

CITY OF MABLETON, GEORGIA

Riverside EpiCenter
135 Riverside Pkwy, Austell, GA 30168
October 26, 2023 @ 6:30PM

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

SPECIAL CALLED

TRANSITIONAL CITY COUNCIL MEETING AGENDA

1. **CALL TO ORDER** Mayor Michael Owens
2. **ROLL CALL**
3. **INVOCATION**
4. **PLEDGE OF ALLEGIANCE**
5. **APPROVAL OF AGENDA**
6. **CONSENT AGENDA:**
 - a. *Approval of August 30, 2023 Special Called Transitional City Council Meeting Minutes*
 - b. *Approval of September 14, 15, & 16, 2023 City Council Transitional Planning Retreat Meeting Minutes*
7. **PUBLIC COMMENTS**
8. **NEW BUSINESS:**
 - a. *FIRST READ: Ordinance Amending Chapter 7, Taxes, Fees and Assessments, of the City of Mableton Code of Ordinances Pertaining to Occupation Taxes*
 - b. *FIRST READ: Preliminary Compensation Schedule*

Public comments are limited to 2 minutes per speaker. 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.

9. **DISCUSSION:**
 - a. *FIRST READ: Transitional Spending Plan*
10. **CITY ATTORNEY COMMENTS**
11. **CITY CLERK COMMENTS**
12. **CITY COUNCIL COMMENTS**
13. **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)*
 - Exemptions O.C.G.A. 50-14-3 (b)(4)&(5)*
14. **ADJOURNMENT**

Public comments are limited to 2 minutes per speaker. 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.

CITY OF MABLETON, GEORGIA

Riverside EpiCenter
135 Riverside Pkwy, Austell, GA 30168
August 30, 2023 - 6:30PM

SPECIAL CALLED

TRANSITIONAL CITY COUNCIL MEETING MINUTES - DRAFT

1. **CALL TO ORDER** Mayor Michael Owens

2. **ROLL CALL - QUORUM PRESENT**

The Honorable Michael Owens, Mayor - Present
The Honorable Ron Davis, District 1 Councilmember - Present
The Honorable Dami Oladapo, District 2 Councilmember - Absent
The Honorable Keisha Jeffcoat, District 3 Councilmember - Present
The Honorable Patricia Auch, District 4 Councilmember - Present
The Honorable TJ Ferguson, District 5 Councilmember – Present
The Honorable Debora Herndon, District 6 Councilmember – Present

3. **INVOCATION** - Led by Councilmember Davis

4. **PLEDGE OF ALLEGIANCE** – Led by Veteran and Councilmember Jeffcoat

5. **APPROVAL OF AGENDA** – No suggested changes and same as presented.

Motion was called by Mayor Owens to approve as presented. The motion to accept the agenda was approved by the council unanimously.

6. **CONSENT AGENDA**

- a. *Approval of July 14, 15 & 17, 2023 Special Called Transitional City Council Meeting Minutes (@ Georgia Municipal Association)*
- b. *Approval of July 26, 2023 Special Called Transitional City Council Meeting Minutes*

Motion was made by Councilmember Jeffcoat to approve the Consent Agenda. Councilmember Davis seconded the motion. The motion passed unanimously.

7. **PUBLIC COMMENTS**

- Jeff Padgett of 971 Clay Road of Friends of Mableton and South Cobb Lions Club pointed out people need to attend. Having a positive attitude would help the City grow right. He asked what the people could do to help during the transition. He suggested

Welcome to Mableton signage and suggested conducting some beautification projects. He offered leading in a project.

- Angela Wynn of 6891 Shanandoah, District 2 spoke about the Riverside Renters Association Renters Bill of Rights. A handout was given to Mayor and Council and the City Clerk.
- Monica Delancy of Riverside Community, District 2, invited everyone to attend the Riverside Community Meeting, Wednesday, September 13 at the Premier Learning Academy at 5:30 p.m. The reason for the meeting was because of the Atlanta Journal Constitution report that listed eleven properties in Mableton as dangerous grounds. There will be an update about public safety and code enforcement. She named resources for rental assistance, security deposit, hotel.
- Cynthia Poselenzy of District 4 encouraged Mayor and Council to get a website and email address and to send something to all residents of the new city. If there was anything she could do, or help others such as businesses, then could send a postcard to everyone.
- Cassadra Brown spoke on behalf of Tre Hutchins of Cobb School Board to provide an update. The Betty Gray Middle School opened August 1st with completion of \$10 million of improvements and classroom additions. She asked everyone to please be on the lookout for information about a ribbon cutting event. There will be a town hall for the Betty Gray Middle School community. Pebblebrook High School will be celebrating 60 years of academic excellence at homecoming October 20-22. Please be on the lookout for invitations.
- Denny Wilson of District 2 spoke about her car ride in East Cobb. The right of ways was mowed and neat. When in South Cobb, there was grass overgrown and no mowing. She suggested calling or emailing GDOT and Commissioner Sheffield. She asked when the City would have a budget with line items.
- **Report from Cobb & Douglas Public Health** - Mayor Owens explained since there had been talk lately about the rising cases of COVID, and he now served on the Cobb County Board of Health, he asked Deputy Director Lisa Crossman to attend the meeting and give an update from the County. Ms. Crossman stated there was no cause for alarm. The hospitalizations continued to be low and there was not going to be another pandemic outbreak. She spoke about COVID prevention and testing opportunities, increase in opioid drug overdoses, dispose RX, Narcan, and planning for a new South Cobb Health Center to break ground in 2024, and completed by 2025.
- Mayor Owens thanked Ms. Crossman for attending the meeting and spoke about the need for access to public health and how the future South Cobb Health Center is important to the City of Mableton. He reminded everyone that there were free health items in the back of the room.

- Representative House District 39 Terry Cummings thanked everyone for attending the event the previous night at the Mableton House Art Center which was about HB520 and mental health. She specifically thanked Councilmembers Davis, Jeffcoat, Auch, and Herndon for coming out and supporting the event. She spoke about the bipartisan bill and others who attended. State Representative Sharon Cooper, 80 years old, and chair of the Mental Health Committee was present. Judge Ann Miller attended. There was a total of 80 people at the event.
- Representative Cummings spoke about the area being a bank desert and the mobile branch program that was being brought to the EpiCenter. Representative Cummings recognized Dr. Boyd. Dr. Boyd provided additional information about the EpiCenter being a resource with PNC Bank, twice a month, two hours each time present. The program starts October 8th. The mobile branch will occur at the same time of the Food Truck Village. Representative Cummings provided additional information, including a description that the bank was a 30-foot truck as a branch on wheels.

8. **NEW BUSINESS:**

a. FIRST READ: City of Mableton Purchasing Policy

Mayor Owens explained why the Purchasing Policy was being addressed. Currently, the City was using the state contract pricing. The City will need a policy in the future for purchases when the state contract would not apply. Attorney Walker-Ashby explained the policy was one of the largest policies the City would be adopting. The policy needs a lot of attention and review before adopting the policy. She referenced Section 6.32 of the City Charter that stated during the transition period, the City would need to put in place a purchasing policy. She acknowledged it would not be realistic for Mayor and Council to give feedback at this point. Most cities have a purchasing policy. The policy presented was modeled after Johns Creek. The policy covers various provisions and laws for future staff to purchase items. She continued to explain the different procurement stipulations outlined in the policy.

Questions followed.

9. **DISCUSSION:**

a. Essential Administrative Needs (includes authorization for smart phones, cell, and data service, along with computing devices and related cybersecurity and productivity software)

Questions by Councilmember Ferguson and Auch confirmed the amount was net 90, and the ten devices were for two executive assistants, city clerk, mayor, and council.

Mayor Owens made note that the process for payroll services included quotes from Paylocity and Paycom. No one has been paid yet, and for anyone to be paid, a payroll system must be in place. He thanked Finance Consultant Frank Milazi and City Clerk Susan Hiott for helping. Mayor Owens explained the total annual investment was around \$3500 with anticipated set up fees around \$350 to curtail the system for the City. The system pays based on when payroll was run and based on ten employees. He summarized the cost was around \$3500, monthly fee for two payrolls every two weeks \$230-270 and initial implementation fee of \$250- \$450. The Mayor and Council are considered employees of the City by the Internal Revenue Service. Per questions by Councilmember Ferguson, Mayor Owens explained the quotes were comparing apples to apples. Paycom is used by many cities in the area. Paycom is the preferred vendor. The Finance Consultant recommended Paycom as well. Per question by Councilmember Ferguson asked about hidden fees, and Mayor Owens noted if want to add other programs and HR features, the City can add later. The set-up fee for Paycom was \$263 and training was included. They also have a dedicated client service manager for the City.

Motion was made by Councilmember Ferguson to approve the expenditure and conversation and all essential administrative needs including authorization for smart phones, cell, and data service, along with computing devise and related cybersecurity and productivity software be approved. Councilmember Jeffcoat seconded the motion. The motion carried unanimously.

b. Preparation of City of Mableton Preliminary Classification and Compensation Plan (Georgia Department of Community Affairs data for reporting Cobb Cities is provided for comparison and reference)

Mayor Owens explained the City would be needing a classification and compensation plan in place when the City starts to bring on staff. He recognized City Attorney Walker-Ashby who explained the item was brought to Council to begin preliminary discussions. Pursuant to Section 3.14 of the Mableton Charter, a position classification and pay plan should be submitted to the city council for approval. Once the positions and parameters are set, the salary will be formulized in a formal document including established positions. The feedback from council planning meetings will be tailored to start the classification and compensation (pay) plan. She opined Mableton's pay plan will be different because the City did not set a millage rate and because there would not be additional funding by ad valorem taxes. The City relied on revenues such as permitting, alcohol and business licenses, planning zoning and franchise fees. These services and revenues required and utilized specific staffing. The pay and class plan should focus on the items needed. This classification and compensation plan should occur when establish departments. The guidance and feedback from planning sessions will help set the plan.

Ms. Walker-Ashby explained the document in the agenda packet came from the Department of Community Affairs (DCA). Each year DCA asks jurisdictions to complete surveys. From the 2022 DCA document (survey) within the agenda packet, she pulled the salaries for Cobb

County cities for comparison. The chart (survey) is available on the DCA website. She referenced that Acworth salaries were low relative to other jurisdictions. Marietta was a good model to go by. It was more current. Ultimately, it will be the Council's decision to set the salaries. The Charter does not anticipate this immediately but will relax requirement during the two-year transitional period.

Ms. Walker-Ashby explained when the Council adopts a compensation and classification plan, the salaries will have ranges for the positions. The mayor, city manager or other designee, being a certain level of people, will negotiate the salary within the approved ranges according to the credentials of the applicant. She recommended this could be adopted sooner than the procurement policy because soon, the City will need some staff. She reminded the classification and compensation plan can be amended at Council's discretion.

Mayor Owens stated he was aware of two variables that would be considered when setting the salary ranges: (1) the City's population size and (2) how far away the City was from the City of Atlanta. The further away from Atlanta, the less salary. Also, the smaller population of a City affected the salary. He would keep in mind that the salaries of the cities comparable in size and near Atlanta would be considered.

Councilmember Herndon asked for clarification that the council adopted the salary ranges. Ms. Walker-Ashby confirmed yes. Councilmember Herndon asked if the executive assistant position was posted, and Mayor Owens replied yes. Councilmember Herndon stated there had been concern and discussion about the stated salary amount. Mayor Owens stated the salary range mentioned was not the salary. He posted the position at a commensurate rate. The rate would be approved under the same process as the city clerk and attorney. Now that the City had significant funds coming in, Council could look at hiring. The position was approved a couple of months ago. Mayor Owens replied he would negotiate the salary with the applicant. As the Council comes together, and brings someone on board, the same process will take place. The DCA chart can reflect the market rate for executive assistant positions.

*c. **Planning Retreat Scheduling** (retreat to include issues such as vision, mission, transition/staffing/service priorities and preliminary funding)*

Attorney Walker-Ashby recommended taking one-two days to focus on specific items, having a missions and visions facilitator/specialist to help council reach vision and mission for the City moving forward. It would be perfect opportunity to share constituents' feedback and resident recommendations to share and to place in a form that incorporates a unified mission and vision. She recommended having a discussion on the service priorities such as the ones suggested in the Feasibility Study anticipated at a minimum planning and zoning, code enforcement, sanitation as well as parks and recreation. Mayor and Council need to discuss the priorities for the services. It would be helpful to the attorney so that she would know what to bring before the council. Those priorities would have emphasis in the classification schedule and staffing order. Because money has come in over the past four months, it would be great to have a budget presentation and preliminary budget for future consideration and adoption. She asked to set a date.

Councilmember Jeffcoat spoke about tentative date set as September 14-16. She had been working on a draft agenda in coordination with the Georgia Municipal Association. The draft agenda would be finalized later. The retreat was local downtown at the Georgia Municipal Association on Pryor Street. She was thankful for the Georgia Municipal Association allowing the meeting. Councilmember Auch expressed she was surprised there was no cost. Councilmember Jeffcoat clarified there was a \$750 a day for two and half days, but the costs were deferred. Mayor Owens explained the meeting would be open meeting and there would be notice of the meeting. The audience asked questions about the meeting. Mayor Owens provided explanation about the Georgia Municipal Association (GMA) and how they have been gracious to assist the new City of Mableton and have also deferred costs until the City was on solid ground. GMA has also waived the membership dues for Mableton's first year. Councilmember Auch commented that the discussion could be conducted in a work session. Mayor Owens was confident of what Mayor and Council could do, but it was good to have the expertise of Georgia Municipal Association. It is a work session but leveraging the expertise of the GMA staff to do it effectively and efficiently. Mayor Owens asked those residents interested to please contact the Mayor and Council. Councilmember Herndon asked for additional clarification on the costs and Councilmember Auch asked if there needed to be a vote. Attorney Walker-Ashby explained the reason there needed to be a vote and how a vision and mission statement are set in a 4-6-hour session with a moderator. Councilmember Auch expressed concern that the retreat was not local. Discussion followed.

Motion was made by Councilmember Ferguson to approve the planning retreat not to exceed \$2000, and commented he thought Council could do the mission and vision. Councilmember Jeffcoat seconded but commented about GMA could assist with the vision and mission portion. The vote carried 4-2. Yeas: Davis, Jeffcoat, Ferguson and Mayor Owens. Nays: Herndon and Auch

10. **CITY ATTORNEY COMMENTS - NONE**

11. **CITY CLERK COMMENTS – NONE**

12. **CITY COUNCIL COMMENTS -**

- Councilmember Davis expressed how he respected everyone's opinions, and at the end of the day, he wanted the City of Mableton to work. He was honored to be a council person and hear everyone's voices. He would do his best to help Mableton succeed.
- Mayor Owens read a statement from Councilmember Oladapo who sent happiness and gratitude to God for her new baby girl, Eden Oladapo, born August 14th. She expressed sincere appreciation for everyone's understanding and encouragement.
- Councilmember Jeffcoat congratulated Dami and David on the new council baby. She spoke about attending Pebblebrook High School's Open House. It was a great event. She invited everyone to check out the new facility being built. There is a theater and creative space. South Cobb was having a music festival. She attended the mental health

forum with Representative Cummings related to HB 520. She spoke about the importance of getting in front of providing support and resources for those suffering from mental health issues.

- Councilmember Auch stated she was in favor of discussing mission and vision statements, but if having, she preferred to have locally where Council could also have public input. She provided details about the upcoming South Cobb Music Festival.
- Councilmember Ferguson expressed congratulations to the council baby. He spoke about the history of celebrating Labor Day. He asked for a moment to celebrate those who labor for the country and the audience applauded. He commented about the importance of Mableton's small businesses, entrepreneurs, and churches. He saluted educators. He commented about how the Council was committed to working with the small businesses that call Mableton home. He encouraged others to attend the Economic Development Summit on September 22.
- Councilmember Herndon spoke about how creating vision and mission statements was important. She invited those who could attend. It requires a village to start the City. She mentioned there were people invested in Mableton's growth and evolution and from different places. There are many talents among the Council and Mableton. As a City, there are some things the Council can do.
- Mayor Owens referenced previous conversations about transportation and the value of input from citizens. He encouraged everyone to email cityofmableton@gmail.com and let Council know what the people are thinking. There was a presentation GDOT did before Commissioners about upcoming SPLOST. He wants to make sure Mableton has projects on SPLOST referendum. He referred to the form to be filled out. If have specific talents and knowledge, please let the Council know. There will be opportunities to get involved in the City to help move forward on important authorities, committees, bureaus. He spoke about how he would like to have a Keep Mableton Beautiful program.
- Mayor Owens reported he got calls every day about mowing, illegal dumping, etc. He would often call someone. He also goes to Cobb County website; he opens a ticket on See Click Fix. He encouraged others to go to the Cobb website and fill out the form. He spoke about the budget process. The City was in the third month and working toward a preliminary transitional budget. He spoke about the need to get the message out to notify everyone that lives in Mableton, but it is a \$15,000 cost for postage, cards, etc. Everything the Council does is in the right spirit and for the right reasons to make Mableton a model city.

13. **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)

Exemptions O.C.G.A. 50-14-3 (b)(4)&(5)

Motion was made by Councilmember Ferguson to go into Executive Session for the purpose of litigation, real estate, and personnel. Councilmember Jeffcoat seconded the motion. The motion passed. Yeas: Davis, Jeffcoat, Owens, Ferguson, Herndon and Auch

Council went into Executive Session at approximately 9:00 p.m.

Motion was made by Councilmember Jeffcoat to close the Executive Session and seconded by Councilmember Davis. Yeas: Councilmember Davis, Jeffcoat, Owens, Ferguson, Herndon, and Auch.

The Executive Session closed at 10:54 p.m.

Motion was made by Councilmember Ferguson to authorize the City Attorney to serve as Hotel Motel Tax Administrator alongside the City Clerk. Councilmember Jeffcoat seconded the motion. The vote passed. Yeas: Davis, Jeffcoat, Owens, Ferguson, Herndon and Auch

14. **ADJOURNMENT**

Motion was made by councilmember Jeffcoat to adjourn. Councilmember Auch seconded. The motion passed 6-0.

The meeting adjourned at approximately 11:00 p.m.

Approved:

Attest:

Susan Hiott, Interim City Clerk

Michael Owens, Mayor

**Minutes – DRAFT
City of Mableton
Planning Retreat
GMA Offices, 201 Pryor Street, Atlanta, GA 30303
Thursday, Friday, & Saturday, September 14, 15, & 16, 2023**

Thursday, September 14

Present: Mayor Owens, Councilmembers Davis, Herndon, Jeffcoat, Ferguson, Auch and Oladapo (participated online).

Interim City Attorney Walker-Ashby and Interim City Clerk Susan Hiott

GMA Member Services Consultants: Michael McPherson and Terrell Jacobs

Quorum was present.

5:00PM - Welcome & Introductions - Michael Owens, Mayor, Mableton

Mayor Owens opened the meeting. There was a quorum. Councilmember Oladapo attended online.

5:30PM - Working Dinner / Team Building - Michael McPherson, Member Services Consultant and Terrell Jacobs

GMA Consultant Terrell Jacobs led in the team building exercise. Following the exercise, councilmembers discussed the importance of communication, having a goal, working together, and that prioritization was critical.

6:00PM - Planning Retreat Overview - Michael McPherson, Member Services Consultant

Mr. McPherson addressed that the role of facilitators was to keep the conversation focused and be the gate keepers and help the group reach consensus. Ground rules were addressed. Ground rules included trust, respect, and focusing on the talk about the future.

The Georgia Municipal Association power point presentation is available in the record.

6:30PM - Vision & Mission Exercise - Michael McPherson - Member Services Consultant

Mr. McPherson and Mr. Jacobs explained the difference between a vision, mission, and core values.

Vision: What the organization strives to be; a statement of a desirable future (aspirational).

Mission: What the organization does to move toward the vision (what, why, and how).

Values: What the organization stands for believes in; guiding principles for service delivery.

Mayor and Council expressed their thoughts while also sharing comments they had received from their constituents for a proposed draft of the vision of Mableton. GMA staff reiterated that a vision is for the future. It should be general and aspirational. The vision should be a short statement (16 words or less).

The mission statement provides a course for the future. The vision and mission statement are important to the overall strategic plan of an organization. The most important parts of the strategic plan include:

Vision: Setting a course for the future and then engaging to move the organization toward that vision.

Mission: Typically expressed as a statement that defines the purpose of the organization - Why does the City exist and who does the City serve?

Values: Guidelines and principles – what culture does the City want to create and how does the City want to act?

Mayor and Council looked at other City visions and began suggesting their own ideas for the vision, mission, and core values. The discussion was to continue the following day.

At 7:50PM the meeting adjourned.

Friday, September 15

Present: Mayor Owens, Councilmembers Davis, Herndon, Jeffcoat, Ferguson, Auch and Oladapo (online conference).

Interim City Attorney Walker-Ashby and Interim City Clerk Susan Hiott

Quorum was present.

Guest from public: Monica Evette DeLancy

8:30AM - Breakfast / Arrival

9:00AM - Vision & Mission - Michael McPherson, Member Services Consultant

Mayor Owens opened the meeting at 9:01 a.m. Quorum was present. Councilmember Oladapo attended online throughout the day.

Core Values: Mayor and Council each named their three main core values. The core values are the why behind the mission statement. Values reflect the way the City hires people, treats each person, and does business with its constituents. Core values named by Mayor and Council with some were same as other council members included: honesty, integrity, commitment, customer service, transparency, ethically, leadership, innovation, stewardship, unity, equity, inclusive, collaboration, professionalism, respect, openness, appreciative, excellence, and teamwork. There was additional discussion about “leadership”.

Mayor and Council discussed, reviewed, and word smithed the different versions of the proposed mission statements from the previous day.

Mission draft after discussion: It is the mission of the City of Mableton to provide consistent, cost-effective services, while demonstrating transparency, openness, and responsiveness to the community; working to ensure the highest quality of life for the benefit of all.

Direction: The vision, mission, and core values are to be worked on and finalized for adoption.

Service Priorities - Emilia Walker-Ashby, Mableton Interim City Attorney

Interim City Attorney Walker-Ashby provided a power point presentation on service priorities.

Highlights of presentation (available in the record):

- City Charter Section 7.15 – *A period of time will be needed for an orderly transition of various-government functions from Cobb County to the City of Mableton. Accordingly, there shall be a transition period beginning on the effective date provided for in subsection (c) of Section 7.14 of this charter and ending at midnight on the last day of the twenty-fourth month following such date.*
- The transitional period ends June 30th of the 24th month pursuant to O.C.G.A. 36-31-2. *No later than July 1 following the expiration of such two-year period, the governing authority of the municipal corporation shall file a certification with the Department of Community Affairs stating whether the municipal corporation does or does not meet the standards for an active municipality under subsection (b) of Code Section 36-30-7.1.*
- Active Municipality Minimum Standards were addressed.
- Of the list, the Carl Vinson Institute suggested and listed Solid Waste Management, Enforcement of building, housing plumbing, and electrical codes and other similar codes, Planning and Zoning, and Recreational facilities. These are economically feasible for the City of Mableton.
- Direct Services versus indirect services – Direct services include Planning and Zoning, Code Enforcement, Parks and Recreation, Sanitation and Solid Waste.
- Indirect or support services include such functions as accounting, purchasing, human resources, risk management, and the like.
- Summary of expenditure estimates and indirect services & other operational costs were addressed.
- The Carl Vinson Feasibility Study estimated revenue was addressed.
- Hotel-Motel Tax Administration Relative to Occupation Tax Administration update was given.
 - Attorney’s firm has started this process.
 - Forms created, letters and notification given, registration given, contacts made, billings and instructions conducted.
 - The payments go directly to City’s bank account.
 - Hotels will be given a certificate.
 - Mayor and Council discussed if potential short-term rentals are collectable.
- Occupation Tax Administration was addressed. The renewals will be coming due December. If want to set up and put people on notice, license is for end of calendar year, but renewal could be due to the City. If do, must give the County a 30-day notice, and adopt legislation for the assessment. Will be a two-meeting process to allow two reads of the ordinance. If don’t do by December, there will be confusion. Mayor Owens stated the City needs to get this done before end of year. This must be done, not an option. County uses gross receipts so best Mableton keeps same.
- Peachtree Corners’ Administration budget was shown as an example. For indirect services, Smyrna’s Finance and Human Resources Department budgets were shown as an example.

Additional Comments:

- Mayor and Council directed that Communications and Community Engagement be added as indirect services.
- For setting the staff salary, the size and location of the City should be considered.
- Mayor Owens announced the Google accounts were in process and emails should be set soon.

11:15AM - Break and 12:00 PM – Working Lunch

1:00PM - GMA Benefits Introductions - Randy Logan, GMA Deputy Director

Mr. Logan introduced the staff that were present to discuss each of the benefits and services.

1:15PM - Workers Compensation & Risk Management - Stan Deese, Director, Risk Management

Risk Management Director Stan Deese presented. The power point presentation is available in the record. Highlights of presentation:

- Information about the GMA Workers Compensation Self-Insurance Fund was provided.
- The GMA Workers' Compensation Self-Insurance Fund (GMA WCSIF) was established in 1982 under O.C.G.A. 34-9-150 et seq.
- It is regulated by the Georgia Department of Insurance.
- It is financially strong, and member owned.
- It is protected by excess of loss insurance agreements with National League of Cities Mutual Insurance Company and Safety National.
- It is largest provider of workers' compensation to Georgia municipalities.
- More than 480 members and 21,000 employees.

Mayor Owens expressed how grateful Mableton was for GMA's assistance and training. Discussion followed about the decisions that must be made for the City regarding workers' compensation. Mr. Deese stated it was tough to get insurance coverage in a new city. Since workers compensation, the frequency of people getting hurt has gone down, but the medical costs have gone up. The premiums have been stable. The safety programs have been beneficial in keeping incidents down. To obtain workers compensation from GMA, GMA will need the number of employees, salary, estimated payroll, and the City to pass a resolution.

Jan Hoard was also present. She handled the claims for GMA's Workers Compensation Self-Insurance Fund. She commented about the 247 claims reporting and efficient claims administration. Additional information was provided about the Safety & Loss Control Services.

Georgia Interlock Risk Management (GIRMA) Highlights:

- There is a different level of sovereign immunity for cities than counties.
- GIRMA provides a package policy that includes General Liability, Public Official's Liability, Automobile Liability and Physical Damage, Property, Boiler & Machinery, Animal Mortality, Crime (Fidelity), Inmate Medical, and Cyber (Network Security & Privacy Liability).
- GIRMA is governed by a 15-member Board of Trustees.
- Contributions are based on individual loss experience and underwriting.
- Gallagher Bassett is the GIRMA Claims Third Party Administrator.
- Gallagher Bassett has a team of adjusters dedicated to GIRMA.
- Loss Control Services – LGRMS – was explained.
- The benefits of GIRMA were addressed.
- To start the coverage, the City must submit an application.

2:00PM - Retirement (Defined Benefits)- Marinetty Bienvenu, Director, Defined Benefits and Michelle Warner, Director, Field Services

Mr. Logan spoke about the importance of benefits for hiring and retaining employees. The Georgia Municipal Employee Benefit System (GMEBS) Retirement Fund offers retirement services.

Ms. Warner spoke about the types of retirement plans. The Defined Benefit is formula-based paid over the retiree's lifetime. Benefit is usually related to an employee's service and/or pay. The Defined Contribution plan is similar to the public sector 401 (k). The benefit is based on level of contribution age at entry, retirement age, and investment earnings (losses).

Retirement (Deferred & Defined Compensation) - Randy Briskin, Field Services Representative

Defined Benefit and Defined Contribution plans were explained further.

Marinetty Bienvenu spoke about the Defined Benefit Covered Services.

Life & Health - Denise Joyce, Senior Director of Operations

Denise Joyce provided an overview of Life & Health Programs.

- There are 182 participating employers.
- Medical Plan – Anthem, Inc.
- Pharmacy (RX) – Aeta, Inc
- Dental – Delta Dental
- Vision Plan – Anthem, Inc.
- Sample plans were given.
- Enrollment periods were explained.

Questions & Answers took place during the presentation.

Service Priorities Discussion Continued - Communications – Interim Attorney Walker-Ashby

Indirect Services Cont'd – Communications

Looked at Kennesaw and College Park departments and budget.

The council discussed ways to get communications out and let residents know what is going on.

Discussed DMOs.

Mayor and Council renamed position of Communications to Communications and Community Engagement.

Reviewed Direct Services Revenue and Mayor and Council discussed:

- Process for implementation of Zoning Ordinance, adopting the County's Ordinance, and hiring of Community Development Director.
- Importance of having a moratorium on zoning until an ordinance was in place.
- Need for software and projected costs.
- Need for a building for City Hall.

- Proposed type of sanitation program. Recommendation was made to have a standardizing service, monitored, and if a service was not performing, could have recourse.
- City would have oversight of sanitation program, but citizens have the right to choose their company. Implementing the sanitation program would be the easiest to do.

The meeting adjourned at 5:17 PM.

Saturday, September 16

Present: Mayor Owens, Councilmembers Davis, Herndon, Jeffcoat, Ferguson, Auch and Interim City Attorney Walker-Ashby and Interim City Clerk Susan Hiott and Financial Consultant Frank Milazi.

Quorum was present.

Guest present – Patricia Kamisa

Absent: Councilmember Oladapo

8:30AM - Breakfast / Arrival

Review of Vision and Mission Statements

Mr. McPhearson reviewed the proposed vision and mission statements. The mission statement was done. The vision statement was close. He encouraged the Council to keep discussing. The Mayor and Council should ratify at a meeting when finalized.

VISION: The City of Mableton will be a **(diverse or inclusive)** family-friendly and thriving community **(empowering or fostering or for)** a vibrant, safe, and sustainable future.

There was discussion about the words in parentheses. Discussion leaned toward diverse and fostering. Council agreed that “Leadership” was a core value.

MISSION: It is the mission of the City of Mableton to provide consistent, cost-effective services, while demonstrating transparency, openness, and responsiveness to the community; working to ensure the highest quality of life for the benefit of all.

Mr. McPherson commended the Mayor and Council for their cooperation and civility. Mr. McPherson explained how important it was for Mayors and Councils to let the professional staff do their jobs and not get in their way.

9:00AM - Budget & Fiscal Year - Frank Milazi, Mableton Financial Consultant

Mr. Milazi provided a power point presentation about the budget process. The presentation is available in the record.

Highlights included:

- A budget is a legal document that serves as a financial plan.
- The fiscal year must be determined. The budget is for 12 months.
- A plan listing proposed expenditures with a means of paying for them with anticipated revenues.

- The budget is the primary tool used by the City to guide the delivery of services and to communicate priorities to the public.
- Operating Budget and Capital Budget were explained. Capital Budget is for 5 + years.
- Laws, regulations, and principles about budgeting were addressed.
- There are requirements for advertising and conducting public hearings for local government budget adoption.
- Cities must use the Generally Accepted Accounting Principles; failure to report using GAAP will result in a qualified or adverse audit opinion and risk or loss of state and federal funding eligibility.
- Each fund requires its own financial accounting system.
- Accounting classifications and descriptions must follow the Uniform Chart of Accounts as required by state law.
- Balanced budgets shall be adopted for: General Fund, Special Revenue Funds, Debt Obligation Funds, and Capital Projects Funds – project length.
- Municipalities are encouraged to adopt a budget for other funds:
- Enterprise Funds
 - Water/Sewer
 - Electric
 - Natural Gas
 - Storm Water
 - Solid Waste
 - Recreation and Parks Programs
- Charter Requirements are in Section 6.26 and Section 6.27. Property Tax is Section 6.10 and 6.11 Millage.
- Section 6.23 requires the City Council to set the fiscal year by ordinance.
- Section 6.30 of the Charter requires an annual independent audit of all city accounts, funds, and financial transactions by a certified public accountant selected by the City Council.
- Section 6.28 – Changes in Budget – Authorizes the city council by majority vote to make changes in the appropriations contained in the current operating budget at any regular meeting or special or emergency meeting.
- The City Manager is required per Section 2.30 (5) of the City Charter to prepare and submit the annual operating budget and capital budget.
- Budget formulation and cycle were addressed. It is a year-round cycle that involves the interaction of the Mayor and Council, staff, and the public to identify service needs, develop strategies to meet the needs, and to develop detailed revenue and expenditure plans to carry out the strategies.
- The Budget Cycle – Goal Setting – Revenue Projections and Data Analysis – Budget Development- Budget Adoption – Budget Implementation – Review and Audit – back to Goal Setting.
- The City should adopt financial policies.
- Budget Cycle was described.
- The importance of having goals and giving staff clear direction about goals and priorities.

Questions and discussion followed:

- There was discussion about having a contingency fund/plan (reserves) for such unforeseen items as catastrophic happenings (i.e., flood) or unexpected occurrences.

- Having a fund balance was important. Some cities require six months operating funds in fund balance.
- How to do the first budget during the transitional period was addressed. There definitely must be a preliminary budget for hiring staff, purchase of software, securing a building, etc.
- Need to authorize expenditures. It could be called a spending plan.
- The council agreed to have a spending plan with authorizations. The council discussed it was near time to hire a city manager and community development staff.
- Mayor Owens expressed the need to explain the actions needed for the set-up transition period that was causing some spending. Although small, there is a need to present it to the public to show the why behind the expenditure. The revenues are coming in and the current expenditures are minor in comparison. Some revenues have not normalized yet. It was hard to establish a true budget.
- There needs to be an initial road map for the transitional period. The budget (explanation) of where the City was needed to be created.
- Mayor Owens suggested adopting July 1st as budget year but do an interim budget until then. If call it a budget, will have to advertise, and do the notifications in the paper.
- Attorney Walker Ashby stated the City had to adopt a preliminary budget, don't have to call it a budget, can call it accounting and authorization. One of the issues was having service and staff and expenses such as software and equipment, salaries, benefits, insurance, risk management, etc. It is critical to know the Council authorizes the expenditure. The expenditures and cash flow are coming in to meet expenditures.
- After discussion, the direction was to do a spending plan – estimate expenses so have balanced spending up to June 30th.
- Good practices for adoption of a budget are to create a calendar of the budget process. Present reports on the spending plan. Be transparent about the budgeting process.
- The council discussed the workers' compensation expenditure as an example of an item needed in the spending plan.
- The spending plan could include the debt and will know more once all is put together.
- Mr. Jacob opined that the Mayor and Council need to hire/contract a City Manager. The City Manager is responsible to the Mayor and Council and keeps the Mayor and Council *out of the weeds*.
- Mr. McPherson also explained the importance of the City Manager.
- An experienced seasoned professional City Manager will help with the transition, hiring, and budgeting. A good city manager understands all departments. The City Manager could be a consultant, 1099 income.
- Mayor Owens explained how previously there was not any money to hire a City Manager, (zero everything) but now need to discuss since near bringing on the services. Collectively the Council have not taken the easy route but was doing what the residents wanted, being to not spend money until had to spend.
- Councilmembers Jeffcoat stated it was important to be smart and feasibly responsible, but it is best to hire a city manager onboard sooner than later, one for Mayor's protection, and they can bring on their community development director.
- Councilmember Herndon explained residents understand and want to spend money where it makes sense. Some residents had asked her where the city manager was.

Items already authorized, expenditures, and expected items and expenditures for the interim spending plan through June 30th should be given to Mr. Milazi. The Mayor and Council agreed how important it was to be transparent and present and authorize a spending plan.

For the next fiscal year July 1 budget (July 2024-June 30, 2025) at the minimum of three months before July 1st, should start the budget process.

There was a working lunch.

Service Priorities Discussion Continued - Emilia Walker-Ashby - Mableton City Attorney

Interim City Attorney continued the power point presentation about service priorities. She explained how the presentation was consistently amended to reflect the previous discussions. The discussions helped to form the scope and next path for legislation, priorities, and documents moving forward. She asked for another recourse and discussion and instruction following the presentation.

The final presentation is available in the record.

Councilmember Ferguson asked Ms. Walker-Ashby how many start-up cities she had been involved in, and she replied Mableton was the third. He asked if the way she attacked/planned the meetings and considerations for Mableton was also the way she worked with the other cities. She explained how she takes the legislation of the last six start-ups and tailored the City to what worked and didn't work and utilizes the preferences and information from the County. Mableton was the first City to not have influx of cash immediately from ad valorem and the first City to not have a transition team to assist. Also, Mableton was the first City incorporated in Cobb County.

Mayor Owens addressed how it was great to compare to those other start-up cities, but Mableton was truly unique. Not having ad valorem tax was a huge difference. He emphasized how different the City was compared to the other start-ups.

Councilmember Ferguson commended Ms. Walker-Ashby for a job well done. Everyone applauded Ms. Walker-Ashby.

Highlights of the continued presentation:

Indirect Services and Direct Services were reviewed again.

The estimated Direct Services Revenue was reviewed.

Occupation Taxes – Direct - \$1,310,257

Building & Development Permits – Direct - \$1,144,256

Restricted Hotel-Motel Tax – Direct - \$624,556

Alcoholic Beverage Excise Direct - \$372,040

Municipal Court Fines – Direct - \$7,366 – Noted Expenditure will exceed revenues.

Community Development – anticipated by the Feasibility Study:

Building & Development Permits

Occupation Taxes

Alcohol Beverage Excise Tax

Ms. Walker-Ashby noted some cities have business license under Finance, but initially, the best strategy is to have business license under Community Development. Smyrna has business licenses under Community Development.

Staffing categories were named. Expenditures for the City of Smyrna were referenced. The revenues projected for Mableton exceed the proposed expenditure. She also showed the budget for Peachtree Corners, for which expenses were much more. However, the budget was not as detailed as Smyrna's budget. Peachtree Corners had contracted services shown.

Enterprise fund-based service is when cities provide services on a fee. Sanitation is not intended to generate substantial revenue but to operate the service efficiently and effectively. It gives the taxpayer the chance to choose their level of service.

Solid Waste – Per discussions, many Council do not want a single provider but want to regulate service but prefer to have vendors register with the city and get a licenses to operate. Residents can pick and choose their company. This would be easy to set up and not take that much time. The provider gives a fee to the City. The City can administer. If a provider does not provide effectively, could lose their ability to do sanitation in the City. This is like Cobb County's practice. There must be an agreement in place. The process would be the same for commercials but would have different regulations. Ideally, there would be an online reporting system such as *See Click Fix* for complaints and requests.

Mayor Owens commented about the process, issues, and challenges. He commented about Mableton having a recycling center. Mayor Owens would like to see Mableton have a recycling center in the future.

Municipal Court Discussion:

- The need for municipal court would handle violations such as code enforcement. Mayor Owens had a handout from Cobb County regarding the revenues from Community Development (Rezoning, Code Enforcement, Business Inspection, and other departments). There was discussion about appointing and contracting judges, hiring court staff and options for contracting and setting up of the municipal court.
- Councilmember Auch referenced Charter Section 4.10 of Charter that *there shall be a court to be known as the municipal Court of the City of Mableton* (Line 723). *Section 4.11* (Line 726) – *The municipal court shall be presided over by a chief judge. City Clerk Hiott added all judges shall be appointed by the city council ...* (Line 730).
- Attorney Walker-Ashby reminded when Court is set up, there will be an ordinance. She also noted Line 1158 of the Charter *that during such transition period, all provisions of this charter shall be effective as law, but not all provisions of this charter shall be implemented.*
- There was discussion about how some start-up cities start out with contractual labor and gradually transition to employees. Other revenue for cities could include local option sales taxes.

EXECUTIVE SESSION – 12:32 PM

Councilmember Jeffcoat made a motion to go into Executive Session to discuss real estate and legal matters. Councilmember Davis seconded the motion. The motion carried. Yeas: Davis, Jeffcoat, Auch, Herndon, Ferguson, Owens. Absent: Oladapo.

Councilmember Ferguson made a motion to close the Executive Session (1:17 PM). Councilmember Herndon seconded the motion. The motion passed. Yeas: Davis, Jeffcoat, Auch, Herndon, Ferguson, Owens Absent: Oladapo

Service Priorities Discussion Continued

Attorney Walker-Ashby showed the organization chart with the immediate hiring needs in red (City Clerk, City Manager, Community Development Director, Human Resources Director, Finance Consultant, Information Systems Director and Systems Admin and Communications & Community Engagement Director. She explained how as the City gets personnel and appropriate people in place; those positions will hire the other positions. She explained the process to add the documents and legal processes, adding items to the agenda, mayor approving agenda, and then taking items to a meeting. If the Council communicates to the City Attorney their priorities including those the residents want, she can implement the process to initiate the priority/need. GMA Consultant Terrell Jacobs reiterated the importance of asking the Mableton residents what their priorities and concerns are. He recommended to address those items and give the people the outcome they want in consideration of the budget and funds and what the City can afford.

Attorney Walker-Ashby explained the staffing chart noting when working on the proposed budget, include the hiring of these main people in red, and those hired will decide on the number of people the department will need. The next meeting will be implementing and moving forward with the priority items. As the City works toward the three services required legally (Community Development, Planning and Zoning, and Solid Waste), and the City would want to add other services, they can be added later. (The staffing chart is in the presentation of the record.)

Summary of Discussion – Priorities

1. Spending Plan balancing:
 - a. Current obligations & Short-term needs
 - b. Facility lease
 - c. Admin, Community Development, Human Resource & IT Personnel
2. Occupation taxes, hotels and building/dev. permits and code enforcement (enforcement of building, housing, plumbing, and electrical codes, and other similar codes)
3. Planning and Zoning
4. Solid Waste

H/M Tax Destination Marketing Org. Overview - Michael Huening, Esq. of Fincher Denmark

Mr. Huening provided a power point presentation. Highlights of presentation:

- Hotel-Motel Tax Law is addressed in OCGA Title 48, Chapter 13, Article 3 (Paragraphs 50-56).
- The purpose of the tax is to impose and collect the tax to be used for general funding operations of the municipality and to promote tourism and conventions within the city limits.
- O.C.G.A. 48-13-51 (a)(1) – 1-3% 100% of HMT Revenue, non-restricted and proceeds can be used for any legal general fund purpose in the city.
- O.C.G.A. 48-13-51 (a) (3) -5% -
 - The City was doing the 5%.
 - 60% of Hotel Motel Tax Revenue, non-restricted, proceeds can be used for any legal general fund purpose in the city.

- 40% for Tourism, Conventions, Trade (TCT)
- Restricted In each fiscal year, at least 40% of HMT revenue must be used for Tourism, Conventions, Trade Shows (TCT)
- O.C.G.A. 48-13-51 (b) – 8%
 - To get the 8%, must have legislation approval by General Assembly (January-February 2024).
 - 37.50% Non-Restricted
 - Proceeds can be used for any legal general fund purpose in the city.
 - 43.75% Tourism, Conventions, Trade (TCT)
 - In each year, at least 43.75% of HMT revenue must be used for TCT.
 - 18.75% TPD
 - Restricted
 - In each fiscal year up to 18.75% of Hotel Motel Tax may be used for TPD, otherwise used for TCT.
- Defining TCT – Purpose
 - Means “Planning, conducting, or participating in programs of information and publicity designed to attract or advertise tourism, conventions, or trade shows.
 - Depending on the authorization paragraph, a percentage of revenue goes toward TCT restricted spending.
 - For questions on the appropriateness of expenditures, always ask the city attorney.
 - Expended by the Destination Marketing Organization (DMO)
- How can a DMO use TCT restricted funds:
 - Community-wide tourism advertising
 - Social media and internet marketing campaigns
 - Radio and Television Commercials
 - Soliciting convention or trade show contracts
 - Supporting/operating a convention facility
 - Only in certain situations and under certain authorization paragraphs, consult attorney.
 - Always be sure to consult with the city attorney.
 - How can’t the DMO use TCT funds:
 - Fireworks, musical performers, festivals, etc.
 - Not “programs of information and publicity” or an advertisement for an event, they are the event.
 - Always be sure to consult with your local attorney when uncertain.
- The presentation included DMO requirements, alternative purposes and recipients, examples of Tourism Product Developments.

Reporting Requirements:

- Within six (6) months of the end of the fiscal year, each jurisdiction imposing the Hotel Motel Tax is responsible for completing the Hotel Motel Tax Report.
- Mr. Huening stressed the importance of designating and making clear where the money is going. Council are stewards of the public funds, and the City must be used for the proper purpose.
- Prior to each fiscal year, a budget plan should be adopted specifying how the proceeds of the tax shall be expended, which includes a budget for expenditures from the DMO. (O.C.G.A. 48-13-51 (a)(9)(B).
- Audit verification with the amounts and percentages of funds expended or contractually committed for expenditure during the fiscal year.

- As a 501(c) (6) non-profit the DMO may also be required to submit a financial audit to the state.

Questions and discussion followed.

ADJOURNMENT

Councilmember Ach made a motion to adjourn the meeting and Councilmember Herndon seconded the motion. The motion carried unanimously. Councilmember Oladapo was not present.

The meeting adjourned at 3:17 PM.

Respectfully submitted,

Susan Hiott
Interim City Clerk

Michael Ownens
Mayor



Preliminary Transitional Organizational Chart

Mayor & Council

Municipal Court Judge

City Clerk

City Manager
(Executive Assistants)

City Attorney

Finance
(Consultant)

Human Resources
(Director)

Community Development
(Director)
(Building Inspector)
(Zoning/building/development permits)

Information Technology
(Director)
(Systems Admin)

Communications & Community Engagement
(Director)

Business License
(Business License Specialist)
(Occupation, alcohol, hotel)

Code Enforcement
(Code Enforcement Officer)

Mableton Preliminary Compensation Schedule

| Job Title | Minimum | Maximum | Pay Basis | Source |
|--|-----------|-----------|-----------|--|
| Mayor | \$30,000 | \$30,000 | Annual | Charter 2.13 |
| Councilmember (District 1) | \$20,000 | \$20,000 | Annual | Charter 2.13 |
| Councilmember (District 2) | \$20,000 | \$20,000 | Annual | Charter 2.13 |
| Councilmember (District 3) | \$20,000 | \$20,000 | Annual | Charter 2.13 |
| Councilmember (District 4) | \$20,000 | \$20,000 | Annual | Charter 2.13 |
| Councilmember (District 5) | \$20,000 | \$20,000 | Annual | Charter 2.13 |
| Councilmember (District 6) | \$20,000 | \$20,000 | Annual | Charter 2.13 |
| City Manager | \$121,825 | \$182,728 | Annual | Acworth |
| Executive Assistant | \$19 | \$29 | Hourly | Powder Springs (Administrative Secretary salary) |
| Executive Assistant | \$19 | \$29 | Hourly | Powder Springs (Administrative Secretary salary) |
| City Clerk | \$78,841 | \$118,262 | Annual | Smyrna |
| Finance Director | \$105,559 | \$168,894 | Annual | Brookhaven |
| Human Resource Director | \$63,418 | \$98,298 | Annual | Powder Springs |
| Community Development Director | \$91,016 | \$136,524 | Annual | Smyrna |
| Building License Specialist | \$55,000 | \$55,500 | Annual | Powder Springs Accountant |
| Building Inspector | \$20 | \$30 | Hourly | Smyrna |
| Code Enforcement Officer | \$19 | \$33 | Annual | Smyrna |
| IT Director | \$55,392 | \$85,857 | Annual | Powder Springs |
| IT Systems Administrator | \$23 | \$35 | Hourly | Smyrna (Information Systems/Technology Specialist) |
| Communications & Community Engagement Director | \$19 | \$29 | Hourly | Powder Springs (Administrative Secretary salary) |



Local Government Wage & Salary Survey: Search Results

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City Information: 188 Records Found

| Year | Jurisdiction | Population | Job Title | Starting Salary | Maximum Salary | Pay Basis | Scheduled Hours | Full-Time Employees |
|------|--------------|------------|--|-----------------|----------------|-----------|-----------------|---------------------|
| 2022 | Acworth | 22,284 | Accountant | 44,886.40 | 67,350.40 | Annual | 40 | 2 |
| 2022 | Acworth | 22,284 | Assistant City Clerk | 18.62 | 27.94 | Hourly | 40 | 1 |
| 2022 | Acworth | 22,284 | Assistant City Manager | 110,718.40 | 166,088.00 | Annual | 40 | 1 |
| 2022 | Acworth | 22,284 | Building Inspector | 20.54 | 34.00 | Hourly | 40 | 2 |
| 2022 | Acworth | 22,284 | Building Inspector Director | 62,940.80 | 94,432.00 | Annual | 40 | 1 |
| 2022 | Acworth | 22,284 | Cashier/Customer Service Representative | 15.30 | 22.96 | Hourly | 40 | 2 |
| 2022 | Acworth | 22,284 | City Clerk | 76,211.20 | 114,316.80 | Annual | 40 | 1 |
| 2022 | Acworth | 22,284 | City Manager/Administrator | 121,825.60 | 182,728.00 | Annual | 40 | 1 |
| 2022 | Acworth | 22,284 | Downtown/Better Hometown/Main Street Manager | 83,844.80 | 125,777.60 | Annual | 40 | 1 |
| 2022 | Acworth | 22,284 | Finance Director | 92,248.00 | 138,382.40 | Annual | 40 | 1 |
| 2022 | Acworth | 22,284 | Information Systems/Technology Director | 69,264.00 | 103,916.80 | Annual | 40 | 1 |
| 2022 | Acworth | 22,284 | Information Systems/Technology Specialist | 51,979.20 | 77,979.20 | Annual | 40 | 2 |
| 2022 | Acworth | 22,284 | Municipal Court Clerk | 23.80 | 35.70 | Hourly | 40 | 1 |
| 2022 | Acworth | 22,284 | Network Administrator | 69,264.00 | 103,916.80 | Annual | 40 | 1 |
| 2022 | Acworth | 22,284 | Personnel Director | 83,844.80 | 125,777.60 | Annual | 40 | 1 |
| 2022 | Acworth | 22,284 | Personnel Technician | 44,886.40 | 67,350.40 | Annual | 40 | 1 |
| 2022 | Acworth | 22,284 | Recreation Director | 83,844.80 | 125,777.60 | Annual | 40 | 1 |
| 2022 | Acworth | 22,284 | Recreation Maintenance Worker | 14.57 | 21.85 | Hourly | 40 | 2 |
| 2022 | Acworth | 22,284 | Recreation Specialist | 49,504.00 | 74,256.00 | Annual | 40 | 4 |
| 2022 | Acworth | 22,284 | Zoning Administrator | 44,886.40 | 67,350.40 | Annual | 40 | 0 |
| 2022 | Acworth | 22,284 | Economic Development Director | 62,940.80 | 94,432.00 | Annual | 40 | 1 |
| 2022 | Acworth | 22,284 | Captain, Police Department | 77,376.00 | 116,084.80 | Annual | 40 | 2 |
| 2022 | Acworth | 22,284 | Chief Jailer/Jail Administrator | 22.68 | 34.05 | Hourly | 43 | 1 |
| 2022 | Acworth | 22,284 | Chief, Police Department | 94,286.40 | 141,502.40 | Annual | 40 | 1 |
| 2022 | Acworth | 22,284 | Code Enforcement Officer | 18.62 | 27.94 | Hourly | 40 | 1 |
| 2022 | Acworth | 22,284 | Corporal, Police Department | 22.68 | 34.05 | Hourly | 43 | 5 |
| 2022 | Acworth | 22,284 | Detention Officer | 19.58 | 29.39 | Hourly | 43 | 9 |
| 2022 | Acworth | 22,284 | Investigator/Detective, Police Department | 22.68 | 34.05 | Hourly | 43 | 3 |
| 2022 | Acworth | 22,284 | Lieutenant, Police Department | 30.52 | 45.78 | Hourly | 43 | 4 |
| 2022 | Acworth | 22,284 | Patrol Officer, Police Department | 20.57 | 32.43 | Hourly | 43 | 16 |
| 2022 | Acworth | 22,284 | Records Clerk | 15.30 | 22.96 | Hourly | 40 | 1 |
| 2022 | Acworth | 22,284 | Sergeant, Police Department | 27.64 | 41.48 | Hourly | 43 | 7 |
| 2022 | Acworth | 22,284 | Evidence Clerk/Technician | 16.88 | 25.32 | Hourly | 40 | 1 |
| 2022 | Acworth | 22,284 | Automotive Mechanic (Public Works) | 16.88 | 25.32 | Hourly | 40 | 1 |
| 2022 | Acworth | 22,284 | Electric Groundworker | 19.56 | 29.34 | Hourly | 40 | 2 |
| 2022 | Acworth | 22,284 | Electric Lineman | 20.54 | 35.70 | Hourly | 40 | 4 |

| | | | | | | | | |
|------|----------------|--------|---|------------|------------|--------|----|----|
| 2022 | Acworth | 22,284 | Electric Superintendent/Manager | 76,211.20 | 114,316.80 | Annual | 40 | 1 |
| 2022 | Acworth | 22,284 | Electric Technician | 16.88 | 25.32 | Hourly | 40 | 1 |
| 2022 | Acworth | 22,284 | Heavy Equipment Operator | 16.07 | 24.11 | Hourly | 40 | 2 |
| 2022 | Acworth | 22,284 | Laborer | 14.57 | 21.85 | Hourly | 40 | 2 |
| 2022 | Acworth | 22,284 | Meter Reader | 17.73 | 26.59 | Hourly | 40 | 1 |
| 2022 | Acworth | 22,284 | Public Works Superintendent | 62,940.80 | 94,432.00 | Annual | 40 | 1 |
| 2022 | Acworth | 22,284 | Refuse/Recycling Collection Supervisor | 49,504.00 | 74,256.00 | Annual | 40 | 1 |
| 2022 | Acworth | 22,284 | Refuse/Recycling Route Supervisor/Lead Truck Driver | 17.73 | 26.59 | Hourly | 40 | 1 |
| 2022 | Acworth | 22,284 | Refuse/Recycling Truck Driver | 16.07 | 24.11 | Hourly | 40 | 4 |
| 2022 | Acworth | 22,284 | Road Crew Supervisor | 49,504.00 | 74,256.00 | Annual | 40 | 0 |
| 2022 | Powder Springs | 17,083 | Accountant | 55,000.00 | 55,500.00 | Annual | 40 | 1 |
| 2022 | Powder Springs | 17,083 | Administrative Secretary | 18.22 | 28.24 | Hourly | 40 | 3 |
| 2022 | Powder Springs | 17,083 | Assistant City Clerk | 21.09 | 32.70 | Hourly | 40 | 1 |
| 2022 | Powder Springs | 17,083 | Assistant City Manager | 77,689.60 | 120,418.87 | Annual | 40 | 2 |
| 2022 | Powder Springs | 17,083 | Cashier/Customer Service Representative | 15.74 | 24.40 | Hourly | 30 | 1 |
| 2022 | Powder Springs | 17,083 | City Clerk | 63,417.85 | 98,297.67 | Annual | 40 | 1 |
| 2022 | Powder Springs | 17,083 | City Manager/Administrator | 83,127.87 | 128,848.19 | Annual | 40 | 1 |
| 2022 | Powder Springs | 17,083 | Finance Director | 72,607.10 | 112,541.00 | Annual | 40 | 1 |
| 2022 | Powder Springs | 17,083 | Information Systems/Technology Specialist | 55,391.61 | 85,856.99 | Annual | 40 | 1 |
| 2022 | Powder Springs | 17,083 | Municipal Court Clerk | 63,417.85 | 98,297.67 | Annual | 40 | 1 |
| 2022 | Powder Springs | 17,083 | Personnel Director | 63,417.85 | 98,297.67 | Annual | 40 | 1 |
| 2022 | Powder Springs | 17,083 | Planning and Development Director | 63,417.85 | 98,297.67 | Annual | 40 | 1 |
| 2022 | Powder Springs | 17,083 | Receptionist | 12.95 | 20.07 | Hourly | 40 | 1 |
| 2022 | Powder Springs | 17,083 | Zoning Administrator | 22.15 | 34.33 | Annual | 40 | 1 |
| 2022 | Powder Springs | 17,083 | Economic Development Director | 63,417.85 | 98,297.67 | Annual | 40 | 1 |
| 2022 | Powder Springs | 17,083 | Chief, Police Department | 72,607.10 | 112,541.00 | Annual | 40 | 1 |
| 2022 | Powder Springs | 17,083 | Lieutenant, Police Department | 25.49 | 39.31 | Hourly | 42 | 2 |
| 2022 | Powder Springs | 17,083 | Patrol Officer, Police Department | 21.09 | 32.70 | Hourly | 42 | 18 |
| 2022 | Powder Springs | 17,083 | Sergeant, Police Department | 23.26 | 36.05 | Hourly | 42 | 3 |
| 2022 | Powder Springs | 17,083 | Heavy Equipment Operator | 16.53 | 25.62 | Hourly | 40 | 2 |
| 2022 | Powder Springs | 17,083 | Maintenance Superintendent | 22.15 | 34.33 | Hourly | 40 | 1 |
| 2022 | Powder Springs | 17,083 | Maintenance Worker | 14.95 | 22.79 | Hourly | 40 | 1 |
| 2022 | Powder Springs | 17,083 | Refuse/Recycling Collector | 14.95 | 22.79 | Hourly | 40 | 6 |
| 2022 | Powder Springs | 17,083 | Sanitation Superintendent | 22.15 | 34.33 | Hourly | 40 | 1 |
| 2022 | Powder Springs | 17,083 | Truck Driver | 17.35 | 26.90 | Hourly | 40 | 3 |
| 2022 | Smyrna | 55,685 | Accountant | 46,121.00 | 69,182.00 | Annual | 40 | 1 |
| 2022 | Smyrna | 55,685 | Accounting Technician | 18.52 | 27.77 | Hourly | 40 | 1 |
| 2022 | Smyrna | 55,685 | Administrative Secretary | 17.78 | 31.07 | Hourly | 40 | 4 |
| 2022 | Smyrna | 55,685 | Assistant City Clerk | 18.52 | 27.77 | Hourly | 40 | 1 |
| 2022 | Smyrna | 55,685 | Assistant City Manager | 97,104.00 | 145,655.00 | Annual | 40 | 2 |
| 2022 | Smyrna | 55,685 | Budget Analyst | 50,686.00 | 76,030.00 | Annual | 40 | 1 |
| 2022 | Smyrna | 55,685 | Building Inspector | 19.98 | 29.97 | Hourly | 40 | 2 |
| 2022 | Smyrna | 55,685 | Building Inspector Director | 65,145.00 | 97,716.00 | Annual | 40 | 1 |
| 2022 | Smyrna | 55,685 | Cashier/Customer Service Representative | 14.86 | 22.29 | Hourly | 40 | 3 |
| 2022 | Smyrna | 55,685 | City Clerk | 78,841.00 | 118,262.00 | Annual | 40 | 1 |
| 2022 | Smyrna | 55,685 | City Manager/Administrator | 190,444.00 | 190,444.00 | Annual | 40 | 1 |
| 2022 | Smyrna | 55,685 | Information Systems/Technology Director | 84,928.00 | 127,393.00 | Annual | 40 | 1 |
| 2022 | Smyrna | 55,685 | Information Systems/Technology Specialist | 22.91 | 34.36 | Annual | 40 | 1 |

| | | | | | | | | |
|------|--------|--------|---|------------|------------|--------|----|----|
| 2022 | Smyrna | 55,685 | Keep Georgia Beautiful (KGB) Executive Director | 71,232.00 | 106,848.00 | Annual | 40 | 1 |
| 2022 | Smyrna | 55,685 | Librarian | 44,599.00 | 71,465.00 | Annual | 40 | 3 |
| 2022 | Smyrna | 55,685 | Municipal Court Clerk | 15.59 | 23.38 | Hourly | 40 | 2 |
| 2022 | Smyrna | 55,685 | Municipal Court Judge (Appointed) | 90,000.00 | 90,000.00 | Annual | 40 | 1 |
| 2022 | Smyrna | 55,685 | Municipal Court Solicitor | 96,000.00 | 96,000.00 | Annual | 40 | 1 |
| 2022 | Smyrna | 55,685 | Payroll/Insurance Technician | 46,121.00 | 69,182.00 | Annual | 40 | 2 |
| 2022 | Smyrna | 55,685 | Personnel Analyst | 56,013.00 | 84,020.00 | Annual | 40 | 1 |
| 2022 | Smyrna | 55,685 | Personnel Director | 84,928.00 | 127,392.00 | Annual | 40 | 1 |
| 2022 | Smyrna | 55,685 | Personnel Technician | 18.52 | 27.77 | Hourly | 40 | 1 |
| 2022 | Smyrna | 55,685 | Planner | 43,077.00 | 69,182.00 | Annual | 40 | 2 |
| 2022 | Smyrna | 55,685 | Planning and Development Director | 91,016.00 | 136,524.00 | Annual | 40 | 1 |
| 2022 | Smyrna | 55,685 | Purchasing Director | 56,013.00 | 84,020.00 | Annual | 40 | 1 |
| 2022 | Smyrna | 55,685 | Receptionist | 12.66 | 18.99 | Hourly | 40 | 1 |
| 2022 | Smyrna | 55,685 | Recreation Director | 84,928.00 | 127,393.00 | Annual | 40 | 1 |
| 2022 | Smyrna | 55,685 | Recreation Maintenance Worker | 12.66 | 18.99 | Hourly | 40 | 2 |
| 2022 | Smyrna | 55,685 | Recreation Specialist | 17.05 | 25.58 | Hourly | 40 | 2 |
| 2022 | Smyrna | 55,685 | Secretary | 14.13 | 21.19 | Hourly | 40 | 2 |
| 2022 | Smyrna | 55,685 | Economic Development Director | 78,841.00 | 118,262.00 | Annual | 40 | 1 |
| 2022 | Smyrna | 55,685 | Assistant Chief, Fire Department | 74,276.00 | 111,413.00 | Annual | 40 | 1 |
| 2022 | Smyrna | 55,685 | Assistant Chief, Police Department | 89,435.00 | 138,625.00 | Annual | 40 | 1 |
| 2022 | Smyrna | 55,685 | Captain, Fire Officer | 50,056.00 | 88,585.00 | Annual | 40 | 2 |
| 2022 | Smyrna | 55,685 | Chief Jailer/Jail Administrator | 22.17 | 33.26 | Hourly | 40 | 1 |
| 2022 | Smyrna | 55,685 | Chief, Fire Department | 91,016.00 | 136,524.00 | Annual | 40 | 1 |
| 2022 | Smyrna | 55,685 | Chief, Police Department | 102,437.00 | 158,778.00 | Annual | 40 | 1 |
| 2022 | Smyrna | 55,685 | Code Enforcement Officer | 18.52 | 32.16 | Hourly | 40 | 3 |
| 2022 | Smyrna | 55,685 | Detention Officer | 17.05 | 25.58 | Hourly | 40 | 11 |
| 2022 | Smyrna | 55,685 | E-911 Operator | 17.05 | 28.87 | Hourly | 40 | 14 |
| 2022 | Smyrna | 55,685 | Engine Operator/Driver, Fire Department | 16.36 | 24.54 | Hourly | 53 | 18 |
| 2022 | Smyrna | 55,685 | Fire Marshal | 65,145.00 | 97,716.00 | Annual | 40 | 1 |
| 2022 | Smyrna | 55,685 | Firefighter | 13.75 | 20.62 | Hourly | 53 | 17 |
| 2022 | Smyrna | 55,685 | Firefighter/EMT | 14.79 | 22.97 | Hourly | 53 | 13 |
| 2022 | Smyrna | 55,685 | Lieutenant, Fire Officer | 18.19 | 27.29 | Hourly | 53 | 19 |
| 2022 | Smyrna | 55,685 | Lieutenant, Police Department | 32.27 | 50.02 | Annual | 40 | 8 |
| 2022 | Smyrna | 55,685 | Major, Police Department | 76,839.00 | 119,101.00 | Annual | 40 | 5 |
| 2022 | Smyrna | 55,685 | Patrol Officer, Police Department | 20.77 | 38.56 | Hourly | 40 | 58 |
| 2022 | Smyrna | 55,685 | Records Clerk | 14.86 | 22.29 | Hourly | 40 | 3 |
| 2022 | Smyrna | 55,685 | Sergeant, Police Department | 27.60 | 42.79 | Hourly | 40 | 8 |
| 2022 | Smyrna | 55,685 | Evidence Clerk/Technician | 17.78 | 26.68 | Hourly | 40 | 2 |
| 2022 | Smyrna | 55,685 | Automotive Mechanic (Public Works) | 16.32 | 25.58 | Hourly | 40 | 4 |
| 2022 | Smyrna | 55,685 | Civil Engineer | 78,841.00 | 118,262.00 | Annual | 40 | 1 |
| 2022 | Smyrna | 55,685 | Crew Leader | 14.13 | 21.19 | Hourly | 40 | 1 |
| 2022 | Smyrna | 55,685 | Heavy Equipment Operator | 17.78 | 26.68 | Hourly | 40 | 5 |
| 2022 | Smyrna | 55,685 | Laborer | 12.66 | 18.99 | Hourly | 40 | 5 |
| 2022 | Smyrna | 55,685 | Light Equipment Operator | 14.86 | 23.38 | Hourly | 40 | 4 |
| 2022 | Smyrna | 55,685 | Maintenance Superintendent | 52,969.00 | 79,454.00 | Annual | 40 | 1 |
| 2022 | Smyrna | 55,685 | Maintenance Worker | 14.13 | 23.38 | Hourly | 40 | 3 |
| 2022 | Smyrna | 55,685 | Public Works Superintendent | 91,016.00 | 136,524.00 | Annual | 40 | 1 |
| 2022 | Smyrna | 55,685 | Refuse/Recycling Collection Supervisor | 18.52 | 27.77 | Hourly | 40 | 1 |
| 2022 | Smyrna | 55,685 | Refuse/Recycling Collector | 12.66 | 18.99 | Hourly | 40 | 14 |

| | | | | | | | | |
|------|-------------------|--------|---|------------|------------|--------|----|----|
| 2022 | Smyrna | 55,685 | Refuse/Recycling Route Supervisor/Lead Truck Driver | 16.32 | 24.48 | Hourly | 40 | 1 |
| 2022 | Smyrna | 55,685 | Refuse/Recycling Truck Driver | 15.59 | 23.38 | Hourly | 40 | 11 |
| 2022 | Smyrna | 55,685 | Roads and Bridges Superintendent | 52,969.00 | 79,454.00 | Annual | 40 | 1 |
| 2022 | Smyrna | 55,685 | Sanitation Superintendent | 52,969.00 | 79,454.00 | Annual | 40 | 1 |
| 2022 | Smyrna | 55,685 | Water/Wastewater Superintendent | 52,969.00 | 79,454.00 | Annual | 40 | 1 |
| 2022 | Brookhaven | 55,366 | Accountant | 54,111.00 | 86,665.00 | Annual | 40 | 1 |
| 2022 | Brookhaven | 55,366 | Accounting Clerk | 20.39 | 32.62 | Hourly | 40 | 1 |
| 2022 | Brookhaven | 55,366 | Administrative Secretary | 46,011.00 | 73,618.00 | Annual | 40 | 1 |
| 2022 | Brookhaven | 55,366 | Assistant City Clerk | 20.39 | 32.62 | Hourly | 40 | 1 |
| 2022 | Brookhaven | 55,366 | Assistant City Manager | 105,559.00 | 203,706.00 | Annual | 40 | 2 |
| 2022 | Brookhaven | 55,366 | City Clerk | 70,471.00 | 112,752.00 | Annual | 40 | 1 |
| 2022 | Brookhaven | 55,366 | City Manager/Administrator | 18,500.00 | 241,093.00 | Annual | 40 | 1 |
| 2022 | Brookhaven | 55,366 | Custodian (Janitor) | 15.36 | 21.69 | Hourly | 40 | 2 |
| 2022 | Brookhaven | 55,366 | Finance Director | 105,559.00 | 168,894.00 | Annual | 40 | 1 |
| 2022 | Brookhaven | 55,366 | Information Systems/Technology Director | 99,772.00 | 159,636.00 | Annual | 40 | 1 |
| 2022 | Brookhaven | 55,366 | Information Systems/Technology Specialist | 54,166.00 | 86,665.00 | Annual | 40 | 1 |
| 2022 | Brookhaven | 55,366 | Mapper/Cartographer | 61,752.00 | 98,852.00 | Annual | 40 | 1 |
| 2022 | Brookhaven | 55,366 | Network Administrator | 57,849.00 | 92,558.00 | Annual | 40 | 3 |
| 2022 | Brookhaven | 55,366 | Payroll/Insurance Technician | 26.04 | 41.66 | Hourly | 40 | 1 |
| 2022 | Brookhaven | 55,366 | Personnel Analyst | 61,752.00 | 98,852.00 | Annual | 40 | 1 |
| 2022 | Brookhaven | 55,366 | Personnel Director | 99,772.00 | 159,636.00 | Annual | 40 | 1 |
| 2022 | Brookhaven | 55,366 | Planner | 49,922.00 | 98,852.00 | Annual | 40 | 2 |
| 2022 | Brookhaven | 55,366 | Planning and Development Director | 99,772.00 | 159,636.00 | Annual | 40 | 1 |
| 2022 | Brookhaven | 55,366 | Purchasing Director | 61,752.00 | 98,852.00 | Annual | 40 | 1 |
| 2022 | Brookhaven | 55,366 | Recreation Director | 98,000.00 | 150,883.00 | Annual | 40 | 1 |
| 2022 | Brookhaven | 55,366 | Recreation Maintenance Worker | 18.00 | 21.69 | Hourly | 40 | 8 |
| 2022 | Brookhaven | 55,366 | Recreation Specialist | 18.79 | 30.06 | Hourly | 40 | 3 |
| 2022 | Brookhaven | 55,366 | Secretary | 17.32 | 27.71 | Hourly | 40 | 5 |
| 2022 | Brookhaven | 55,366 | Zoning Administrator | 57,849.00 | 92,558.00 | Annual | 40 | 1 |
| 2022 | Brookhaven | 55,366 | Economic Development Director | 65,984.00 | 105,574.00 | Annual | 40 | 1 |
| 2022 | Brookhaven | 55,366 | Marketing Specialist | 61,752.00 | 98,852.00 | Annual | 40 | 1 |
| 2022 | Brookhaven | 55,366 | Assistant Chief, Police Department | 89,132.00 | 142,613.00 | Annual | 40 | 1 |
| 2022 | Brookhaven | 55,366 | Chief, Police Department | 111,681.00 | 178,690.00 | Annual | 40 | 1 |
| 2022 | Brookhaven | 55,366 | Communications Director | 98,000.00 | 150,883.00 | Annual | 40 | 1 |
| 2022 | Brookhaven | 55,366 | Fire Marshal | 26.04 | 41.66 | Hourly | 40 | 1 |
| 2022 | Brookhaven | 55,366 | Investigator/Detective, Police Department | 23.32 | 34.52 | Hourly | 40 | 7 |
| 2022 | Brookhaven | 55,366 | Lieutenant, Police Department | 33.56 | 50.48 | Hourly | 40 | 7 |
| 2022 | Brookhaven | 55,366 | Major, Police Department | 83,770.00 | 126,000.00 | Annual | 40 | 3 |
| 2022 | Brookhaven | 55,366 | Patrol Officer, Police Department | 23.32 | 34.52 | Hourly | 40 | 36 |
| 2022 | Brookhaven | 55,366 | Records Clerk | 15.96 | 25.54 | Hourly | 40 | 3 |
| 2022 | Brookhaven | 55,366 | Sergeant, Police Department | 29.36 | 44.23 | Hourly | 40 | 12 |
| 2022 | Brookhaven | 55,366 | Evidence Clerk/Technician | 17.32 | 27.71 | Hourly | 40 | 1 |
| 2022 | Peachtree Corners | 42,108 | Accountant | 75,000.00 | 100,000.00 | Annual | 40 | 1 |
| 2022 | Peachtree Corners | 42,108 | Accounting Clerk | 19.23 | 28.85 | Hourly | 40 | 1 |
| 2022 | Peachtree Corners | 42,108 | Administrative Secretary | 19.23 | 36.06 | Hourly | 40 | 1 |
| 2022 | Peachtree Corners | 42,108 | Assistant City Clerk | 75,000.00 | 95,000.00 | Annual | 40 | 1 |

| | | | | | | | | |
|------|-------------------|--------|---|------------|------------|--------|----|---|
| 2022 | Peachtree Corners | 42,108 | Assistant City Manager | 150,000.00 | 200,000.00 | Annual | 40 | 2 |
| 2022 | Peachtree Corners | 42,108 | Cashier/Customer Service Representative | 19.23 | 36.06 | Hourly | 40 | 2 |
| 2022 | Peachtree Corners | 42,108 | City Clerk | 95,000.00 | 130,000.00 | Annual | 40 | 1 |
| 2022 | Peachtree Corners | 42,108 | City Manager/Administrator | 200,000.00 | 250,000.00 | Annual | 40 | 1 |
| 2022 | Peachtree Corners | 42,108 | Finance Director | 150,000.00 | 180,000.00 | Annual | 40 | 1 |
| 2022 | Peachtree Corners | 42,108 | Planning and Development Director | 150,000.00 | 190,000.00 | Annual | 40 | 1 |
| 2022 | Peachtree Corners | 42,108 | Receptionist | 19.23 | 28.85 | Hourly | 40 | 1 |
| 2022 | Peachtree Corners | 42,108 | Economic Development Director | 70,000.00 | 90,000.00 | Annual | 40 | 1 |
| 2022 | Peachtree Corners | 42,108 | Public Works Superintendent | 150,000.00 | 190,000.00 | Annual | 40 | 1 |

**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 OCCUPATION TAXATION
AND BUSINESS LICENSURE AND FOR OTHER LAWFUL PURPOSES**

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

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

WHEREAS, the City Council is empowered by Sec. 6.14 of the City Charter to “to levy any other tax or fee allowed now or hereafter by law, and the specific mention of any right, power, or authority in this article shall not be construed as limiting in any way the general powers of this city to govern its local affairs;”

WHEREAS, the City Council desires through this Ordinance to adopt reasonable code provisions relating to occupation taxes, fees and related licensing; and

WHEREAS, the City Council finds this Ordinance to be in the bests 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. Article 6, Business License and Occupation Tax, of Chapter 7 of the City of Mableton Code of Ordinances is hereby created to read as follows:

CHAPTER 7 - TAXES, FEES AND ASSESSMENTS

ARTICLE 6 - LICENSES, PERMITS AND BUSINESSES

DIVISION 1 - GENERALLY

Sec. 7.6.1.1. 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:

Administrative fee means a component of an occupational tax which approximates the reasonable cost of handling and processing the occupation tax.

Business license means a business registration certificate as defined in this section or a business license as defined by prior ordinances adopted by the city council.

Business registration certificate means a certificate issued by the business license office evidencing registration and payment of all required regulatory fees and occupation taxes by persons engaged in business in the city. For the purposes of compliance with other ordinances referring to a business license, the term "business license" shall be construed to mean a business registration certificate as defined in this subsection.

County means the unincorporated area of Cobb County.

Dominant line means the type of business within a multiple line business from which the greatest amount of income is derived.

Employee means:

- (1) Except as otherwise provided in subsection (b) of this subsection an individual whose work is performed under the direction and supervision of the individual's employer and whose employer withholds FICA, federal income tax or state income tax from such individual's compensation or whose employer issues to such individual for purpose of documenting compensation a form I.R.S. W-2 but not a form I.R.S. 1099.
- (2) An individual who performs work under the direction and supervision of one business or practitioner in accordance with the terms of a contract or agreement with another business which recruits such individual is an employee of the business or practitioner which issues to such individual for purposes of documenting compensation a form I.R.S. W-2.

Engaged in business is when a person or entity is carrying on a trade, occupation, profession, or other commercial enterprise for gain or profit, direct or indirectly, including, but not limited to, selling real or personal property or services, leasing or renting real or personal property, or sales or services of the character as made by a wholesaler or retailer; or who is involved in any of the functions performed as a manufacturer; or who is involved in the development or construction of real property.

Entity for the purposes of this chapter means a natural person or artificial person to include but not limited to a corporation, limited liability company, partnership, association and trust.

Gross receipts.

- (1) Gross receipts means the total revenue of the business or practitioner for the period, including without limitation the following:
 - a. Total income without deduction for the cost of goods or expenses incurred;
 - b. Gain from trading in stocks, bonds, capital assets or instruments of indebtedness;
 - c. Proceeds from commissions on the sale of property, goods or services;
 - d. Proceeds from fees for services rendered; and
 - e. Proceeds from rent, interest, royalty or dividend income.
- (2) Gross receipts shall not include the following:
 - a. Sales, use or excise tax.
 - b. Sales returns, allowances and discounts.

- c. Interorganizational sales or transfers between or among the units of a parent-subsubsidiary controlled group of corporations as defined by 26 USC 1563(a)(1), or between or among the units of a brother-sister controlled group of corporations as defined by 26 USC 1563(a)(2), or between or among wholly owned partnerships or other wholly owned entities.
- d. Payments made to a subcontractor or an independent agent for services which contributed to the gross receipts in issue.
- e. Governmental and foundation grants, charitable contributions or the interest income derived from such funds received by a nonprofit organization which employs salaried practitioners otherwise covered by this chapter, if such funds constitute 80 percent or more of the organization's receipts.
- f. Receipts from the rental of detached single-family residential real property.
- g. Proceeds from sales of goods or services which are delivered to or received by customers who are outside the state at the time of delivery or receipt.

Location or office means any separate structure or vehicle where a business, trade, profession or occupation is conducted, but shall not include a temporary work site which serves a single customer or project or vehicle used for sales or delivery by a business or practitioner of a profession or occupation which has a location or office. The renter's or lessee's location which is the site of personal property which is rented or leased from another does not constitute a location or office for the personal property's owner, lessor, or the agent of the owner or lessor. The site of real property which is rented or leased to another does not constitute a location or office for the real property's owner, lessor, or the agent of the owner or lessor unless the real property's owner, lessor, or the agent of the owner or lessor, in addition to showing the property to prospective lessees or tenants and performing maintenance or repair of the property, otherwise conducts the business of renting or leasing the real property at such site or otherwise conducts any other business, profession, or occupation at such site.

New business means any person, enterprise or entity which is engaged in business in the unincorporated areas of the city which has not previously filed for a business registration certificate.

Occupation tax means a tax levied on persons, partnerships, corporations or other entities for engaging in an occupation, profession or business for revenue raising purposes.

Practitioner of profession or occupation means one who by state law requires state licensure regulating such profession or occupation. The term "practitioner of professions and occupations" shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.

Regulatory fees means payments, whether designated as license fees, permit fees or by another name, which are required by a local government as an exercise of its police power and as a part of or as an aid to regulation of an occupation, profession or business. The amount of a regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the city. A regulatory fee may not include an administrative fee or registration fee. The business license division is not authorized to require any administrative fee, registration fee, or fee by any other name in connection with a regulatory fee, except an occupation tax, as defined in paragraph

(4) of O.C.G.A. § 48-13-5. Regulatory fees do not include development impact fees as defined by O.C.G.A. § 36-71-2(8) or other costs or conditions of zoning or land development.

Sec. 7.6.1.2. Violation.

Any person violating any of the provisions of this article may be punished as allowed by law.

Sec. 7.6.1.3. Exemptions from chapter.

The following businesses or practitioners shall be excluded from the provisions of this chapter:

- (1) Those businesses regulated by the state public service commission.
- (2) Those electrical businesses organized under O.C.G.A. tit. 46, ch. 3 (O.C.G.A. § 46-3-1 et seq.).
- (3) Any farm operation for the production from or on the land of agricultural products, but not including any agribusiness.
- (4) Homeowner associations and condominium associations which are required by declaration of condominium or protective covenants filed in conjunction with the development of real property in the office of the clerk of superior court.
- (5) State or local authorities and nonprofit organizations as provided in O.C.G.A. § 48-13-13(5); however, nonprofit organizations shall still be required to register with the business license division.
- (6) All practitioners or professions as set forth in O.C.G.A. § 48-13-9(c)(1) through (22). Notwithstanding, with the exception of lawyers and law firms, said professionals shall be subject to section 7.6.1.1, 7.6.1.4, 7.6.1.5, 7.6.1.6, 7.6.1.7, 7.6.2.1(b), 7.6.2.2 as it relates to the payment of an occupation tax, 7.6.2.3, 7.6.2.4, 7.6.2.5, 7.6.2.6, 7.6.2.7, 7.6.2.8, 7.6.2.9, 7.6.2.10, 7.6.2.11(c), 7.6.2.12(c), 7.6.2.13(a), 7.6.2.16(b) and (c). Lawyers and law firms shall be exempt from all provisions of this chapter with the exception of division 17 of this chapter.

Sec. 7.6.1.4. Responsibility for enforcement of chapter.

The enforcement and administration of this chapter shall be within the jurisdiction of the supervisor of the business license office, and his designated employees, and within the authority of the city.

Sec. 7.6.1.5. Use of funds.

All proceeds generated under this chapter shall be used and spent only for those purposes which benefit both the citizens within and without the city.

Sec. 7.6.1.6. Due date for occupation taxes; proration of tax.

All occupation taxes authorized by this chapter, except as otherwise specifically provided, shall be due annually on January 1 and payable annually on January 31. In the event that any person commences business on any date after January 1 in any year, the tax shall be due and

payable 30 days following the commencement of the business, and shall be levied at the customary rate on gross receipts from the date of the commencement of business and shall include the administrative fee component.

Sec. 7.6.1.7. Collection of unpaid taxes, fees and penalties.

If any person shall fail or neglect to pay any tax, fee or penalty as required by this chapter, any such fee or penalty is subject to collection in the manner as provided for the collection of taxes, regardless of provisions in this chapter for penalties.

DIVISION 2 - BUSINESS LICENSE AND OCCUPATION TAX¹

Sec. 7.6.2.1 - Scope and levy.

- (a) *Generally.* Pursuant to O.C.G.A. § 36-1-22, O.C.G.A. § 48-13-6 et seq., the authority of 1986 Ga. Laws (Act No. 1364), page 5450, and H.B. 175, 1995 Ga. Laws, page 419 et seq., all persons, including professional corporations, engaged in business in the city are hereby required to register their business or office and obtain a business registration certificate therefor, and pay the amount now or hereafter fixed as the occupation tax thereon. The occupation tax levied in this section is for revenue purposes only and is not for regulatory purposes. The occupation tax applies only on businesses and occupations which are covered by the provisions of O.C.G.A. §§ 48-13-5 through 48-13-26. Other applicable businesses and occupations are subject to city taxes pursuant to pertinent general law and/or city ordinance.
- (b) *Businesses with no location or office in state.*
 - (1) The provisions of this article shall apply to those businesses and practitioners of professions and occupations with no location or office in the state if the business or practitioner:
 - a. Has one or more employees or agents who exert substantial efforts within the city for the purpose of soliciting business or serving customers or clients; or
 - b. Owns personal or real property which generates income and which is located in the city.
 - (2) In no event shall a business or practitioner subject to this subsection be required to pay an occupation tax to more than one local government in the state and then only to the local government in which the largest dollar volume of business is done or service is performed by the individual business or practitioner.
 - (3) If a business or practitioner subject to this subsection provides to the supervisor of the business license office proof of payment of a local business or occupation tax in another state, or city or municipality of this state which purports to tax the business's or practitioner's sales or services in this state, the business or practitioner shall be exempt for the levy of any occupational tax under this section.

¹State law reference(s)—Business and occupation taxes, O.C.G.A. § 48-13-5 et seq.

- (c) *Permit for persons exempted from paying tax.* Even though a person may be exempt under state or other law from paying an occupation tax, nevertheless, such person must apply to the business license office for a free permit to engage in or carry on any business provided for in this article and submit proper and lawful credentials exempting applicant from paying the occupation tax.

Sec. 7.6.2.2 - Separate business registration certificate or occupation tax required for each location.

- (a) Each business registration certificate issued pursuant to this article shall authorize the conduct of one place of business only, at the business location or office, and persons engaging in business in more than one location or office within the city shall obtain a separate certificate for each location, paying a separate fee for each such certificate. Any of the businesses required to pay a tax under this ordinance shall pay a separate occupation tax for each location or office within the city.
- (b) If the location or office has several separate structures which are used as part of one general business operation of the user (in this section "user" shall not include landlord or lessor) of the structures, then for the purposes of the requirements to obtain a business registration certificate (or pay an occupation tax if it is a business listed in section 7.6.1.3(6)) such business operation shall be deemed to have but one location.
- (c) A separate business registration certificate (or pay an occupation tax if it is a business listed in section 7.6.1.3(6)) shall be required for each separate and distinct business operation located within the same structure.
- (d) Any business registration certificate fees, penalties or interest that were assessed by the city as the result of the rental of real property prior to initial notification of the assessment by the city shall be and are hereby waived. This waiver shall not include any new businesses.

Sec. 7.6.2.3 - Classification of businesses.

Every business subject to the provisions of this article shall be classified according to the major group classification of the Standard Industrial Classification Manual, as amended, and published under the auspices of the U.S. Office of Management and Budget. Classification of each business subject to this article shall be based upon the principal activity or dominant line of such business, i.e., that series of goods or services which produces the largest proportion of the business's gross revenues from all sources.

Sec. 7.6.2.4 - Basis for fees; schedule of fees.

- (a) Every business subject to this chapter shall pay a fee based on gross receipts of the business or practitioner in combination with the profitability ratio for the type of business, profession or occupation as measured by nationwide averages derived from statistics, classifications or other information published by the United States Office of Management and Budget, the United State Internal Revenue Service, or successor agencies of the United States.
- (b) Every business or practitioner shall be ranked according to the profitability ratio for the type of business, profession or occupation as measured by nationwide averages derived from statistics, classifications or other information published by the United States Office of

Management and Budget, the United States Internal Revenue Service, or successor agencies of the United States. After such ranking, classifications which do not overlap shall be established before setting a single rate of taxation for each classification. No rate shall be charged to a classification which includes a business or practitioner with a higher profitability ratio.

- (c) The occupation tax shall include an administrative fee of \$55.00, which shall not be subject to proration or refund.
- (d) The initial schedule of fees is attached to the ordinance from which this chapter is derived as schedule A, and subsequent fee schedules may be as approved from time to time by the city. Any action by the city which would increase any fee or tax levied or assessed under this chapter shall be done only upon the city council conducting at least one public hearing.
- (e) The schedules of fees shall be as approved and adopted and as may be amended in the future by the city.
- (f) The schedule of fees, including those that pertain to all articles of this chapter, shall be on file and available from the office of the city clerk.

Sec. 7.6.2.5 - Allocation of gross receipts for businesses with locations in more than one jurisdiction.

- (a) In levying occupation tax upon a business or practitioner with a location or office situated in more than one jurisdiction, including businesses or practitioners with one or more locations or offices in Georgia and one or more locations outside the state, the city is required by O.C.G.A. § 48-13-14 to allocate gross receipts in accordance with one of the following methods:
 - (1) Where the business or practitioner can reasonably allocate the dollar amount of gross receipts of the business or practitioner to one or more of the locations or offices on the basis of product manufactured in that location or office or the sales or other services provided in that location or office, the city is authorized to tax the gross receipts generated by the location or office within the city; or
 - (2) Where the business or practitioner cannot reasonably allocate the dollar amount of gross receipts among multiple locations or offices, the business or practitioner shall divide the gross receipts reported to all local governments in this state by the number of locations or offices of the business or practitioner which contributed to the gross receipts reported to any local government in this state, and shall allocate an equal percentage of such gross receipts of the business or practitioner to each location or office.
- (b) In no instance shall the sum of the portions of the total gross receipts of a business or practitioner taxed by all local governments exceed 100 percent of the total gross receipts of the business or practitioner.
- (c) In the event of a dispute between the business or practitioner and the local government as to the allocation under this Code section, the business or practitioner shall have the burden of proof as to the reasonableness of this allocation.
- (d) Upon request, businesses or practitioners which have a location or office situated in the city and another jurisdiction or other jurisdictions shall provide to the city the following:

- (1) Financial information necessary to the allocation of the business or practitioner; and
- (2) Information relating to the allocation of the business's or practitioner's gross receipts by other local governments.
- (3) Information regarding the site of any location or office and payment of occupation taxes or regulatory fees to other local governments.

Sec. 7.6.2.6 - Estimate of gross receipts.

- (a) *Gross receipts of preceding year to be used as estimate for current year.* All occupation taxes levied by this article are levied on the amount of business to be transacted during the calendar year. However, for convenience of both the city and the taxpayer, and to avoid the necessity of making numerous returns, those businesses subject to the occupation tax levied in section 7.6.2.4 shall, on or before the times set forth in this article, file with the supervisor of the business license office the returns specifically provided for in this article, showing the gross receipts of that business during the preceding calendar year. This return shall be used as an estimate for making payments on the occupation tax for current calendar year, the actual and final amount of tax levied for business transacted in a current calendar year to be paid in accordance with a final return to be made after the termination of the year, in accordance with the procedure set forth in this article.
- (b) *Filing of return.* The owner, proprietor, manager or secretary officer of the business subject to the occupation tax of the current calendar year shall, at the end of the preceding year, and on or before March 1 of the current calendar year, file with the supervisor of the business license office of the city, on a form furnished by the revenue collection officer, a signed return setting forth the amount of gross receipts of such business for the entire preceding calendar year, to be used as an estimate of the gross receipts for the current year.
- (c) *Businesses conducted for only part of preceding year.* Where a business subject to the occupation tax for the calendar year has been conducted for only a part of the preceding year, the amount of gross receipts for such part shall be set forth in the return. The return shall also show a figure putting the receipts for such part of a year on an annual basis, which figure shall bear the same ratio to the amount of gross receipts for such part year as the full year bears to such part. Such figure shall be used as the estimate of the gross receipts of the business for the current calendar year.
- (d) *New businesses.* A new business shall make an estimate of the projected gross receipts for the calendar year or part thereof still remaining and shall pay the initial occupation tax for that year based on such estimate, subject to the provisions of section 7.6.2.7.

Sec. 7.6.2.7 - Filing of return; procedure where taxes overpaid or underpaid.

- (a) After the end of each year and on or before March 1 of the succeeding year, the owner, proprietor, manager or executive officer of the business liable for the occupation tax levied for the year shall file with the supervisor of the business license office of the city, on a form furnished by supervisor of the business license office, a signed return setting forth the actual amount of the gross receipts of such business during the calendar year.
- (b) If the amount of the occupation tax for the preceding year based on the return provided for in this section, and on the rate of the tax provided for in this article, exceeds the amount of

occupation tax theretofore paid by the business based on the estimate filed pursuant to section 7.6.2.6, the difference in such amount shall be due and payable by the taxpayer to the city on March 1 of the current year and delinquent if not paid on or before such date.

- (c) If the amount of the occupation tax for the preceding year based on the return provided for in this section, and on the rate of the tax provided for in this article, is less than the amount of occupation tax theretofore paid by the business based on the estimate filed pursuant to section 7.6.2.6, the difference in such amount shall be refundable by the city to the taxpayer; or, if the business continues to be conducted in the city during the current year, such difference in amount may be credited by the city on the amount of occupation tax to be paid to the city by the business for the current year.

Sec. 7.6.2.8 - Fees for professionals generally.

- (a) Practitioners of professions as described in O.C.G.A. § 48-13-9(c)(1)—(18), namely:

Physicians licensed under O.C.G.A. tit. 43, ch. 34 (O.C.G.A. § 43-34-1 et seq.);

Osteopaths licensed under O.C.G.A. tit. 43, ch. 34 (O.C.G.A. § 43-34-1 et seq.);

Chiropractors;

Podiatrists;

Dentists;

Optometrists;

Psychologists;

Veterinarians;

Landscape architects;

Land surveyors;

Practitioners of physiotherapy;

Public accountants;

Embalmers;

Funeral directors;

Civil, mechanical, hydraulic or electrical engineers;

Architects; and

Marriage and family therapists, social workers and professional counselors;

shall elect as their entire occupation tax one of the following:

- (1) An occupation tax based on gross receipts combined with profitability ratios as set forth in schedule A. Any practitioner of professions as set forth in O.C.G.A. § 48-13-9(c)(1) through (18), who elects to pay an occupation tax based on gross receipts shall provide to the business license office information concerning the practitioner's gross revenues on forms supplied by the business license office as well as verification as required by the

supervisor of the business license office of said gross revenues for the purpose of determining the appropriate occupation tax.

- (2) A fee according to schedule H not to exceed \$400.00 per practitioner who is licensed to provide the service, such tax to be paid at the practitioner's office or location; provided, however, that a practitioner paying according to this subsection shall not be required to provide information to the local government relating to the gross receipts of the business or practitioner. The per-practitioner fee includes all persons in the business who qualify as a practitioner under the state's regulatory guidelines and framework.
- (b) Any practitioner whose office is maintained by and who is employed in practice exclusively by the United States, the state, the city or other city of the state, or instrumentalities of the United States, the state or the city or other city of the state, shall not be required to obtain a license or pay an occupation tax for that practice.

Sec. 7.6.2.9 - Fee for professionals engaged in practice of more than one profession.

If an individual is engaged in the practice of more than one profession of the professions enumerated in section 7.6.2.8, such individual shall be required to pay a professional occupation license tax for each such profession; provided, however, if such individual has elected to be taxed based on schedule H, the tax for the second and any succeeding profession shall be assessed at 50 percent of the tax otherwise due, as computed under schedule H.

Sec. 7.6.2.10 - Refunds.

Requests for refunds based on changes in the gross receipts of the taxpayer shall be allowed only for the license year next preceding the time of the request for such refund. No refund or proration shall be made of any regulatory fee and no refund or proration shall be allowed for a taxpayer who shall cease doing business or remove the business from the city.

Sec. 7.6.2.11 - Forms.

- (a) The application for a business registration certificate, notices, license forms and other documents and papers necessary to the implementation and enforcement of this chapter shall be on such forms and in such manner as may be prepared and directed by the supervisor of the business license office.
- (b) Such forms shall include the SIC (Standard Industrial Classification) of the business, its taxable gross revenues for the preceding 12 calendar months, the number of employees, and any such other information as may be required by the supervisor of the business license office.

Sec. 7.6.2.12 - Duty of businesses to maintain records; confidentiality; and audits.

- (a) The supervisor of the business license office is authorized to require from all current and past business license holders and business registration certificate applicants, copies of sales tax reports made by the applicant or license holder for a previous quarter to the state. It shall be the responsibility of the person holding a license under this chapter to secure, preserve and keep reasonable records, including payments to subcontractor, the business license number of any subcontractors, W-2s, 1099s, rents received from tenants and box holders, and records

containing the amount of sales receipts, and such records and any other documents reasonably requested by the business license supervisor shall be furnished upon demand to the supervisor of the business license office, or his authorized representative, for determining the proper classification of the business and for audit purposes to determine the correct amount of occupation taxes for the business. All business registration certificate applicants and holders shall make available all records for audit purposes upon request of the business license supervisor.

- (b) The supervisor of the business license office, or his authorized representative, is authorized to issue citations if any licensee or persons who are engaged in business have not obtained a valid business license, professional license, privilege license or special license, as required and defined in this Code, or if the licensee, license holder or license applicant refuses to produce any of the records described in this section when asked to do so.
- (c) All information obtained by the supervisor of the business license office regarding gross revenues and the number of employees of any individual business shall be treated as confidential, and no disclosures shall be made by the business license office or any agency of the city regarding gross revenues or number of employees of any individual business registration certificate holder.

Sec. 7.6.2.13 - Change of location or ownership of business.

- (a) Any person moving from one location to another shall notify the supervisor of the business license office of such move and of the new address in writing, on a form provided by the supervisor, no later than the day of moving.
- (b) A new business registration certificate will be issued upon payment of a change of location fee, if the new location conforms to the city's zoning regulations. The amount of this fee shall be available as part of the schedule of fees in the business license office. When a change of ownership occurs, the new owners shall notify the business license office and pay an occupation tax.
- (c) When a change of ownership occurs, the new owners shall notify the business license office and apply for and obtain a business registration certificate.

Sec. 7.6.2.14 - Display of license or certificate.

All licenses or certificates issued under this chapter shall be posted conspicuously in the place of business of the person to whom the license or certificate is issued.

Sec. 7.6.2.15 - Denial, suspension and revocation of license.

- (a) A business registration certificate or an application for a business registration certificate under this chapter may be denied, suspended or revoked only for due cause as defined in subsection (c) of this section. A business registration certificate may be denied or revoked only after a hearing before the city council upon a prior written notice to the applicant or licensee of the time, place and purpose of such hearing and a statement of the reason why the application would be denied or the certificate revoked. Three days' notice shall be deemed reasonable, but shorter or longer periods of notice shall be authorized as the city council may deem the circumstances justify. Unless the circumstances otherwise justify, the hearing shall be held

no later than 30 days after the application is filed with the supervisor of the business license office, or after the supervisor has suspended a business license.

- (b) The supervisor of the business license office may suspend a business registration certificate where there is evidence of due cause under subsection (c) of this section for revoking the license. Such action by the supervisor of the business license office shall be reported, in writing, to the city council. This action shall be reviewed at the next regular meeting of the city council, or, at the request of the license holder, a special meeting of the city council may be called within three days after such request is filed with the business license office. If the city council affirms the decision of the supervisor, then the license shall be permanently revoked. If the decision of the supervisor is reversed, then the license shall be returned to the licensee immediately.
- (c) A business registration application or certificate under this chapter may be denied, suspended or revoked only if one or more of the following exists:
 - (1) The applicant or licensee has failed to obtain any paper or document necessary in pursuance of its business as may be required by any office, agency or department of the city, state or United States under authority of any law, ordinance or resolution of the city, state or United States.
 - (2) The applicant or licensee has supplied false information to the supervisor of the business license office.
 - (3) The applicant or licensee has violated any ordinance, law, or resolution that regulates such business.
 - (4) The applicant or licensee has failed to pay any fee to the city, has failed to make a return or pay a tax due to the tax commissioner of the city, the city business license division, or any other agency of the city government or has otherwise failed to comply with the provisions of this chapter or any other chapter of this Code of Ordinances.
 - (5) The applicant or licensee during the 12 months next preceding has engaged in misrepresentation of facts, whether through advertisement or through any form of direct communication, oral or written, which is intended to mislead the public or any party with whom the licensee deals in pursuance of the licensed business. By way of illustration only, and without limiting the scope of this subsection, the term "due cause" as used in this section shall consist of any act or practice designated as unlawful in O.C.G.A. § 10-1-393(b)(1)—(11) or declared by the administrator of the Fair Business Practices Act to be unlawful pursuant to regulations made under O.C.G.A. § 10-1-394, subject to the exemptions contained in O.C.G.A. § 10-1-396.
 - (6) Allowing any condition on the licensed premises that endangers public health or safety.
- (d) Anything to the contrary notwithstanding, if a health certificate is required for the operation of the business, a conditional business registration certificate may be issued for a period of 60 days, so as to allow compliance with the rules and regulations of the city health department; provided, however, that the applicant may not commence operations of any food service establishment, as that term is defined by Official Code of Georgia Annotated, unless and until it receives a health permit from the city health department pursuant to O.C.G.A. § 26-2-371. Upon issuance of a valid health permit by the city health department, the conditional business registration certificate shall automatically, by virtue of this subsection, be converted into an

annual business registration certificate under the terms of this chapter, effective as of the date of its issuance.

Sec. 7.6.2.16 - Business registration certificate; penalty and interest on unpaid tax.

- (a) It shall be unlawful for any person to engage in any business provided for in this chapter without first applying for and obtaining a business registration certificate as required by this chapter, and such person shall be required to pay for each calendar year or portion thereof, limited to the three most recent years, the business tax fee plus penalty and interest pursuant to subsections (b) and (c) hereof on the fee amount which should have been paid by such person pursuant to this chapter.
- (b) Interest shall accrue on all unpaid taxes or fees levied and assessed under this chapter from the date the taxes or fees shall be due and payable at the rate of 1½ percent per month on the unpaid balance. With respect to the fees payable under paragraph (a) above, interest shall accrue from the day the fee was initially due and payable.
- (c) Should any occupation tax, license fee, or fee imposed by this chapter remain due and unpaid for 90 days from the due date of the tax or fee, the person liable for the tax or fee shall be subject to and shall pay a penalty of ten percent of the tax or fee due.

Sec. 7.6.2.17 - Closed circuit video recording device required in certain retail establishments.

The purpose of this article is to require certain retail establishments, which historically have been the frequent targets of armed robberies and homicides, to have a functioning closed circuit video camera and recording device. The ability to apprehend the perpetrators of such crimes and remove them from the general population will reduce the number of such crimes.

Whereas, the city council of the city, finds and declares that the presence of video cameras and recording devices is a deterrent to criminal activity and is a substantial aid in solving crimes; and

Whereas, this section furthers the important governmental interest of reducing crime and therefore promotes the health, safety and welfare of the citizens of the city.

Now therefore, the city council adopts this section pursuant to its powers and authority.

The licensee of a convenience store or a package store shall be required to have, at all times that the business is open to the public, an operating and functioning video camera and recording device that records and preserves the activities at all areas of the business where the sale of the business's merchandise takes place. The video record so recorded shall be maintained for 48 hours.

At the time that an applicant seeks the issuance of a business license or a licensee seeks the renewal of an existing business license for a convenience store or a package store the applicant or licensee shall execute an affidavit stating that the business will have, in the case of an application, and has in the case of a renewal, an operating and functioning video camera and recording device that records and preserves the activities at all areas of the business at which the sale of merchandise take place while the business is open to the public. The business license office shall provide the affidavit to be executed by the applicant or the licensee.

DIVISION 3 – SPECIAL LICENSE AND REGULATORY FEES

Sec. 7.6.3.1. Purpose of article; statutory authority; applicability of general regulations.

- (a) 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, garbage collectors, 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) 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.

Sec. 7.6.3.2. 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. 7.6.3.3. Regulatory fees.

The regulatory fees levied and charged for all persons and businesses subject thereto are set forth on schedule R, a copy of which 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. 7.6.3.4. 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 terms and provisions of chapter 134.

Sec. 7.6.3.5. 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. 7.6.3.6. 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 4 – PEDDLERS, DOOR-TO-DOOR SALESPERSONS, AND MOBILE FOOD VENDORS

Sec. 7.6.4.1. 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. 7.6.4.2. 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 article II of this chapter, or otherwise.

Sec. 7.6.4.3. Conduct of business by peddlers.

- (a) *Permit required.* No trader or peddler shall offer for sale any goods, wares or merchandise in the unincorporated areas of the city without first obtaining a permit from the license bureau of the city.
- (b) *Location.* Peddlers shall park the vehicle associated with the business on asphalt or concrete out of the right-of-way and conduct business only in locations zoned general commercial and in accordance with section 134-267 of the Cobb County Code.
- (c) *Merchandise to be kept on vehicle; business license and permission from property owner required.* Peddlers shall maintain all merchandise on a vehicle, and the peddler's business license shall be void if the peddler does not have in his possession at the location a business license and written notarized affidavit from the property owner authorizing the peddler to be engaged in business at the property owner's location.
- (d) All vehicles must be removed from the peddler's location each day.
- (e) No tents, tables, boxes, chairs, or any accessory to the business shall be allowed. Anything associated with the business, with exception of personnel, that is not on the vehicle shall be in violation of this division.
- (f) Only one sign permitted by the code enforcement division is allowed and shall meet the limits provided in the zoning ordinance and sign ordinance, and shall be on the vehicle.
- (g) Any violation of this division by any owner, licensee of the peddler business or any employee of the peddler within the past 12 months shall be cause for denial of the peddler's permit.
- (h) All vehicles shall be brought to the city business license division and approved by the business license supervisor or his designee prior to the approval of the permit. Only an approved vehicle may be used and in the event the peddler desires to use a substitute vehicle, the substitute vehicle must be approved by the business license division.

- (i) Only one vehicle is allowed for each location.
- (j) *Violations.* Any violations of the provisions in this section pertaining to peddlers shall subject the license to revocation.

Sec. 7.6.4.5. 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. 7.6.4.6. 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 7.6.4.5 to the resident or occupant of a home at which the door-to-door salesperson solicits business.

Sec. 7.6.4.7. 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. 7.6.4.8. 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. 7.6.4.9. 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. 7.6.4.10. 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. 7.6.4.11. 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. 7.6.4.12. 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. 7.6.4.13. 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. 7.6.4.94. 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 5 - MOBILE FOOD VENDORS

Sec. 7.6.5.1. 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. 7.6.5.2. Business license and food service permit required.

- (a) It shall be unlawful for any person to sell, or offer for sale, food of any type from a commissary or mobile retail food establishment without a business license first having been granted under this section by the business license division manager or his/her designee, and without a valid food service permit first having been obtained from the Cobb Public Health Department ("health department").
- (b) Prior to the issuance of a business license under this subdivision II, an application for a food service permit(s) by a mobile food vendor, setting forth all required information, shall be submitted to the health department in accordance with its mobile/extended service units permit applications and the BOH food services rules and regulations.
- (c) The business license division manager shall require proof (a copy) of the food service permit from the health department prior to the issuance of a business license to a mobile food vendor.
- (d) A mobile food vendor(s) operating on city or other public property at the invitation or request of one or several of the authorized individuals specified in section 7.6.5.3(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. 7.6.5.3. 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. 7.6.5.4. 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. 7.6.5.5. 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 6 - DOOR-TO-DOOR SALESPERSON'S PERMIT

Sec. 7.6.6.11. 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. 7.6.6.2. Application; registration; investigation and report; grounds for denial.

- (a) No door-to-door salesperson shall be authorized to solicit orders until he files an application from the license bureau and obtains a permit and registers as a door-to-door salesperson. The license bureau shall make an investigation, including but not limited to an investigation of the police record and moral character of the applicant. The license bureau shall furnish the police department a duplicate of the application for the door-to-door salesperson's permit. The police department, within ten days, shall furnish a report to the license bureau of the police record, if any, of the applicant. No permit shall be given to any applicant who shall have either a pending charge or a conviction for a felony crime or an offense involving the elements of assault and battery, or any civil judgments involving unethical and improper business actions, including but not limited to actions which would constitute fraud and deceit under the laws of the state.
- (b) No application for a permit under this section shall be received or acted upon if the applicant has submitted the same or a similar application for a permit within the preceding 12 months, which prior application has been dismissed, denied or abandoned. No license shall be granted if the applicant is in violation of this division or has within 12 months

preceding the application been in violation of this division or any other law or ordinance regulating the activities for which such permit is sought.

Sec. 7.6.6.3. 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. 7.6.6.4. 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. 7.6.6.5. 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. 7.6.6.6. 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 7 - Vending

Sec. 7.6.7.1. Definitions.

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

Food truck means a retail food establishment that is readily moveable, is a motorized wheeled vehicle, or a towed wheeled vehicle designed and equipped to prepare and serve food as defined by state law.

Private property vending means vending activity, permitted by the city on privately owned property in the unincorporated area of the city, with the consent or approval of the property owner(s).

Public property and *public space* both mean any property owned by city and any street rights-of-way within the unincorporated area of the city, including any roadways and sidewalks.

Public property vending means vending activity authorized by city permit on publicly owned property under the jurisdiction of the city for a special event.

Special event means a temporary event or gathering using either private or public property that draws an estimated number of participants and spectators exceeding 250 present on any day of the event and that involves one or more of the following activities:

- (1) Closing of a public street;
- (2) Blocking or restricting streets, sidewalks, alleys, or other public places, in whole or in part;
- (3) Sale or distribution of food or beverages on streets, sidewalks, alleys, or other public property, or on private property where otherwise prohibited by ordinance;
- (4) Erection or placement of a tent, utility pole, or other temporary structure on a street, sidewalk, alley, or other public place;
- (5) Erection or placement of a stage, bandshell, trailer, van, portable building, grandstand, bleachers, or other apparatus used for entertainment purposes on public property, or on private property where otherwise prohibited by ordinance; or
- (6) Erection or placement of temporary signage, banners, or displays of any kind in or over a public right-of-way, or on private property where otherwise prohibited by ordinance.

This term shall not include any event or function held on private property entirely within the existing structure or appurtenances thereto of an establishment that has been operating continuously for 30 days or more prior to the start of a special event.

Vending activities mean the selling or distribution of retail or food items through a cart, kiosk, or temporary or non-permanent structure to the public.

Vending cart means a cart, kiosk, or temporary structure designated for food or retail vending activity.

Vendor means any person who is undertaking vending activities.

Sec. 7.6.7.2. 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. 7.6.7.3. Applicability.

- (a) Vending activities in the unincorporated area of the city on public property without a license for public property vending is unlawful.
- (b) Vending activities in the unincorporated area of the city on private property is regulated by article 4 of this chapter.
- (c) Private property alcoholic beverages vending is not subject to the regulations contained in this chapter.

- (d) Food trucks are not subject to the regulations contained in this subdivision, but are regulated by division 5 of this chapter.

Sec. 7.6.7.4. 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. 7.6.7.5. Special provisions and exemptions within mixed-use development districts.

- (a) For the purposes of this article only, a mixed-use development district is defined as a development that is zoned RRC with a public event venue with permanent seating in excess of 20,000 seats (and to include attendant parking facilities) and may include a mixture of retail, restaurants, entertainment, office space, and hotel units.
- (b) Vending activity within mixed-use development districts is permitted in areas designated for vending activity as depicted on a plan that shall be approved by both the mixed-use development district management and the city council. The plan shall include locations where vendors may sell merchandise within the designated area, as well as specifics on the size and materials for signage and vending carts.
- (c) Every vendor shall be required to obtain a city license and/or any other appropriate state or local license.
- (d) All applicable sales taxes resulting from vending activity shall be remitted to the state per applicable law.
- (e) Food trucks are required to follow regulations contained in article 5 of this chapter.

DIVISION 8 - LICENSES REQUIRING PRIOR APPROVAL AND REGULATION

Sec. 7.6.8.1. Definitions.

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

Alcoholic beverages includes, but is not limited to, malt beverages, vinous liquors and spirituous liquors.

Amusement activity includes any fair, concert, carnival or sideshow and those activities, rides and games normally associated with such amusements wherein the general public is allowed to view or participate for a price.

Billiard room means any public place with two or more tables on which the game of billiards is permitted to be played.

Billiards means any of the several games played on a table surrounded by an elastic ledge of cushions, with balls which are impelled by a cue, and shall include all forms of the game known as carom billiards, pocket billiards and English billiards. The term shall apply to all tables, both coin-operated and non-coin-operated.

Health spa means a business establishment that derives its primary source of income from massage therapy as defined in state law, or any other hands-on therapy including foot massage and the practice of reiki, to help customers, reduce stress, provide therapy, enhance appearance, enhance or restore health and well-being, or experience sensory pleasure. This term shall not include professional healthcare establishments or fitness centers utilizing equipment only and having two or fewer massage tables or other equipment for massage.

Licensee means any person holding a license issued under this division who is full time employee responsible for the management of the establishment.

Manager means a full time employee who is responsible for the management and operation of the establishment. A manager or manager's designee must be on the premises at all times the business is in operation.

Pawn and *pledge* mean bailment of personal property as security for any debt or engagement, redeemable upon certain terms and with the express or implied power of sale on default.

Pawnshop means any business wherein a well-defined part thereof is to take or receive, by way of pledge, pawn or exchange, any goods, wares or merchandise, or any kind of personal property whatever, as security for the repayment of money lent thereon.

Pool room. See *Billiard room.*

Spa. See *Health spa.*

Sec. 7.6.8.2. 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. 7.6.8.3. Application; appeals; renewal.

- (a) Applications for any of the licenses detailed in section 7.6.8.2(a) shall be filed with the supervisor of the business license office on forms as prescribed by the city, and shall also meet the standards and specifications as enumerated in this chapter.

- (b) In the event of any adverse decision or ruling by the supervisor of the business license office, the applicant or aggrieved party shall have the right of appeal to the business city business license division as provided in section 6-90.
- (c) The decision of the business license supervisor shall be final unless appealed to the city council.
- (d) All licenses for pawnshops, pool rooms, and health spas shall be renewed with the business license office prior to December 31. All pawnshops, pool rooms, and health spas that currently possess a business license at the time of the adoption of the ordinance from which this section is derived shall renew their business license on or before the expiration date of their current license and those businesses shall renew their license prior to December 31.

Sec. 7.6.8.4. Standards for issuance.

- (a) No application for any license for amusement activities, pawnshops, pool rooms and health spas shall be granted where the application or other evidence shows any of the following conditions to exist:
 - (1) The applicant has had any license issued under the police powers of any city or other governmental subdivision previously suspended or revoked.
 - (2) The applicant, as a previous holder of a license for the business or business activity for which he now seeks a license, has violated any law, regulation or ordinance pertaining to such business within a five-year period immediately preceding the date of application.
 - (3) The applicant or any employee of the applicant has committed any of the acts enumerated in this division which constitute due cause for denial of a license.
- (b) In addition to the conditions set out in subsection (a) of this section, in determining whether or not any license applied for shall be granted, the following shall be considered in the public interest and welfare:
 - (1) If the applicant is a previous holder of a license, the manner in which he conducted the business thereunder as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinance relating to such business.
 - (2) The location for which the license is sought as to traffic congestion, general character of the neighborhood and the effect the business that is applied for would have on the adjacent and surrounding property values.
 - (3) The number of licenses already granted for similar businesses in the trading area of and the place for which the license is sought.
 - (4) If the applicant's spouse shall not be able to meet the qualifications of an applicant, particularly if it appears that the applicant's spouse or another person is using the applicant as a guise or "dummy" to obtain a license.

Sec. 7.6.8.5. 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 9. AMUSEMENT ACTIVITIES²

Sec. 7.6.9.1. 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. 7.6.9.2. 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 8 of this chapter.

Sec. 7.6.9.3. 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.

²State law reference(s)—Amusement Ride Safety Act, O.C.G.A. § 34-12-1 et seq.

Sec. 7.6.9.4. Qualifications of applicant.

No person shall be granted a license to conduct an amusement activity unless it shall appear to the satisfaction of the supervisor of the business license office that such person, or the officers and directors of any corporation, shall be of good moral character. In no event shall any such license be granted to any person or to any corporation where the person or the officers, stockholders and directors of any corporation have been convicted or have pled guilty or entered a plea of nolo contendere to any felony crime within a period of five years immediately prior to the date of application for such license.

Sec. 7.6.9.5. 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 7.6.9.4, as well as the standards enumerated in the provisions of division 8 of this chapter.

Sec. 7.6.9.6. 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. 7.6.9.7. 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. 7.6.9.8 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 10. PAWNSHOPS³

Sec. 7.6.10.1. 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,

³State law reference(s)—Pawnbrokers, O.C.G.A. § 44-12-130 et seq.

color, design, number of stones if jewelry, and all other identifying names, marks, and numbers. The pawnbroker shall assign a unique pawnshop transaction number documenting each transaction.

- (b) Each item received, excluding audio and video recordings, shall be tagged with the pawnshop transaction number. The tag bearing the pawnshop transaction number must remain attached to the item until the property is disposed of by sale, trade, or other lawful means.
- (c) The pawnbroker shall require all persons pledging, trading, pawning, exchanging, or selling property to show proper identification prior to conducting a pawnshop transaction. Proper identification is defined as a government issued photo identification card such as a driver's license, military identification card, state identification card, or passport.
- (d) The pawnbroker shall document the name, address, telephone number, race, sex, height, weight, drivers license number, and date of birth of the person pledging, trading, pawning, exchanging, or selling the property, along with the date and time of transaction, the price paid or amount loaned, and the maturity date of the transaction. This documentation shall be made at the time of the transaction.
- (e) The pawnbroker shall photograph, with a digital camera, at the time of each transaction, the person pledging, trading, pawning, exchanging, or selling the property. The photograph shall clearly show a frontal view of the subject's face along with the pawnbroker's ticket transaction number. The pawnbroker shall also clearly photograph the property being pledged, traded, pawned, exchanged, or sold. Digital images shall be labeled and stored in such a manner that they are safe from corruption, readily identifiable, and readily available for review.
- (f) The pawnbroker shall obtain from each person pledging, trading, pawning, exchanging, or selling any property, the fingerprint of the right hand index finger, unless such finger is missing, in which event the print of the next finger in existence on the right hand shall be obtained with a notation as to the exact finger printed. The electronic digital fingerprint scanner will be the primary method of entry required. The fingerprint shall be imprinted onto the pawn transaction form in the designated area along with the signature of the person pawning, trading, pledging, exchanging, or selling the property. The fingerprint must be clear and legible. In the event that more than one pawn transaction form is required, a fingerprint and signature should be obtained for each form. Fingerprints and the information required herein shall be obtained each time such person pledges, trades, pawns, exchanges, or sells any property.
- (g) Items of property, that appear to be new, unused, and in their original packaging cannot be accepted by the pawnbroker unless the customer can supply a copy of the original sales 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. 7.6.10.2. 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 7.6.10.181(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 7.6.10.181(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 7.6.10.1. 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 7.6.10.1(b) property tags; 7.6.10.1(e) photographs; 7.6.10.1(g) purchase receipts; 7.6.10.1(i) reporting to the electronic automated reporting system; and subsection 7.6.10.2(a) daily reports.

Sec. 7.6.10.3. 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 7.6.10.1(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. 7.6.10.4. 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. 7.6.10.5. 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. 7.6.10.6. 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. 7.6.10.7. 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. 7.6.10.8. 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. 7.6.10.9. 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. 7.6.10.12. 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. 7.6.10.13. 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. 7.6.10.14. 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. 7.6.10.15. 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. 7.6.10.16. 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. 7.6.10.17. 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 11. POOL ROOMS⁴

Sec. 7.6.11.1. 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.

⁴State law reference(s)—Authority to license, tax and regulate billiard rooms, O.C.G.A. § 43-8-2.

Sec. 7.6.11.2. 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. 7.6.11.3. 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. 7.6.11.4. 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. 7.6.11.5. 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. 7.6.11.6. 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. 7.6.11.7. 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. 7.6.11.8. 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. 7.6.11.9. 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. 7.6.11.10. 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. 7.6.11.11. 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 12. HEALTH SPAS

Sec. 7.6.12.1. 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. 7.6.12.2. Inspections.

The city, through its employees and agents of the city business license office, shall have the right to inspect the place of business and records of any licensee under this division during the hours authorized under this division for conduct of business to ensure compliance with this division.

Sec. 7.6.12.3. List of employees to be filed with city.

It shall be the duty of all licensees under this division to file with the city, through its business license division and/or police department, the names of all employees required to have a work permit and designated managers, their home addresses, home telephone numbers, places of employment, date of birth, their duties and services performed, a copy of their Georgia State Massage Therapy License (when applicable), and any other descriptive information that the business license division or police department may require in its investigation of the establishment and its employees, within 72 hours of employment. All changes in information shall be filed in writing, via email or via online portal within 72 hours of the change.

Sec. 7.6.12.4. Record of treatments.

It shall be the duty of any person granted a license under this division to maintain correct and accurate records at the place of business of the names and addresses of the persons receiving treatment at such establishment, the type of treatment administered, and the name of the person of the establishment administering such treatment. Records shall also be maintained as required under section 7.6.12.5. Such records shall be subject to inspection at any time by any member of the business license office.

Sec. 7.6.12.5. Hours and place of operation.

The owner of the health spa shall provide in writing to the city Business License Division the hours of operation of the health spa. No licensee under this division shall operate a health spa except during the hours of 6:00 a.m. and 10:00 p.m. The licensee or a designated manager shall be on the premises at all hours that the establishment is engaged in or open for business. No employee shall remain in the establishment between the hours of midnight and 5:00 a.m.

Sec. 7.6.12.6. Prohibited contact.

No independent contractor or any employees, apprentices or trainees of the health spa business, shall manipulate, fondle or handle the sexual organs or anus of any person.

Sec. 7.6.12.7. License Application.

No person shall engage in the business, trade, or profession or practice the business, trade or profession of a health spa unless such person shall, before engaging in such business, trade or profession, file an application for a license with the city as set forth in this division 8 of this chapter. Such application shall set forth or show compliance with the following:

- (1) Name and address of the applicant.
- (2) Name and address of any person having previously employed the applicant for a period of two years or longer in a health spa or business.
- (3) Qualifications, plainly stated, with all documentary exhibits annexed.

Sec. 7.6.12.8. Qualifications and investigation of applicant(s), licensee, and employees.

- (a) The applicant and licensee must be a U.S. citizen or a legal resident alien prior to making application.
- (b) The licensee is required to be a resident of the State of Georgia and a Georgia State Licensed Massage Therapist.
- (c) Where the applicant for a license under this chapter is a corporation, any license for the operation of a health spa shall be applied for by and shall be issued to the corporation and either the majority shareholder thereof, or a person deemed the licensee by the corporation.
- (d) Where the applicant for a license under this chapter is a partnership, any license for the operation of a health spa shall be applied for by and shall be issued to the partnership and either the managing general partner thereof, or a person deemed the licensee by the partnership.
- (e) Where the applicant for a license under this chapter is a sole proprietor, license for the operation of a health spa shall be applied for by and shall be issued to the sole proprietor if he is working full-time in a managing capacity on the premises, and if not, then the sole proprietor and a person deemed the licensee by the sole proprietor.
- (f) The Cobb County police department shall investigate the background of both the applicant(s) and the licensee, and their spouses, and employees and independent contractors, except for Georgia state licensed massage therapists, of the establishment and report its recommendation to the city business license division manager for a health spa license.

Sec. 7.6.12.9. Location and premises requirements.

- (a) An applicant for a health spa license under this subdivision, prior to making application for a license, must have a location in the city where the health spa is a permitted use in the underlying zoning district.
- (b) The establishment shall be subject to inspection at any time during business hours by the business license division manager or his or her designee and/or by the police department to ensure compliance with this article.
- (c) All employees and other persons on the premises, with the exception of customers receiving a massage from a state licensed massage therapist, shall be completely clothed at all times when administering a massage. For the purposes of this article, the term "completely clothed" means having on the upper portion of the body appropriate undergarments and either blouse or shirt which shall cover all the upper body save the arms and neck, and shall mean having on the lower body appropriate undergarments plus either pants or skirt, and said pants or skirt must cover from the waist down to a point at least two inches above the knee. All clothes worn in compliance with this article shall be entirely non-transparent.
- (d) Ordinary beds or mattresses shall not be permitted in any health spa establishment.
- (e) No licensee under this division shall operate a health spa except during the hours of 6:00 a.m. and 10:00 p.m.

- (f) The licensee or a designated manager shall be on the premises at all hours that the establishment is engaged in or open for business.
- (g) A sign or lettering shall be posted at the main entrance identifying the business as a health spa. Said sign shall have lettering a minimum of five inches in height and shall identify the premises as a health spa business. The sign and the front of the business shall not be illuminated by strobe or flashing lights.
- (h) The hours of operation must be posted on the front door or window, clearly visible from the outside. Any massage or services begun before 10:00 p.m. must conclude at or before 10:00 p.m. Patrons of the health spa may not be permitted to remain on the premises outside these hours of operation.
- (i) A list of services available and the cost of such services font size 12 or larger letters shall be posted in a conspicuous public place within the premises. Only those services listed may be performed. Nothing in this subsection shall preclude the operator from posting additional signs in other languages as long as at least one sign in English is posted pursuant to this subsection.
- (j) No person shall enter, be in or remain in any part of the health spa while in possession of, consuming, using, or under the influence of any alcoholic beverage or controlled substance. The operators(s) and on-duty manager shall be responsible to ensure that no such person shall enter or remain upon the premises.
- (k) All front, reception, hallway or front exterior doors (except back or exterior doors used solely for employee entrance to and exit from the massage business) shall be unlocked during business hours. No massage may be given within any cubicle, room, booth or any area within a massage business which is fitted with a lock of any kind (such as a locking door knob, padlock, dead bolt, sliding bar or similar device), unless the only door is an exterior door. Entry doors to any room shall not be obstructed by any means.

Sec. 7.6.12.10. Grounds for denial, suspension or revocation.

In addition to the causes for denial, suspension or revocation of a license specified in section 7.6.12.45(c), due cause for denial, suspension or revocation of a license for a massage practitioner or health spa shall include the following:

- (1) The applicant or licensee is or has been guilty of fraud.
- (2) The applicant or licensee is or has been engaged in business under a false or assumed name, or is impersonating another person of a like or different name.
- (3) The applicant or licensee is addicted to the habitual use of intoxicating liquors, narcotics or stimulants to such an extent as to incapacitate such person to the extent that he is unable to perform his professional duties.
- (4) No license for a health spa shall be issued to any person where any individual having an interest either as owner, partner, principal shareholder, or licensee, directly or indirectly, beneficial or absolute, shall have been convicted within ten years immediately prior to the consideration of a health spa license of criminal attempt or conspiracy to violate any laws relating to racketeer-influenced and corrupt organizations as defined in the Georgia RICO (Racketeer Influenced and Corrupt Organizations) Act (O.C.G.A. § 16-14-1 et

seq.), crimes against the person as defined in O.C.G.A. tit. 16, ch. 5 (O.C.G.A. § 16-5-1 et seq.), sexual offenses as defined in O.C.G.A. tit. 16, ch. 6 (O.C.G.A. § 16-6-1 et seq.), gambling offenses as defined in O.C.G.A. tit. 16, ch. 12, art. 2 (O.C.G.A. § 16-12-20 et seq.), obscenity and related offenses as defined in O.C.G.A. tit. 16, ch. 12, art. 3 (O.C.G.A. § 16-12-80 et seq.), or contributing to the delinquency of a minor, all as defined by state law as it presently exists or may be hereafter amended, or has been convicted of any felony under the laws of this state or any other state or of the federal government.

- (5) Failure of the applicant or licensee to have or maintain initial qualifications for obtaining the license.
- (6) The applicant, licensee, shareholder, partner, agent, employee or independent contractor has employed any person who is not a licensed massage practitioner and allowing or permitting such person to administer massage in an establishment except as may be allowed by state law.
- (7) The premises in which the business is located are in violation of any of the federal, state, city or municipal laws designed for the health, protection and safety of the occupants.
- (8) Failure of the applicant or licensee to actively supervise and monitor the conduct of the employees, customers and others on the premises in order to protect the health, safety and well-being of the general public and the customers.
- (9) The violation of any laws or ordinances regulating such businesses or for the violation of any state or federal law.
- (10) Any change in the area where such business is located, which does not conform with the zoning existing at the new location.
- (11) Any reason which would authorize the city council to refuse the issuance of a license.
- (12) Any violation of this chapter.

Sec. 7.6.12.11. 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. 7.6.12.12. 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. 7.6.12.13. Transfer.

No license issued under this division shall be transferable.

Sec. 7.6.12.14. 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 7.6.12.299 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. 7.6.12.15. Work permits.

- (a) *For whom required.* It is the responsibility of the licensee and designee to ensure that the employees required under this Code section obtain and possess the required work permit issued by Cobb County Police Department Regulatory Services Unit prior to working. Employees for the purpose of this section shall include independent contractors. Failure of an employee to possess a work permit as required by this section, shall be unlawful and will subject the employee and licensee to prosecution as provided in this chapter and shall be grounds for suspension or revocation of the license. A permit to work in any of the following establishments shall be required of the following:

- (1) All employees of the health spa who are not State of Georgia Licensed Massage Therapists;
 - (2) All independent contractors of the health spa who do not hold a State License.
- (b) *Permit term.* Any work permit issued under this section shall expire 12 months from the date of issuance unless suspended or revoked as provided in this section.
- (c) *Possession of permit by employees.* Employees holding permits issued pursuant to this section shall at all times during their working hours have the permits available for inspection.

Sec. 7.6.12.16. 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. 7.6.12.17. 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 13. SEXUALLY ORIENTED BUSINESSES

Sec. 7.6.13.1. 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 made 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

Stardust, 3007 LLC v. City of Brookhaven, 899 F.3d 1164 (11th Cir. 2018); *HH-Indianapolis, LLC v. Consol. City of Indianapolis/Marion County*, 889 F.3d 432 (7th Cir. 2018); *HH-Indianapolis, LLC v. Consol. City of Indianapolis/Marion County*, 265 F. Supp. 3d 873 (S.D. Ind.

2017); Flanigan's Enters., Inc. v. City of Sandy Springs, 703 F. App'x 929 (11th Cir. 2017); Stardust 3007, LLC v. City of Brookhaven, 348 Ga. App. 711 (2019); Maxim Cabaret, Inc. v. City of Sandy Springs, 304 Ga. 187 (2018); Oasis Goodtime Emporium I, Inc. v. City of Doraville, 297 Ga. 513 (2015); Trop, Inc. v. City of Brookhaven, 296 Ga. 85 (2014); Goldrush II v. City of Marietta, 267 Ga. 683 (1997); Flanigan's Enters., Inc. v. Fulton County, 596 F.3d 1265 (11th Cir. 2010); Peek-a-Boo Lounge v. Manatee County, 630 F.3d 1346 (11th Cir. 2011); Daytona Grand, Inc. v. City of Daytona Beach, 490 F.3d 860 (11th Cir. 2007); Jacksonville Property Rights Ass'n, Inc. v. City of Jacksonville, 635 F.3d 1266 (11th Cir. 2011); 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. Morgan, 478 F.3d 1316 (11th Cir. 2007); 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); Boss Capital, Inc. v. City of Casselberry, 187 F.3d 1251 (11th Cir. 1999); 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); DLS, Inc. v. City of Chattanooga, 107 F.3d 403 (6th Cir. 1997); Grand Faloon Tavern, Inc. v. Wicker, 670 F.2d 943 (11th Cir. 1982); International Food & Beverage Systems v. Ft. Lauderdale, 794 F.2d 1520 (11th Cir. 1986); 5634 E. 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*); Fairfax MK, Inc. v. City of Clarkston, 274 Ga. 520 (2001); Morrison v. State, 272 Ga. 129 (2000); Flippen 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); Entm't Prods., Inc. v. Shelby County, 721 F.3d 729 (6th Cir. 2013); Lund v. City of Fall River, 714 F.3d 65 (1st Cir. 2013); Imaginary Images, Inc. v. Evans, 612 F.3d 736 (4th Cir. 2010); LLEH, Inc. v. Wichita County, 289 F.3d 358 (5th Cir. 2002); Ocello v. Koster, 354 S.W.3d 187 (Mo. 2011); 84 Video/Newsstand, Inc. v. Sartini, 2011 WL 3904097 (6th Cir. Sept. 7, 2011); Plaza Group Properties, LLC v. Spencer County Plan Commission, 877 N.E.2d 877 (Ind. Ct. App. 2007); East Brooks Books, Inc. v. Shelby County, 588 F.3d 360 (6th Cir. 2009); Entm't Prods., Inc. v. Shelby County, 588 F.3d 372 (6th Cir. 2009); Sensations, Inc. v. City of Grand Rapids, 526 F.3d 291 (6th Cir. 2008); 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); H&A Land Corp. v. City of Kennedale, 480 F.3d 336 (5th Cir. 2007); Hang On, Inc. v. City of Arlington, 65 F.3d 1248 (5th Cir. 1995); Fantasy Ranch, Inc. v. City of Arlington, 459 F.3d 546 (5th Cir. 2006); Illinois One News, Inc. v. City of Marshall, 477 F.3d 461 (7th Cir. 2007); G.M. Enterprises, Inc. v. Town of St. Joseph, 350 F.3d 631 (7th Cir. 2003); Richland Bookmart, Inc. v. Knox County, 555 F.3d 512 (6th Cir. 2009); Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County, 256 F. Supp. 2d 385 (D. Md. 2003); Richland Bookmart, Inc. v. Nichols, 137 F.3d 435 (6th Cir. 1998); Spokane Arcade, Inc. v. City of Spokane, 75 F.3d 663 (9th Cir. 1996); DCR, Inc. v. Pierce County, 964 P.2d 380 (Wash. Ct. App. 1998); City of New York v. Hommes, 724 N.E.2d 368 (N.Y. 1999); Taylor v. State, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); Fantasyland Video, Inc. v. County of San Diego, 505 F.3d 996 (9th Cir. 2007); U.S. v. Baston, 818 F.3d 651 (11th Cir. 2016); Johnson v. California State Bd. of Accountancy, 72 F.3d 1427 (9th Cir. 1995); Spencer v. World Vision, Inc., 633 F.3d 723 (9th Cir. 2010); Gammoh v. City of La Habra, 395 F.3d 1114 (9th Cir. 2005);

Starship Enters. of Atlanta, Inc. v. Coweta County, No. 3:09-CV-123, R. 41 (N.D. Ga. Feb. 28, 2011); High Five Investments, LLC v. Floyd County, No. 4:06-CV-190, R. 128 (N.D. Ga. Mar. 14, 2008); 10950 Retail, LLC v. Fulton County, No. 1:06-CV-1923, R. 62 Order (N.D. Ga. Dec. 21, 2006); 10950 Retail, LLC v. Fulton County, No. 1:06-CV-1923, R. 84 Contempt Order (N.D. Ga. Jan. 4, 2007); Z.J. Gifts D-4, L.L.C. v. City of Littleton, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); People ex rel. Deters v. The Lion's Den, Inc., Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); Reliable Consultants, Inc. v. City of Kennedale, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); Starship Enterprises of Atlanta, Inc. v. Gwinnett County, No. 17A-00699-1 (Order Granting Summary Judgment and Permanent Injunction, Jan. 12, 2018); and

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 city 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 division are reasonably believed to be relevant to said secondary effects.

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. 7.6.13.2. 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 roominghouse, duplex or other multifamily housing for human dwelling, or any property zoned therefor.

School means state, city, city, church or other schools, public or private, as teach the subjects commonly taught in the common schools of this state, and vocational schools, colleges, post-high-school learning centers, kindergartens and day care centers for persons of all ages.

Semi-nude or semi-nudity means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

Sexual device means any three-dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, nipple, or for sadomasochistic use or abuse of oneself or

others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

Sexual device shop means a commercial establishment:

- (1) Where more than 100 sexual devices are regularly made available for sale or rental; or
- (2) Where sexual devices are regularly made available for sale or rental and the establishment regularly gives special prominence to sexual devices (e.g., by using lighted display cases for sexual devices, having a room or discrete area of the establishment significantly devoted to sexual devices, positioning sexual devices near cash registers or similar points of sale, hosting events focused on sexual devices, or holding itself out to the public as a place that focuses on sexual devices).

This definition shall not be construed to include any establishment located within an enclosed regional shopping mall, an establishment containing a pharmacy that employs a licensed pharmacist to fill prescriptions on the premises, or an establishment primarily dedicated to providing durable medical equipment.

Sexually oriented business means an adult arcade, an adult bookstore, an adult cabaret, an adult motion picture theater, or a sexual device shop.

Specified anatomical areas means and includes:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified criminal activity means any of the following specified crimes for which less than five years has elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

- (1) Rape, child molestation, sexual assault, sexual battery, aggravated sexual assault, aggravated sexual battery, or public indecency;
- (2) Prostitution, keeping a place of prostitution, pimping, or pandering;
- (3) Obscenity, disseminating or displaying matter harmful to a minor, or use of minor in sexual performance;
- (4) Any offense related to any sexually-oriented business, including controlled substance offenses, tax violations, racketeering, crimes involving sex, crimes involving prostitution, or crimes involving obscenity;
- (5) Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or
- (6) Any offense in another jurisdiction that, had the predicate act(s) been committed in Georgia, would have constituted any of the foregoing offenses.

Specified sexual activity means any of the following:

- (1) Intercourse, oral copulation, masturbation or sodomy; or

- (2) Excretory functions as a part of or in connection with any of the activities described in subsection (1) of this definition.

Transfer of ownership or control of a sexually oriented business means any of the following:

- (1) The sale, lease, or sublease of the business;
- (2) The transfer of securities which constitute an influential interest in the business, whether by sale, exchange, or similar means; or
- (3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Viewing room means the room or booth where a patron of a sexually oriented business would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video on an image-producing device.

Sec. 7.6.13.3. 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 7.6.13.332 and 7.6.13.336. 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. 7.6.13.4. 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 in chapter 134 of the Official Code of Cobb County.
 - (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. 7.6.13.5. 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. 7.6.13.6. 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. 7.6.13.7. 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. 7.6.13.8. 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. 7.6.13.9. 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. 7.6.13.10. 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. 7.6.13.11. 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. 7.6.13.12. 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. 7.6.13.13. 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. 7.6.13.14. 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. 7.6.13.15. 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. 7.6.13.16. 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 7.6.13.332 and subsection 7.6.13.336(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. 7.6.13.17. 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. 7.6.13.18. 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. 7.6.13.19. 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 14. PRECIOUS METALS DEALERS⁵

Sec. 7.6.14.1. 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

⁵State 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. 7.6.14.2. 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 business license under the terms of division 2.

Sec. 7.6.14.3. 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. 7.6.14.4. 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 7.6.14.3(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. 7.6.14.5. 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 7.6.14.399(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. 7.6.14.6. 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. 7.6.14.7. 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. 7.6.14.8. 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. 7.6.14.9. 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. 7.6.14.10. 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. 7.6.14.11. 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. 7.6.14.12. 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. 7.6.14.13. 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. 7.6.14.14. 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. 7.6.14.15. 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 15. SPECIAL EVENT PARKING

Sec. 7.6.15.1. Special event parking.

The following division sets forth provisions for the registration of special event parking.

Sec. 7.6.15.2. 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. 7.6.14.3. 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 7.6.14.5(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. 7.6.14.4. Traffic and pedestrian safety management plan responsibilities.

- (a) *County responsibilities.* Public safety officials shall be responsible for developing a traffic and pedestrian safety management plan(s) for a special event or series of events. In the performance of these duties, public safety, community development, and transportation officials shall work cooperatively to address traffic management, pedestrian safety and public safety generally relevant to special events and special event parking.
- (b) *Registrant responsibilities.* In addition to all other requirements set forth in this division, registrants must cooperate and comply with any measures required by city officials to effect the traffic and pedestrian safety management plan, including the following:
 - (1) Altering the flow of traffic on registrant's property to coincide with the public safety traffic and pedestrian management plan;
 - (2) Erecting signage, placing cones, and taking other measures to direct the flow of traffic on the property and/or to limit ingress/egress as directed by city officials;
 - (3) Responding or causing a representative or other responsible party to respond to the special event parking site upon request of city officials;
 - (4) Implementing other identified life-safety requirements of city officials;
 - (5) Obtaining a new registration or updating registration information if there is a change in address, contact information or transfer of possession of property; and
 - (6) Complying with all requirements of this division.

Sec. 7.6.14.5. 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. 7.6.14.6. 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 7.6.14.406.4(f)(5);
- (b) On the day of a special event, a temporary sandwich-board sign must be displayed in the special event parking area near each entrance to the parking area in the location(s) shown on the parking site plan. The sign copy area must be at least 18 inches high and 24 inches wide (but no larger than 24 inches by 36 inches) with a maximum height from grade to the top of the sign of four feet, including a parking symbol, at least ten inches in height designated by the city, and include the following wording with the blanks filled in appropriately: "Special Event Parking Lot, Parking Fee \$____, Registration # ____, Operator Phone # ____-____-____." The parking fee must be in a font that is at least six inches in height. When the lot is full, a "lot full" sign must be displayed that is visible from the street. The sign is a traffic management device and a display of registration, so no other wording is permitted on the front of the sign. The sign must be of a durable material, such as plastic, metal, wood, or like material, and must be professionally fabricated and maintained in good repair. A sign permit is not required for this sign, which may be displayed four hours prior to the event and must be removed two hours after completion of the special event. The parking symbol, the wording, and the fee must be visible from the adjacent street. The parking fee must remain the same throughout the day of the special event unless decreased, and the amount charged for parking must not exceed the amount stated on the sign. The sign must be visible on the special event parking area from the time cars are admitted for the special event parking until the property has been cleaned of litter at the end of the special event.
- (c) The special event parking registration and parking plan must be available for immediate on-site inspection by city staff or public safety officials.
- (d) The special event parking area must be paved, striped, and lit in compliance with standards prescribed by city ordinances and development standards for parking areas. Vehicles must be parked on approved surfaces and in compliance with the parking plan.
- (e) The special event parking area must be staffed by at least one attendants, representative, or other responsible party capable who shall remain on the lot from the time the operator begins accepting payment for parking until one hour after the end of the event. Said attendant/representative shall be capable of acting on behalf of the owner/operator in interactions with city officials. Attendants must be easily identifiable by uniform clothing indicating that they are employed to provide special event parking. During night time hours, reflective vests shall also be required to be worn by all attendants. Attendants shall guide vehicles in and out of the parking area and monitor the special event parking area.

- (f) The owner/operator must provide clean up service to remove litter, trash, junk, or other debris found throughout the special event parking area. Clean up service shall be completed within two hours of the end of the special event.
- (g) Operators of accessory special event parking shall comply with all traffic management plans for the major tourist attraction.
- (h) Special event parking must be operated in compliance with this division and any conditions set forth on the special event parking registration or in the traffic and pedestrian safety management plan.
- (i) Where a public safety issue occurs during the operation of the special event parking lot, the attendant(s) shall cooperate fully with the public safety agency which shall require such actions as are in the best interests of the public. Owners/operators shall take reasonable steps necessary to maintain a safe lot and assist in preventing crime.

Sec. 7.6.14.7. 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. 7.6.14.8. Penalties.

A violation of this division shall be punishable as allowed by law.

DIVISION 15. SHORT-TERM RENTALS

Sec. 7.6.15.1. Short-term rentals.

- (a) *Purpose.*

- (1) The purpose of this section is to protect the public health, safety and general welfare of individuals and the community at large; to establish standards for short-term rentals of privately owned residential structures rented to transient occupants, minimize adverse effects of short-term rental uses on surrounding residential neighborhoods, and preserve the character of neighborhoods in which short-term rentals occurs.
 - (2) This section is not intended to regulate hotels, motels, inns, boardinghouses, lodging houses, or rooming houses.
- (b) *Applicability.*
- (1) It shall be unlawful for any owner of any property within the city to rent or operate a short-term rental of residential property contrary to the procedures and regulations established in this section, other provisions of this Code, or any applicable state law.
 - (2) The restrictions and obligations contained in this section shall apply to short-term rental units at all times during which they are marketed and/or used as short-term rental units.
 - (3) The allowance of short-term rental properties pursuant to this section shall not prevent private enforcement of additional restrictions that may be contained in restrictive covenants or other private contractual agreements or arrangements.
 - (4) This division shall be effective January 1, 2024.
- (c) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Noise ordinance: Those regulations contained in the official Code of Cobb County, Georgia, chapter 50, article VII.

Owner: A person or entity that holds legal and/or equitable title to private property, as shown on Cobb County tax records.

Private: Intended for or restricted to the occupants and/or guests of his or her short-term rental property; not for public use.

Property: A residential lot of record on which a short-term rental property is located.

Rental term: The period of time a responsible person rents or leases a short-term rental.

Short-term rental occupant means guests, tourists, lessees, vacationers or any other person or persons who, in exchange for compensation, occupy a dwelling unit for lodging for a period of time not to exceed 30 consecutive days.

Short-term rental property means an accommodation for transient guests where, in exchange for compensation, a residential dwelling unit is provided for lodging for a period of time not to exceed 30 consecutive days.

Short-term rental agent means a person or agency designated by the owner of a short-term rental property on the short-term rental certificate application. Such person or agency shall be available for and responsive to contact at all times and someone who is customarily present at a location within the city for purposes of transacting business.

Short-term rental certificate means a certificate issued by the business license division to owners or the designated rental agent of short-term rental properties who have submitted the

required documentation and met the requirements set forth in this chapter for operation of a short-term rental.

(d) *Short-term rental certificate required.*

- (1) A short-term rental certificate is required to be obtained from the business license division for each short-term rental property.
- (2) No person shall rent, lease or otherwise exchange for compensation all or any portion of a property as short-term rental without first obtaining a short-term rental certificate from the city.
- (3) A separate short-term rental certificate shall be required for each short-term rental property.
- (4) The short-term rental certificate may not be transferred, assigned, or used, for any location other than the one for which it is issued.
- (5) When a change of ownership occurs, the new owners shall notify the business license division and apply for and obtain a new short-term rental certificate.

(e) *Application for short-term rental certificate.*

- (1) Applicants for short-term rental certificate shall submit, on an annual basis, an application for a short-term rental certificate to the business license division. The application shall be accompanied by a non-refundable application fee in the amount of \$55.00. Such application shall include:
 - a. The name, address, telephone and email address of the owner(s) of record of the property for which a certificate is sought. If such owner is a corporate entity or similar legal entity, the application shall identify all partners, members, officers and/or directors of any such entity, including personal contact information, unless the entity operates a leasing office on the property where the short-term rental agent is customarily present for purposes of conducting business.
 - b. The address of the property to be used as a short-term rental property;
 - c. The name, address, telephone number and email address of the short-term rental agent, which shall constitute his or her 24-hour contact information;
 - d. The short-term rental agent's sworn acknowledgement that he or she has received a copy of this section, has reviewed it, and understands its requirements;
 - e. The number and location of parking spaces allotted to the premises; and
 - f. Any other information that this section requires the owner to provide to the city as part of an application for a short-term rental certificate. The community development agency director, or his or her designee, shall have the authority to request and obtain additional information from the applicant as necessary to achieve the objectives of this section.
- (2) Attached to and concurrent with the short-term rental certificate application, the owner or short-term rental agent shall provide:
 - a. Proof of the owner's current ownership of the short-term rental property;

- b. A written certification from the short-term rental agent that he or she agrees to perform the duties subscribed as specified in section;
 - c. A sworn statement from the applicant that any applicable homeowners association or property owners association has been notified of the application; and
 - d. Adjoining property owners, as shown on the most current tax records, shall be notified of the application in writing, and proof of notification shall be submitted to the business license division.
- (3) If the short-term rental agent changes, the property owner shall notify the city within five business days.
- (f) *Short-term rental agent.*
- (1) The owner of a short-term rental property shall designate a short-term rental agent on his or her application for a short-term rental certificate. An owner may serve as the short-term rental agent. Alternatively, the owner may designate a person or agency as his or her agent.
 - (2) The duties of the short-term rental agent are to:
 - a. Serve as the 24-hour contact and be available to handle any problems arising from use of the short-term rental property;
 - b. Keep his or her name and emergency contact phone number posted in a readily visible place in the short-term rental property;
 - c. Receive and accept service of any notice of violation related to the use or occupancy of the short-term rental property;
 - d. Monitor the short-term rental property for compliance with this section; and
 - e. List the short-term rental certificate number on each online listing.
 - (3) An owner may change his or her designation of a short-term rental agent temporarily or permanently; however, there shall only be one such agent for a short-term rental property at any given time. To change the designated agent, the owner shall notify the business license division in writing of the new agent's identity, a new written certification from the short-term rental agent that he or she agrees to perform the duties subscribed to her or her as specified in section, and proof that the name and contact information for the new rental agent has been posted in the short-term rental property.
- (g) *Grant or denial of application.* Review of an application shall be conducted in accordance with due process principles and shall be issued within 30 days of all required information being received. Any false statements or information provided in the application are grounds for denial of the application, citations and/or imposition of penalties.
- (h) *Standard conditions.* All short-term rental properties established pursuant to this section are subject to the following standard conditions:
- (1) Short-term rental properties are permitted in all Residential (R) zoning districts. No more than one short-term rental certificate shall be issued per dwelling unit.
 - (2) Short-term rental properties shall only be permitted in residential structures with a valid certificate of occupancy.

- (3) Occupancy and parking for single-family dwelling units shall be in accordance with section 134-1.
- (4) Parked vehicles. Off-street automobile parking shall be provided in accordance with section 134-272.
- (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 16. FLEA MARKETS

Sec. 7.6.16.1. 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. 7.6.16.2. Penalty.

Violations of this article are punishable as allowed by law.

Sec. 7.6.16.3. 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. 7.6.16.4. 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. 7.6.16.5. 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. 7.6.16.6. General regulations.

- (a) *Parking.* There shall be no on-street parking at any flea market. Each flea market shall provide on-site parking as provided in chapter 134. No parking or parking spaces shall be located on

or within any road right-of-way. It shall be the responsibility of the promoter, operator or owner to ensure at all times that no vehicle of any vendor, customer, patron, visitor, guest, invitee or other person frequenting the flea market is parked on any street or road or street or road right-of-way or off the site of the flea market, but is parked in a space acceptable under the city parking regulations and this section.

- (b) *Ingress and egress.* The flea market owner or operator shall do whatever is necessary, based upon the circumstances of his individual property, to ensure ingress and egress only at curb cuts and locations approved by the city department of transportation.
- (c) *Outside storage or sales.* There shall be no outside storage of any kind whatsoever. There shall be no outside sales of any kind whatsoever from any space, stall, shed or area which is not permanently covered by a roof and completely floored by a concrete floor of a minimum thickness of four inches except at locations designated as such and approved at the time of the granting of the use permit. However, no sales or displays shall occur within required parking areas or interfere with general traffic flow.
- (d) *Compliance with building regulations.* No sales of any kind whatsoever shall be made from any shed, structure or building of any kind unless the structure meets or exceeds the minimum requirements of all city codes (for example, the building code, fire code, plumbing code, electrical code, etc.). Structures shall require building permits and inspections by the city the same as for other construction. Flea markets shall be classified as group M, mercantile occupancy, under the city building code and shall meet all such requirements except that applications for permits for all open structures shall require plans to be submitted which are signed and sealed by an architect or engineer along with design calculations to substantiate compliance with code wind uplift requirements.
- (e) *Plumbing and toilet facilities.* All plumbing shall meet minimum code requirements, except that each flea market shall provide, at a minimum, for use by the public, facilities based on occupant loads as follows:
 - (1) For flea markets located within enclosed structures, the occupant load shall be determined the same as mercantile occupancy and exit capacity.
 - (2) For a flea market located in the open air, the occupant load shall be determined as two people for each table, counter or booth of no more than 20 square feet.
 - (3) After the occupant load is identified, toilet facilities will be provided the same as for commercial buildings of multiple tenants.
 - (4) No temporary bathroom facilities shall be permitted.
- (f) *Overnight camping.* Notwithstanding the provisions of any other ordinances, no person, including, but not limited to, a flea market promoter, operator, owner, employee, manager, or vendor or invitee, shall be allowed to camp or reside overnight with or without a recreational vehicle, tent, sleeping bag, vehicle or other structure at a flea market, except that the owner may allow a reasonable number of overnight security personnel, who may be either the owner or agents or employees of the owner.
- (g) *Sale or keeping of animals.* No animal, fish, fowl or insect of any kind shall be sold, traded, housed, caged, bartered, swapped or given away at any flea market.

Sec. 7.6.16.7. 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. 7.6.16.8. 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. 7.6.16.9. Appeal of denial.

An applicant for a license under this division whose application is denied may make appeal to the business city business license division according to the provisions of section 6-90.

Sec. 7.6.16.10. 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. 7.6.16.11. 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 7.6.16.1(d).

DIVISION 17 - LAWYERS AND LAW FIRMS

Sec. 7.6.17.1. Scope and levy.

- (a) It is the intent of the city that the tax imposed in this section is for revenue purposes only. The city expressly acknowledges that it cannot regulate the practice of law, and no portion of this ordinance shall be construed in such a manner as to constitute the regulation of the practice of law. The city further expressly recognizes that the regulation of the practice of law is the exclusive province of the Supreme Court of Georgia and its authorized representatives. Further, it is not the intent of this section to impose any precondition upon the practice of law. In keeping with these principles, and pursuant to O.C.G.A. § 48-13-6 et seq., all persons, including professional corporations, engaged in the practice of law in the unincorporated area of the city are hereby required to pay the amount now or hereafter fixed as the occupation tax thereon.
- (b) Persons practicing law in the city but not maintaining an office in the city.
 - (1) The provisions of this article shall apply to those persons practicing law with no location or office in the city if the person:
 - a. Has one or more employees or agents who exert substantial efforts within the unincorporated part of the city for the purpose of soliciting business or serving clients; or
 - b. Owns personal or real property which generates income related to the practice of law and which is located in the unincorporated part of the city.
 - (2) In no event shall a person practicing law subject to this subsection be required to pay an occupation tax to more than one local government in the state and then only to the local government in which the largest dollar volume of business is done or service is performed by the person.
 - (3) If a person subject to this subsection provides to the manager of the business license division proof of payment of a local business or occupation tax in another state, or city or municipality of this state which purports to tax the practitioner's services in this state, the practitioner shall be exempt for the levy of any occupational tax under this section.

State law reference(s)—General authority to levy occupation tax, O.C.G.A. §§ 48-13-5—48-13-9.

Sec. 7.6.17.2. Attorneys not required to register.

- (a) Notwithstanding any language to the contrary elsewhere in this chapter, an attorney shall not be required to register with the business license division. Information reported with any occupation tax payment may be retained by the business license division and used for those purposes allowed by applicable law.
- (b) Notwithstanding any language to the contrary elsewhere in this chapter, an attorney shall not be required to obtain, display, or maintain any city issued certificate showing that any payment or information has been submitted to the business license division.
- (c) For the purposes of enforcement of the zoning ordinance, attorneys may be asked to submit notarized affidavits or other written information concerning the business or profession carried on at a location and the dates of operation when applying for a certificate of occupancy for

new construction or renovation. Such affidavits or documents shall be used for the purposes of determining compliance with the zoning ordinance and shall not prevent the practice of the profession of law at any other location which has a valid certificate of occupancy.

- (d) A refusal to submit a notarized affidavit or other written information stating whether a person engages in the practice of law at a particular location or stating the dates of operation at a location shall not be a violation of this article and shall not prevent an attorney from practicing law in the unincorporated portions of the city. The business license division manager may document this refusal. Where an attorney fails or refuses to provide information as to the location where they may be served with notices issued in support of the enforcement of this article, the city shall direct the notices to the address listed with the State Bar of Georgia and shall consider the failure or refusal of the attorney to provide current address information to be consent to this method of service.

Sec. 7.6.17.3. Due date for attorney occupation taxes; proration of tax.

- (a) Notwithstanding any language to the contrary, an attorney shall not be required to pay the occupation tax on the income generated from the practice of law prior to or during the calendar year in which it is earned. Rather, the occupation tax for the preceding calendar year shall be due January 1 of the following year and payable without interest accrued until February 1 at which time the tax will be delinquent and accrue interest. The tax may be paid in person at the business license division or by mailing the tax to the business license division. Any tax payment made by mail shall include the name and address of the person or law firm paying the tax and the name of each attorney whose tax is being paid, so that the business license division may process the payment. An attorney who pays the occupation tax on his own behalf shall include the name of the law firm with which he practices, if any. Any tax paid pursuant to the option of subsection 7.6.17.503(1) shall include a written submission containing sufficient information to enable the business license division manager to determine the accuracy of the taxpayer's calculation.
- (b) If during any one calendar year, a person practices law in the city for less than one year, his occupation tax shall be prorated based upon the gross receipts he practiced in the city during that calendar year.

Sec. 7.6.17.4. Calculation of amount of tax.

An attorney who practices law in the jurisdiction of the city shall elect as its entire occupation tax one of the following:

- (1) An occupation tax based on gross receipts combined with profitability ratios as set forth in schedule A. Any attorney or law firm, who elects to pay an occupation tax based on gross receipts shall provide to the business license office information concerning the practitioner's gross revenues on forms supplied by the business license division as well as verification as required by the division manager of the business license division of said gross revenues for the purpose of determining the appropriate occupation tax.
- (2) A fee according to schedule H not to exceed \$400.00 per attorney, such tax to be paid at the attorney's office or location; provided, however, that an attorney paying according to

this subsection shall not be required to provide information to the local government relating to the gross receipts of the business or attorney. The per-attorney fee includes all persons in the firm who qualify as an attorney under the state's regulatory guidelines and framework.

Sec. 7.6.17.5. Collection of unpaid taxes, fees, and penalties.

Taxes due from attorneys shall not be considered delinquent until February 1 immediately following the January 1 upon which they were due. An attorney who does not pay the tax prior to February 1 shall accrue interest at the rate of one and one-half percent per month or portion thereof.

Sec. 7.6.17.6. Classification of businesses.

Every business subject to the provisions of this article shall be classified according to the major group classification of the Standard Industrial Classification Manual, as amended, and published under the auspices of the U.S. Office of Management and Budget. Classification of each business subject to this article shall be based upon the principal activity or dominant line of such business, i.e., that series of goods or services which produces the largest proportion of the business's gross revenues from all sources.

Sec. 7.6.17.7. Basis for fees; schedule of fees.

- (a) Every person subject to this chapter shall pay a fee based on gross receipts of the practice in combination with the profitability ratio for the type of business, profession or occupation as measured by nationwide averages derived from statistics, classifications or other information published by the United States Office of Management and Budget, the United States Internal Revenue Service, or successor agencies of the United States.
- (b) Every person practicing law shall be ranked according to the profitability ratio for the type of business, profession or occupation as measured by nationwide averages derived from statistics, classifications or other information published by the United States Office of Management and Budget, the United States Internal Revenue Service, or successor agencies of the United States. After such ranking, classifications which do not overlap shall be established before setting a single rate of taxation for each classification. No rate shall be charged to a classification which includes a business or practitioner with a higher profitability ratio.
- (c) The occupation tax shall include an administrative fee of \$55.00, which shall not be subject to proration or refund.
- (d) The initial schedule of fees is attached to the ordinance from which this chapter is derived as schedule A, and subsequent fee schedules may be as approved from time to time by the city council upon the city council conducting at least one public hearing.
- (e) The schedules of fees shall be as approved and adopted and as may be amended in the future by the city council.
- (f) The schedule of fees, including those that pertain to all articles of this chapter, shall be on file and available in the city clerk's office, or the business license office.

State law reference(s)—Basis of fees, O.C.G.A. § 48-13-10.

Sec. 7.6.17.8. Allocation of gross receipts for practices with locations in more than one jurisdiction.

- (a) In levying occupation tax upon a practitioner with a location or office situated in more than one jurisdiction, including practitioners with one or more locations or offices in Georgia and one or more locations outside the state, the city is required by O.C.G.A. § 48-13-14 to allocate gross receipts in accordance with one of the following methods:
 - (1) Where the practitioner can reasonably allocate the dollar amount of gross receipts of the practitioner to one or more of the locations or offices on the basis of services provided in that location or office, the city is authorized to tax the gross receipts generated by the location or office within the city; or
 - (2) Where the practitioner cannot reasonably allocate the dollar amount of gross receipts among multiple locations or offices, the practitioner shall divide the gross receipts reported to all local governments in this state by the number of locations or offices of the practitioner which contributed to the gross receipts reported to any local government in this state, and shall allocate an equal percentage of such gross receipts of the practitioner to each location or office.
- (b) In no instance shall the sum of the portions of the total gross receipts of a practitioner taxed by all local governments exceed 100 percent of the total gross receipts of the practitioner.
- (c) In the event of a dispute between the practitioner and the local government as to the allocation under this Code section, the practitioner shall have the burden of proof as to the reasonableness of this allocation.
- (d) Upon request, practitioners which have a location or office situated in the city and another jurisdiction or other jurisdictions shall provide to the city the following:
 - (1) Financial information necessary to the allocation of the practice; and
 - (2) Information relating to the allocation of the practitioner's gross receipts by other local governments.
 - (3) Information regarding the site of any location or office and payment of occupation taxes to other local governments.
- (e) In levying the occupation tax upon an attorney or law firm with a location or office situated in more than one jurisdiction, including attorneys or law firms with one or more locations or offices in Georgia, such attorney or law firm shall be required to pay the occupation tax for each such location.

State law reference(s)—Similar provisions, O.C.G.A. § 48-13-14(a), (c).

Sec. 7.6.17.9. Filing of return.

After the end of each calendar year and on or before February 1 of the succeeding year, the owner, proprietor, manager or executive officer of the person liable for the occupation tax levied for the preceding calendar year shall file with the division manager of the business license office of the city, on a form furnished by the supervisor of the business license office, a signed return setting forth the actual amount of the gross receipts of such practice during the preceding calendar

year. It shall be the duty of the practitioner to obtain, complete, and return all forms necessary to comply with this chapter.

Sec. 7.6.17.10. Amount of tax.

- (a) Persons practicing law shall elect as their entire occupation tax one of the following:
 - (1) An occupation tax based on gross receipts combined with profitability ratios as set forth in schedule A. Any practitioner who elects to pay an occupation tax based on gross receipts shall provide to the business license office information concerning the practitioner's gross revenues on forms supplied by the business license office as well as verification as required by the division manager of the business license division of said gross revenues for the purpose of determining the appropriate occupation tax.
 - (2) A fee according to schedule H not to exceed \$400.00 per practitioner who is licensed to practice law, such tax to be paid at the practitioner's office or location; provided, however, that a practitioner paying according to this subsection shall not be required to provide information to the local government relating to the gross receipts of the practice. The per-practitioner fee includes all persons in the practice who qualify as a practitioner under the state's regulatory guidelines and framework.
- (b) Any practitioner whose office is maintained by and who is employed in practice exclusively by the United States, the state, the city or other city of the state, or instrumentalities of the United States, the state or the city or other city of the state, shall not be required to obtain a license or pay an occupation tax for that practice.

State law reference(s)—License tax for professionals, O.C.G.A. §§ 48-13-9(c), 48-13-10, 48-13-13(c).

Sec. 7.6.17.11. Fee for lawyers engaged in practice of more than one profession.

If, in addition to the practice of law, an individual is also engaged in the practice of one or more of the professions enumerated in division two of this chapter, such individual shall be required to pay a professional occupation tax for each such profession; provided, however, if such individual has elected to be taxed based on schedule H, the tax for the second and any succeeding profession shall be assessed at 50 percent of the tax otherwise due, as computed under schedule H.

State law reference(s)—License tax on professions with multiple services, O.C.G.A. §§ 48-13-12, 48-13-13.

Sec. 7.6.17.12. Forms.

- (a) Documents and papers necessary to the implementation and enforcement of this chapter shall be on such forms and in such manner as may be prepared and directed by the division manager of the business license division.
- (b) Such forms shall include the SIC (Standard Industrial Classification) of the business, its taxable gross revenues for the preceding 12 calendar months, the number of employees, and

any such other information as may be required by the division manager of the business license division.

Sec. 7.6.17.13. Option of the business license division manager to send bills.

- (a) Notwithstanding any language to the contrary elsewhere in this article, the business license division manager may choose to send bills to attorneys who list their address with the State Bar of Georgia as being located in the city, including those attorneys who list only post-office boxes as their addresses.
- (b) An attorney who prepares and signs a notarized affidavit that they did not practice law within the jurisdiction of the city during some part of the tax year for which the tax bill was generated may have their bill adjusted for the time period stated in the affidavit when such attorney did not maintain an office within the jurisdiction of the city and/or states such other reasons why the occupation tax should be adjusted. Such adjustment shall not be made for those attorneys who elect to pay the \$400.00 per practitioner fee as set forth in this chapter unless the affidavit states that the attorney did not practice law in the jurisdiction of the city at any time during the year for which the tax bill was generated. The business license division manager is authorized to inquire whether such affidavit matches the information maintained by the State Bar of Georgia in connection with the directives of State Bar Rule 1-207 and/or to take such other steps as deemed necessary to determine the accuracy of the affidavit. The submission of an affidavit requesting adjustment shall not act to prevent the imposition of interest should the business license division manager deny the request for adjustment.
- (c) The option of the business license division manager to send bills shall not relieve attorneys from the obligation to pay any tax due for any calendar year by January 31 of the following year.
- (d) The business license division manager may include in any bills, the unpaid tax balance from three other years, including all fees and penalties and the amount of interest, which has accrued on any unpaid tax liability. The failure of the business license division manager to list any unpaid balance on any bill shall not operate to relieve the taxpayer from liability for any balance due.
- (e) It shall be a violation of this section for any attorney to willfully and intentionally misrepresent a material fact in an affidavit to avoid the payment of the occupation tax, and the sole enforcement action to be taken is set forth as follows:
 - (1) When the business license division manager has reason to believe that an attorney has willfully and intentionally misrepresented a material fact in any affidavit submitted to business license division for the purposes of avoiding full payment of the occupation tax, he or she shall consult with the city attorney to determine whether such conduct should be referred to the State Bar of Georgia for investigation as to whether a violation of the Georgia Rules of Professional Conduct has occurred.

Sec. 7.6.17.14. Tax execution imposed for failure to pay the occupation tax.

An attorney required to pay the occupation tax and who fails to do so in the manner provided by this article, shall be liable to have the tax and interest collected by the issuance of execution by the business license division manager or ex officio deputy pursuant to O.C.G.A. § 48-13-26. Further proceedings concerning the execution procedure employed in the enforcement of this section shall be as provided by state law. Notwithstanding any provision to the contrary, the use of tax executions and the reporting of any alleged misrepresentations shall be the sole mechanism for enforcement of the occupation tax levy against attorneys, and neither this article nor any other portion of the ordinances of the city authorize any civil fine or associated contempt charges for failure to comply with this article.

DIVISION 18. TICKET BROKERS

Sec. 7.6.18.1. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them in this section.

Event organizer means the entity or person that is organizing or in charge of conducting a ticketed event.

Event venue means any part of the location, dedicated parking areas, facility, or structure where a ticketed athletic or entertainment event for more than 250 people occurs excluding property owned or operated by the board of education. For purposes of this chapter, the following locations and attendant event venues are specifically included:

- (1) Mable House Barnes Amphitheatre;

Face value means the value of a ticket as printed on the ticket itself, or, absent such a marking, the amount for which the ticket was authorized to be sold by the event organizer, plus a service charge not to exceed \$3.00.

Repurchase means purchasing or offering to purchase a ticket or tickets for admission to a ticketed event on the day of the ticketed event within 2,700 feet or 1,500 feet, as applicable, of the event venue, excluding purchases from the event organizer or its authorized agents.

Resale (resell) means selling or offering to sell a ticket or tickets for admission to a ticketed event on the day of the ticketed event within 2,700 feet or 1,500 feet, as applicable, of the event venue, excluding purchases from the event organizer or its authorized agents.

Ticket means a physical or electronic document serving as evidence that the holder has paid admission or entitles the holder to admission.

Ticket broker means a person to whom the business license division manager has granted a license to resell or repurchase tickets.

Ticketed event means an organized event open to the public and requiring a ticket for admission.

Sec. 7.6.18.2. Prohibitions on the resale or repurchase of tickets.

- (a) It shall be unlawful to resell, repurchase, or offer for resale one or more tickets by a ticket broker or by a person who is the original purchaser for personal use of one or more tickets within 2,700 feet of a venue which seats or admits more than 15,000 persons to any single athletic contest or entertainment event.
- (b) It shall be unlawful to resell, repurchase, or offer for resale one or more tickets by a ticket broker or by a person who is the original purchaser for personal use of one or more tickets within 1,500 feet of a venue which seats or admits less than 15,000 persons to any single athletic contest or entertainment event.
- (c) Outside of the 2,700 foot or 1,500-foot distance from an event venue, as applicable, a license shall not be required for a person reselling or repurchasing tickets at face value if such person was the original purchaser for personal use.
- (d) Outside of the 2,700 foot or 1,500-foot distance from an event venue, as applicable, the resale or repurchase of tickets shall only occur by licensed ticket brokers in a permanent office structure or place of business that has been issued a certificate of occupancy by the city.

Sec. 7.6.18.3. Application.

License applications shall contain the following information:

- (1) Applicant's evidence of appropriate state ticket broker license;
- (2) Applicant's residential street address; and
- (3) Applicant's date of birth, race, sex, height, weight, eye color, and hair color.

Sec. 7.6.18.4. Attachments to the application.

Each application shall be accompanied by the following:

- (1) Two recent photographs of the applicant in a format prescribed by the business license division or public safety agency, designed to be easily attachable to the license;
- (2) A complete set of the applicant's fingerprints in a format prescribed by the public safety agency; and
- (3) A copy of the applicant's driver's license or state issued photographic identification card.

Sec. 7.6.18.5. License fee.

The fee for a ticket broker license shall be included in a fee schedule approved by the city council.

Sec. 7.6.18.6. License term.

The term of a ticket broker license issued under this chapter shall be for 12 months or concurrent with their state issued license, whichever is shorter.

Sec. 7.6.18.7. Display of license during operation.

- (a) The business license division or public safety shall, upon issuing a ticket broker's license, provide the ticket broker with a laminated card, that has the individual's photograph and the following information:
 - (1) The title "licensed ticket broker";
 - (2) The expiration date of the license;
 - (3) The licensee's full name; and
 - (4) An identification number unique to each licensee.
- (b) It shall be unlawful for any licensed ticket broker to engage in the resale or repurchase of tickets without clearly displaying the laminated card on his or her person.

Sec. 7.6.18.8. Transferability of license.

A license issued pursuant to this chapter shall not be transferable.

Sec. 7.6.18.9. Right of inspection of tickets.

It shall be unlawful for a ticket broker to refuse to provide any tickets in his or her possession to an officer of the City, Cobb County, the Cobb County Sheriff's Department, or a member of the Georgia State Patrol for the purpose of inspecting such tickets.

Sec. 7.6.18.10. Violation of this article is a misdemeanor.

Any person who violates this division is guilty of a misdemeanor.

- (a) *First conviction.* A fine of not less than \$100.00 nor more than \$1,000.00 and costs and/or imprisonment for not more than 60 days or both.
- (b) *Second conviction.* A fine of not less than \$200.00 nor more than \$1,000.00 and costs and/or imprisonment for not more than 60 days or both.
- (c) *Third conviction.* A fine of not less than \$500.00 nor more than \$1,000.00 and costs and/or imprisonment for not more than 60 days or both.
- (d) *Fourth conviction.* Any person convicted of four or more violations of this division shall be subject to a fine of not less than \$1,000.00 and costs and/or imprisonment for not more than 60 days or both. A fourth conviction shall be considered a misdemeanor of a high and aggravated nature.

State law reference(s)—O.C.G.A. § 43-4B-25.

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 and/or any tax commencement date herein shall be the date of adoption, unless provided otherwise by the City Charter, state and/or federal law. In the event that any effective date and/or tax commencement date herein is determined to be invalid, said effective date and/or tax commence date shall instead be the earliest date allowed by law.

SO ORDAINED this _____ day of _____, 2023.

ATTEST:

CITY OF MABLETON, GEORGIA:

Susan D. Hiott, Interim City Clerk

Michael Owens, Mayor

APPROVAL AS TO FORM:

Emilia Walker-Ashby, Interim City Attorney