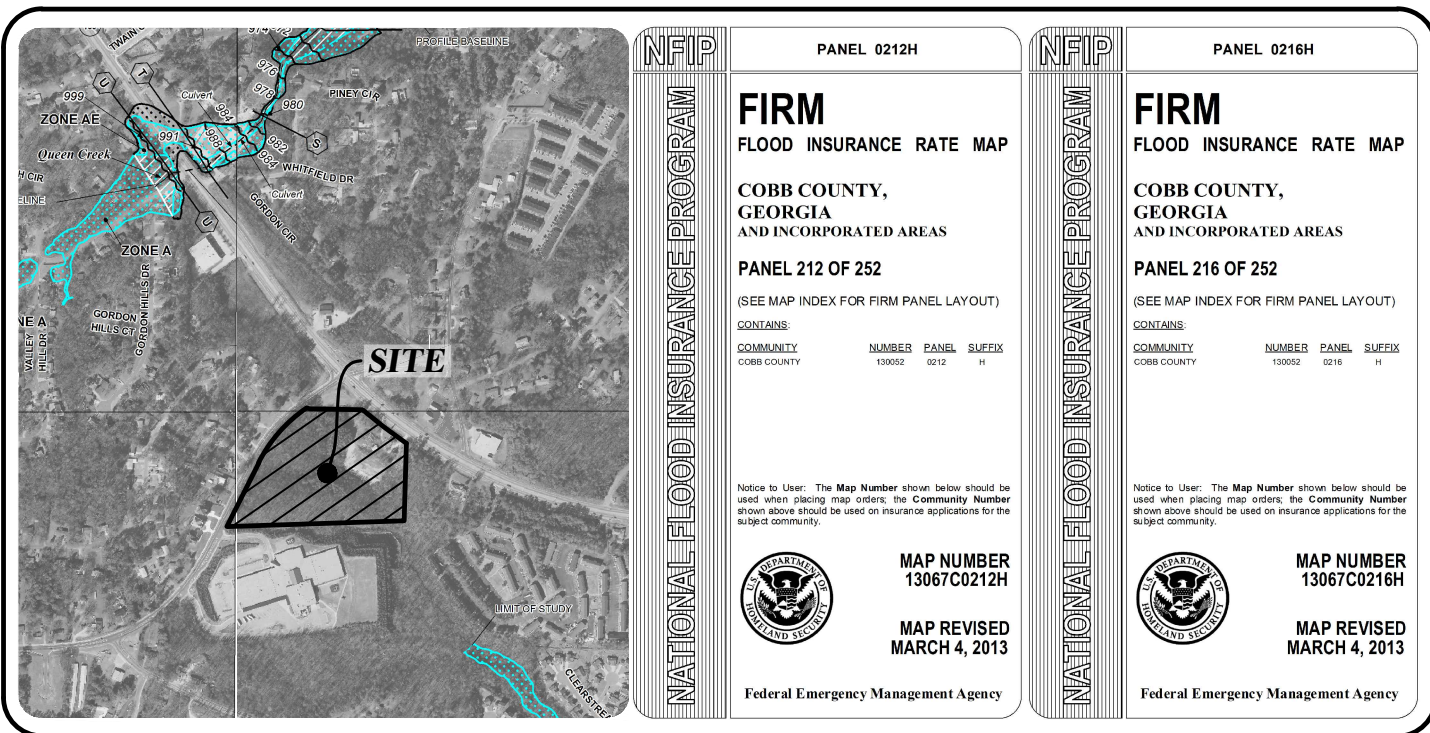
ANY STAIR OR MEANS OF EGRESS COMPONENT SHOWN ON THESE PLANS IS OUTSIDE OF THE LAND DISTURBANCE PERMIT REVIEW PROCESS. ALL STAIRS AND OTHER MEANS OF EGRESS COMPONENT MUST BE SUBMITTED FOR REVIEW AND APPROVAL BY THE FIRE MARSHAL'S OFFICE PRIOR TO CONSTRUCTION.

ALL COBB COUNTY FIRE MARSHAL OFFICE INSPECTIONS ARE REQUIRED TO BE SCHEDULED ONLINE AT WWW.COBBFMO.ORG

SITES WITH DEMO/CONSTRUCTION:

- MAINTAIN ACCESS FOR FIRE APPARATUS TO ALL BUILDINGS UNDER CONSTRUCTION INCLUDING TIMES OF RAIN OR MUD. ROADS SHALL BE MAINTAINED AND MINIMALLY PROVIDED WITH CRUSHED STONE BASE AT 20" WIDE
- THE OWNER/DEVELOPER SHALL DESIGNATE A FIRE PREVENTION PROGRAM SUPERINTENDENT IN ACCORDANCE WITH IFG 3308 AND NFPA 241. THE OWNER/DEVELOPER SHALL NOTIFY THE FMO PRIOR TO THE START OF CONSTRUCTION WITH THE NAME AND CONTACT INFORMATION FOR THE SUPERINTENDENT. THE SUPERINTENDENT SHALL BE FAMILIAR WITH THE REQUIREMENTS OF IFG 3308 AND NFPA 241 AS ADOPTED BY THE STATE OF GEORGIA.
- FIRE HYDRANTS ARE REQUIRED TO BE INSTALLED, TESTED AND FUNCTIONAL PRIOR TO COMBUSTIBLE MATERIALS BEING BROUGHT ON SITE.

SITE PLAN DOES NOT INCLUDE TANKS. TANKS SHALL BE PERMITTED SEPARATELY AT CCFMO. CALL 770-528-8310 TO SCHEDULE AN APPOINTMENT FOR PLAN REVIEW.



FLOOD HAZARD NOTE

BY GRAPHIC PLOTTING ONLY, NO PORTION OF THIS SITE ARE SHOWN TO BE WITHIN THE LIMITS OF A 100 YR. FLOOD HAZARD AREA AS PER F.I.R.M. COBB COUNTY, GEORGIA AND INCORPORATED AREAS, COMMUNITY PANEL NUMBERS 13067C0212H AND 13067C0216H, BOTH DATED MARCH 4, 2013.

OWNER'S CERTIFICATE AND DEDICATION:

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 TO COBB COUNTY, GEORGIA ALL WATER MAINS, WATER LINES, SANITARY SEWER LINES AND THE LIKE TO FUNCTION AS PART OF THE COBB COUNTY WATER SYSTEM AND FURTHER CONVEY ALL STREETS AND RIGHTS-OF-WAY AND MAJOR STORMWATER EASEMENTS INDICATED AS STORMWATER STRUCTURES TO THE FIRST JUNCTION BOX OR WHERE WATER COMBINES WITH A PRIVATE SYSTEM, SHOWN HEREON IN FEE SIMPLE TO THE CITY OF MABLETON 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. DRAINAGE EASEMENTS AND STORMWATER PONDS ARE DEDICATED TO ALLOW WATER TO FLOW AND ARE TO BE MAINTAINED BY THE OWNER OF THE PROPERTY. IN CONSIDERATION OF THE APPROVAL OF THIS FINAL PLAT AND OTHER VALUABLE CONSIDERATIONS, I FURTHER RELEASE AND HOLD HARMLESS THE CITY OF MABLETON AND COBB COUNTY 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 LIENS, 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 AND COBB COUNTY 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, STREETS, CULVERTS, CURBS, OR SIDEWALKS, THE CHANGING OF COURSES OF STREAMS AND RIVERS, FLOODING FROM NATURAL CREEKS AND RIVERS, SURFACE WATERS, AND ANY OTHER MATTER WHATSOEVER. 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.

Gregory D. Hasty 8-26-24
DATE

Gregory D. Hasty
VP Land Dev Ashton Woods
PRINT NAME

CERTIFICATE OF FINAL SUBDIVISION PLAT APPROVAL

THIS PLAT HAVING BEEN SUBMITTED TO COBB COUNTY AND HAVING BEEN FOUND TO COMPLY WITH THE MASTER PLAN, THE COBB COUNTY SUBDIVISION REGULATIONS AND THE COBB COUNTY ZONING REGULATIONS IS APPROVED SUBJECT TO THE INSTALLATION AND DEDICATION OF ALL STREETS, UTILITIES, EASEMENTS AND OTHER IMPROVEMENTS IN ACCORDANCE WITH THE STANDARD DESIGN SPECIFICATIONS.

COBB COUNTY WATER SYSTEM DATE

ZONING DIVISION DATE

DEVELOPMENT & INSPECTION DIVISION DATE

COBB COUNTY BOARD OF COMMISSIONERS DATE

CERTIFICATE OF FINAL SUBDIVISION PLAT APPROVAL

THIS PLAT, HAVING BEEN SUBMITTED TO 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 THE 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. NOTE THAT THE WATER QUALITY AND DETENTION FACILITY IS EXCLUDED FROM THIS DEDICATION. ALL STORMWATER MANAGEMENT INFRASTRUCTURE ARE PRIVATE AND NOT DEDICATED TO THE CITY OR COUNTY.

COMMUNITY DEVELOPMENT DEPARTMENT DATE

CITY ENGINEER DATE

CITY ENGINEER DATE

STATEMENT OF LIMITATIONS

THE UNDERSIGNED ASSUMES NO RESPONSIBILITY OR LIABILITY FOR STATEMENTS OR CERTIFICATIONS MADE OR IMPLIED ON THIS DOCUMENT OR PLAT EXCEPT THOSE SPECIFICALLY DEFINED BY THE LAWS OF THE STATE OF GEORGIA AND THE STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AS BEING WITHIN THE SCOPE OF TRAINING, EDUCATION, EXPERIENCE AND EXPERTISE NECESSARY FOR PRACTICE AS A REGISTERED LAND SURVEYOR.

Albert W. Gramling, Jr. 08.16.24
ALBERT W. GRAMLING, C.E. RES. NO. 2983 DATE

SURVEYOR'S CERTIFICATE (COBB COUNTY)

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 COBB COUNTY DEVELOPMENT STANDARDS.

Albert W. Gramling, Jr. 08.16.24
ALBERT W. GRAMLING, C.E. RES. NO. 2983 DATE

SURVEYOR'S CERTIFICATE (STATE OF GEORGIA)

AS REQUIRED BY SUBSECTION (d) OF O.C.G.A. SECTION 15-6-67, THIS PLAT HAS BEEN PREPARED BY A LAND SURVEYOR AND APPROVED BY ALL APPLICABLE LOCAL JURISDICTIONS FOR RECORDING AS EVIDENCED BY APPROVAL CERTIFICATES, SIGNATURES, STAMPS, OR STATEMENTS HEREON. SUCH APPROVALS OR AFFIRMATIONS SHOULD BE CONFIRMED WITH THE APPROPRIATE GOVERNMENTAL BODIES BY ANY PURCHASER OR USER OF THIS PLAT AS TO INTENDED USE OF ANY PARCEL. FURTHERMORE, THE UNDERSIGNED LAND SURVEYOR CERTIFIES THAT THIS PLAT COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN THE RULES AND REGULATIONS OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN O.C.G.A. SECTION 15-6-67.

Albert W. Gramling, Jr. 08.16.24
ALBERT W. GRAMLING, C.E. RES. NO. 2983 DATE

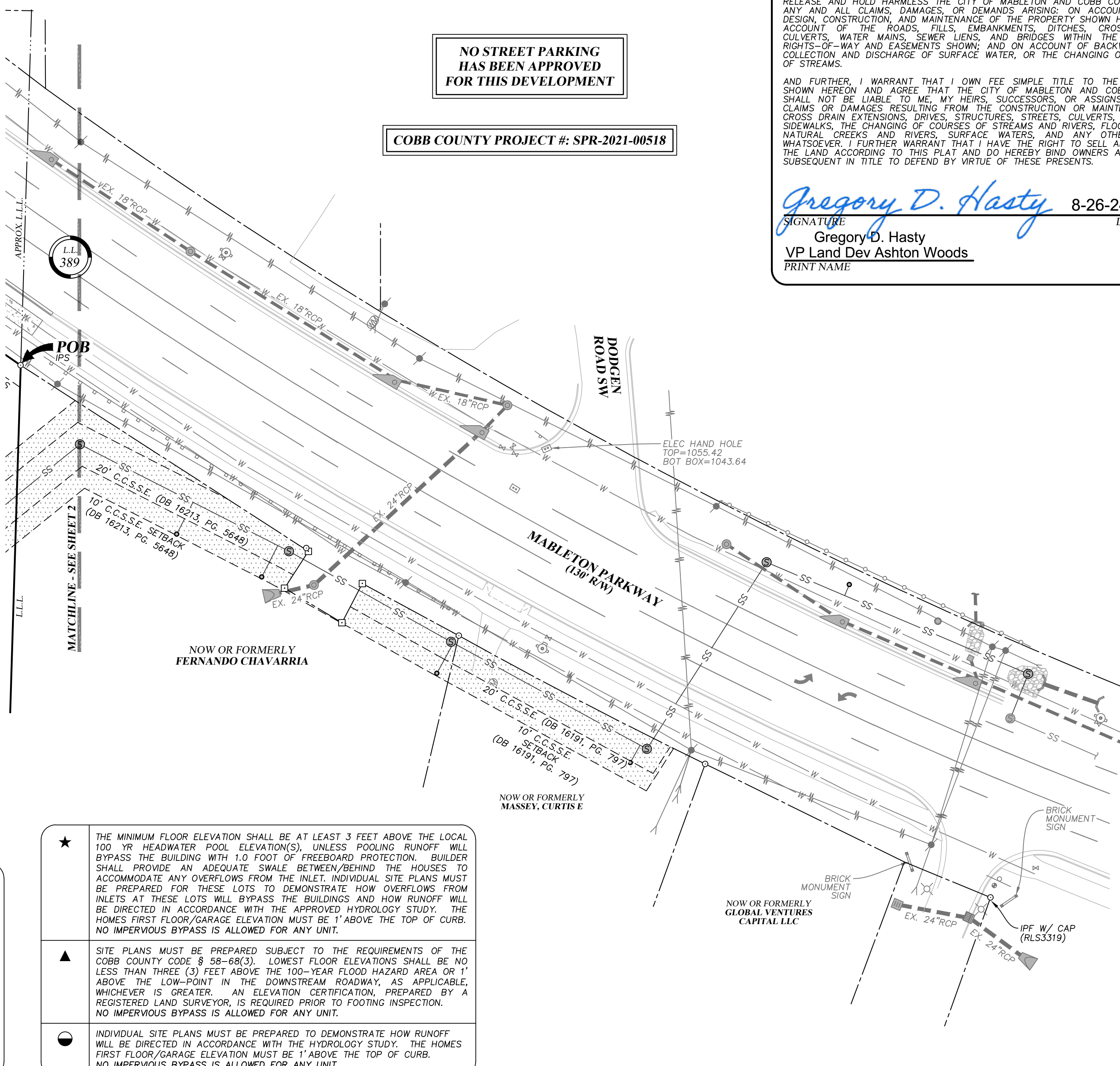
LOT AREA TABLE *

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* TO BE UPDATED UPON COMPLETION OF UNITS.

LINE TYPE LEGEND

---	ADJOINING PROPERTY LINE
----	RIGHT-OF-WAY CENTERLINE
----	CREEK CENTERLINE
----	LAND LOT LINE
----	METAL FENCE
----	WIRE FENCE
----	WOOD FENCE
----	RAILROAD TRACK
----	OVERHEAD UTILITY LINE
----	UNDERGROUND CABLE TV LINE
----	UNDERGROUND ELECTRIC LINE
----	UNDERGROUND FIBER OPTIC LINE
----	UNDERGROUND GAS PIPE
----	CORRUGATED METAL PIPE
----	DUCTILE IRON PIPE
----	HDPPE HIGH DENSITY POLYETHYLENE PIPE
----	PVC POLYVINYL CHLORIDE PIPE
----	REINFORCED CONCRETE PIPE
----	VITRIFIED CLAY PIPE



RESERVED FOR PLAT FILING

CLOSURE STATEMENT

THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS AN ANGULAR ERROR OF 3 SECONDS PER ANGLE POINT AND A PRECISION RATIO OF 1 IN 103,060. IT HAS BEEN ADJUSTED USING THE COMPASS RULE METHOD.

THE DATA SHOWN ON THIS PLAT HAS A CLOSURE PRECISION RATIO OF 1 IN 620,979.

GENERAL NOTES

EQUIPMENT USED TO OBTAIN THESE MEASUREMENTS WAS A TRIMBLE S3 TOTAL STATION.

BEARINGS ARE CALCULATED FROM ANGLES TURNED FROM A SINGLE GRID BASELINE.

THE DATUM FOR THIS SITE WAS ESTABLISHED UTILIZING GLOBAL POSITIONING SYSTEMS AND BASED ON POSITIONAL VALUES FOR THE VIRTUAL REFERENCE STATION NETWORK DEVELOPED BY eGPS SOLUTIONS. THE HORIZONTAL REFERENCE FRAME IS NORTH AMERICAN DATUM OF 1983 (NAD83)-STATE PLANE COORDINATE SYSTEM OF GEORGIA-WEST ZONE. THE VERTICAL REFERENCE FRAME IS NORTH AMERICAN VERTICAL DATUM OF 1988. ANY DIRECTIONS OR DIMENSIONS SHOWN ARE A RECTANGULAR, GROUND LEVEL PROJECTION OF THE STATE PLANE COORDINATE SYSTEM.

DATE OF FIELD WORK: 08.05.24

ALL IRON PINS SET ARE 1/2" REBARS CAPPED WITH "GUNNIN LSF 1033" UNLESS OTHERWISE NOTED.

REFERENCE: ALTA/NPS/LAND TITLE SURVEY FOR: ASHTON ATLANTA RESIDENTIAL, LLC, A GEORGIA LIMITED LIABILITY COMPANY, AND FIRST AMERICAN TITLE INSURANCE COMPANY, PERFORMED BY FRONTLINE SURVEYING AND MAPPING, INC., DATED 02/01/22.

ABOVE GROUND UTILITY LOCATIONS WERE OBTAINED FROM FIELD OBSERVATIONS. UNDERGROUND UTILITIES WERE NOT LOCATED AS PART OF THIS SURVEY. THE INFORMATION SHOWN ON THIS DRAWING CONCERNING UTILITIES IS NOT GUARANTEED TO BE ACCURATE OR ALL INCLUSIVE. THE OWNER, ARCHITECT, CONTRACTOR, AND THEIR AGENTS ARE RESPONSIBLE FOR MAKING THEIR OWN DETERMINATIONS AS TO THE ACTUAL SIZE, TYPE, LOCATION OF UNDERGROUND AND OTHER UTILITIES AS MAY BE NECESSARY TO AVOID DAMAGE THERETO.

THIS PLAT IS SUBJECT TO THE COVENANTS SET FORTH IN THE SEPARATE DOCUMENT(S) WHICH HEREBY BECOMES A PART OF THIS PLAT, RECORDED IN DEED BOOK 16208, PAGE 6347, COBB COUNTY RECORDS AND SIGNED BY THE OWNER.

NO CEMETERIES, ARCHEOLOGICAL OR ARCHITECTURAL LANDMARKS ARE KNOWN TO EXIST ON THIS SITE.

STATE LAW PROHIBITS THE PRIVATE CONSTRUCTION, PLANTING, OR OTHERWISE MAKING IMPROVEMENTS ON THE DEDICATED RIGHT-OF-WAY. THE SOLE RESPONSIBILITY FOR REPAIRING OF ANY DAMAGE OF ANY SUCH IMPROVEMENTS SHALL BE THE PROPERTY OWNER.

PERPETUAL CARE AND MAINTENANCE AND THE CONVEYANCE OF REAL PROPERTY REFERENCED IN SECTION 205 OF THE COBB COUNTY DEVELOPMENT STANDARDS AND SPECIFICATIONS WILL BECOME EFFECTIVE AT THE COMPLETION OF THE FINAL ACCEPTANCE PROCESS.

NO PERMANENT STRUCTURES SHALL BE CONSTRUCTED WITHIN TEN (10') FEET OF THE EDGE OF A PERMANENT COBB COUNTY WATER OR SANITARY EASEMENT ON FRONT OR REAR SETBACKS, OR WITHIN TWO (2') FEET ON SIDE SETBACKS, PER COUNTY CODE 122-123.

ALL STORMWATER INFRASTRUCTURES SHOWN ON THIS PLAT ARE THE SAME AS ARE SHOWN ON THE S-S-BUILT DRAWINGS SUBMITTED TO COBB COUNTY STORMWATER MAINWAGERS.

PER COBB COUNTY CODE SEC. 134-267(B), NO FENCE OR FREESTANDING WALL (BOTH HEREIN REFERRED TO AS FENCE) OTHER THAN A RETAINING WALL SHALL BE MORE THAN EIGHT FEET IN HEIGHT (NOT ADJACENT TO A ROAD) OR BE CONSTRUCTED IN A PUBLIC ROAD RIGHT-OF-WAY (ROAD). IF A FENCE IS ADJACENT TO A PUBLIC ROAD RIGHT-OF-WAY OR IS IN FRONT OF OR TO THE SIDE OF THE HOUSE IN A RESIDENTIAL DISTRICT, OR IS IN FRONT OF OR TO THE SIDE OF THE BUILDING IN A NONRESIDENTIAL DISTRICT, SUCH FENCE SHALL NOT EXCEED SIX FEET IN HEIGHT AND SHALL FURTHER MEET THE REQUIREMENTS OF SECTION 134-267(C) (INTERSECTION SITE DISTANCE). THE REQUIRED HEIGHT LIMITATION (WHICH INCLUDES POSTS OR COLUMNS AND ORNAMENTS ON TOP OF FENCE) MUST BE MET ON BOTH SIDES OF FENCE AND MEASURED FROM THE EXISTING GRADE UPON WHICH IT IS ERRECTED SIX INCHES OR MORE SHALL BE ALLOWED ON THE EXISTING GRADE AGAINST THE FENCE. THIS SIX INCHES OF BACKFILL SHALL BE INCLUDED WHEN DETERMINING THE HEIGHT OF THE FENCE. FENCES SHALL BE STRUCTURALLY SOUND CONDITION. FURTHERMORE, NO FREESTANDING WALL OR FENCE ADJACENT TO A PUBLIC ROAD RIGHT-OF-WAY, OR IN FRONT OF OR TO THE SIDE OF THE HOUSE IN A RESIDENTIAL DISTRICT, OR IN FRONT OF OR TO THE SIDE OF THE BUILDING IN A NONRESIDENTIAL DISTRICT IS PERMITTED TO BE MORE THAN 6 FEET IN HEIGHT UNLESS APPROVED BY THE BOARD OF ZONING APPEALS OR THE BOARD OF COMMISSIONERS.

PRIVATE DRAINAGE EASEMENTS SHOWN HEREON (INCLUDING ASSOCIATED STORM STRUCTURES AND PIPES LESS THAN 18" IN SIZE) ARE TO BE PRIVATELY (HOA) OWNED AND MAINTAINED. THE EASEMENTS ARE ESTABLISHED FOR THE BENEFIT OF THE HOA FOR ACCESS AND MAINTENANCE.

THIS PROJECT REQUIRED ONE (1) WATER QUALITY & DETENTION POND FACILITY THAT WILL BE PRIVATELY OWNED AND MAINTAINED. A STORMWATER MAINTENANCE AGREEMENT HAS BEEN AGREED UPON, SIGNED AND RECORDED IN THE COBB COUNTY RECORDS AND CAN BE FOUND IN DEED BOOK _____, PAGE _____.

SYMBOL LEGEND

○/PF	1/2" REBAR FOUND
○/PS	1/2" REBAR SET
□	RIGHT-OF-WAY MONUMENT FOUND
42	ADJOINING LOT NUMBER
26	LOT NUMBER
112	LAND LOT NUMBER
+	AIR CONDITIONING UNIT
+	BENCHMARK
+	HANDICAP PARKING SPOT
+	SIGN
+	MANHOLE - UNKNOWN TYPE
+	HANDHOLE
+	CABLE TV BOX
+	CABLE TV MANHOLE
+	CABLE TV PEDESTAL
+	ELECTRIC BOX
+	ELECTRIC MANHOLE
+	ELECTRIC METER
+	ELECTRIC PEDESTAL
+	GUY WIRE AND ANCHOR
+	GUY POLE
+	LIGHT POLE
+	POWER POLE
+	SERVICE POLE
+	HIGH VOLTAGE POWER POLE
+	TRANSFORMER
+	GAS MANHOLE
+	GAS VALVE
+	GAS METER
+	SANITARY SEWER CLEAN OUT
+	SANITARY SEWER MANHOLE
+	STORM SEWER CLEAN-OUT
+	DOUBLE WING CATCH BASIN
+	SINGLE WING CATCH BASIN
+	CURB INLET
+	DROP INLET
+	FLARED END SECTION
+	HEADWALL
+	JUNCTION BOX
+	PEDESTAL INLET
+	YARD INLET
+	TELEPHONE BOX
+	TELEPHONE MANHOLE
+	TELEPHONE PEDESTAL
+	PEDESTRIAN SIGNAL POLE
+	TRAFFIC SIGNAL BOX
+	TRAFFIC SIGNAL POLE
+	FIRE DEPARTMENT CONNECTION
+	FIRE HYDRANT
+	IRRIGATION CONTROL VALVE
+	POST INDICATOR VALVE
+	WATER MANHOLE
+	WATER METER
+	WATER VALVE
+	WATER VAULT
+	TREE

STORMWATER INFRASTRUCTURE(S) OUTSIDE THE PUBLIC ROADWAY SHALL BE PRIVATELY MAINTAINED AND DRAINAGE EASEMENTS SHOWN ARE PRIVATE IN NATURE AND ARE ESTABLISHED FOR THE BENEFIT OF THE HOA FOR ACCESS AND MAINTENANCE.

THIS PROPERTY IS SUBJECT TO ALL ZONING REQUIREMENTS (PER CASE Z-6-2021) AND TO LAND DISTURBANCE PERMIT # SPR-2021-00518.

WATER METERS SHALL NOT BE INSTALLED BEHIND ENCLOSED FENCES, IN PAVED DRIVEWAYS OR IN PAVED PARKING AREAS PER COUNTY CODE SEC. 122-125.

ABBREVIATIONS

A.E.	ACCESS EASEMENT
BC	BACK OF CURB
BM	BENCHMARK
BSL	BUILDING SETBACK LINE
C&G	CURB AND GUTTER
C.L.	CENTERLINE
C.L.F.	CHAIN LINK FENCE
CMF	CONCRETE MONUMENT FOUND
CONC.	CONCRETE
CIP	CORRUGATED TOP PIPE
DE	DEED BOOK
D.B.	DRAINAGE EASEMENT
EX.	EXISTING
EP	EDGE OF PAVEMENT
FEN.	FENCE
L.L.L.	LAND LOT LINE
OTF	OPEN TOP PIPE
PB	PLAT BOOK
PG.	PAGE
POB	POINT OF BEGINNING
POC	POINT OF COMMENCEMENT
PROP.	PROPOSED
R/W	RIGHT OF WAY
SS	SANITARY SEWER
S.S.E.	SANITARY SEWER EASEMENT
P.L.	PROPERTY LINE
SSMH	SANITARY SEWER MANHOLE
TC	TOP OF CURB
TW	TOP OF WALL
U.E.	UTILITY EASEMENT
DI	DROP INLET
DCB	DOUBLE WING CATCH BASIN
FLD	FLARED END SECTION
HW	HEADWALL
JB	JUNCTION BOX
OCS	OUTLET CONTROL STRUCTURE
SWB	SINGLE WING CATCH BASIN
PI	PEDESTAL INLET
YI	YARD INLET
CMF	CORRUGATED METAL PIPE
DIP	DUCTILE IRON PIPE
HDPPE	HIGH DENSITY POLYETHYLENE PIPE
PVC	POLYVINYL CHLORIDE PIPE
RCP	REINFORCED CONCRETE PIPE
VCP	VITRIFIED CLAY PIPE

★ THE MINIMUM FLOOR ELEVATION SHALL BE AT LEAST 3 FEET ABOVE THE LOCAL 100 YR HEADWATER POOL ELEVATION(S), UNLESS POOLING RUNOFF WILL BYPASS THE BUILDING WITH 1.0 FOOT OF FREEBOARD PROTECTION. BUILDER SHALL PROVIDE AN ADEQUATE SWALE BETWEEN/BEHIND THE HOUSES TO ACCOMMODATE ANY OVERFLOWS FROM THE INLET. INDIVIDUAL SITE PLANS MUST BE PREPARED FOR THESE LOTS TO DEMONSTRATE HOW OVERFLOWS FROM INLETS AT THESE LOTS WILL BYPASS THE BUILDINGS AND HOW RUNOFF WILL BE DIRECTED IN ACCORDANCE WITH THE APPROVED HYDROLOGY STUDY. THE HOMES FIRST FLOOR/GARAGE ELEVATION MUST BE 1' ABOVE THE TOP OF CURB. NO IMPERVIOUS BYPASS IS ALLOWED FOR ANY UNIT.

▲ SITE PLANS MUST BE PREPARED SUBJECT TO THE REQUIREMENTS OF THE COBB COUNTY CODE § 58-68(3). LOWEST FLOOR ELEVATIONS SHALL BE NO LESS THAN THREE (3) FEET ABOVE THE 100-YEAR FLOOD HAZARD AREA OR 1' ABOVE THE LOW-POINT IN THE DOWNSTREAM ROADWAY, AS APPLICABLE, WHICHEVER IS GREATER. AN ELEVATION CERTIFICATION, PREPARED BY A REGISTERED LAND SURVEYOR, IS REQUIRED PRIOR TO FOOTING INSPECTION. NO IMPERVIOUS BYPASS IS ALLOWED FOR ANY UNIT.

● INDIVIDUAL SITE PLANS MUST BE PREPARED TO DEMONSTRATE HOW RUNOFF WILL BE DIRECTED IN ACCORDANCE WITH THE HYDROLOGY STUDY. THE HOMES FIRST FLOOR/GARAGE ELEVATION MUST BE 1' ABOVE THE TOP OF CURB. NO IMPERVIOUS BYPASS IS ALLOWED FOR ANY UNIT.

STATE OF GEORGIA

COUNTY OF COBB
CITY OF MABLETON

Maintenance Agreement

WHEREAS, Property Owner, **ASHTON ATLANTA RESIDENTIAL, LLC**, recognizes that the wet or extended detention facility or facilities (hereinafter referred to as "the facility" or "facilities") must be maintained for the development in the City of Mableton called, **LEYDENVIEW**, located in Land Lot(s) **388**, District(s) **18TH** of Cobb County, Georgia; and

WHEREAS, Property Owner is the owner of real property more particularly described on the attached **Exhibit "A" Plat and Legal Description** (hereinafter referred to as "the Property"); and

WHEREAS, the City of Mableton ("City") and Property Owner, or its administrators, executors, successors, heirs, or assigns, agree that the health, safety and welfare of the citizens of City require that the facilities be constructed and maintained on the property; and

WHEREAS, City contracts with Contract Provider to provide stormwater services; and

WHEREAS, so long as City uses a Contract Provider, such Contract Provider shall have the same authorities under this IGA as City; and

WHEREAS, the Development Regulations require that facility or facilities as shown on the approved development plans and specifications be constructed and maintained by Property Owner, its administrators, executors, successors, heirs, or assigns.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

SECTION 1.

The facility or facilities shall be constructed by Property Owner in accordance with the plans and specifications for the development.

SECTION 2.

Property Owner, its administrators, executors, successors, heirs or assigns shall maintain the facility or facilities in good working condition acceptable to City and in accordance with the schedule of long-term maintenance activities agreed hereto and attached as **Exhibit "B" Maintenance and Inspection Schedule**.

SECTION 3.

Property Owner, its administrators, executors, successors, heirs or assigns hereby grants permission to City, its Contract Provider, authorized agents and employees, to enter upon the Property and to inspect the facilities whenever City or City's Contract Provider deems necessary. Whenever possible, City or City's Contract Provider shall provide notice prior to entry. Property Owner shall execute an access easement in favor of City and/or City's Contract Provider to allow City or City's Contract Provider to inspect, observe, maintain, and repair the facility as deemed necessary. A fully executed original easement is attached to this Agreement as **Exhibit "C" Access Easement** and by reference made a part hereof.

SECTION 4.

In the event Property Owner, its administrators, executors, successors, heirs or assigns fails to maintain the facility or facilities as shown on the approved plans and specifications in good working order acceptable to City or City's Contract Provider and in accordance with the maintenance schedule incorporated in this Agreement, City or City's Contract Provider, with due notice, may enter the property and take whatever steps it deems necessary to return the facility or facilities to good working order. This provision shall not be construed to allow City or City's Contract Provider to erect any structure of a permanent nature on the property. It is expressly understood and agreed that City or City's Contract Provider are under no obligation to maintain or repair the facility or facilities and in no event shall this Agreement be construed to impose any such obligation on City or City's Contract Provider.

SECTION 5.

In the event City or City's Contract Provider, pursuant to the Agreement, performs work of any nature, or expends any funds in the performance of said work for labor, use of equipment, supplies, materials, and the like, Property Owner shall reimburse City or City's Contract Provider, or shall forfeit any required bond upon demand within thirty (30) days of receipt thereof for all the costs incurred by City or City's Contract Provider hereunder. If not paid within the prescribed time period, City or City's Contract Provider shall secure a lien against the real property in the amount of such costs. The actions described in this section are in addition to and not in lieu of any and all legal remedies available to City or City's Contract Provider as a result of Property Owner's failure to maintain the facility or facilities.

SECTION 6.

It is the intent of this Agreement to insure the proper maintenance of the facility or facilities by Property Owner; provided, however, that this Agreement shall not be deemed to create or effect any additional liability of any party for damage alleged to result from or caused by storm water runoff.

SECTION 7.

Sediment accumulation resulting from the normal operation of the facility or facilities will be catered for. Property Owner will make accommodation for the removal and disposal of all accumulated sediments. Disposal will be provided onsite in a reserved area(s) or will be removed from the site. Reserved area(s) shall be sufficient to accommodate for a minimum of two dredging cycles.

SECTION 8.

Property Owner shall use the standard BMP Operation and Maintenance Inspection Report attached to this agreement as **Exhibit "D" Standard BMP Operation and Maintenance Inspection Report** and by this reference made a part hereof for a minimal annual inspection of the facility or facilities by a qualified inspector.

SECTION 9.

Property Owner, its administrators, executors, successors, heirs and assigns hereby indemnifies and holds harmless City and its City's Contract Provider, as well as their authorized agents and employees for any and all damages, accidents, casualties, occurrences or claims which might arise or be asserted against City or City's Contract Provider from the construction, presence, existence or maintenance of the facility or facilities by the Property Owner or City or City's

Contract Provider. In the event a claim is asserted against City or City's Contract Provider, its authorized agents or employees, City or City's Contract Provider shall promptly notify Property Owner and Property Owner shall defend at its own expense any suit based on such claim. If any judgement or claims against City or City's Contract Provider, its authorized agents or employees shall be allowed, Property Owner shall pay for all costs and expenses in connection herewith.

SECTION 10.

This Agreement shall be recorded among the deed records of the Clerk of Superior Court of Cobb County and shall constitute a covenant running with the land and shall be binding on Property Owner, its administrators, executors, heirs, assigns and any other successors in interest.

SECTION 11.

This Agreement may be enforced by proceedings at law or in equity by or against the parties hereto and their respective successors in interest.

SECTION 12.

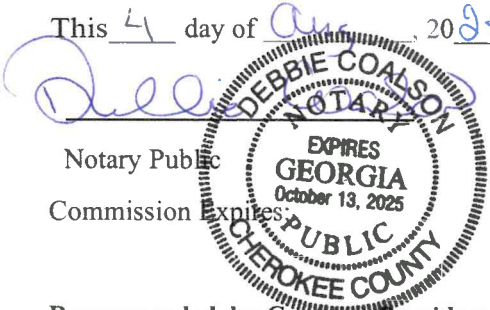
Invalidation of any one of the provisions of this Agreement shall in no way effect any other provisions and all other provisions shall remain in full force and effect.

SO AGREED this 4 day of Aug, 2025.

Ashton Atlanta Residential, LLC		Attest: <u>Tess D...</u>
Gregory D. Hasty		Corporate Secretary
Signature: <u>Gregory D. Hasty</u>		

Sworn to and subscribed before me

This 4 day of Aug, 2025.



Recommended by Contract Provider:

By: _____

CITY OF MABLETON, GEORGIA

By: _____
Title: _____
Date: _____

Attachments:

- Exhibit "A" Plat and Legal Description
- Exhibit "B" Maintenance and Inspection Schedule
- Exhibit "C" Access Easement
- Exhibit "D" Standard BMP Operation and Maintenance Inspection Report

EXHIBIT "A" & LEGAL DESCRIPTION

EXHIBIT 'A' PAGE 3 OF 3

Written Description: Leydenvue – Overall Tract

All that tract or parcel of land located in Land Lot 388, 18th District, City of Mableton, Cobb County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin set at the intersection of the Land Lot Line common to Land Lots 388 and 389 and the southwesterly right-of-way line of Mableton Parkway (130' right-of-way); Thence along said Land Lot Line South 01 Degrees 44 Minutes 39 Seconds West a distance of 449.78 feet to a 1/2" rebar found; Thence leaving said Land Lot Line South 88 Degrees 06 Minutes 17 Seconds West a distance of 1,021.86 feet to a point; Thence South 88 Degrees 05 Minutes 14 Seconds West a distance of 8.19 feet to a point on the easterly right-of-way of S. Gordon Road (right-of-way varies); Thence continuing along said easterly right-of-way North 26 Degrees 38 Minutes 21 Seconds East a distance of 413.54 feet to a point; Thence along a curve to the right, an arc distance of 247.61 feet, said curve having a radius of 841.13 feet and being subtended by a chord of 246.72 feet, at North 35 Degrees 04 Minutes 22 Seconds East to a point; Thence South 46 Degrees 16 Minutes 09 Seconds East a distance of 22.45 feet to a point; Thence along a curve to the right, an arc distance of 205.07 feet, said curve having a radius of 773.40 feet and being subtended by a chord of 204.47 feet, at North 51 Degrees 19 Minutes 37 Seconds East to a point; Thence leaving said easterly right-of-way South 89 Degrees 08 Minutes 01 Seconds East a distance of 285.24 feet to a 1/2" rebar found on the southwesterly right-of-way of Mableton Parkway (130' right-of-way); Thence said southwesterly right-of-way along a curve to the left, an arc distance of 321.64 feet, said curve having a radius of 2,929.79 feet and being subtended by a chord of 321.48 feet, at South 52 Degrees 27 Minutes 52 Seconds East to a 1/2" rebar set, said 1/2" rebar set being the **TRUE POINT OF BEGINNING**.

Said tract or parcel of land containing 12.217 Acres.

EXHIBIT "B" MAINTENANCE & INSPECTION SCHEDULE

Stormwater Ponds

A stormwater pond is a constructed, shallow stormwater retention basin or landscaped area with a permanent pool of water. Stormwater runoff collected in the pool is treated through settling. In addition, the aquatic bench (fringe wetlands), safety bench, side slopes, and shallow areas of the pond include plants to aid in the filtration and infiltration of the stormwater runoff flowing through the practice.



There are some common problems to be aware of when maintaining a stormwater pond. They include, but are not limited to, the following:

- Sediment build-up
- Clogging in the inlet and outlet structure
- Establishing vegetation within the stormwater pond
- Pruning and weeding to maintain appearance
- Eutrophic conditions indicated by excessive algae growth or fish kills
- Creating a mosquito habitat

Routine inspection and maintenance should be performed on stormwater ponds to ensure that the structure is functioning properly. Note that during the first year the stormwater pond is built, maintenance may be required at a higher frequency to ensure the proper establishment of vegetation in the practice. For more information on vegetation in stormwater ponds, see Appendix D: Planting and Soil Guidance.

In addition to routine maintenance, stormwater ponds have seasonal and intermittent maintenance requirements. During the winter months, the stormwater pond should be inspected after a snow event (this is specific to northern areas of Georgia) to make sure that the materials used to de-ice the surrounding areas stay out of the practice to avoid further pollution. In addition, planting material should be trimmed during the winter, when the plants are dormant.

Inspect the stormwater pond after a large rainstorm. Keep drainage paths (both to and from the BMP) clean so that the water can properly flow into the stormwater pond. If the stormwater pond is not draining properly, check for clogging in the inflow and outflow structures.

If the forebay or stormwater pond has received a significant amount of sediment over a period of time, then the sediment at the bottom of the forebay or pond may need to be removed. Accumulated sediment in the practice decreases the available storage volume and affects the pond's ability to function as it was designed. A sediment marker should be placed in the forebay to determine when sediment removal is required. It is important to note that sediment excavated from stormwater ponds

that does not receive stormwater runoff from stormwater hotspots are typically not considered to be toxic and can be safely disposed through either land application or landfilling. Stormwater hotspots are areas that produce higher concentrations of metals, hydrocarbons, or other pollutants than normally found in urban runoff. Examples of operations performed in potential stormwater hotspots include vehicle maintenance and repair, vehicle washing, landscaping/grounds care, and outdoor material and product storage. Check with the local development review authority to identify any additional constraints on the disposal of sediments excavated from stormwater ponds.

Periodic mowing of the pond buffer is only required along maintenance right-of-way and the embankment. The remaining buffer can be managed as a meadow (mowing every other year) or a forest.

In order to keep the water that exits the stormwater pond clean, fertilizers should be used sparingly during establishment. Once the vegetation in the practice has been established, fertilizers should not be used. While vegetation in the stormwater pond is important, the primary purpose of a stormwater pond is to act as a water quantity and quality device, and introducing fertilizers into the stormwater pond introduces nutrients such as phosphorus and nitrogen that can pollute downstream waters. In addition, stormwater ponds should already be nutrient rich environments that do not require fertilization. To control animal nuisances and invasive species, pesticides (including herbicides, fungicides, insecticides, or nematode control agents) should be used sparingly and only if necessary.

Stormwater ponds create a challenge for controlling mosquitos, because some types of vegetation, such as cattails, can create an environment that allows mosquitoes to breed both in the pond and along the shoreline. Keeping the practice free of trash will help the practice from becoming a mosquito habitat. Another method to control mosquitoes is to place fish, such as the mosquitofish (*Gambusia affinis*), in the pond to help with controlling the mosquitoes. Animals such as dragonflies, diving beetles, birds, and bats may aid on controlling mosquitoes, however it is likely that additional measures, such as chemicals, may be required to control the mosquitoes (using chemicals should be a last resort). Keeping the pond at a depth of four feet or greater can aid in mosquito control by limiting vegetation growing around the pond. If mosquitoes begin to pose a problem, consult a qualified professional.

Pond dam inspection and maintenance is also very important. The pond dam should be inspected for seepage and structural integrity. Look for saturated soil, sediment deposits, and flowing water at the base of an earthen dam and on the rear face of the dam. On concrete dams, look for seepage, cracks, leaks and rust stains, or bulges. If any signs of seepage are found, consult a Professional Engineer. Pests such as burrowing animals and fire ants can pose a major threat to dam safety. Fire ant tunnels and animal burrows can weaken the dam structure and create an undesired water pathway through the dam. In addition, tree roots are another source of potential damage and failure. Woody vegetation may not be planted on the embankment or allowed to grow within 15 feet of the toe of the embankment and 25 feet from the principal spillway structure. If you have a large dam that is subject to regulations by the state, other maintenance items may be required. Please consult a Professional Engineer for additional guidance.

Ponds can be an attractive nuisance, so security and safety should be taken into consideration. Fencing requirements are at the discretion of the local government. If security measures such as a fence and gate are present, ensure that they are functional and locked.

It is important that the embankment for a pond be inspected regularly for trees and animal activity. Trees growing on the top or sides of the embankment should be removed. The roots of trees grow into the embankment and will weaken the structure of the embankment by creating passage ways that allow water to flow through the embankment. Trees that are blown over or damaged by storms can loosen or remove soil which weakens the strength of the embankment. In the same way animals can burrow holes weakening the structure of the embankment. These holes act as a passage way for the water to travel through the embankment, increasing the potential for the embankment to fail.

Geese are attracted to open water, clean lines of sight, and grass. They can become a nuisance to stormwater ponds if they are causing damage to plants or the banks, or if they are 'loading' the pond with nutrients and bacteria. Geese can be discouraged from using a stormwater pond by planting the buffer with shrubs and native ground covers or installing an aquatic shelf, but ensure that access points are maintained.

The table below shows a schedule for when different maintenance activities should be performed on a stormwater pond.

Stormwater Ponds Typical Routine Maintenance Activities and Schedule

Activity	Schedule
- Inspect inlets, outlets and overflow spillway to ensure good condition and no evidence of erosion. - Clean and remove debris from inlet and outlet structures. - Mow side slopes. - Inspect pond dam for structural integrity. - Remove trash from the area around the pond.	Monthly
If wetland components are included, inspect for invasive vegetation.	Semiannual Inspection
- Inspect for damage, paying particular attention to the control structure. - Check for signs of eutrophic conditions (e.g., algal blooms and fish kills). - Note signs of hydrocarbon build-up (e.g., an oil sheen), and remove appropriately. - Monitor for sediment accumulation in the facility and forebay. - Check all control gates, valves, or other mechanical devices.	Annual Inspection
Repair undercut or eroded areas.	As Needed
Perform wetland plant management and harvesting.	Annually (if needed)
Remove sediment from the forebay.	5 to 7 years or after 50% of the total forebay capacity has been lost

Activity	Schedule
Monitor sediment accumulations, and remove sediment when the pool volume has become reduced significantly, or the pond becomes eutrophic.	10 to 20 years or after 25% of the permanent pool volume has been lost

(Source: WMI, 1997)

EXHIBIT "C"

**PERMANENT WATER QUALITY BMP AND ACCESS EASEMENT
AGREEMENT**

STATE OF GEORGIA

COUNTY OF COBB

THIS EASEMENT granted this____ day of_____, 20__

between the property owner_____ a party of the first part,
hereinafter referred to as Grantor, and City of Mableton, a municipal corporation of the
State of Georgia, as party of the second part, hereinafter referred to as Grantee.

WITNESSETH THAT: Grantor, for and in consideration of the sum of ONE DOLLAR (\$1.00)
in hand paid at and before the sealing and delivery of this easement and in consideration of the
agreements and covenants contained in this document and the Maintenance Agreement between
Grantor and Grantee, hereby grants unto the Grantee an easement in and to that portion of the
property shown on Exhibit "A" to the Maintenance Agreement, as shown and identified on the
plat attached hereto as Exhibit "I".

The purpose of this easement is to allow Grantee, or its agents, access for maintenance activities
to the Water Quality Best Management Practice (BMP) facility, and to prevent development of
the property within the easement following issuance of the Certificate of Occupancy or in the
case of a residential subdivision, the approval of the Final Plat, without written permission from
the Cobb County Stormwater Management Division as City of Mableton's Contract Provider; in
the event that Cobb County ceases to be City of Mableton's Contract Provider, this permission
shall be from the City of Mableton or its then current Contract Provider. This easement is
required by the provisions of the Maintenance Agreement executed by and between the Grantor
and Grantee.

MAINTENANCE AGREEMENT

SO AGREED this 4th day of August 2025.

PROPERTY OWNER

By: 
Signature of Owner

Gregory D. Hasty
Printed or Typed Name
VP OF LAND DEV.

Attest: 

Signature of Witness

Cole Brooks
Printed or Typed Name

By: _____
Signature of Owner

Printed or Typed Name

Attest: _____

Signature of Witness

Printed or Typed Name

By: _____
Signature of Owner

Printed or Typed Name

Attest: _____

Signature of Witness

Printed or Typed Name



(Notary Public)

Attachments: Exhibit 1 (Part of Easement)

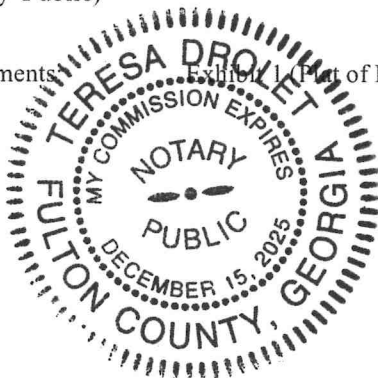
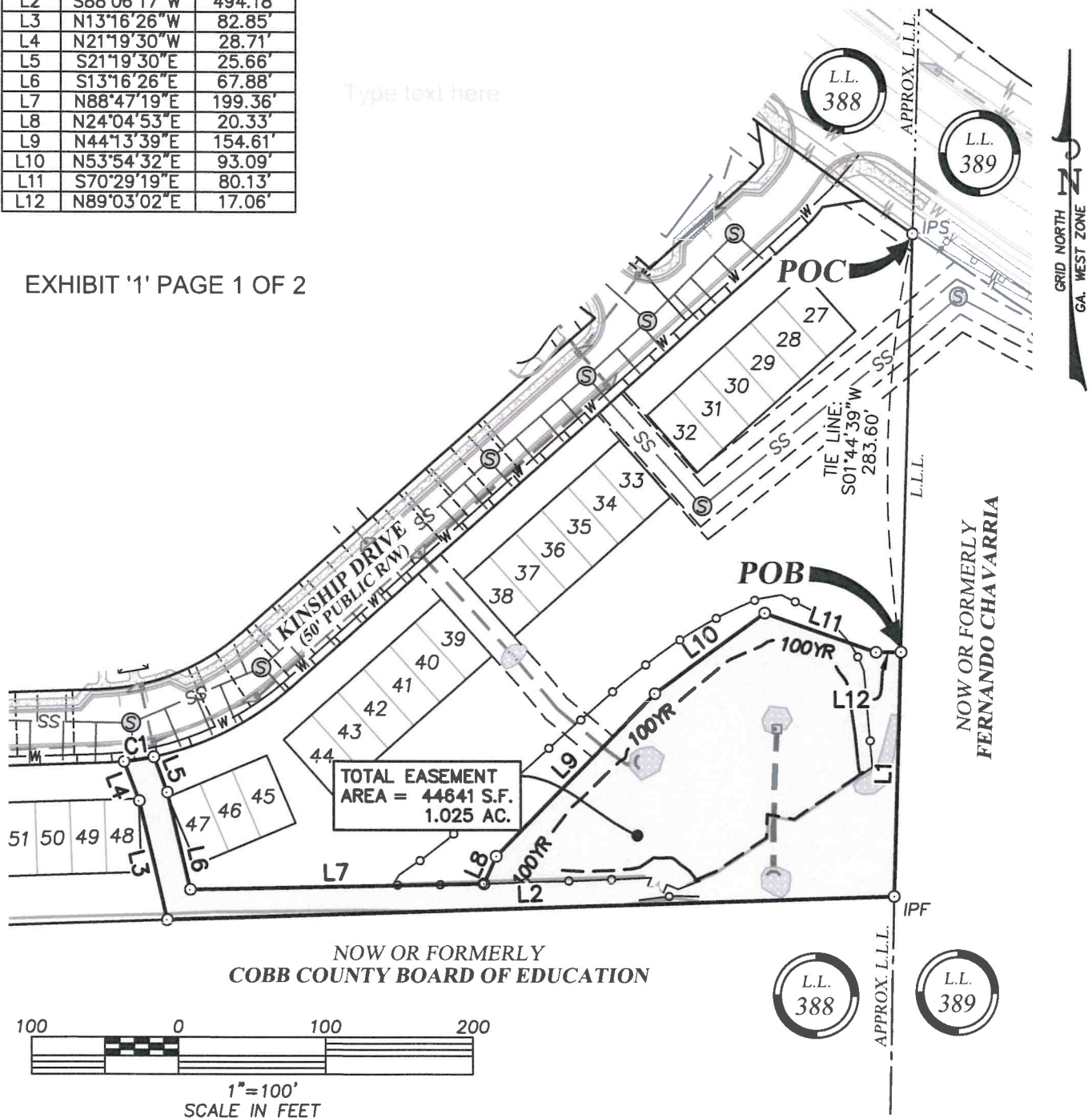


EXHIBIT "1" & LEGAL DESCRIPTION

LINE	BEARING	DISTANCE
L1	S01°44'39"W	166.18'
L2	S88°06'17"W	494.18'
L3	N13°16'26"W	82.85'
L4	N21°19'30"W	28.71'
L5	S21°19'30"E	25.66'
L6	S13°16'26"E	67.88'
L7	N88°47'19"E	199.36'
L8	N24°04'53"E	20.33'
L9	N44°13'39"E	154.61'
L10	N53°54'32"E	93.09'
L11	S70°29'19"E	80.13'
L12	N89°03'02"E	17.06'

CURVE	ARC LENGTH	RADIUS	CHORD BEARING	CHORD LENGTH
C1	20.50'	200.00'	N81°15'26"E	20.49'

EXHIBIT '1' PAGE 1 OF 2



G U N N I N
S U R V E Y

141 Railroad Street, Suite 116
Canton, Georgia 30114

www.gunninsurvey.com
678.880.7502

Georgia LSF 001033 - Gunnin Land Surveying, LLC

**STORMWATER MAINTENANCE EASEMENT
EXHIBIT FOR:
LEYDENVIEW**

**LOCATED IN LAND LOT 388
18th DISTRICT
CITY OF MABLETON
COBB COUNTY, GEORGIA
AUGUST 1, 2025**

EXHIBIT '1' PAGE 2 OF 2

Written Description: Leydenvue - SWM Access and Maintenance Easement

All that tract or parcel of land located in Land Lot 388, 18th District, City of Mableton, Cobb County, Georgia, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, COMMENCE at an iron pin set at the intersection of the Land Lot Line common to Land Lots 388 and 389 and the southeasterly right-of-way line of Mableton Parkway (130' right-of-way); Thence along said Land Lot Line South 01 Degrees 44 Minutes 39 Seconds West a distance of 283.60 feet to a point, said point being the **TRUE POINT OF BEGINNING**.

FROM THE TRUE POINT OF BEGINNING AS THUS ESTABLISHED;

Thence South 01 Degrees 44 Minutes 39 Seconds West a distance of 166.18 feet to a 1/2" rebar found; Thence leaving said Land Lot Line South 88 Degrees 06 Minutes 17 Seconds West a distance of 494.18 feet to a point; Thence North 13 Degrees 16 Minutes 26 Seconds West a distance of 82.85 feet to a point; Thence North 21 Degrees 19 Minutes 30 Seconds West a distance of 28.71 feet to a point; Thence along a curve to the left, an arc distance of 20.50 feet, said curve having a radius of 200.00 feet and being subtended by a chord of 20.49 feet, at North 81 Degrees 15 Minutes 26 Seconds East to a point; Thence South 21 Degrees 19 Minutes 30 Seconds East a distance of 25.66 feet to a point; Thence South 13 Degrees 16 Minutes 26 Seconds East a distance of 67.88 feet to a point; Thence North 88 Degrees 47 Minutes 19 Seconds East a distance of 199.36 feet to a point; Thence North 24 Degrees 04 Minutes 53 Seconds East a distance of 20.33 feet to a point; Thence North 44 Degrees 13 Minutes 39 Seconds East a distance of 154.61 feet to a point; Thence North 53 Degrees 54 Minutes 32 Seconds East a distance of 93.09 feet to a point; Thence South 70 Degrees 29 Minutes 19 Seconds East a distance of 80.13 feet to a point; Thence North 89 Degrees 03 Minutes 02 Seconds East a distance of 17.06 feet to a point on the Land Lot Line common to Land Lots 388 and 389, said point being the **TRUE POINT OF BEGINNING**.

Said tract or parcel of land contains 1.025 acre.

EXHIBIT "D"

BMP Facility Operation and Maintenance Inspection Report for Pond Facilities

Inspector Name _____ Community _____

Inspection Date _____ Address _____

Type of BMP _____

Watershed _____ Tax Map _____

ITEM INSPECTED	CHECKED		MAINTENANCE		OBSERVATIONS & REMARKS
	Yes	No	Read.	Not Read.	
I. POND FACILITIES					
A. Pond Dam Embankments and Emergency Spillways					
1. Vegetation and Ground Cover Adequate					
2. Surface Erosion					
3. Animal Burrows					
4. Unauthorized Planting					
5. Cracking, Bulging, or Sliding of Dam					
a. Upstream Face					
b. Downstream Face					
c. At or Beyond Toe					
Upstream					
Downstream					
d. Emergency Spillway					
6. Pond, Toe & Chimney Drains Clear & Funct.					
7. Seeps/Leaks on Downstream Face.					

ITEM INSPECTED	CHECKED		MAINTENANCE		OBSERVATIONS & REMARKS
	Yes	No	Reqd.	Not Reqd.	
8. Slope Protection or Riprap Failures					
9. Vertical and Horizontal Alignment of Top of Dam as Per "As-Built" Plans					
10. Emergency Spillway Clear of Obstructions and Debris					
11. Other (Specify)					
B. Riser and Principal Spillway Type: Reinforced Concrete Corrugated Pipe Masonry * Indicates Dry Ponds Only 1.. Low Flow Orifice Obstructed					
2 * Low Flow Trash Rack					
a. Debris Removal Necessary					
b. Corrosion Control					
3. Weir Trash Rack Maintenance					
a. Debris Removal Necessary					
b. Corrosion Control					
4. Excessive Sediment Accumulation Inside Riser					
5. Concrete/Masonry Condition Riser & Barrels					
a. Cracks or Displacement					
b. Minor Spalling (<1")					
c. Major Spalling (Rebars Exposed)					
d. Joint Failures					
e. Water Tightness					
6. Metal Pipe Condition					
7. Control Valve					
a. Operational/Exercised					
b. Chained and Locked					

ITEM INSPECTED	CHECKED		MAINTENANCE		OBSERVATIONS & REMARKS
	Yes	No	Reod.	NotReod.	
8. Pond Drain Valve					
a. Operational/Exercised					
b. Chained and Locked					
9. Outfall Channels Functioning					
10. Other (Specify)					
C. Permanent Pool - Wet Ponds					
1. Undesirable Vegetative Growth					
2. Floating or Floatable Debris Removal Required					
3. Visible Pollution					
4. Shoreline Problems					
5. Other (Specify)					
D. Dry Pool Areas - Dry Pond					
1. Vegetation Adequate					
2. Undesirable Vegetative Growth					
3. Undesirable Woody Growth					
4. Low Flow Channels Clear of Obstructions					
5. Standing Water or Wet Spots					
6. Sediment and/or Trash Accumulation					
7. Other (Specify)					
E. Condition of Outfalls into Pond Area					
1. Rip Rap Failures					
2. Slope Invert Erosion					
3. Storm Drain Pipes					
4. Endwalls/Headwalls					
5. Other (Specify)					

ITEM INSPECTED	CHECKED		MAINTENANCE		OBSERVATIONS & REMARKS
	Yes	No	Reqd.	NotReqd.	
F. Other					
1. Encroachments on Pond or Easement Area (Be Specific)					
2. Complaints from Local Residents (Describe on Back)			N/A	N/A	
3. Aesthetics					
a. Grass Mowing Reqd.					
b. Graffiti Removal Reqd.					
c. Other					
4. Public Hazards (Be Specific)					
5. Maintenance Access					

SUMMARY

1. Inspector's Remarks:

2. Overall Condition of Facility (Check One)

Acceptable _____

Unacceptable. _____

3. I hereby certify under penalty of perjury that I have performed the inspections and made a good faith effort to identify the items that need maintenance. I further certify that failure to inspect or misrepresent the need for maintenance could result in my liability for personal or property damage.

Signed: _____
Inspector

Date: _____



AGENDA ITEM MEMORANDUM

MEETING OF: August 13, 2025

DEPARTMENT: [DEPARTMENT]

ISSUE/AGENDA ITEM TITLE: Approval of July 16, 2025 Regular Meeting Minutes

BACKGROUND/SUMMARY:

BUDGETED/FINANCIAL IMPACT – FUND:

RECOMMENDATION:

ATTACHMENTS:

1. July 16, 2025 Regular Agenda Meeting Minutes - Draft



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 MINUTES

1. CALL TO ORDER

Mayor Owens called the meeting to order.

2. ROLL CALL

City Clerk Susan Hiott conducted the roll call. Mayor Owens and Council were present. Councilmember Davis arrived a few moments after the roll call.

3. INVOCATION

Councilmember Davis led the invocation.

4. PLEDGE OF ALLEGIANCE

Mayor Pro Tem Jeffcoat led the Pledge of Allegiance.

5. APPROVAL OF AGENDA

Motion was made by Councilmember Auch and seconded by Councilmember Oladapo to approve the agenda with an amendment to move 12b - 12 e to the beginning of the Public Hearing Section and a friendly amendment to also move the Zoning Case 7a Rezoning Case 2025-001 after 12e.

Mayor Owens acknowledged there were other hearings on the agenda. Discussion followed. The motion carried 7-0.

(Clerk's Note: Following the removal of these items, the agenda was rearranged in the Civic Plus Portal.)

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

Mayor Owens introduced the item and mentioned that this proposal is for an expanded Area 1 and a new area added for District 2. Councilmember Auch asked for clarity on the process of discussion on the matter. Mayor Owens clarified.

Attorney Walker-Ashby emphasized that this proposal isn't for the approval of the plan. She noted this item is solely for the extension of the area, but there will still be a hearing before the approval of the plan itself. She further detailed the process.

Motion was made by Councilmember Jeffcoat and seconded by Councilmember Davis to approve the Resolution Updating the Urban Redevelopment Areas within the City of Mableton. The motion passed unanimously.

Councilmember Auch asked how the areas were determined and what the selection process was for Area 2. City Attorney responded that it was based on conversations with Council and executive staff. Councilmember Oladapo asked if the additional areas could be disclosed at this time to the public.

Attorney Walker-Ashby reiterated that this item was not a vote for the plan. The City identified what the Urban Redevelopment Area would be, and this item is expanding the area 1 to include three new parcels and creating an area 2 that is near the Silver Comet Trail. If this item is approved, it will allow the Council to go forward with the public to hear their thoughts, and then to consider approving the proposed plan.

Mayor Owens asked if there were any questions or discussions. There was none.

The **motion** passed unanimously.

b. Public Hearing for the Proposed Amendments to the City of Mableton Urban Redevelopment Plan 2024

Mayor Owens opened the Public Hearing. Mayor Owens noted the public hearing would be for 20 minutes, with 10 minutes for and 10 minutes against. Councilmember Auch and Mayor Owens reviewed and addressed the Urban Redevelopment previous areas and the proposed added and updated areas. Councilmember Auch stated the current Urban Redevelopment Area was purchased on Mableton Drive and Puckett Drive. The area is to be amended to include 6116 and the house next to that property. There was an Area 2 located on the Silver Comet Drive. Mayor Owens explained the reason the Mableton Urban Redevelopment Agency existed is to revitalize and reduce blight. He continued to address how there were other areas in the City that were clearly blight. Many cities use the Urban Redevelopment test to reduce blight and uplift underutilized areas. Discussion and explanation about the financing mechanisms continued.

Public Comment occurred. Those who spoke were:

- **Yashica Marshall** asked about the area and what the blight was on the property and

asked how the City was going to pay for the property. The problem was that the people did not know what was being talked about.

- **Jeff Padgett** expressed that he looked at the property and he did not see any blight. There were other places in the City that needed improvement. The City needs parks. He asked how the city was going to pay for the land. He asked if the residents were going to pay property taxes.

Mayor Owens reported there is not a property tax in the City of Mableton. The items discussed regarding URA or public safety (\$9.5 mil) would not raise anyone's taxes. The mileage for 2023, 2024, 2025 is 0.00, and he will sign again for 2026 to be 0.00.

Finance Director Karen Ellis explained how the current revenue streams would be enough to pay the debt service payments. The revenue streams coming in were conservatively budgeted. Beginning in August, Mableton will continue discussing public safety with the County.

Questions and discontinued. Mayor Owens stressed any money raised for public safety should be spent on public safety.

Others who spoke included:

- **Robert Redmonds** of District 4 opined the space that the City was interested in at Hicks and Concord does not have a lot of blight. He agreed Urban Redevelopment is great, but the decision to do this without fully defining the use of the property is misleading the public. He lived in the community. He expressed concerns about using the space for commercial, causing more traffic, and loss of trees. He stated that there is no clear plan for the utilization of the purchase of the property.
- **Jolee Elzer** of District 4 pointed out that the City did not have maps or pictures and a plan shown on the screen overhead. She opined that if the City did their homework, the City would get better results.
- **Heidi Hunt** of 720 Gregory Manor Drive of District 6 opined the 28-acre forest is not a blighted area. She spoke about the previous developer who did not purchase the land. She expressed there was a lack of transparency.
- **Hope Roper** expressed her position on the resolution without financial transparency and other costs. She spoke about how the City Lite model was changing. The City was not being transparent.
- **Denny Wilson** stated she did research on URAs. People were told there would be no additional taxes. The money has to come from somewhere. She asked how the City was going to pay for this \$6.7 million and not pass it on to the taxpayer.
- **Mr. Redmond** stated he saw the plan, but did not know what part of the land would be purchased and what to be used for. He was looking for specifics.

Councilmember Oladapo read a portion of the plan, recognizing it was vague: to establish a passive pocket park, and or other recreational facilities and redevelopment opportunities.

City Attorney Walker-Ashby explained how the plan could be located on the public's phones. The plan was located in the agenda packet. Mayor Owens apologized that the plan

and pictures were not on the EpiCenter screen. Mayor Owens noted that the item was published and was on the Civic Plus platform. There have been updates related to the bond transaction and bond amount because the City has been in discussion with bond counsel and attorney.

City Attorney Walker-Ashby reiterated the plan does not say what the City was placing on a parcel. Before that happens, there will be more discussions and public input sessions and other processes. This is approval of an area where land can be acquired where the City has designated that such acquisition may be a better use than what is designated now.

Questions and discussion continued about what blight was. City Attorney Walker-Ashby commented that blight is underdeveloped infrastructure, property not being used to highest and best use. She explained the owner would have to be willing to sell. The City can then determine what it would like for the property. If the City doesn't have capital assets, the City would miss out on revenue opportunities such as funding resources such as a SPLOST.

Jeff Padgett stated he walked the property and he did not see any blight. Attorney Walker-Ashby showed the photos on the screen for 6084 Mableton Parkway and the Silver Comet Trail parcels. City Walker-Ashby stated the City has discretion and the ability to isolate and look into the area. The plan does not say the City is going to purchase, but gives the City the ability to make something better than it is now. Councilmember Auch stated the City knows what goes on with the parcel. City Attorney Walker-Ashby expressed that she does not know what goes there. Before anything goes there, there will be public engagement, discussions with developers, and discussions with people who may partner with the City. The City is not at that point yet. The pictures showed power lines fallen on trees, abandoned vehicles, and trash.

Public Comment continued:

Jolie Elzer commented that the current property on the Silver Comet Trail was zoned as residential.

Lamar Scottie commented that the residents elected the people to run the City and make the best decisions because you can't have 80000 people in a room to make decisions. The more assets a city has, the better. He was in favor of transparency, but sometimes council can't speak yet.

Ms. Brenda Nash of District 3 commented that she appreciates Mr. Scottie has money as a developer, but not all residents have money. She commented that the Council was elected to represent the Mableton residents, but the public also asked for transparency.

Christopher Brock of District 3 commented that if the council believes that entering into the bond agreements will promote economic development and clear blight, he asks that any partnerships, especially private, that they are paying their fair share of taxes and minimize any tax abatements so that the City recovers its investment asap.

Mayor Owens closed the Public hearing. Mayor Owens thanked everyone that came to speak stressing the importance of receiving public input.

c. Consideration and Approval of Amended City of Mableton URA Plan - City Attorney Walker-Ashby

Motion was made by Councilmember Ferguson to approve the amendment of the City of

Mableton Urban Redevelopment Plan. Councilmember Davis seconded the motion.

Councilmember Auch asked if there could be any discussion about changing the boundaries but keep the other parcels. Mayor Owens asked if there were any other discussion. There was none.

The motion passed 4-3. Yeas: Davis, Jeffcoat, Owens, and Ferguson

Nays: Auch, Herndon, and Oladapo

d. Consideration and Approval of Bond Resolution and Intergovernmental Agreement with the City of Mableton, Georgia - City Attorney Walker-Ashby

Mayor Owens announced the item and provided background.

Motion was made by Councilmember Davis and seconded by Councilmember Jeffcoat to approve the Bond Resolution and Intergovernmental Agreement with the City of Mableton.

Mayor Owens asked for discussion. Councilmember Ferguson asked for clarification of the attached Intergovernmental Agreement noting not all of the information was included in Exhibit A and B. City Attorney Walker-Ashby explained that the exhibits were a template. For the Exhibit, the winning bid and rate information was from Truist Bank which was given to Mayor and Council. Discussion and explanation of the processes of bond validation ensued. Councilmember Herndon asked if the City could disclose the amount of the bond and the payment information, and Mayor Owens recognized Finance Director Karen Ellis who came forward to report on the proposed bond payment information. She reported:

- Payments will be made in June and December of each year.
- The payment includes interest only for December, and the July payment included interest and principal,.
- The payments will be approximately \$453, 000-\$457,000 each year.
- The City pays the URA to pay for the bonds.
- The City budgeted conservatively on revenues.
- There are revenues that the City did not budget for because the City staff did not know the amount, but now the City staff knows.
- That increase in revenues offsets this debt service.
- The City does not levy taxes.
- The fixed rate is 5.25 fixed rate with Truist for a 20 year loan maturing in 2045.
- If interest rates falls, the City can refund and get lower interest rates.
- The first payment amount ranges \$513,000 - \$514,000 average for the first year. The payment is pro-rated.

Mayor Owens asked if there were any comments or questions. Councilmember Ferguson asked when the decision should be made. Attorney Walker-Ashby explained that Truist is committed to the rate by August 19th. There is a lot of work to do by August 19th. That is a short time period. There is no time for even mailing letters. Legal will be emailing,

walking up to offices to let the Court and others know that the City was in the process of validation. Councilmember Oladapo asked if the City could delay the deadline. Attorney Walker-Ashby offered to call Financial Advisor Ed Wall, but his earlier consensus was that it would look bad because Truist had already gone out of their way to meet the July 16th deadline. Truist was being very gracious to giving the rate that they did.

Councilmember Auch asked the attorney when the City could disclose what the plan was for the property. Attorney Walker-Ashby explained that the City was not at a stage to announce. The City does not have anything to say concretely. There are some great ideas, but the City was not at the point to decide and vote. There needs to be a level of specificity. The City has an interest, but as far as sufficient information to make a determination of yes or no, the City is not there yet. Discussion continued.

Councilmember Oladapo noted the City has heard from a lot of people and there are concerns about how to pay. The City has not addressed how to pay for police services yet. The priorities must be aligned with what the residents are concerned about, and that is the reason for hearing from them. The City has to be understanding. She explained that she was not against addressing blight and revitalizing Mableton and having land for capital projects, but timing was everything. She stated she could not justify going into this amount of debt for this purpose at this point.

Councilmember Jeffcoat expressed that she appreciated everyone's concerns. She commented that staff and leadership are in place and Mayor and Council have relied on the Finance Director and City Manager to provide the numbers. The Council has asked time and time again if the City was fiscally responsible. She commented further about how it was premature to say what the City was going to do with the land, and the City was not there yet. She acknowledged there was a pending police cost. She explained how the Council goes into Executive Sessions and looks at all options. That process continued. The Council was not just jumping to a decision.

Councilmember Oladapo asked why now. People are concerned about pending services.

Councilmember Herndon said she knew the motivation for why the City was looking at the properties. It was difficult for her that the Council couldn't say for sure that xyz would be on the land. She opined that the City was playing with the truth. The City's constituents are concerned, and she has heard their concerns. It is easy to say the attendees are a subset, and does not reflect all of Mableton. But, when people show up and talk, that subset is a very strong subset because they are interested enough to come and voice their concern. Between all the parcels, the City was looking at almost of \$1 million each year in payments. Although the City looks good now, the future is not known. She expressed that a measured decision and caution is advisable. She expressed concern because the City does not need the added area property right now, especially when the City has two parcels that the City has not done anything yet. She is not certain that the City needs the parcels right now. She was not certain about the urgency to have a \$6.7 million bond.

Mayor Owens stated he had lived in the community for a long time. The City has asked Cobb County to get things on a list. If the Council doesn't invest in the City, who is? Real estate has urgency; nothing is getting cheaper. The City currently has a partnership with Truist which is becoming a better and better partner. Mableton is the 12th largest city in

Georgia. He asked how much land does the City own. Land ownership helps determine what the City's future looks like. The City is looking at land strategy to look for opportunities to invest. The City can afford it. The land purchase will not disrupt any services. Mayor Owens continued addressing how the City should invest in itself and the community. Land ownership will give the City an opportunity to move forward to take advantage of upcoming opportunities. He thinks this should be supported.

Councilmember Auch stated she appreciated the Mayor's vision, but the City also must invest in services which still have not been negotiated with the County. She addressed the transparency issue of the County School District when there was controversy about a parcel purchased by the School District. There were complaints about the School Board not disclosing the parcel information to the community. She asked if the City could have moved URA boundaries to that parcel. Mayor Owens stated the City did try to do that.

Councilmember Auch expressed that she thought the City had not engaged the citizens. She mentioned the comments that night about consideration of future costs; the City knows the funding is there now, but the City does not know what expenses will occur in the future. She addressed the comment by the resident about not wanting to have tax abatement.

Councilmember Ferguson referenced comments from the Mableton residents. He remarked he was not married to any idea so far, so he can't say specifically, know what was going on the land. The purchase of land is still a conversation. There was concern about whether we could afford the purchase of land. He has asked the experts and they said yes. He got the answers that he needed. The Council were put in office for a reason to conduct these types of discussions.

Councilmember Davis expressed how the decisions made affect him as well as the residents. He reported he had been in Mableton for 30 years. He has seen very slow progress. This is an opportunity. He was a resident that happened to be in this position to hear the residents' voices. He commented about how he knows how it feels to not be heard. In order for the city to grow and thrive, there are some things that must happen. Mableton has a zero millage rate. He would like to see that to continue to happen, but he would like to see things come to Mableton. No city can grow and thrive without land. He loves trees, loves the country, but at the same time, Mableton can't afford to look like it did in 1990 or 2000. He does not want Magnolia Crossing to still be undeveloped. It galls him that it is still the way it is. He explained that there are some systematic approaches when the City has to be strategic.

Motion passed 4-3. Yeas: Davis, Jeffcoat, Owens, and Ferguson Nays: Herndon, Auch, and Oladapo

- 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**

Mayor Owens announced the item and provided background. Councilmember Auch asked if there were any substantial changes. There were none.

Motion was made by Councilmember Auch to approve (Second Read Ordinance) Rezoning Case 2025-001 TKHC Ministries, General Commercial to R-20 including the Planning Commission stipulations. Councilmember Ferguson seconded the motion. The motion carried 7-0.

Motion was made by Councilmember Auch for a recess. Councilmember Jeffcoat seconded the motion. The motion passed 7-0. The recess was from 8:49 pm.to 9:06 pm.

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.

Mayor Owens recognized Director Hughes, who then invited Lamaya Edmonds, Business License Manager, to address the Council.

Manager Edmonds provided an overview, noting that regulatory licenses will be implemented following the completion of the current IGA with the County. She stated that the City will soon begin issuing alcohol licenses, and the purpose of the proposed ordinance is to establish the framework for that licensing process.

Councilmember Ferguson asked whether this process would involve public safety or police efforts. Manager Edmonds confirmed that the required background checks will require police involvement. Councilmember Ferguson then asked if this would require a separate IGA. Manager Edmonds clarified that it is already covered under the existing one.

Mayor Owens asked if the staff were prepared to take on this new responsibility. Ms. Edmonds confirmed that they are. She explained that the team does not anticipate a large initial influx of applications. Mayor Owens also inquired whether this change would require additional staffing. Ms. Edmonds responded that the existing organizational chart already accounts for the necessary positions.

Councilmember Jeffcoat asked about the projected volume of licenses. Ms. Edmonds noted that the County currently has approximately 170 active licenses, and the City does not anticipate issuing more than 200.

Councilmember Oladapo inquired about the appointment of an alcohol board. Manager Edmonds responded that the ordinance includes details about the board appointment, and Mayor Owens noted that the Council will need to prepare to make these appointments. Councilmember Ferguson asked for clarification on the number of nominees. Mayor Owens explained that some members will serve by virtue of their office. Councilmember Ferguson then asked whether the ordinance could be amended to allow business owners who are not residents to serve on the board. Mayor Owens and Councilmember Oladapo confirmed that, per the City Charter, only residents are eligible, so such an amendment is not currently allowed.

Mayor Owens opened the public hearing. Councilmember Ferguson asked about the license renewal period. Manager Edmonds confirmed that the renewal season starts in October and

must be completed by December 31st, with no grace period.

Mayor Owens then asked about the renewal of the approximately 170 licenses currently issued by the County. Manager Edmonds stated that those renewals are expected to begin in October as well, and she emphasized that her team has been preparing in advance for the upcoming workload.

Mayor Owens also inquired about coordination with Code Enforcement to ensure that all businesses operating in Mableton hold proper licenses. Manager Edmonds explained that alcohol license holders are also required to have a valid state license and added that enforcement typically occurs at the state level.

Mayor Owens made the final call for those wishing to speak for or against this ordinance. None came forth. Mayor Owens closed the public hearing. This is a first read, so no action is required.

- 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.

Mayor Owens recognized Director Hughes, who then invited Lamaya Edmonds, Business License Manager, to address the Council.

Mayor Owens asked for clarification regarding the update to the Chapter. Manager Edmonds explained that the ordinance will add a new section to the existing Chapter 7. She provided an overview of the additional licensing to be included and noted the establishment of a regulatory framework.

Councilmember Auch asked whether the ordinance had gone before the Planning Commission and inquired about any recommendations they may have made. Manager Edmonds confirmed that it was presented to the Planning Commission, and noted that their comments and recommendations are included in the agenda packet for the Council's review.

Mayor Owens opened the public hearing and invited public comment on the proposed ordinance. Mr. Sam Culbreath commented that during the Planning Commission meeting, the ordinance document appeared to be outdated. He encouraged the City to conduct a thorough review to ensure the ordinance is current and accurate. Mayor Owens then called for any comments in opposition to the ordinance; there were none.

Councilmember Ferguson asked the City Attorney whether the ordinance would be redlined to reflect the Planning Commission's suggestions. The City Attorney confirmed that her team will review and incorporate the Planning Commission's recommendations, pending staff approval. She also stated that the Service Delivery Strategy (SDS) stipulations will be added prior to the next draft, and the updated version will be made available for Council review.

Mayor Owens made a final call for anyone wishing to speak for or against the ordinance. None came forward. Mayor Owens closed the public hearing. This is a first read, so no action was required.

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

This item was deferred. Director Hughes noted that the ordinance will require a substantial rewrite. Once revised, it will need to go before the Planning Commission and then return to the City Council for consideration at the next meeting.

**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.**

Mayor Owens announced the item and recognized Planning and Zoning Manager Chris Wheeler. He noted that the application seeks to modify the existing zoning stipulations, to allow for a security office instead of an electrician's office. He also noted that staff and the Mableton Improvement Coalition (MIC) are in agreement with the proposed change. Staff was in agreement with the seven Mableton Improvement Coalition (MIC) stipulations. (Letter dated July 15, 2025 is located in the agenda packet.)

Mayor Owens asked if there were any questions from the Council. He then opened the public hearing and invited anyone wishing to speak for or against the application. There were no public comments.

Motion was made by Councilmember Jeffcoat to approve OZI 2025-002 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 Road including Mableton Improvement Coalition (Letter of July 15, 2025) stipulations. Councilmember Oladapo seconded the meeting. The meeting passed unanimously.

Clerk's Note - Seven Conditions per letter of July 15, 2025:

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.

- 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.

This item was deferred.

7. UNFINISHED BUSINESS

None.

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**

Mayor Owens introduced the agenda item and recognized Emily Groth, Director of Sustainability, Waste, and Beautification (SWB).

Director Groth noted that Chris Brewer, the City's contracted grant writer from Fund It Forward, had to leave the meeting. She proceeded with a presentation introducing Mr. Brewer and provided an update on his role and the City's partnership with Fund It Forward. She explained that a grant policy will soon be presented by the Finance Department. Director Groth presented a status report on the grants the City has applied for, mentioning that the City is awaiting notification on two grants and highlighting upcoming grant opportunities of interest.

Councilmember Jeffcoat asked when the City expects to hear about the grant approvals. Director Groth responded accordingly. Mayor Owens noted that timelines vary depending on the grant. Director Groth encouraged Council members to reach out to Mr. Brewer with any questions or to explore grant opportunities relevant to their districts.

9. APPOINTMENTS

None.

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.**

The following individuals spoke during the Public Comment:

Mr. Leroy Hutchins highlighted the upcoming return to school during the first week of August and shared several back-to-school events taking place in the community, including:
July 16 – Food bank distribution
July 26 – School Prayer Walk with First Christian Church of Mableton

- Back-to-School event hosted by Sheriff Owens
 - Hope Outreach Center event
 - Powder Springs Task Force event
- July 27 – Reflections of Trinity event
- July 30 – Amerigroup event

Mr. Sam Culbreth highlighted the Austell Community Task Force’s 24th Annual Back-to-School Jam, scheduled to take place on August 2nd at the South Cobb Recreation Center. He shared that the event is primarily targeting specific Title I-funded schools. He acknowledged the event sponsors. Lastly, he extended an invitation to the community to attend the monthly general meeting of the Austell Community Task Force.

Jolie A. Ezler, a resident of District 4, raised concerns and posed questions regarding the funding of police services provided by the County for the City’s policing efforts.

11. **CONSENT AGENDA**

Motion was made by Councilmember Oladapo and seconded by Councilmember Jeffcoat to approve the Consent Agenda. The motion carried 7-0.

- 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**

Mayor Owens introduced the agenda item and acknowledged Special Projects Manager Xavier Ross. Manager Ross greeted the audience and highlighted that Mableton was among the first cities to introduce an all-electric vehicle (EV) fleet. He then explained that he is seeking approval to proceed with an agreement to purchase vehicles from Wade Ford. He also noted that the fleet will be customized to meet the specific needs of various City departments. He highlighted that he successfully negotiated an agreement with Wade Ford priced below the State Minimum Contract.

He noted that the City has requested specifications that differ from the state contract, and Wade Ford has agreed to honor those requirements. He stressed that vehicle purchases will be phased out according to staffing needs rather than bought all at once. By the end of this budget cycle, all fleet purchases are expected to be completed. He mentioned that next month, he plans to present a fleet policy to the Mayor and Council. He also mentioned that this initiative further qualifies the City for sustainability grant opportunities.

Mayor Owens thanked Wade Ford for stepping up to the table and expressed his appreciation that they honored—and even beat—the state contract price.

Councilmember Jeffcoat asked how many vehicles are anticipated and how many the City

currently has. Manager Ross responded, emphasizing that the agreement aligns with the budget. Councilmember Jeffcoat then inquired whether every code enforcement officer would be provided with a vehicle. Manager Ross replied with an explanation.

Mayor Owens commented that the goal is to enhance both the availability and productivity of every City vehicle.

He explained that the City will not assign a designated vehicle to each individual but will instead ensure vehicles are available whenever needed to maximize efficiency. Manager Ross added that the vehicles will be rotated regularly to prevent overuse by any single user or vehicle. However, certain vehicles will be specifically allocated to particular departments. Councilmember Jeffcoat emphasized the importance of conducting a needs-based assessment to clearly understand and document the City's requirements.

Councilmember Ferguson asked whether insurance costs increase significantly with the purchase of each vehicle. Manager Ross clarified that insurance premiums through GIRMA are calculated on a scale based on the asset and its value. He noted that the budget accounts for these projected increases. Manager Ross emphasized that the City is taking precautions to subsidize cost savings. He also stressed that the upcoming fleet training program, launching next month, will meet state requirements.

Councilmember Ferguson followed up with questions about the policies to be implemented, to which Manager Ross responded. Mayor Owens inquired whether any related matters would be brought back before Council, to ensure GIRMA requirements are properly met. Manager Ross confirmed that any additional info related to this will be addressed through the forthcoming fleet policy presented to the Council.

Motion made by Councilmember Ferguson and seconded by Councilmember Herndon to approve the 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 (\$470,425 for 11 vehicles). The motion carried unanimously.

13. OTHER BUSINESS/DISCUSSION

None.

14. CITY MANAGER'S ANNOUNCEMENTS/COMMENTS

Mayor Owens expressed his gratitude to Director Hughes for standing in for City Manager Tanks during his absence. He also thanked Xavier Ross for returning from out of town to be present at tonight's meeting.

Director Hughes read a list of announcements provided by the City Manager. He highlighted that the City's formal transition was completed as of June 27, 2025, and highlighted the active services that have been successfully implemented. He also highlighted the services secured through an Intergovernmental Agreement (IGA) with the County. He acknowledged the formal adoption of the City's budget and the completion of the first audit for 2024. Additionally, he provided an update on City facilities, specifically noting the new administrative office at 1245 Veterans Memorial Highway, which the City moved into on July 1st. He noted that the City has selected four engineers to serve on call.

He also noted that eight additional staff members have been hired since June 2nd. He noted that discussions are underway to organize Council training on topics including special service districts, service delivery strategy, storm water, revenue diversification, and SPLOST.

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

City Clerk Hiott announced that the City will be hosting candidates qualifying for Districts 2, 4, and 6 from August 18–20 at 1245 Veterans Memorial Highway, in preparation for the November 4, 2025, election. She noted that the qualifying fee is \$600 and provided additional details. She emphasized that supporting documents for agendas and meetings are available on the City Clerk's section of the City's official website. Lastly, she clarified that the City does not currently have an online codified ordinance available but is in the process of having it formally codified through Civic Plus.

16. MAYOR AND COUNCIL ANNOUNCEMENTS/COMMENTS

Councilmember Davis thanked everyone for coming out tonight and acknowledged the community's engagement. He highlighted a 24th Annual "Back to School Jam" event hosted by the Austell Community Task Force on August 2nd at South Cobb Recreation Center. He encouraged volunteers to get involved.

Councilmember Oladapo thanked attendees for their in-person and online engagement. She announced a District 2 Back to School Haircuts event she is sponsoring and encouraged everyone to help spread the word.

Mayor Pro Tem Jeffcoat thanked attendees for staying late and congratulated Deputy Clerk Alison Benson on being named Employee of the Quarter, recognizing her dedication. She acknowledged Councilmember Ferguson's milestone birthday on July 18th. She noted that Family Life Restoration Center needs support to maintain its cooling center.

Mayor Pro Tem Jeffcoat encouraged community support for the Pebblebrook High School football fundraiser and highlighted several upcoming back-to-school events. She is partnering with Pure Hope Church for a Back to School Bash on July 27th, and also mentioned the Back to School BBQ Bash hosted by Hope Family Resource Center on July 26th, commending their summer lunch efforts. She concluded by promoting Karaoke Kids Night at Green Room Restaurant on July 19th.

Councilmember Auch thanked residents who spoke during the public hearing. She highlighted a group bike ride on August 9th from Atlanta to Mableton celebrating the completion of the Silver Comet Connector. She expressed interest in partnering with Councilmember Ferguson to organize a Mableton group to participate and encouraged everyone to stay tuned for more details.

Councilmember Ferguson congratulated Deputy Clerk Alison Benson on her Employee of the Quarter recognition and thanked her for her efforts. He thanked attendees for their participation and emphasized that their concerns are being heard.

Councilmember Herndon shared that she and Mayor Owens attended the grand opening of

7 Brew and encouraged everyone to support the new business. She also thanked those who stayed until the end of the meeting, including the nine online viewers. She extended safe travels home.

Mayor Owens emphasized several key points. He assured the public that the City's financial position is sound and highlighted the City's ongoing commitment to fiscal responsibility. He reiterated his intention to continue avoiding the implementation of a property tax. Additionally, he confirmed that City leadership has a plan to address debt obligations. Mayor Owens also noted that the City is committed to negotiating in good faith with the County on a long-term Service Delivery Strategy. As such, he explained that certain details cannot be disclosed at this time.

He made it clear that the Council wasn't happy with the deal the City ended up with, and they really pushed hard to negotiate more favorable terms.

He acknowledged that the issue of double taxation will remain a recurring topic of discussion and assured the public that the City is actively reviewing it. He highlighted several key nuances that must be taken into account when determining whether double taxation applies and provided additional context and explanation to clarify the complexities involved. He emphasized that while the City is committed to continuing the fight, it is equally important to be well-informed and strategic in its approach. He pointed to the potential repercussions the City—and other partnering cities—could have faced if an agreement had not been reached. He stressed that the City must fight strategically, ensuring progress while maintaining strong relationships with neighboring sister cities. Ultimately, he expressed confidence that there is a better path forward for this county and its cities—and that unity is the best way to reach it.

He emphasized that his office is always open to answer questions and clear up any misinformation. He also stressed the importance of conducting a thorough review and cost analysis of all City services to determine whether it would be in the City's best interest to provide certain services independently. He noted that the City must remain focused on the present and address the challenges it currently faces.

Lastly, he reintroduced the Small Business Saturday Initiative, which will take place every Saturday. As part of this effort, his office will spotlight and support a different local business each week. This Saturday's focus will be on 7 Brew. He expressed confidence that when the City creates opportunities for residents to engage locally, the community will respond.

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))

Motion made by Councilmember Herndon to go into Executive Session for Real Estate, Litigation, Personnel, and miscellaneous (exemptions). Councilmember Jeffcoat seconded the motion. The motion carried unanimously. Yeas: Davis, Oladapo, Jeffcoat, Owens, Auch, Ferguson, and Herndon (10:22 pm)

Motion made by Councilmember Herndon to close the Executiv Session and seconded by Councilmember Ferguson. The motion passed 6-0. Councilmember Oladapo was not present. Yeas: Davis, Jeffcoat, Owens, Auch, Ferguson, and Herndon

Motion was made by Councilmember Jeffcoat to authorize the Mayor to finalize and execute, in substantial form, the agreement with Asmaou and Idrisu Yunusa for the purchase and sale of property within the city located on or near 6084 Mableton Parkway, for a purchase price not to exceed \$297,000. Councilmember Ferguson seconded the motion. The motion passed 6-0. Councilmember Oladapo was not present.

Motion was made by Councilmember Davis to authorize Mayor Owens to finalize and execute, in substantial form, the agreement with L2L27, LLC for the purchase and sale of property within the city located on or near Hicks Road, Concord Road, and Brazos Drive, for a purchase price not to exceed \$5.5 million. Councilmember Ferguson seconded the motion. The motion passed 6-0. Councilmember Oladapo was not present.

18. ADJOURNMENT

Motion made by Councilmember Ferguson and seconded by Councilmember Herndon to adjourn. The motion passed 6-0.

The meeting adjourned at 11:34 pm.

Dr. Michael Owens, Mayor

Susan Hiott, City Clerk



AGENDA ITEM MEMORANDUM

MEETING OF: August 13, 2025

DEPARTMENT: [DEPARTMENT]

ISSUE/AGENDA ITEM TITLE: Presentation and Consideration of a Services Agreement between the City of Mableton and Trees Atlanta for Tree Planting Services - Sustainability, Waste, and Beautification Director Emily Groth

BACKGROUND/SUMMARY: Trees Atlanta is a nonprofit community group that protects and improves the Atlanta area's urban forest by planting, conserving, and educating. To date, Trees Atlanta has planted and cared for over 170,000 trees in metro Atlanta.

Trees Atlanta, in partnership with local municipalities, maintains a Front Yard Tree Program. The initiative provides funding and oversight to help residents plant trees within 35 feet of the right-of-way, aiming to enhance community aesthetics and increase city canopy coverage.

BUDGETED/FINANCIAL IMPACT – FUND: This agreement will utilize no more than \$10,000 from the Tree and Beautification Fund to secure a maximum of 30 trees available to interested residents. Trees Atlanta will provide all resources needed for consultation with residents and installation on the resident's property.

RECOMMENDATION: Staff recommends approval of the Tree Planting Agreement.

ATTACHMENTS:

1. 2025-2026 Trees Atlanta Mableton FYT Agreement - TA Signed

TREE PLANTING SERVICES AGREEMENT

THIS TREE PLANTING SERVICES AGREEMENT (this “Agreement”) is made as of _____, by and between **Trees Atlanta, Inc.**, a Georgia non-profit company (“Trees Atlanta”), and the **City of Mableton**, a municipal corporation of the State of Georgia (“City”).

WHEREAS, the City wishes to avail itself of the services and assistance of Trees Atlanta and to have Trees Atlanta perform certain tree planting and maintenance services as set forth herein; and

WHEREAS, the City wishes to engage Trees Atlanta to provide such services to the City pursuant to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby severally acknowledged, the parties hereby agree as follows:

1. Appointment. The City hereby engages Trees Atlanta to provide the services set forth in Section 2 on the terms and conditions contained herein, and Trees Atlanta hereby accepts such appointment and agrees to render the services for the compensation provided in Section 3 herein.
2. Services. Trees Atlanta agrees to provide the following services (the “Services”) during the Services Period (as defined below):
 - a. Select, acquire, deliver and plant 15-gallon ‘container’ trees in residential front yards within the City of Mableton boundaries. Planting under this Agreement is anticipated to take place between October 1, 2025 and March 31, 2026 and Trees Atlanta shall provide the City with specific size, planting date, location and species data for each tree planted under this Agreement.
 - b. Trees Atlanta shall not be responsible for ongoing tree care, other than an initial watering and mulching on the date of planting. The homeowner shall sign a form prior to planting indicating that said homeowner shall be responsible for watering the tree during the spring and summer months during the first and second such seasons post planting. Trees Atlanta will provide instruction to each homeowner regarding the quantity, frequency and technique of such watering.
 - c. Should the homeowner notice any condition indicating poor tree health, the homeowner shall inform Trees Atlanta and Trees Atlanta will advise homeowner on potential action to take to improve tree health.
3. Cost of Services. Trees shall be priced at \$325 per tree and the total cost of trees under this agreement shall not exceed Ten Thousand Dollars (**\$10,000**).
4. Tree Guarantee/Replacement. During the Services Period, Trees Atlanta agrees to provide one (1) replacement tree of the same size (each, a “Replacement Tree”) for each Tree that dies for any reason other than (a) vandalism (including, without limitation, by lawn maintenance equipment), (b) acts of God (including, without limitation, lightning strikes, wildfires or extended frost periods), or (c) automobile impacts. For purposes of clarity, if a Replacement Tree is planted, the Services/Warranty Period will not thereby be extended from the date the Replacement Tree is planted.
5. Payment; Payment Terms; Expenses.

- a. The City agrees to pay Trees Atlanta a total amount of UP TO Ten Thousand Dollars **\$10,000** (the “Services Fee”) payable as follows:
 - i. Trees Atlanta shall bill the City a single time in April for all trees planted under this Agreement between October 1, 2025 and March 31, 2026. The invoice amount will correspond to the number of trees planted times the per tree cost of \$325.
 - ii. At the time of invoicing, Trees Atlanta shall also issue to the City a tree data report with the information noted in Section 2.a. above.
 - iii. City agrees to remit payment for each billing within 30 calendar days of receipt and shall do so via ACH (automated clearing house) or check.
 - b. Except as otherwise noted herein, each party hereto will bear its own costs of performing its obligations under this Agreement, including, but not limited to, the following: any legal fees, regulatory filings and governmental submissions, all necessary management costs (including, but not limited to, salaries of personnel) required for it to execute its duties hereunder, and administrative costs necessary for the conduct of its obligations hereunder.
6. Term of Agreement; Termination.
- a. This Agreement shall commence upon the date it is executed by Trees Atlanta and the City’s Mayor and shall continue in effect until the earlier of (i) completion of the Services and final payment by the City of the Services Fee, or (ii) termination of this Agreement in accordance with the terms hereof. Upon receipt of a notice of termination, as of the effective date of termination, Trees Atlanta shall have no further responsibility, obligation or right to provide the Services to the City.
 - b. *Termination for Convenience.* The City may without cause and without prejudice to any other right or remedy, terminate this Agreement for convenience:
 - i. at any time during the contract period, but the City must pay for any trees planted under the terms of this agreement prior to or within five (5) business days of Trees Atlanta receiving such written notice of termination.
7. Non-Exclusivity. Trees Atlanta may furnish similar services for individuals and entities other than the City. The City understands and agrees that the services to be performed by Trees Atlanta are not exclusive in nature.
8. Limitation of Liability; Indemnification.
- a. Each party hereto (as applicable, the “Indemnifying Party”) shall indemnify, defend and hold harmless the other party, each person or entity deemed to control or to be controlled by such other party, and their respective affiliates, partners, members, shareholders, managers, directors, officers, employees, agents and representatives, against and from any reasonable and direct losses, liabilities, and damages (including, without limitation, reasonable attorneys’ fees) arising from any action, claim, controversy, proceeding or investigation relating to this Agreement and incurred by reason of the gross negligence, willful misconduct or bad faith of the Indemnifying Party.
 - b. Neither party, nor their affiliates and their officers, managers, employees and members shall be liable to the opposite party for any expenses, losses, damages, liabilities, demands, charges or claims of any kind or nature whatsoever (including, without limitation, any legal expenses and

costs relating to investigating or defending any demands, charges or claims) arising under or in any way related to this Agreement (collectively, “Losses”), except where directly caused by such party’s bad faith, willful misconduct or gross negligence as determined by a final, non-appeal judgment of a court of competent jurisdiction. Without limitation, neither party shall incur liability for Losses resulting from force majeure or other events beyond the control of either party, including, without limitation, any failure, default or delay in performance resulting from the failure or breakdown in communications not reasonably within the control of the non-offending party.

9. Volunteers. Trees Atlanta shall be entitled to engage volunteers to assist in performing the Services under this Agreement, provided that Trees Atlanta remains primarily liable for the performance of such Services by such volunteers. The Replacement Tree provisions in Section 4 are in no way impacted by Trees Atlanta’s election to utilize or not utilize volunteers in the provision of the Services.
10. Subcontractors. Trees Atlanta shall be entitled to engage subcontractors to perform the Services under this Agreement; provided that Trees Atlanta utilizes subcontractors who are competent and suitable, whether as to qualifications, experience or otherwise, to provide such Services or other responsibilities in a timely, workmanlike, professional manner, and such subcontractors agree to be bound by the terms hereof. Trees Atlanta will remain primarily liable for the performance of such Services by such subcontractors.
11. Assignment. This Agreement shall not be assignable by the City or Trees Atlanta unless the parties hereto provide prior consent to such assignment or delegation in writing; provided that the City or Trees Atlanta may assign or delegate this Agreement to any affiliate.
12. Relationship of the Parties. Trees Atlanta is an independent contractor and, except as expressly provided or authorized herein, shall have no authority to act for, enter into any contract or other agreement on behalf of, or otherwise represent the City in any way or otherwise be deemed an agent of the City. Nothing in this Agreement shall be deemed to establish a joint venture or general partnership between Trees Atlanta on the one hand, and the City on the other hand.
13. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia for contracts to be performed entirely therein without reference to its choice of or conflicts of laws principles. The City and Trees Atlanta hereby consent to the exclusive jurisdiction and venue of Cobb County, Georgia for the resolution of disputes in connection with this Agreement.
14. Arbitration. Any disputes relating to this Agreement not resolved promptly by good faith negotiation shall be immediately subject to arbitration in accordance with the commercial rules of the American Arbitration Association; the City and Trees Atlanta agree that such arbitration is intended to be the sole and exclusive means of resolution of any dispute arising under this Agreement.
15. Notices. All notices required to be given under this Agreement shall be in writing and shall be effective when delivered personally on the day delivered, or when delivered by electronic mail followed by an original, addressed by email and mail to:

If to Trees Atlanta:

Michael Vinciguerra
Business Development Director
825 Warner Street SW, Suite A
Atlanta, Georgia 30310
Email: mike@treesatlanta.org

If to the City:

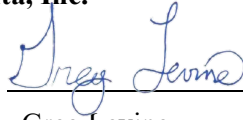
Emily Groth
Sustainability, Waste, and Beautification Director
1400 Veterans Memorial Highway SE, Suite 134-200
Mableton, Georgia 30126
Email: emily.groth@mableton.gov

16. Electronic Consent. Each party hereto hereby consents to electronic receipt for communications.
17. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the City and Trees Atlanta with respect to the subject matter hereof and supersedes all prior agreements and understandings (written or verbal) of the parties relating to this Agreement's subject matter.
18. Amendment. The City and Tree Atlanta may only waive, change, amend, supplement or modify this Agreement or any term or provision thereof by a written instrument signed by all parties.
19. Severability. If any part of this Agreement is held invalid by a court decision, statute, rule or otherwise, the remainder of this Agreement shall not be affected thereby.
20. Counterparts. This Agreement may be executed in multiple counterparts by the parties hereto, each of which shall constitute an original counterpart, and all of which, when taken together, shall constitute one and the same agreement.
21. Successors. This Agreement, including the covenants contained herein, shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns, and no other person shall have any right or obligation under this Agreement.
22. Waiver. The waiver by any party of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach or of a breach by any other party. The failure of a party to insist upon strict adherence to any provision of the Agreement shall not constitute a waiver or thereafter deprive such party of the right to insist upon strict adherence.

IN WITNESS WHEREOF, this Agreement has been executed for and on behalf of the undersigned as of the day and year first above written.

Trees Atlanta, Inc.

By:



Name:

Greg Levine

Title:

Executive Director

Date:

August 8, 2025

City of Mableton

By:

Name:

Michael Owens

Title:

Mayor

Date:



AGENDA ITEM MEMORANDUM

MEETING OF: August 13, 2025

DEPARTMENT: [DEPARTMENT]

ISSUE/AGENDA ITEM TITLE: Consideration and Approval of a Resolution for the City of Mableton to amend the Purchasing Card Policy - Finance Director Karen Ellis

BACKGROUND/SUMMARY:

BUDGETED/FINANCIAL IMPACT – FUND:

RECOMMENDATION:

ATTACHMENTS:

1. Resolution - PCard Policy Amendment
2. ASM - Pcard Policy Amendments
3. P-Card Powerpoint 202508
4. P-Card Policy_Amended 20250813 (1)

COBB COUNTY
CITY OF MABLETON

***A RESOLUTION FOR THE CITY OF MABLETON TO AMEND THE ADOPTED
PURCHASING CARD POLICY FOR THE PURPOSE OF ESTABLISHING DETAILED
OPERATING PROCEDURES TO THE PURCHASING CARD PROGRAM***

WHEREAS, the City of Mableton seeks to improve the efficiency and effectiveness of its purchasing processes; and

WHEREAS, the adoption of a purchasing card policy will provide a streamlined method for purchasing and paying for goods and services, thereby reducing administrative costs and increasing operational efficiency; and

WHEREAS, the City Council recognizes the need for clear guidelines and procedures to ensure the responsible use of purchasing cards.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Mableton as follows:

1. The City of Mableton hereby adopts the consolidated Purchasing Card (P-Card) Policy attached hereto as Exhibit A.
2. The consolidated policy supersedes the procedural components of Resolution 2024-08-01 while maintaining its intent and authority.
3. The Purchasing Manager and Finance Director are authorized to implement, enforce, and revise internal control forms as necessary.
4. This resolution shall be effective immediately upon adoption.

Effective Date: This resolution shall take effect immediately upon its adoption.

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

- (a) All sections, paragraphs, sentences 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, 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
- (d) 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, sentences, paragraphs or sections of this 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, *PASSED AND ADOPTED* by the City Council of the City of Mableton on this 28th day of August 2024.

ATTEST:

CITY OF MABLETON, GEORGIA:

Susan D. Hiott, City Clerk

Michael Owens, Mayor

APPROVAL AS TO FORM:

Emilia Walker-Ashby, Interim City Attorney

EXHIBIT A
PURCHASING CARD (P-CARD) POLICY
(ATTACHED)



AGENDA STAFF MEMO

TO: Honorable Mayor and City Council Members
FROM: Karen Ellis, Finance Director
DATE: Submitted on August 6, 2025, for the August 13, 2025, Regular City Council Meeting

AGENDA ITEM: Approval of a Resolution to Amend Purchasing Card Policy.

SUMMARY:

On August 28, 2024, the City of Mableton adopted Resolution 2024-08-01 to implement a Purchasing Card (P-Card) Policy aimed at streamlining procurement and enhancing fiscal responsibility. While this resolution established a strong foundational policy, recent reviews have identified critical operational gaps that must be addressed to ensure effective implementation, compliance, and internal control.

The following outlines the necessity for amending Resolution 2024-08-01 by integrating detailed procedural requirements. The amendment is intended to create a unified policy document that balances administrative authority with operational clarity, thereby improving program integrity and ensuring compliance with state procurement regulations (O.C.G.A. § 50-5-80 and § 50-5-83).

1. **Operational Guidelines:** Resolution 2024-08-01 establishes policy authority but does not outline how cards should be requested, issued, or reconciled. This has led to inconsistent practices across departments.
2. **Training and Cardholder Accountability:** The resolution lacks requirements for mandatory cardholder training and documentation of responsibilities. The amended policy mandates training prior to issuance and includes a signed Cardholder Agreement.
3. **Reconciliation and Audit Controls:** No detailed instructions are provided on monthly reconciliation timelines, required documentation, or enforcement of late submissions. The amendment introduces a five-day reconciliation window, supporting documentation standards, and audit readiness.
4. **Prohibited Transactions:** The existing policy does not include a detailed list of prohibited uses. The amendment provides specific prohibitions, including alcohol, cash advances, gift cards, fuel for personal vehicles, and unapproved travel.
5. **Enforcement and Violations:** Resolution 2024-08-01 lacks a defined violation reporting and disciplinary process. The proposed amendment details violation levels, required forms, and consequences to support HR and



audit reviews.

6. **Exhibits and Forms**: The resolution does not include forms essential to proper oversight, such as the Cardholder Request Form, Violation Affidavit, Reconciliation Template, and Travel Affidavit. These will be added as official exhibits in the amended policy. Forms will be available electronically via the City's shared document resource.

7. **Legal and Procedural Alignment**: The updated policy explicitly references Georgia procurement laws, local ordinances, and internal procedures, ensuring legal consistency and enforcement support across departments.

FUNDING AND FINANCIAL IMPACT:

None.

RECOMMENDATION:

Staff recommends approval of the amended consolidated P-Card Policy, which merges the authority of Resolution 2024-08-01 with detailed operational procedures. This unified policy will enhance cardholder compliance, reduce audit risk, and create procedural consistency across City departments.

PROCUREMENT SUMMARY (if applicable)

Purchasing method used:	3 Written Quotes (\$5,000-\$49,999)
Account Number:	100-1510-521300.00
Requisition Total:	\$7,500.00 Year One
	\$5,150.00 Year Two
	\$5,310.00 Year Three

REVIEW & APPROVALS:

Financial Review: Karen Ellis, Finance Director – August 8, 2025

Legal Review: Emilia Walker-Ashby, City Attorney –

Concurrent Review: William Tanks, City Manager –

ATTACHMENT(S):

Amended Purchasing Card (P-Card) Policy

P-Card Policy Amendment

Proposed August 13, 2025



P-CARD POLICY AMENDMENT

- On 8/28/2024, Council approved Resolution 2024-08-01, instituting a City P-Card policy. The current policy does not define how cards should be requested, issued, or reconciled. This amendment establishes consistent practices across all departments. These updates include:
 - Detailed procedural requirements to ensure effective compliance and internal control.
 - Improvements to program integrity.
 - Utilization of required forms, waivers and affidavits for operational clarity and cardholder accountability.



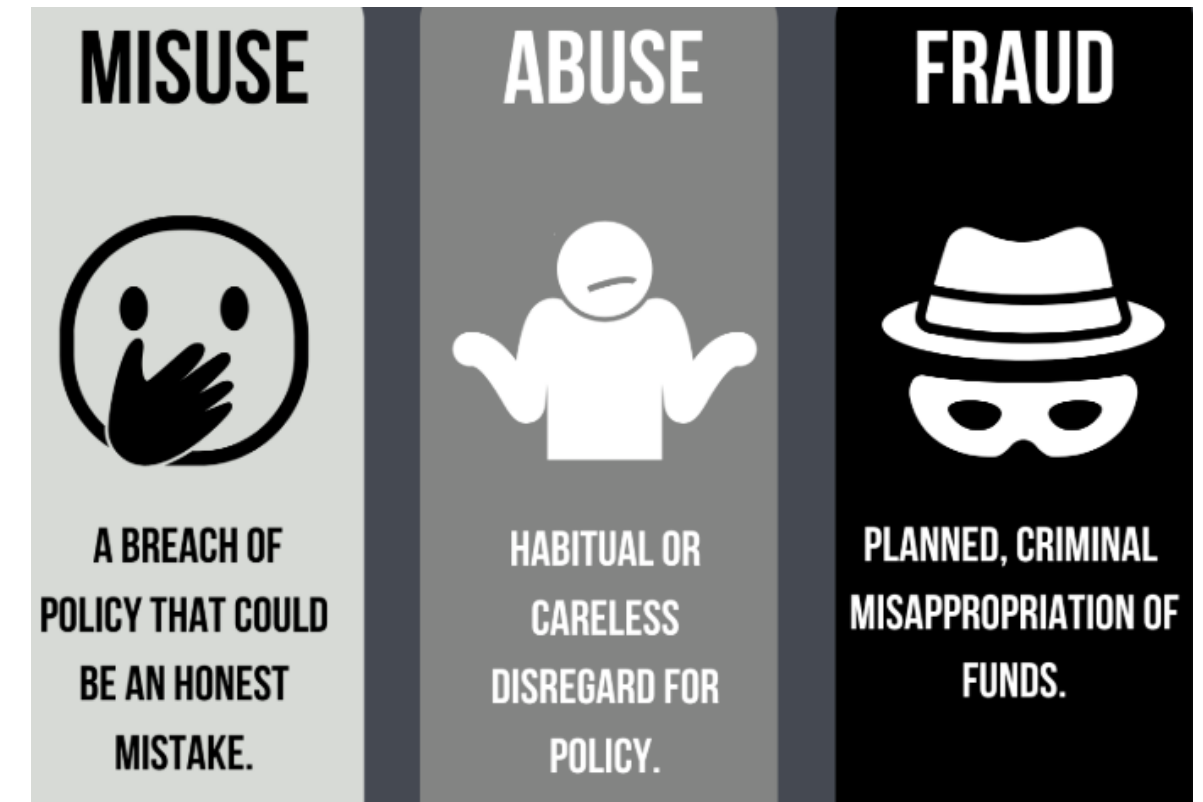
AMENDMENT OVERVIEW

- **Training and Cardholder Accountability:** Current policy is missing specific requirements for mandatory cardholder training and documentation of responsibilities. The amended policy mandates training prior to issuance and includes a signed Cardholder Agreement.
- **Reconciliation and Audit Controls:** No detailed instructions are provided on monthly reconciliation timelines, required documentation, or enforcement of late submissions. This amendment introduces a five-day reconciliation window, supporting documentation standards, and audit readiness.



AMENDMENT OVERVIEW (continued)

- **Prohibited Transactions:** Although the existing policy includes a list of prohibited uses, the amendment provides more specific prohibitions, including alcohol, cash advances, gift cards, fuel for personal vehicles, and unapproved travel.
- **Enforcement and Violations:** Resolution 2024-08-01 lacks a defined violation reporting and disciplinary process. The proposed amendment details violation levels, required forms, and consequences to support Human Resources and Financial audit reviews.



AMENDMENT OVERVIEW (continued)

- **Exhibits and Forms:** The current policy does not include forms essential to proper oversight, such as the Cardholder Request Form, Cardholder Agreement Form, Violation Affidavit, and Travel Affidavit. These are included as official exhibits in the amended policy. Forms will be available electronically via the City's shared document resource.
- **Legal and Procedural Alignment:** The updated policy explicitly references Georgia procurement laws, local ordinances, and internal procedures, ensuring legal consistency and enforcement support across departments.

P-CARD AGREEMENT FORM

Department: _____

I, _____ agree with the following regarding my use of the City of
(Employee Name)

Mableton Purchasing Card.

1. **Prohibited Use:**

I acknowledge and understand that under no circumstance shall the Purchasing Card ("P-Card") be used to make personal purchases or transactions unrelated to official City business, whether for myself or others. The use of a P-Card for any non-business purpose, even with the intent to reimburse the City, constitutes a violation of City policy and may be deemed a fraudulent and unauthorized expenditure under O.C.G.A. § 16-10-20 and applicable municipal finance laws.

2. **Cash Transactions Prohibited:**

I understand that I am strictly prohibited from requesting or accepting cash or cash equivalents (e.g., refunds, store credits) from merchants in connection with returns or exchanges. All returns must be credited directly back to the Purchasing Card account.

3. **Non-Transferability:**

I acknowledge that I am the sole authorized user of the P-Card assigned to me and that under no condition may I delegate or transfer its use to another employee or individual. Shared use is strictly prohibited.

4. **Cardholder Responsibility and Card Return:**

I understand that the City of Mableton reserves the right to suspend or revoke my P-Card privileges at any time, with or without cause. I agree to immediately surrender the P-Card to the designated P-Card Administrator upon request, upon transfer to another department, or upon separation of employment for any reason.

5. **Policy Compliance and Disciplinary Action:**

I agree to adhere to the City of Mableton's Purchasing Card Policies and Procedures and all applicable procurement laws and administrative regulations. I understand that failure to comply may result in disciplinary action, including revocation of P-Card privileges, restitution, and/or termination of employment pursuant to the City's personnel policies.

6. **Understanding of Authorized Use and Restrictions:**

I certify that I have read and understand the P-Card Policies and Procedures, including the section outlining **Unauthorized Purchases**. I acknowledge that I am responsible for ensuring all transactions are lawful, business-related, and properly documented with receipts and justification.

7. **Liability for Misuse:**

I agree that any willful misuse or violation of this Agreement, including use for personal gain or



QUESTIONS?



City of Mableton Purchasing Card Policy

P-CARD MISSION STATEMENT

City of Mableton's Purchasing Card (P-Card) program streamlines procurement by providing employees and departments with a secure, efficient, and flexible purchasing tool. Designed to uphold fiscal responsibility, ensure transparency, and protect public funds, the program reinforces the City's commitment to financial stewardship and operational excellence. By reducing administrative burdens and enhancing procurement agility, the P-Card program supports accountable governance while optimizing resources for better public service.



Developed under the Authority of the City Council

by the Department of Finance

Approved by Resolution 2024-08-01 on August 28, 2024

Amended by Resolution 2025-08-02 on August 13, 2025

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7.1 Returns, Credits, and Disputed Items

7.2 Reporting Fraud

Appendices

Appendix I: P-Card Authorization/Request Form

-

Appendix II: P-Card Agreement

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Appendix III: P-Card Policy Violation Form

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Appendix IV: P-Card Approve Waiver Affidavit

-

Appendix V: Travel P-Card Exclusion Affidavit

Definitions

- **Approver** – The Approver is normally the supervisor to whom a Cardholder reports for authorization to purchase required supplies and services. One approver is required before a purchase is made. Approvers also participate in the reconciliation of Cardholder accounts, ensuring proper procedures are followed when purchasing supplies or services and verifying the information is properly reconciled after the Reconciler has completed the reconciliation of transactions. The policy prohibits a subordinate from acting as an Approver in any phase of the transaction.
- **Card abuse** - Use of the card for non-City business use purchases (personal purchases). See definitions of card misuse and fraud.
- **Cardholder** - An employee of the Organization who is approved by his/her Department Head and City Manager to use the P-Card to execute purchasing transactions on behalf of the Organization.
- **Card Issuer** - Financial Institution's services which include issuing Procurement P-Cards to Organization employees and authorized contractors, providing electronic transaction authorizations, and billing the Organization for all purchases made on the cards.
- **Card Misuse** - Use of the card for legitimate purchases but for goods or services that are prohibited by the City or internal policy (e.g., purchase of fuel for a City vehicle). See definitions of card abuse and fraud.
- **Department Head** - Organizational official who must approve an employee's or authorized contractor's request for a P-Card, designate default accounting codes for purchases on the P-Card and submit an application to the P-Card Administrator. Department Head approval delegates transaction authority to the Cardholder.
- **Director of Finance/CFO** - Responsible for the fiscal functions of the agency, in accordance with General Accepted Accounting Principles (GAAP) and Governmental Accounting Standards. The CFO has primary responsibility for all financial-related activities including but not limited to accounting, finance, budget, etc.
- **Fraud** - Wrongful or criminal deception intended to result in financial or personal gain. See definitions of "card abuse" and "card misuse".
- **MCC** (Merchandise Commodity Code) - A system of four-digit codes, maintained by the networks™ (e.g., VISA), used to identify a merchant's principal trade, profession, or line of business based on the type of goods or services normally provided.
- **O.C.G.A** - Official Code of Georgia, Annotated is a collection of all laws in the State of Georgia.
- **Organization** - Arrange with the card issuer or financial Institution, to have P-Cards issued to approved employees and authorized contractors and agree to accept liability for the employee's use of the cards.

- **Personal Purchase** - Non-work-related goods or services purchased solely for the benefit of the cardholder, the cardholder's family, or other individual(s). This does not include goods or services purchased for communal use at a work site and available to all employees (e.g., paper towels, tissues).
- **Point-of-Sale Purchase** - Purchases made at a physical store, in person, online, or over the phone.
- **P-Card Administrator** - The Central Administrator located in the Organization's Purchasing Division within the Operations Department who coordinates the P-Card program for the organization and acts as the Organization's intermediary in correspondence with the card issuer.
- **Reconciler** - A Reconciler is the person to whom the Cardholder has delegated all the functions associated with post-purchase processing including verifying that the amount of the purchase matches the monthly statement, providing a business purpose for the transaction in associated systems, verifying supporting documentation including approvals is provided, and uploading said documentation into the City's associated electronic reconciliation system. The Reconciler role can be given to either the cardholder or assigned to a proxy to reconcile on the cardholder's behalf. Each card must have only one reconciler; however, one reconciler can be the sole reconciler on multiple cards.
- **Service Charge** - A fee charged by a supplier to cover additional expenses outside the initial charge for the good or service. Only certain suppliers are permitted to charge these. The list of the MCC codes permitted to charge these fees as well as other restrictions from Visa's Rules for Merchants are shown in **Section 7 Surcharges, Convenience Fees, and Service Charges**.
- **Specific Use Account** - An account which is approved by the P-Card Program Manager, and which is for a specific purpose or with a specific vendor. These accounts will have defined criteria for use.
- **Surcharge** - A percentage of the transaction amount charged by the merchant to cover the costs of processing credit card transactions. **See Section 7 Surcharges, Convenience Fees, and Service Charges**.
- **Vendor** - The merchant from whom a Cardholder is making a purchase.

1 Purchasing Card Policy

1.1 Purpose

The City of Mableton P-Card Policy streamlines payments for goods and services for local municipality business use by eliminating the administrative burdens and costs associated with traditional payment methods. Per the Policy, the Purchasing Card (P-Card) may be used as the payment method for unplanned, non-routine, or urgent point-of-sale purchases under \$1,000 not to exceed \$2,500 that are pre-approved. The point-of-sale transactions include purchases made at a physical store, in person, online, or over the phone.

The P-Card Program is the only charge card program authorized by the State of Georgia as defined in the Official Code of Georgia, Annotated §50-5-83 (O.C.G.A. §50-5-83). This Policy and all official forms mentioned in this Policy are **on the City's Shared Drive under PROCUREMENT**. However, updated revisions will be saved annually or as needed in this location.

The primary benefits of the City of Mableton's P-Card program for department users include:

- **Broad Acceptance:** Broad vendor acceptance makes purchasing more flexible and convenient.
- **More timely purchase and receipt of goods:** The P-Card allows departments to quickly obtain necessary goods and services.
- **Reduction in costs associated with processing purchase orders:** Streamlined purchasing reduces administrative expenses and time spent on procurement processes.
- **Increased information about purchasing transactions:** Improved tracking and reporting provide transparency, and internal controls reduce the risk of fraud.
- **Improved efficiency in procuring low-dollar items:** The volume of P-Card transactions simplifies procurement of smaller items, eliminating the need for formal requisitions or purchase orders.

These benefits help ensure more efficient purchasing operations, ultimately supporting the City's fiscal responsibility and operational goals.

1.2 Program Overview

P-Cards will be issued to City employees with the necessary approvals from their respective reporting hierarchy, which includes **City Manager, Department Heads, Director of Finance, Deputy Finance Director and Purchasing Manager**. Approval must be obtained from the appropriate level based on the reporting structure of the employee. This ensures that card issuance follows a clear chain of command and aligns with the City's internal controls and approval process.

- P-Cards shall not be transferable between individuals or departments.
- The Employee's Division/Department Director must approve the request for a card and assign the default GL account number (s) for the Cardholder.
- Cardholders make purchases and receive a monthly Cardholder statement from the card issuer's Financial Institution.
- Cardholder matches or reconciles receipts to the monthly statement and forwards the complete signed Statement summary with receipts to purchasing@mableton.gov.
- Monthly department reports on cardholder transactions will be distributed to the P-Card Administrator. Cardholders are responsible for overriding the default accounting code for transactions, identifying transactions subject to use tax, approving bills, and adding cost share information if required. All monthly Statement summaries must have the Department head's

- approval for transaction expenditure (s).
- The Purchasing Manager sends a consolidated summary to the City (Deputy Finance Director or Finance Director) at the end of the monthly billing cycle, which is the 10th of each month.
- A payment (bank account draft) is made to the Financial Institution within 25 days of the billing cycle.

1.3 Professional Development

Purchasing develops and delivers training on the P-Card Program. The card issuer is responsible for the implementation and initial training with the City's approved vendor. Purchasing will provide additional training in the system as needed.

The Purchasing Manager will be responsible for the overall P-Card Program. The responsibilities include:

- Organization liaison with Financial Institutions.
- Utilizing Financial Institution cloud-based software.
- The reviewing of Department approved applications for completeness of required information.
- Submitting completed applications to the Financial Institution and receiving P-Cards from Financial Institution.
- Training Cardholder before releasing P-Card.
- Obtaining the Cardholder's signature on the **P-Card Authorization** (Appendix II), **P-Card Agreement** (Appendix III), and **P-Card Policy** (Appendix III) signifying agreement with the terms of the P-Card Program.
- Handling disputes charges/discrepancies not resolved by the Cardholder.
- Initiating change of default accounting codes upon request of Cardholders as approved by their Director.
- Securing revoked P-Cards and submitting information to Financial Institutions.
- Receiving Financial Institution bills.
- Distributing monthly reports to Cardholders and notifying Cardholders of cut-off dates for approvals and default code changes.
- Making accruals for transactions that require the submission of use tax to the Department of Revenue.
- Processing electronic upload of bills to accounting.
- Preparing bills for payment and submitting them to the Deputy Finance Director or Finance Director for ACH payment.
- Reconciling Financial Institution's bill to Financial Institution's electronic file.
- Reviewing usage of P-Card data for appropriateness.
- Ensuring that lost or stolen cards have been blocked by Financial Institutions.
- Forwarding vendor set-up requests to Financial Institutions.
- Overseeing invalid declines and emergency transactions.

1.4 Purchasing Department

The Purchasing Department serves as the official Point of Contact for all matters related to the P-Card Program/Policy. Any or all the following administrative responsibilities may be delegated to another person in Finance or Purchasing. These backups or coordinators must be designated with Purchasing and have received the appropriate training.

- In cases where internal controls, policies, or the P-Card program are not adequately managed, the Purchasing Department has the authority to require improvements and/or to impose other restrictions on an employee card until adequate controls and policies are followed.
- Purchasing will direct the employee to complete a corrective action plan. Restrictions may include a probationary period that could place employee (s) in a formal review status, increased policy restrictions and training, procedure modifications, and any other restrictions warranted by the Purchasing Manager.
- Communicates all Program and Policy changes to cardholder users.
- Reviews and approves all amendments to the entity P-Card Plans.
- Process all requests for Policy exceptions.
- Review the P-Card Policy at least annually to ensure that it reflects current State procurement laws and regulations and incorporates best practices in the P-Card industry.
- Develops and maintains P-Card forms and P-Card-specific training.
- Matures and maintains Purchasing training materials and manuals.
- Closes accounts when required for any of the following reasons:
 - Move to a new job in which a P-Card is not required.
 - Terminates employment.
 - P-Card Violation
 - Multiple missing receipts forms (3 forms within one year).
 - The P-Card is used for personal or unauthorized purposes.
 - The P-Card is used to purchase alcoholic beverages or any substance, material, or service, which violates policy, law, or regulation about the City.
 - The Cardholder allows the card to be used by another individual.
 - The Cardholder splits a purchase to circumvent the limitations of The P-Card or to bypass Purchasing policies and procedures.
 - The Cardholder uses another Cardholder's card to circumvent the purchase limit assigned to either the Cardholder or the limitation of The P-Card.
 - The Cardholder fails to provide the P-Card Administrator with the required receipts.
 - The Cardholder fails to provide, when requested, information about any specific purchase.
 - The Cardholder does not adhere to all The P-Card policies and procedures.

1.5 Cardholder & Related Account Users

1.51 Cardholder

All cardholders are essential purchasing agents for the City of Mableton. Accordingly, all cardholders must have a minimum understanding of City Purchasing rules and regulations as contained in the City of Mableton Purchasing Manual and internal purchasing rules. Cardholders must also be familiar with the City of Mableton Policies & Procedures Manual, and provisions of **O.C.G.A. §45-10-3** regarding public officers and employees code of ethics and conflicts of interest.

Cardholder responsibilities include:

- Maintain knowledge of City of Mableton P-Card Policy and internal policies and procedures.
- Monitor transaction activity as often as possible through the Financial Institution's website to ensure fraudulent or other suspicious activity is recognized at the earliest possible time.
- Maintain security of the card, the account number, expiration date, and security code at all times.
- Ensure all purchases are allowable purchases according to City and internal P-Card program policies and are only for legitimate business purposes. Misuse (inappropriate, unauthorized, or fraudulent use) of the card may subject the cardholder to disciplinary action, criminal prosecution, and/or termination of City of Mableton employment.
- Ensure all purchases comply with City Purchasing Policy and the requirements concerning Competitive Bidding.
- Adhere to the purchase limits and restrictions of the P-Card and ensure that all purchases are within all other spending and vendor guidelines established by the City of Mableton.
- Obtain "best value" for the City when making purchases with the P-Card account.
- Ensure that the P-Card is only used by the approved cardholder. Use by anyone other than the approved cardholder is strictly prohibited. The P-Card is not transferable between cardholders or department personnel.
- Obtain all vendor invoices, packing slips, cash register receipts and charge slips and for phone/fax/internet/mail purchases, print or make a copy of the order form. **The cardholder must sign each receipt before submitting it to Department Liaison to signify their approval of the transaction.**
 - If receipt/invoice has been lost and a duplicate cannot be obtained, complete and sign a Missing Receipt Affidavit in lieu of receipt and provide to Department Liaison for scanning into City's ERP software.
 - Use of the form more than three times in one fiscal year may result in suspension of card privileges.
- Attempt to resolve a dispute or billing error directly with the vendor. If a cardholder cannot resolve the dispute or error with the vendor directly, then the cardholder shall complete a Commercial Card Claims Statement of Disputed Item form and forward the original to the Procurement Card Coordination Team and a copy to their Department Liaison. The cardholder must also ensure that an appropriate credit for the reported disputed item(s) or billing error appears on the Truist website in the current or subsequent P-Card cycle. If the credit is not in the current cycle, the information must be documented on the Payable Allocation Report or Activity Log. **Under no circumstances shall cash or gift cards be accepted in lieu of credit to the P-Card account.**
- Report a lost or stolen P-Card immediately to the City approved financial institution. The Department Liaison must also be notified of the lost or stolen P-Card at the first opportunity during business hours.
- Return P-Card and complete Return Card Acknowledgement Receipt form immediately when terminating employment, transferring to another Department, or upon request to forfeit card.

1.52 P-Card Administrator & Finance Director

The P-Card Administrator and Finance Director are responsible for establishing overall policies and procedures to ensure the integrity of the P-Card Program throughout the City. Primary roles and responsibilities include:

- Establishing card limits and allowable merchant category codes
- Providing final review of:

- P-Card Applications
- Requests for changes in card limits and merchant category codes
- Monthly P-Card Statement and Certification
- P-Card purchase requests exceeding \$2,500 or the “no bid limit” as defined in the Purchasing Ordinance
- Reviewing P-Card policy violations and determining disciplinary action based upon P-Card Policy and Human Resources Policies and Procedures.

2 Types of Accounts

Accounts other than those allowed under this Section are not permitted. All accounts must be used only for Mableton Municipality business. Cards must be surrendered and/or accounts closed upon termination of employment for any reason or upon demand from Human Resources and handed over to Purchasing to ensure the cards are accounted for and deactivated.

2.1 Standard P-Cards

Cardholders are limited to one active P-Card unless you are an approved “Grant or Special Project” cardholder. Cardholders must be permanent full-time employees whose jobs require the use of a P-Card. The Purchasing Department may include additional restrictions if applicable. There will be no exceptions to the following:

- 2.1.1 According to **O.C.G.A. §50-5-83**, neither cards nor accounts will be issued to employees of foundations associated with any Local Municipality Entity. This includes student employees, temporary workers (hired from a temporary staffing agency), or contractors (people hired for a pre-determined period for a specific project). Use of the card by a Local Municipality employee when foundation funds are used is prohibited.
- 2.1.2 Cards and other accounts will not be issued in the name of a department or work unit (Facilities Maintenance) to be shared by multiple employees.
- 2.1.3 Only the employee whose name is shown on the card is authorized to make purchases with the card, either in person, online, or by telephone. Use by any other person, even if for Mableton business purposes, is considered misuse of the card. Unless approved by the Purchasing Manager or Executive Leadership for that specific department.

At a minimum, the City Manager, Department Heads, Director of Finance, Deputy Finance Director and Purchasing Manager must approve a cardholder’s application for a P-Card or other account as well as renewals of existing accounts. The appropriate P-Card Authorization/Request form is The P-Card Profile, Appendix I.

2.2 Specific Use Account

Specific use accounts are used to consolidate purchases to a single supplier or for a specific purpose under one account, which will aid in reconciliation, oversight, and controls. Specific use accounts must be approved by the Purchasing Manager and are limited to those designated to pay expenses related to charges made for employee travel used in conjunction with a Travel and Expense Preapproval Authorization form signed at the appropriate level based on the reporting structure of the employee. This ensures that card issuance follows a clear chain of command and aligns with the City's internal controls and approval process.

Any approvals will be given on a form and will include requirements related to documentation, setting up in the financial institution systems, and other usage, controls, and reconciliation requirements.

2.3 Alternative Account Types

All other account types, including but not limited to single-use accounts, ghost cards, and any additional account classifications not previously specified, require formal approval from the City Manager, Department Heads, Director of Finance, Deputy Finance Director, following review and endorsement by the Purchasing Manager. This formal approval process ensures compliance with Local Municipality oversight requirements, providing a strong framework for managing and safeguarding these specialized accounts.

3 Use of the Card

All procurement laws in the Official Code of Georgia Annotated (O.C.G.A.) **§50-5-83** apply to the use of the P-Card. Cardholders, program users: City Manager, Directors, Managers or Supervisors approving officials who knowingly or through willful neglect fail to comply with these laws and regulations may face suspension or termination of account privileges. Violations may also lead to other disciplinary actions, including termination of employment and criminal prosecution of the law.

- O.C.G.A. sections related to governmental purchasing.
- The City of Mableton P-Card Policy
- City of Mableton policies and procedures governing procurement and the P-Card Program.

The City of Mableton Purchasing Department reserves the right to withdraw any authority or delegated approval due to non-compliance with applicable laws, rules, regulations, policies, and procedures, or the terms of any conditional approval.

3.1 Unauthorized Purchases

Cardholders and other program personnel are prohibited from using the P-Card for the purchase of any goods or services not directly or indirectly related to The City of Mableton business. Intentional use of or approval for the use of the card for personal purchases will result in disciplinary action, up to and including termination from employment and criminal prosecution.

- 3.1.1 **O.C.G.A. §50-5-80** states that any person who knowingly uses government funds for personal purchases under \$500 is guilty of a misdemeanor.
- 3.1.2 A person who knowingly uses government funds for personal purchases of \$500 or more is guilty of a felony punishable by one to 20 years in prison.
- 3.1.3 The approving officials who knowingly, or through willful neglect, approve personal or fraudulent purchases are subject to the same disciplinary actions as those making the purchases.

The following types of purchase are strictly prohibited either by O.C.G.A., or to meet the reporting requirements of the City or specific City Entities: The P-Card shall not be used to purchase the following items:

- Gasoline for personal or City vehicle use.

- Bonds and Capital Projects.
- Capital Equipment. Capital Equipment is any unit of equipment with a unit cost of more than \$10,000 or more and a useful life of three (3) years or longer.
- Computer/media equipment, supplies, computers, personal printers, and mobile accessories normally approved through the IT Department - These items must be restricted to ensure City-wide hardware/software standardization and compatibility. Items under \$5,000 are subject to approval by the IT Department receiving procedures and Purchasing guidelines.
- Professional Services. This consists of Architectural/Engineering, Legal, or other state-certified professionals.
- Telecommunications Equipment. Any items under \$2,500 are subject to approval by the IT Department and receiving procedures.
- All Alcoholic beverages are prohibited for purchase.
- Unapproved Travel/Training, Meals, and Entertainment. The card may be used for travel, training, and meals only for pre-approved city business. A travel authorization form must be approved within 14 business days before any reservations can be made. Entertainment (in-room movies for City employees traveling on business) is not allowed.
Exception: Non-business meals must be approved before travel and must be included in the Pre-approval Travel Authorization form.
- Unauthorized use of Travel Reward Points. **Example:** Sky Miles or any type of Personal Rewards numbers.
- Cash advances.
- Gift cards, stored value cards, calling cards, and equivalent products.
- Tobacco products.
- Goods or services not directly related to job responsibilities or other official City of Mableton business (personal purchases).
- Data plans, software, or applications (apps) for non-State Entity devices, including, but not limited to, smartphones, laptop computers, and tablets, except as permitted.
- Internal Accounts Memberships at wholesale warehouses and shopping clubs (Sam's, Costco, Amazon Prime) where the membership is personal in nature. Ordering and buying commodities using personal accounts are prohibited.
- Fuel, mechanical repairs, and maintenance for City-owned. Exceptions may be granted upon verification of procedures to enter costs into the City's fleet management system administered by the City Fleet Management and Purchasing.
 - ✚ This restriction does apply to non-mechanical body shop repairs (dented bumper) not covered under the city's vehicle maintenance contract.
 - ✚ This restriction does apply to auto parts for in-house use (Entity-operated repair shops).

3.2 Authorized Purchases

The P-Card can be used for small value purchases of supplies, materials, equipment, or services, where not otherwise prohibited or restricted. All purchases must be within cardholder assigned spending limits unless prior, written approval is received to exceed these limits. Allowable purchases are:

- Equipment – Single units under \$10,000.

- Supplies and materials up to the cardholder's approved Single Transaction Limit and/or approved cycle limit.

3.3 Authorized Travel Expenses and Restrictions

City Employees traveling on official City business as defined in the City Travel Policy published by the Finance Department may use the P-Card or Travel Expense card for:

3.3.1 Transportation

- If the mode of transportation is a vehicle rental, the rental must be from one of the Mandatory Statewide Contracts unless approved using the Waiver form: Appendix VII: P-Card Approve Waiver Affidavit.
- Air, Uber, and Train are acceptable. No card usage for personal vehicles. This will be reimbursed per City guidelines for Travel and Expense. The city will ONLY honor State Transportation per diem or lowest cost.
- Parking cost of lesser value or equal is permitted.
- City vehicle car washes are permitted.

3.3.2 Lodging

- Please use a Mandatory Statewide Contract (s) for lodging unless approved using the Waiver form: Appendix VII. This excludes nationwide conferences. Example: GMA.
- The City will only honor State Travel per Diem or lowest cost unless they are unavailable.
 - ✚ If an employee is going to a recognized national event, please go with the lesser value or blocked room process that is in place for the City ONLY.

3.3.3 Food or Meals

- The City will only reimburse travel-related meals based on GSA per diem guidelines. The meals and incidental expenses (M&IE) breakdowns in the link below are provided should travelers need to deduct meals furnished by the government. Meals provided by a common carrier, or a complimentary meal provided by a hotel/motel do not affect per diem. <https://www.gsa.gov/travel/plan-book/per-diem-rates>. Cardholders traveling overnight, either in-state or out-of-state, are eligible for 75% of the total per diem rate on the first and last day of travel. Please review Out of State Per Diem.
- Non-travel-related meals are prohibited. Exceptions may be made for food and lodging related to Lunch and Learn programs, City Manager, Council, and Mayor activities. Documentation for the purchase must include:
 - Itemized receipt showing all meals purchased. Roster of participants showing participant name and signature.

3.3.4 Equipment

Use of the P-Card for equipment is governed by the Finance Department policies on Capital Assets. State Entity policy may impose additional restrictions.

Use of an employee's personal card for travel or city purchases is prohibited. Employees are to use their City issued P-Card or Travel Expense card for Travel. This excludes the City Manager, Council, and Mayor in the event they are not P-Card holders.

For emergency events ONLY a Travel and Expense P-Card Exclusion Affidavit form (Appendix VIII) stating why you need to use your Personal card for travel will need to be approved by the Purchasing Manager and Director of Finance within 14 business days before travel.

3.4 Split Purchases

- 3.4.1 Cardholders are prohibited from splitting a transaction between two or more transactions on a single account, two or more transactions on multiple accounts, or two or more transactions using the P-Card and a purchase order to circumvent competitive solicitation requirements.

3.5 Payment of Sales and Use Tax

O.C.G.A. § 48-8-3 exempts purchases made by local entities from State Sales and Use Tax when payment is made with appropriate funds. Cardholders must present the Department of Revenue Sales and Use Tax Exemption, Form ST-5, to suppliers upon request. This form is available on the Department of Revenue website at <http://dor.ga.gov> by searching for ST-5 in the City's Shared Drive.

***The requirement for out-of-state suppliers to charge Sales and Use Tax on shipments to purchasers in the State of Georgia does not apply to tax-exempt Local Municipality entities. To avoid confusion, the cardholder must provide out-of-state suppliers with a copy of the ST-5 before placing an order to be shipped into the State of Georgia. If the supplier refuses to remove taxes, the cardholder must purchase from a different supplier whenever possible. If a supplier refuses to remove taxes and no other suppliers are available to make the purchase, the taxed amount must be itemized on the invoice in currency, not percentages. Cardholders are responsible for ensuring that suppliers do not charge tax or provide credit for inadvertent charges.

- 3.5.1 If taxes are charged, the cardholder must contact the supplier to obtain credit for the account. Sales tax cannot be disputed with the Bank.
- 3.5.2 Credits cannot be obtained by any other method, including, but not limited to, cash or gift cards or rebates.
- 3.5.3 Documentation of attempts to obtain credit for any State Sales and Use Tax charged in error must be maintained with the documentation for the transaction where the tax was charged.

The City may apply to the Georgia Department of Revenue for a refund of sales taxes paid in error or because a supplier refuses to remove taxes. The form to use for this request is the Department of Revenue's Claim for Sales and Use Tax Refund, Form ST-12. In addition to the ST-12, the State Entity must also submit either (1) a Waiver of Vendor's Rights, Form ST-12A, or (2) a Purchaser's Claim for Sales Tax Refund Affidavit, Form ST-12B. These forms contain instructions for their use and are located at <http://dor.ga.gov>.

3.6 Records Retention Requirements

According to **O.C.G.A 50-6-24**; The City of Mableton is required to keep 5 years or two successive audits, whichever is longer.

- 3.6.1 Documents related to transactions (receipts) are accounting records and must be maintained according to the requirements of Accounts Payable Files.
- 3.6.2 Documents related to the issuance of accounts to employees (profile forms) are accounting records and must be maintained according to the requirements of Credit Card Administration Records.

3.7 Internal Revenue Service 1099 Reporting

In 2011, the Internal Revenue Service announced changes to the IRS Revenue Code, Section 6050W, which shifted the burden of payment reporting requirements from the purchaser to the supplier's merchant bank when the P-Card is used as the method of payment for a reportable transaction. Because of the shift in responsibility, participants in the P-Card program are no longer required to report total P-Card transactions of more than \$600 with certain suppliers. This change applies only to P-Card transactions. Reporting on all other payment methods, including checks, ACH, and other means, will remain the responsibility of the Entity making the payments. Consult the tax specialist at your Entity for further information and details regarding these changes.

3.8 E-Verify

The Georgia Security and Immigration and **Compliance Act, O.C.G.A. § 13-10-91**; commonly referred to as **GSICA**, requires all public employers and suppliers to file an affidavit that the supplier and its subcontractors have registered and participate in the federal work authorization program known as E-Verify. This program is intended to ensure that only lawful citizens or lawful immigrants are employed by the supplier or subcontractor.

3.8.1 The City is required to obtain this signed and notarized affidavit from suppliers before entering any service contract for \$2,500 or greater involving the supplier's physical performance of services.

For P-Card transactions that meet this definition, the cardholder or another person within the City is responsible for ensuring receipt of this affidavit. A copy of this affidavit must be included with all transaction documentation.

4 Internal Controls

A strong system of internal controls is essential for the detection and deterrence of fraud, cardholder misuse, or cardholder abuse of the P-Card. Internal controls include policies, procedures, and training in addition to spending limits.

4.1 General Requirements

Limits on the number of cardholders assigned to a supervisor or approving official to ensure adequate review of business needs and documentation for each purchase.

- 4.1.1 Separation of duties between ordering cards (Purchasing Manager), making transactions (cardholders), and reviewing or approving transactions for payment (Department Heads or approving officials).
- 4.1.2 Reconcilers are limited to one per card and cannot be a subordinate of the cardholder. The reconciler role can be given to either the cardholder or assigned to a proxy to reconcile on the cardholder's behalf. Each card must have only one reconciler.
- 4.1.3 Cardholders cannot approve their transactions but may reconcile their transactions.
- 4.1.4 Sharing login information or passwords is strictly forbidden.
- 4.1.5 Delegation of the approver duties is unallowable. Should an approver be on leave or otherwise unavailable to approve a purchase or transaction, another trained approver

who has already assigned the approver responsibility may assume those duties temporarily.

4.2 Card Management & Reconciliation System

4.2.1 **Cardholders.** All cardholders are essential purchasing agents for the City of Mableton. Accordingly, all cardholders must have a minimum understanding of City Purchasing rules and regulations as contained in the City of Mableton Purchasing Manual and internal purchasing rules. Cardholders must also be familiar with the City of Mableton Policies & Procedures Manual, and provisions of **O.C.G.A. §45-10-3** regarding public officers and employees code of ethics and conflicts of interest. Cardholder responsibilities include:

- Maintain knowledge of City P-Card Policy and internal policies and procedures.
- Monitor transaction activity as often as possible through the Financial Institution's website to ensure fraudulent or other suspicious activity is recognized at the earliest possible time.
- Maintain security of the card, the account number, expiration date, and security code at all times.
- Ensure all purchases are allowable purchases according to City and internal P-Card program policies and are only for legitimate business purposes. Misuse (inappropriate, unauthorized, or fraudulent use) of the card may subject the cardholder to disciplinary action, criminal prosecution, and/or termination of City of Mableton employment.
- Ensure all purchases comply with City Purchasing Policy and the requirements concerning Competitive Bidding.
- Adhere to the purchase limits and restrictions of the P-Card and ensure all purchases are within all spending and vendor guidelines established by the City.
- Obtain "best value" for the City when making purchases with the P-Card account.
- Ensure that the P-Card is only used by the approved cardholder. Use by anyone other than the approved cardholder is strictly prohibited. The P-Card is not transferable between cardholders or department personnel.
- Obtain all vendor invoices, packing slips, cash register receipts and charge slips and for phone/fax/internet/mail purchases, print or make a copy of the order form. **The cardholder must sign each receipt before submitting it to Department Liaison to signify their approval of the transaction.**
- If receipt/invoice has been lost and a duplicate cannot be obtained, complete and sign a Missing Receipt Affidavit in lieu of receipt and provide to Department Liaison for scanning into City's ERP software.
- Use of the form more than three times in one fiscal year may result in suspension of card privileges.
- Attempt to resolve a dispute or billing error directly with the vendor. If a cardholder cannot resolve the dispute or error with the vendor directly, then the cardholder shall complete a Commercial Card Claims Statement of Disputed Item form and forward the original to the Procurement Card Coordination Team and a copy to their Department Liaison. The cardholder must also ensure that an appropriate credit for the reported disputed item(s) or billing error appears on the Truist website in the current or subsequent P-Card cycle. If the credit is not in the current cycle, the information must be documented on the Payable Allocation Report or Activity Log.

Under no circumstances shall cash or gift cards be accepted in lieu of credit to the P-Card account.

- Report a lost or stolen P-Card immediately to the City approved financial institution. The Department Liaison must also be notified of the lost or stolen P-Card at the first opportunity during business hours.
- Return P-Card and complete Return Card Acknowledgement Receipt form immediately when terminating employment, transferring to another Department, or upon request to forfeit card.

4.2.2 P-Card Administrator & Finance Director

The P-Card Administrator and Finance Director are responsible for establishing overall policies and procedures to ensure the integrity of the P-Card Program throughout the City. Primary roles and responsibilities include:

- Establishing card limits and allowable merchant category codes
- Providing final review of:
 - P-Card Applications
 - Requests for changes in card limits and merchant category codes
 - Monthly P-Card Statement and Certification
 - P-Card purchase requests exceeding \$2,500 or the “no bid limit” as defined in the Purchasing Ordinance
- Reviewing P-Card policy violations and determining disciplinary action based upon P-Card Policy and Human Resources Policies and Procedures.

4.3 Cardholder Spending Limits and Utilization

Imposing spending limits enables management to provide cardholders with the purchasing power to accomplish the needs of the job without exposing the city to unnecessary risk. Spending limits should be based on job responsibilities/titles. Cardholder spending limits must be reviewed annually to determine if actual usage is consistent with spending limits.

4.3.1 Available Spending Limits

- Cycle (Credit) Limit – Mandatory spending limit that restricts the total value of purchases a cardholder can make in one billing cycle. The cycle limit cannot be \$5,000 or more without prior written approval from approving officials.
- Single Transaction Limit (STL) – Mandatory spending limit that restricts the amount of a single purchase regardless of the Cycle Limit on the card.
- Number of Transactions per Day – Optional spending limit that restricts the total number of transactions a cardholder can have in one 24-hour period.

4.3.2 Spending Limits Requirements

- The Policy establishes the maximum STL for unplanned, non-routine, or urgent point-of-sale P-Card transactions to be set at \$2500 or an approved amount and purchases that are pre-approved. The City Purchasing Manager can establish STLs up to this amount as determined by overall needs.
- The Purchasing manager can adjust in terms of Financial Institution to individual limits greater than or equal to those established and approved P-Card Plan for STLs/CLs up

to the approved limit of \$50,000. Any adjusted limits should be returned to the cardholder's original profile within five business days of the temporary increase to allow for the transaction to be posted.

4.3.3 **Annual Review of Spending Limits**

Purchasing is required to review spending limits at least annually to determine if each cardholder's spending limits are both adequate and appropriate according to the Policy and the approved P-Card Plan. The review must include transactions from at least 12 complete consecutive cycles. To facilitate this review, the Purchasing Manager will provide a Spending Limits Analysis in Excel, exported from the financial institution.

4.3.4 **Inactive Cards**

The Purchasing Department is responsible for defining in its P-Card Plan and internal policy how long a card can remain unused before it is considered inactive. Purchasing will deactivate a card that has not been used within five complete cycles to \$1. The card should also be reviewed to determine if the cardholder still needs the card.

4.4 **Disciplinary Action for Violations**

When a serious P-Card exception or violation is discovered, the P-Card Coordinator will investigate the surrounding circumstances and provide findings to the Finance Director, Department Head, and Department Liaison. Disciplinary consequences will be based upon the Human Resources and P-Card Policies and Procedures. The Finance Director, in coordination with Human Resources, will notify the Department Head and City Administrator of the recommended disciplinary actions. **See Appendix III – Purchasing Card Violation Form.**

5 **Documentation, Reconciliation, and Accounting**

5.1 **Documentation**

5.1.2 Cardholders must maintain documentation for all transactions, including an invoice or receipt. Invoices/receipts must meet the following minimum requirements:

- Complete supplier information (name, location)
- Line-item details, including quantity, description, unit price, and total price.
- Line showing no sales tax.

5.1.3 If a cardholder loses a receipt and a duplicate cannot be obtained, the cardholder should follow the Entity's internal procedures related to the use of the Missing Receipt Affidavit, City of Mableton Missing Receipt form. Use of this form more than three times during a fiscal year will result in suspension of card privileges for a period determined by the Purchasing Manager/Finance Director. If cardholders perform transaction reconciliation in financial institution platform. They must follow internal procedures for handling documentation.

5.1.4 Certain transactions may require additional documentation related to the purchase. If the transaction requires additional documentation to support the purchase, that additional documentation must be kept with the transaction documentation.

5.1.5 All documentation must contain copies of all pages of invoices or other documents.

5.2 **Reconciliation**

Electronic reconciliation is required for all entities. Reconciliation must be conducted before payment is made and must be completed in time to ensure timely monthly payment. The reconciliation process must include:

- Transaction documentation.
- Comments made by the cardholder, approving manager, or both.
- Disputing charges, if necessary.
- Reporting any fraudulent charges.
- Signoff of transactions by the cardholder and approve, at minimum.

5.3 Allocation to General Ledger

- Timely allocation of charges to the General Ledger is essential to ensure compliance with the City of Mableton accounting and budgetary policies.
- The Purchasing Manager sends a consolidated summary to the City (Deputy Finance Director or Finance Director) at the end of the monthly billing cycle, which is the 10th of each month.
- A payment draft is made to the financial institution within 25 days of the billing cycle.

5.4 Timeline of Monthly Process

P-CARD RECONCILIATION BEGINS ON 26TH OF MONTH OR THE FOLLOWING BUSINESS DAY	
2 BUSINESS DAYS	P-Card Coordinator reviews transactions in financial institution worksite and confirms completion of workflow approval process.
5 BUSINESS DAYS	Department Liaisons/Cardholders complete monthly reconciliation process, including importing of all receipts, reconciling transactions to receipts, coding charges, completing other required documentation.
2 BUSINESS DAYS	Department Head, or designee, reviews cardholder monthly statements and approves in financial institution worksite.
2 BUSINESS DAYS	P-Card Coordinator reviews and approves department submissions and alerts Budget & Accounting for payment processing and upload to ERP system

6 Surcharges, Convenience Fees, and Service Charges

Suppliers may charge a credit card processing fee or convenience fee for accepting credit cards including the P-Card. These types of fees are strictly regulated by Visa and MasterCard (also called the Associations). These must be clearly labeled in the documentation as the amount and include which fee was charged.

6.1 Surcharges

According to Visa's Card Acceptance and Chargeback Management Guidelines for Merchants (Merchants are synonymous with suppliers) available on Visa's website, credit card surcharges are allowed but cannot be more than the amount the supplier's bank charges them for processing the transaction. Also, the supplier cannot charge both a surcharge and a convenience fee, explained below.

6.1.1 The maximum allowable surcharge is established by the merchant card provider for the P-Card program and must be shown as a line item on the details invoice or receipt. Whenever a supplier charges a surcharge, the following rules apply:

- The supplier must have provided the merchant card provider for the P-Card program and their merchant bank with at least 30 days' notification of the intent to impose surcharges.

6.1.2 The supplier imposes these charges must be posted and at point-of-sale for physical locations and on websites when sales are made via the internet and inform the customer:

- The exact percentage of the surcharge
- That is being assessed by the supplier and is only applicable on credit transactions.
- That is not greater than what the supplier pays to the merchant card provider for the P-Card Program.

6.1.3 For any transaction where the supplier has charged a surcharge, the City of Mableton cardholder must obtain a copy of the acknowledgment letter sent to the supplier by the merchant card provider for the P-Card program authorizing the supplier to impose a surcharge. This copy must be maintained with the invoice and all other documentation for the transaction in the ERP software program.

6.2 Convenience Fees

For any transaction where the supplier has charged a surcharge, the city cardholder must obtain a copy of the acknowledgment letter sent to the supplier by the merchant card provider for the P-Card program authorizing the supplier to impose a surcharge.

Convenience fees are allowed if they are charged in compliance with Visa rules. For merchants who offer an alternate payment channel (mail, telephone, or e-commerce) for customers to pay for goods or services, a convenience fee may be added to the transaction amount. If the supplier chooses to assess a convenience fee to its customers, the merchant must adhere to the following rules.

6.2.1 The fee is charged for the bona fide convenience of using an alternative payment channel outside the supplier's normal business practice.

- Must be disclosed to the customer as a charge for the alternative payment channel convenience.
- It is applied only to transactions that are not face-to-face.
- Must be a flat or fixed amount, regardless of the amount of payment due.
- Applied to all forms of payment products are accepted in the alternative payment channel.
- Included as part of the total transaction amount.

- Cannot be added to a recurring transaction.
- Assessed by the supplier that provides the goods or services to the cardholder and not a third party.

6.3 Service Charges

A service fee may only be charged by a supplier in countries specified by Visa and for specific purposes. If a supplier charges a service fee, that supplier must follow Visa's requirements including but not limited to:

- 6.3.1 Accept Visa as a means of payment on all channels where payments are accepted.
- 6.3.2 Be authorized to process tax payment transactions if the Service Fee is charged by a government taxing authority or third party.
- 6.3.3 Disclose the fee clearly to the Cardholder as a Service Fee, or local language equivalent, before the transaction is completed and provide the ability for the Cardholder to cancel the transaction without incurring a fee or penalty.
- 6.3.4 Not represent the Service Fee as a fee charged by Visa.
- 6.3.5 Ensure that the Service Fee amount is:
 - A reasonable reflection of the costs associated with completing the Transaction (such as the Merchant Discount Rate, Merchant service fee, or any other costs paid to third parties for services directly related to accepting a Card) and, where possible, capped.
 - A flat, fixed, banded, or ad valorem amount, regardless of the value of the payment due, as required by applicable laws or regulations.
 - Assessed only on the final transaction amount, after all discounts and rebates have been applied during the transaction.

7 Return, Credits, and Disputed items, and Reporting Fraud

7.1 Returns, Credits, and Disputed Items

In most cases, disputes can be resolved directly between the cardholder and the supplier that provided the goods and services. An example of a "disputed" charge is one for which the cardholder did not receive what was ordered or there is another problem with the goods or services ordered. A cardholder may also have a "questionable" charge due to double billing, inconsistent name on documentation, etc. The cardholder must use the following guidelines when returning or disputing an item:

- 7.1.1 If an item needs to be returned for any reason, contact the supplier to send the item back to the supplier in the manner agreed upon. Begin documenting contact names, dates/times of contact, and what transpired. This documentation should be kept with the resolution action (credit or refund) once the issue is resolved.
- 7.1.2 Request a credit from the supplier to be refunded or credited onto the card that was used to make the transaction (or replacement card if the card has been replaced). **All disputes and credit must be returned to the P-Card. No exceptions!** This credit may appear on a subsequent charge card statement.
- 7.1.3 All documentation must be kept on a file of returns for reconciliation.

- 7.1.4 For disputes and questionable charges not resolved between the cardholder and the supplier within 30 days, Bank of America's dispute process must be utilized. Bank of America will investigate the dispute on the cardholder's behalf and assist in the resolution. Provide the Financial Institution with all documentation including previous phone calls or contacts with the supplier to aid in a timelier resolution. Bank of America's dispute resolution process must be utilized within 60 days of the cycle end date for the transactions.

7.2 Reporting Fraud

Immediately report all fraudulent charges that appear on the statement to Bank of America and the entity's P-Card administrator. The administrator is responsible for immediately reporting all fraudulent charges to Purchasing by emailing: Purchasing@Mableton.gov.

Appendix I

P-CARD AUTHORIZATION/REQUEST FORM

This is emailed to the applicant through the Purchasing department in the form of a QR Code.



Appendix II

P-CARD AGREEMENT FORM

Department: _____

I, _____ agree with the following regarding my use of the City of
(Employee Name)

Mableton Purchasing Card.

1. Prohibited Use:

I acknowledge and understand that under no circumstance shall the Purchasing Card ("P-Card") be used to make personal purchases or transactions unrelated to official City business, whether for myself or others. The use of a P-Card for any non-business purpose, even with the intent to reimburse the City, constitutes a violation of City policy and may be deemed a fraudulent and unauthorized expenditure under O.C.G.A. § 16-10-20 and applicable municipal finance laws.

2. Cash Transactions Prohibited:

I understand that I am strictly prohibited from requesting or accepting cash or cash equivalents (e.g., refunds, store credits) from merchants in connection with returns or exchanges. All returns must be credited directly back to the Purchasing Card account.

3. Non-Transferability:

I acknowledge that I am the sole authorized user of the P-Card assigned to me and that under no condition may I delegate or transfer its use to another employee or individual. Shared use is strictly prohibited.

4. Cardholder Responsibility and Card Return:

I understand that the City of Mableton reserves the right to suspend or revoke my P-Card privileges at any time, with or without cause. I agree to immediately surrender the P-Card to the designated P-Card Administrator upon request, upon transfer to another department, or upon separation of employment for any reason.

5. Policy Compliance and Disciplinary Action:

I agree to adhere to the City of Mableton's Purchasing Card Policies and Procedures and all applicable procurement laws and administrative regulations. I understand that failure to comply may result in disciplinary action, including revocation of P-Card privileges, restitution, and/or termination of employment pursuant to the City's personnel policies.

6. Understanding of Authorized Use and Restrictions:

I certify that I have read and understand the P-Card Policies and Procedures, including the section outlining **Unauthorized Purchases**. I acknowledge that I am responsible for ensuring all transactions are lawful, business-related, and properly documented with receipts and justification.

7. Liability for Misuse:

I agree that any willful misuse or violation of this Agreement, including use for personal gain or

benefit, shall result in my financial liability to the City of Mableton for the full amount of any unauthorized charges. I further agree to reimburse the City for any related fees, penalties, or costs of collection, and acknowledge that such misuse may be subject to criminal prosecution and civil liability in accordance with applicable Georgia law.

Signatures

(Cardholder Name)

(Purchasing Card Account Number)

(Cardholder Signature)

(Purchasing Card Administrator Signature)

(Date)

Appendix III

P-CARD POLICY VIOLATION FORM

Purpose

The purpose of this policy is to establish guidelines for addressing violations related to the use of the City of Mableton Procurement Card (P-Card). This policy ensures compliance with financial controls, promotes accountability, and mitigates the risk of misuse.

Scope

This policy applies to all employees and authorized cardholders who have been issued a City of Mableton P-Card for official business purposes.

Violations

A P-Card violation occurs when a cardholder fails to comply with the City of Mableton's P-Card policies and procedures. Examples of violations include, but are not limited to:

- Personal or unauthorized purchases
- Split transactions to circumvent spending limits
- Failure to submit required receipts or documentation
- Use of the P-Card for restricted items or services
- Late submission of reconciliations or expense reports
- Allowing unauthorized individuals to use the P-Card
- Failure to follow established procurement guidelines

Violation Categories & Disciplinary Actions

Violations will be categorized based on severity and frequency of occurrences:

Category 1: Minor Violations

Examples:

- Late submission of receipts
- Minor clerical errors in transaction documentation

Consequences:

- Verbal or written warning
- Mandatory training session

Category 2: Moderate Violations

Examples:

- Repeated minor violations
- Use of the P-Card for non-approved items under \$100

Consequences:

- Written warning placed in employee's file
- Temporary suspension of P-Card privileges (60-90 days)
- Mandatory training session

Category 3: Major Violations

Examples:

- Unauthorized purchase exceeding \$100
- Splitting transactions to circumvent spending limits
- Repeated moderate violations

Consequences:

- Formal reprimand in employee's personnel file
- Suspension of P-Card privileges (120-180 days)
- Possible restitution for unauthorized expenses

Category 4: Severe Violations

Examples:

- Personal purchases exceeding \$250
- Fraudulent use of the P-Card
- Intentional circumvention of procurement policies
- Allowing another individual to use the P-Card

Consequences:

- Immediate revocation of P-Card privileges
- Disciplinary action up to and including termination
- Restitution for unauthorized expenses
- Possible legal action

Reporting & Investigation

All suspected violations must be reported to the Procurement Manager and Finance Department. A formal review will be conducted, and the cardholder will be allowed to explain before disciplinary actions are finalized.

Appeal Process

A cardholder may submit a written appeal within five (5) business days of receiving notification of a violation. Appeals will be reviewed by Human Resources, the City Manager or their designee, or Director of Finance whose decision will be final.

Acknowledgment & Compliance

All cardholders must sign an acknowledgment form indicating that they have read, understood, and agreed to comply with the City of Mableton P-Card Violation Policy. Failure to adhere to this policy may result in disciplinary action by City policies.

Signatures

(Cardholder Name)

(Purchasing Card Account Number)

(Cardholder Signature)

(Purchasing Card Administrator Signature)

(Date)

Appendix IV

P-CARD APPROVE WAIVER AFFIDAVIT

In certain circumstances, purchases or transactions that fall outside the standard P-Card policy may be approved using a Waiver Affidavit. This process allows for controlled exceptions while maintaining oversight and compliance with procurement regulations.

Pre-Approval Required – Any waiver request must be reviewed and approved by the Purchasing Manager, Deputy Finance, or Director of Finance before the purchase is made.

Specific Use Cases – Waivers may be granted for:

- Travel and lodging expenses are beyond standard procedures.
- Equipment or service purchases exceeding predefined thresholds.
- Special vendor-specific transactions that require flexibility.

Documentation & Justification – A formal Waiver Affidavit must be completed, detailing:

- The nature and necessity of the purchase.
- Justification for policy exemption.
- Approval signatures from the appropriate authorities.

Temporary Adjustment Only – Approved waivers are not permanent policy changes but case-by-case exceptions with a defined scope and timeline.

For further details, refer to Appendix VII: P-Card Approve Waiver Affidavit in the amended City of Mableton P-Card Policy.

Procurement

Ensure all waiver requests are submitted with proper documentation before making a purchase. Maintain records of all approved waivers for audit and compliance purposes.

Employee

Reach out to the Purchasing Division for assistance or clarification on waiver eligibility.

PURCHASING CARD APPROVE WAIVER AFFIDAVIT

Date: _____ Department: _____

REQUESTOR INFORMATION

Employee Title: _____

Name: _____

Email Address: _____

P-Card Holder Name: _____

(USE ONLY IF DIFFERENT FROM REQUESTOR)

PURCHASE DETAILS

Vendor Name: _____

Vendor Contact Info: _____

Item (s) or Service (s) to be Purchased: _____

Total Purchase Amount: _____

Standard Policy Restriction being Waived: (Check all that Apply)

- ☐ Exceeds Single Transaction Limit (STL)
- ☐ Exceeds Monthly Credit Limit
- ☐ Exceptions of Travel & Lodging
- ☐ Equipment/Technology Purchase
- ☐ Vendor-Specific Restriction
- ☐ Other (Specify): _____

JUSTIFICATION FOR WAIVER

(Provide a detailed explanation of why the waiver is necessary, including how the purchase benefits the City of Mableton.)

PURCHASING CARD APPROVE WAIVER AFFIDAVIT

APPROVAL SIGNATURES

Name: _____ Title: _____

Email Address: _____

Employee Signature: _____

Name: _____ Title: _____

Email Address: _____

Employee Signature: _____

Name: _____ Title: _____

Email Address: _____

Employee Signature: _____

Reminder and Submission Instructions:

1. Complete all sections of this form and submit it to the Purchasing Division before making the purchase.
 2. Attach any supporting documentation (quotes, policy references, prior approvals).
 3. Retain a copy of the approved form for audit and reconciliation purposes.
- Submit completed forms to: Purchasing@Mableton.gov

FINAL PROCESSING (FOR PURCHASING ONLY)

- ☐ Approved
- ☐ Denied
- ☐ Additional Documentation Required

Reviewer: _____ Date: _____

Email Address: _____

Reviewer Signature: _____

Appendix V

TRAVEL P-CARD EXCLUSION AFFIDAVIT

The Travel Purchasing Card Exclusion Affidavit is used to request an exception when a City of Mableton Purchasing Card (P-Card) cannot be used for travel-related expenses. This ensures proper documentation and approval for any personal card use in accordance with City policies.

Key Points:

✓ **Pre-Approval Required** – Employees must submit the form before incurring the expense, with appropriate justification and approvals within 14 Business Days.

✓ **Valid Exclusion Reasons** – Requests may be approved for:

- Vendors not accepting P-Cards
- Emergency or unplanned travel expenses
- Personal card required due to booking restrictions

✓ **Eligible Expenses for Exception** – Includes:

- o Airfare, lodging, ground transportation, registration fees, and meals (per diem applies).

✓ **Justification & Documentation** – Employees must provide a detailed explanation and attach supporting documents if applicable.

✓ **Approval Process** – Requires signatures from:

- Department Head
- Purchasing Manager
- Assistant City Manager/ Deputy City Manager / City Manager

Action Required:

- ✦ Complete and submit the form before making any travel-related purchases.
- ✦ Ensure all required approvals are obtained for compliance.
- ✦ Retain a copy of the approved affidavit for audit and reconciliation purposes.
- ✦ Submit completed forms to: Purchasing@mableton.gov

This form ensures accountability, fiscal responsibility, and proper tracking of all travel-related expenditures that deviate from standard P-Card usage. Failure to submit this form will be avoided and delay reimbursement. Anything on your Travel Authorization, including this that was NOT approved prior will NOT be approved for reimbursement.

TRAVEL P-CARD EXCLUSION AFFIDAVIT

Date: _____ Department: _____

REQUESTOR INFORMATION

Employee Title: _____

Name: _____

Email Address: _____

P-Card Holder Name: _____

(USE ONLY IF DIFFERENT FROM REQUESTOR)

TRAVEL DETAILS

Purpose of Travel: _____

Destination: _____

Travel Dates: FROM ____/____/____ TO ____/____/____

Total Estimated Cost of Trip: _____

Exclusion Request Details

Reason for P-Card Exclusion Request: (Check all that apply)

- ☐ P-Card not accepted by the vendor
- ☐ Emergency/Unplanned Travel Expense
- ☐ Personal card required due to booking restriction
- ☐ Other (Specify): _____

Type of Expense Requiring Exclusion: (Check all that apply)

- ☐ Airfare
- ☐ Hotel/Lodging
- ☐ Ground Transportation (Rental Car, Ride Share, Public Transit)
- ☐ Registration Fees
- ☐ Meals (Per Diem Applies)
- ☐ Other (Specify): _____

EXCLUSION REQUEST DETAILS

(Provide a detailed explanation for why the P-Card cannot be used for this travel or expenditure and why an exception is necessary.)

TRAVEL P-CARD EXCLUSION AFFIDAVIT

APPROVAL SIGNATURES

Name: _____ Title: _____

Email Address: _____

Employee Signature: _____

Name: _____ Title: _____

Email Address: _____

Employee Signature: _____

Name: _____ Title: _____

Email Address: _____

Employee Signature: _____

Reminder and Submission Instructions:

1. Complete all sections of this form and submit it to the Purchasing Division before making the purchase.
 2. Attach any supporting documentation (invoices, vendor policies, emergency travel details).
 3. Retain a copy of the approved form for audit and reconciliation purposes.
- Submit completed forms to: Purchasing@Mableton.gov

FINAL PROCESSING (FOR PURCHASING ONLY)

- ☐ Approved
- ☐ Denied
- ☐ Additional Documentation Required

Reviewer: _____ Date: _____

Email Address: _____

Reviewer Signature: _____



AGENDA ITEM MEMORANDUM

MEETING OF: August 13, 2025

DEPARTMENT: [DEPARTMENT]

ISSUE/AGENDA ITEM TITLE: Consideration and Approval of City of Mableton Causing for the Six Flags Area Special Services District to be Levied at Same Amount Prior to the City's Incorporation - City Attorney Emilia Walker-Ashby

BACKGROUND/SUMMARY:

BUDGETED/FINANCIAL IMPACT – FUND:

RECOMMENDATION:

ATTACHMENTS:

1. Resolution Setting Six Flags SSD Millage to Pre Incorporation Rate Rev. 8.8.25

**A RESOLUTION OF THE CITY OF MABLETON, GEORGIA, CAUSING FOR THE
SIX FLAGS AREA SPECIAL SERVICES DISTRICT TO BE LEVIED AT SAME
AMOUNT PRIOR TO THE CITY'S INCORPORATION**

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, Article 9, Section 2, Paragraph 6 of the Georgia Constitution ("Special Districts Clause of the Georgia Constitution") provides that "special districts may be created for the provision of local government services within such districts; and fees, assessments, and taxes may be levied and collected within such districts to pay, wholly or partially, the cost of providing such services therein and to construct and maintain facilities therefor."

WHEREAS, on or about November 11, 2016, Cobb County enacted a County special services district within the area surrounding Six Flags over Georgia;

WHEREAS, in 2025, the County was no longer be able to levy its Six Flags area service district due to the City's incorporation, and as such, on or about May 28, 2025, by and through RES 2025-05-04, the City created the "Six Flags Area Special Services District" (the "District");

WHEREAS, the City Council desires through this Resolution to set the millage rate for the District at an amount equal to the amount levied in the area by the County, prior to the City's incorporation; and

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

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

Section 1. RATE AMOUNT UNCHANGED.

The millage rate set by Cobb County for tax year 2024 for the County's special services district within the Six Flags area was three- and one-half mills. As such, in furtherance of the City Council's desire for the District to be levied at an amount equal to the amount similarly levied by the County prior to the City's incorporation, the City hereby sets the millage rate for the District's Services Tax¹ for year 2025 in the amount of three- and one-half mills. As set forth in RES 2025-

¹ "Services Tax" or "Tax" refers to the ad valorem tax levied pursuant to this Resolution on real property

05-04, if the City Council takes no action to set the District's millage rate for any future year, the District's millage rate shall remain at the rate applicable to the immediately preceding year.

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

- (a) All sections, paragraphs, sentences 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 provided 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

subject to ad valorem taxation within the Six Flags Area Special Services District created by RES 2025-05-04.