

Mayor and Council

700 Doug Davis Drive
Hapeville, GA 30354

December 6, 2016
6:00PM

Agenda

1. Call To Order

2. Roll Call

Mayor Alan Hallman
Alderman at Large Ruth Barr
Councilman at Large Michael Randman
Councilman Ward I Joshua Powell
Councilman Ward II Diane Dimmick

3. Public Comments On Agenda Items

The public is encouraged to communicate their questions, concerns, and suggestions during Public Comments. The Council does listen to your concerns and will have Staff follow-up on any questions you raise. Any and all comments should be addressed to the Governing Body, not to the general public and delivered in a civil manner in keeping with common courtesy and decorum.

4. Consent Agenda

4.I. 1st Reading Ordinance 2016-35 Golf Cart

Background:

On September 20, 2016 staff discussed a proposal for Golf Cart usage in the City of Hapeville. Council requested that a proposal to establish a pilot test area for this purpose be created and staff submitted a follow-up plan. Council decided to instruct staff to develop the appropriate Ordinance to implement the proposed plan. Attached you will find the final proposal as discussed with Council that would allow for the use of Golf Carts on certain City streets. A map is attached that establishes the exact streets Golf Carts could operate. The Ordinance follows State rules and establishes various other standards that should be met to legally operate Golf Carts.

For additional information, please feel free to contact the City Manager's Office.

Documents:

[GOLF CART RESTRICTED ACCESS MAP UPDATED 34X44.PDF](#)
[HAPEVILLE GOLF CART ORDINANCE.PDF](#)

4.II. 1st Reading Ordinance 2016-33 Gravel Repeal

Background:

Prior to 2013, Section 93-23-5 of the City's zoning ordinance provided that all driveways must be hard- surfaced pavement, properly drained, lighted and maintained. In 2013, per EPD rules, Section 93-23-5 was amended to require different types of surfacing standards be applied for residential and non-residential parking areas. In an effort to clarify the meaning of and assist in enforcement of this ordinance, the following actions will be taken via two separate ordinances: Section 93-23-5 will be (1) removed from the zoning code, and the provisions that were

previously contained within Section 93-23-5 will be (2) revised and reinstated within their own chapter, the newly-created Chapter 58, of the Code of Ordinances.

Further, upon thorough consideration and reflection of city staff and the Planning Commission, it was determined that residential driveways that were not hard-surfaced pavement prior to the 2013 revision to the zoning ordinance, would be grandfathered or deemed a non-conforming use of land.

For your consideration are the following ordinances:

- Removal/peal of Section 93-23-5 from the zoning code. This ordinance was approved by the Planning Commission. This Ordinance will be considered on December 6, 2016 for first reading. **Its public hearing will be advertised and held on January 10, 2016.**
- Revision and reinstatement of Section 93-23-5 as Chapter 58, Sections 58-1-1 through 58-1-4. This revision includes but it is not limited to defining terms that were previously undefined in Section 93-23-5 and separation, into different sections, of the residential and non-residential surfacing requirements. This ordinance was reviewed by the Planning Commission, but its approval was not required because it is not an amendment to the zoning ordinance. This ordinance was considered on first reading on November 15, 2016. Staff recommends that second reading **be delayed until January 10, 2016 so that the two inseparable ordinances can be adopted together.**

For additional information, please contact the City Manager's Office.

Documents:

[ZONING CODE REPEAL ORDINANCE.PDF](#)

4.III. 1st Reading Ordinance 2016-34 Soil Erosion And Sedimentation Control Ordinance

Background:

The City of Hapeville is a Local Issuing Authority (LIA) for implementation and enforcement of land disturbing activity permits and compliance with the State of Georgia Soil and Erosion Sedimentation Control law and regulations. Retaining the Local Issuing Authority status enables the City to handle local issues and concerns without involvement of the State. Obviously, this streamlines the local development process for the City. However, this designation (LIA) also requires the City to amend the local ordinance within 12 months of any amendment issued from the Georgia Erosion and Sedimentation Act by the State. This is so that the local ordinance complies with each new amendment. The State made revisions to the Act in 2015. The proposed new ordinance meets those amendment requirements and must be approved by December 31, 2016 to comply with the 12 month time requirement. The State has requested we move forward with adoption as soon as possible.

Should you have any questions, please feel free to contact the City Manager's Office.

Documents:

[FINAL HAPEVILLE SOIL EROSION ORDINANCE.PDF](#)

4.IV. Consideration And Action On Ordinance 2016- 32 Alcohol Ordinance Extension

Background:

Council continues to work on the comprehensive update of the City Alcohol Codes/Ordinances. In the meantime, the temporary measures placed in the City Alcohol Code related to the microbrewery industry will expire on December 30, 2016 unless extended. The attached Ordinances extend the temporary provisions for another 90 days to allow time for the Comprehensive Ordinance write up to be completed.

For additional information, please feel free to contact the City Manager's Office.

Documents:

[EXTENDED ALCOHOL ORDINANCE AMENDMENT.PDF](#)
[EXTENDED ALCOHOL AMENDMENT COMPARISON CHART.PDF](#)

4.V. Consideration And Action On A Service Agreement For Physio Control To Service Two LifePak 15 Monitors

Background:

The Fire Department is purchasing a Physio Control Service Agreement for the Lifepak 15 and Lifepak 12 that are used on our ALS engines. This agreement will ensure that both units operate correctly and will be properly maintained for the next two (2) years. These are budgeted items that will be paid from the Department's Repairs & Maintenance GL item. The cost of this service is **\$5,176.64** which is a discounted rate.

For any additional questions, please contact the City Manager's Office.

Documents:

[PHYSIO CONTROL CONTRACT.PDF](#)

4.VI. Consideration And Action On Resolution 2016-11 City Of Ethics

Background:

The City has received notice from the Georgia Municipal Association (GMA) that it is time to re-new the City's ethics Program. Staff has included the letter received by the City and has drafted the appropriate Resolution to re-new the Program.

Should you have any questions, please feel free to contact the City Manager's Office.

Documents:

[ETHICS RESOLUTION FOR GMA DEC. 2016.PDF](#)
[GMA CERTIFIED CITY OF ETHICS PROGRAM.PDF](#)

4.VII. Consideration And Action On Resolution 2016-12 2017 Legislative Policy

Background:

Last year staff proposed and the City Council accepted a basic legislative program for the City. Staff has developed a similar program for this year that follows the Georgia Municipal Association (GMA) policy guidelines. Specifics of this effort are outlined in the draft Council Resolution. One additional item that has been included is filing of a local bill to amend the City Charter removing the provisions related the local water and sewer authority since laws have changed significantly since it was formed and the body is no longer needed. This is also true due to the fact that the bonds initially financed for water and sewer were retired and paid off in 2014. Staff recommends approval per your request.

For additional information, please contact the City Manager's Office.

Documents:

[2017 PROPOSED LEGISLATIVE POLICY MEMO.PDF](#)
[2017 LEGISLATIVE POLICIES.PDF](#)
[RESOLUTION 2016-12 2017 LEGISLATIVE POLICY.PDF](#)

- 4.VIII. Consideration And Action To Waive Noncompetitive Bid Negotiations For The Emergency Repair Of The Moreland Way Storm Drain Pipe.

Background:

Several houses on Moreland Way have started to have sink holes and depressions in the back yards. These recent developments are due to the failure of a Corrugated Storm Drain Pipe that runs under storage buildings, under fences and next to the foundation of a couple of houses. The Corrugated Metal Pipe is in good shape on the top and sides, but the bottom is starting to rust out and causing the settlement and sinking in the yards. After careful consideration, we have chosen to rehab the pipe that is in place with a less invasive repair method to avoid open digging and possibly damaging personal property. The selected rehab method is a Spin Cast Spraying of a concrete liner into the current pipe, which is not a widely common repair method for most contractors. With the help of our engineers, staff was only able to secure 2 proposals for this repair. Failure to rehab the pipe now will cause further rusting and limit our chances of having anything structural to adhere to. The estimated cost of this repair is approx. \$61K if low bid is accepted. Staff recommends we proceed as soon as possible before further damages/issues occur.

For additional information, please feel free to contact the City Manager's Office.

- 4.IX. Consideration And Action To Approve Utility Asset Management Inc. In The Amount Of \$ 61,320 For The Emergency Repair Of The Moreland Way Storm Drain.

Background:

The Moreland Way Storm Drain has started to rust at the bottom of the pipe and cause sinkholes in the backyards of several houses. Staff briefed Council on this matter earlier this year. Due to the possible damage of personal property in this area from open digging, the City has decided to rehab the pipe in place with the Spin Cast Spraying of a concrete liner in the pipe. Staff was able to secure the low proposal of \$ 61,320 from UAM Inc. and the higher proposal was from RDJE Inc. at \$ 93,500. This repair will initially be expensed from the Repair and Maintenance Budget of the Water and Sewer Fund. Once the Stormwater Utility fund is more established funding will be available to reimburse the Water & Sewer fund.

Documents:

[GA16171_HAPEVILLE_MORELAND WAY.PDF](#)
[MORELAND WAY PIPE.PDF](#)

- 4.X. Consideration And Action On A Memorandum Of Understanding With Georgia Department Of Community Affairs For The Main Street Program And To Authorize The Mayor To Sign All Necessary Documents Pending Legal Review.

Background:

Over the past 35 years, the National Main Street Center has developed a Main Street America network of over 2,000 downtowns dedicated to catalyzing reinvestment and fostering pride of place. Hapeville's Main Street Program has been in place since 2003. As per the National Main

Street Center's requirements, all accredited Main Street cities must have a signed MOU in order to retain the DCA services and use of the official Main Street America™ name. Should the Mayor and Council approve this document, the Main Street Board Chair and Staff Program Manager will also be required to review and sign the document. While the majority of the 2017 MOU remains unchanged, one update now requires an additional sublicensing agreement for use of the new National Program logo and inclusion in a branding campaign.

Documents:

[MAIN STREET HAPEVILLE 2017 MOU.PDF](#)

- 4.XI. Consideration And Action On A National Main Street Sub-Licensing Agreement With Georgia Department Of Community Affairs For The Main Street Program And To Authorize The Mayor To Sign All Necessary Documents, Pending Legal Review. Consideration to enter into the National Main Street Center's sublicensing agreement between the Georgia Department of Community Affairs Office of Downtown Development and the City of Hapeville to utilize all wording, logos and branding associated with the Classic Main Street Program in 2017, pending legal review.

Background and Summary:

As per the National Main Street Center's 2017 requirements, all nationally accredited Main Street cities must have a current signed sublicensing agreement in order to retain the DCA services and use of the official Main Street America™ name. This will allow use of the new National Program "Main Street America" accreditation logo and the "National Main Street Center" words, logos and branding campaign.

Documents:

[MAIN STREET HAPEVILLE SUB LICENSE AGREEMENT 2017.PDF](#)

- 4.XII. Approval Of Minutes

- November 21, 2016
- November 16, 2016
- November 15, 2016
- November 3, 2016
- November 1, 2016
- October 4, 2016

5. City Manager Report

6. Executive Session (If Needed)

When Executive is Required one will be called for the following issues: 1) Litigation O.C.G.A. §50-14-2; 2) Real Estate O.C.G.A. §50-14-3(b)(1); or 3) Personnel O.C.G.A. §50-14-3(b)(2).

7. Adjourn

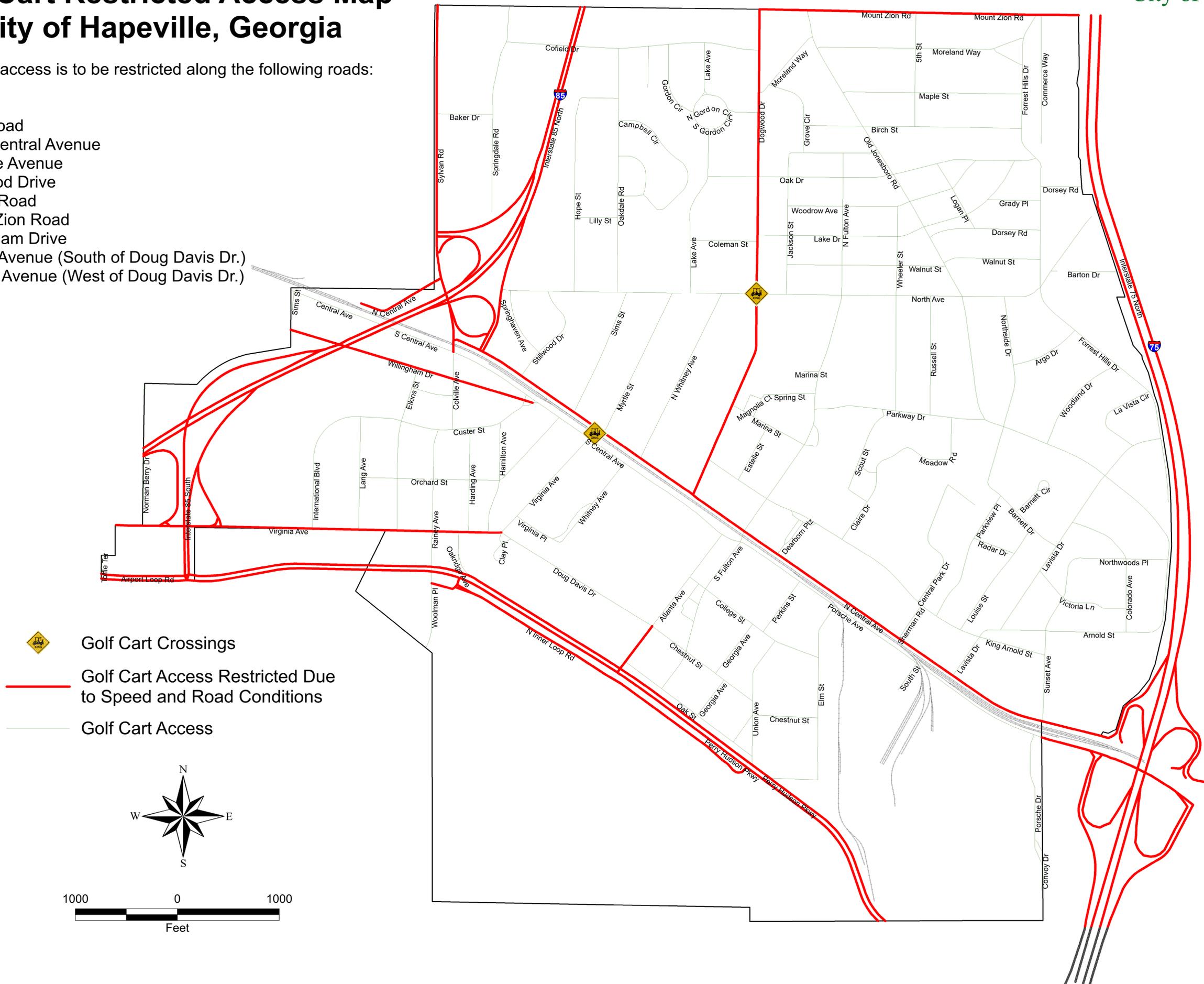
Public involvement and citizen engagement is welcome as Hapeville operates a very open, accessible and transparent government. We do however remind our attendees/residents that there are times allocated for public comments on the agenda. In order for council to conduct their necessary business at each meeting, we respectfully ask that side-bar conversations and comments be reserved for the appropriate time during the meeting. This will allow the City Council to conduct the business at hand and afford our meeting attendees ample time for comments at the appropriate time during the meeting.

Golf Cart Restricted Access Map

City of Hapeville, Georgia

Golf cart access is to be restricted along the following roads:

- I-85
- I-75
- Loop Road
- North Central Avenue
- Porsche Avenue
- Dogwood Drive
- Sylvan Road
- Mount Zion Road
- Willingham Drive
- Atlanta Avenue (South of Doug Davis Dr.)
- Virginia Avenue (West of Doug Davis Dr.)



STATE OF GEORGIA**CITY OF HAPEVILLE****ORDINANCE NO.**

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF HAPEVILLE, GEORGIA TO PROVIDE FOR THE USE AND OPERATION OF PERSONAL TRANSPORTATION VEHICLES ON THE MUNICIPAL STREETS OF THE CITY OF HAPEVILLE; TO PROVIDE FOR OPERATIONAL AND EQUIPMENT REQUIREMENTS FOR PERSONAL TRANSPORTATION VEHICLES; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER LAWFUL PURPOSES.

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

WHEREAS, many of the public streets of the City are designated for traffic flow at twenty-five (25) miles per hour or less; and

WHEREAS, the traffic flow of such streets will not be obstructed or impeded by the use of personal transportation vehicles (“PTVs”); and

WHEREAS, PTVs may serve a number of legitimate needs to the public including fuel conservation, reduction in noise pollution and tourism; and

WHEREAS, Section 40-6-33 of the Official Code of Georgia Annotated authorizes a local governing authority to designate certain public streets or portions thereof for the combined use of PTVs and regular vehicular traffic and to regulate the conditions upon which PTVs may operate; and

WHEREAS, the amendments to the Code of Ordinances, City of Hapeville, Georgia, contained herein will benefit the health, safety, morals and welfare of the citizens of and visitors to the City.

BE IT AND IT IS HEREBY ORDAINED by the Mayor and Council of the City of Hapeville, Georgia, and by the authority thereof:

Section 1. The Code of Ordinances of the City of Hapeville, Georgia is hereby amended by adding Article 10 (“Personal Transportation Vehicles”) to Chapter 41 (“Traffic and Motor Vehicles”), the provisions of Article 10 which are set forth in Exhibit “A” attached hereto and made a part hereof by reference.

Section 2. The operation of Personal Transportation Vehicles shall be allowed upon such streets as set forth in the map entitled “Golf Cart Restricted Access Map” which is attached hereto as Exhibit “B” and made a part hereof by reference. Said map shall be kept on file in the Office of the City Clerk. Any person may review said Map upon request to the City Clerk.

Section 3. The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 4. (a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, 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. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, 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 Mayor and 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 and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 5. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section 6. This Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City.

Section 7. The effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.

ORDAINED this _____ day of _____, 2016.

CITY OF HAPEVILLE, GEORGIA

Alan Hallman, Mayor

ATTEST:

Jennifer Elkins, City Clerk

APPROVED AS TO FORM:

Steven M. Fincher, City Attorney

Exhibit "A"

Chapter 41 – Traffic and Motor Vehicles

Article 10 – Personal Transportation Vehicles

Section 41-10-1. – Definitions.

The following words, terms and phrases, when used in this Article shall have the meaning ascribed to them in this section:

- (1) *Authorized Street* means a public roadway of the City by whatever name (e.g., road, alley, avenue, highway, route, boulevard, etc.) that:
 - (a) Has a posted speed limit of 25 miles per hour or less;
 - (b) Is not designated as part of either the State of Georgia or Federal highway system;
 - (c) Provides for no more than one lane of vehicular traffic per direction; and
 - (d) Is not an Unauthorized Street.
- (2) *Driver* means the person driving and having physical control over a Personal Transportation Vehicle.
- (3) *Owner* means the person holding title to a Personal Transportation Vehicle who has a majority ownership interest in such Personal Transportation Vehicle.
- (4) *Parking Area* means any area accessible to the public by motor vehicular traffic and is designated for the temporary parking of motor vehicles, usually in places referred to as parking lots.
- (5) *Personal Transportation Vehicle (PTV)* means any motor vehicle:
 - (a) With a minimum of four wheels;
 - (b) Capable of a maximum level ground speed of less than 20 miles per hour;
 - (c) With a maximum gross vehicle weight, unladen or empty, of 1,375 pounds; and
 - (d) Capable of transporting not more than eight persons.
- (6) *Unauthorized Street* means any of the following public roadways (or portions thereof) within the municipal limits of the City: Interstate 85; Interstate 75; Loop Road; North Central Avenue; Porsche Avenue; Dogwood Drive; Sylvan Road; Mount Zion Road; Willingham Drive; the portion of Atlanta Avenue that is south of Doug Davis Drive; and the portion of Virginia Avenue that is west of Doug Davis Drive. In addition to said roadways, *Unauthorized Street* shall also mean any other public roadway of the City of Hapeville by whatever name (e.g. road, alley, avenue, highway, route, boulevard, etc.) that has been designated by the Mayor and Council of the City by ordinance or resolution as an unauthorized street.

Section 41-10-2. – Operating regulations

- (1) It shall be unlawful to operate a PTV on any street within the municipal limits of the City that is not an Authorized Street.
- (2) Any person who drives or operates a PTV on the Authorized Streets and Parking Areas of the City must hold a valid motor vehicle driver's license.
- (3) All drivers of PTVs shall abide by all traffic regulations applicable to vehicle traffic when using the Authorized Streets and Parking Areas of the City.
- (4) A PTV shall not be operated to transport more than eight (8) persons.
- (5) A PTV shall not be operated on a sidewalk at any time.
- (6) Every driver of a PTV shall be granted all the rights of, and shall be subject to all of the rules of the road and duties applicable to, the driver of any other vehicle.

- (7) All PTVs are entitled to a full use of a lane on the Authorized Streets and Parking Areas of the City and no motor vehicle shall be driven in such a manner as to deprive any PTV of the full use of a lane.
- (8) The driver of a PTV shall not overtake and pass in the same lane occupied by the vehicle being overtaken.
- (9) No driver shall operate a PTV between lanes of traffic or between adjacent lines or rows of vehicles.
- (10) The driver of a PTV operating on an Authorized Street may cross a multi-lane road only at a signalized intersection designed for such purpose.
- (11) Notwithstanding subsection (10), the driver of a PTV may (a) cross Dogwood Avenue only at the intersection of Dogwood Avenue and North Avenue; and (b) cross North Central Avenue only at the intersection of North Central Avenue and Virginia Avenue.
- (12) The driver of a PTV operating on an Authorized Street may cross a state or federal route only at an intersection that has been designated for such purpose by the Georgia Department of Transportation.
- (13) All laws and ordinances relative to alcohol and its use, including open container laws, which apply to traffic on the streets of the City shall also apply to drivers and occupants of PTVs.
- (14) All drivers and occupants of a PTV must remain seated at all times during the operation of the PTV. No person may sit on the driver's lap during the operation of the PTV.

Section 41-10-3. – Equipment

Each PTV shall meet the following design standards and shall be equipped with the following operational equipment:

- (1) A minimum of four (4) wheels;
- (2) Each PTV must be capable of a maximum level ground speed of no more than 20 miles per hour;
- (3) A maximum gross vehicle weight, empty and unladen, of 1,375 pounds;
- (4) A braking system sufficient for the weight and passenger capacity of the vehicle and a parking brake;
- (5) A reverse warning device functional at all times when the directional control of the PTV is in the reverse position;
- (6) A main power switch. When such switch is in the "off" position or the key or other device that activates the switch is removed, the motive power circuit shall be inoperative. If the switch uses a key, it shall be removable only in the "off" position;
- (7) Head lamps;
- (8) Reflex reflectors;
- (9) Tail lamps;
- (10) Front and rear turn signals;
- (11) A horn;
- (12) A rearview mirror;
- (13) Safety warning labels; and
- (14) Hip restraints and hand holds or a combination thereof.

Section 41-10-4. – Liability

Nothing in this Article shall be construed as an assumption of liability by the City of Hapeville for any injury to any person or property (real or personal) which may result from the operation of a PTV within the municipal limits of the City.

Section 41-10-5. – Map

The operation of PTVs within the City shall be allowed as designated on the map entitled “Golf Cart Restricted Access Map,” said map further illustrating the regulations of this Article. The “Golf Cart Restricted Access Map” shall be kept on file in the office of the City Clerk. Any person may review said map upon request to the City Clerk.

Section 41-10-6. - Penalties

Any person who violates the terms of this Article shall be punishable as follows:

In addition to whatever violations of Georgia law or any other provision of the Code of Ordinances, City of Hapeville, Georgia that a driver of a PTV may be subject to, the owner of a PTV shall be subject to the following civil penalties:

- (1) For the conviction of a first offense, a fine of not less than \$50.00.
- (2) For the conviction of a second offense, a fine of not less than \$100.00.
- (3) For the conviction of a third offense, it shall be unlawful for the PTV to be operated or to be driven on any street within the municipal limits of the City for a period of two years following such conviction.

Exhibit “B”

STATE OF GEORGIA**CITY OF HAPEVILLE****ORDINANCE NO. _____**

AN ORDINANCE TO AMEND CHAPTER 93, ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF HAPEVILLE, GEORGIA BY REPEALING SECTION 93-23-5 (SURFACING AND MAINTENANCE) OF ARTICLE 23 (OFF-STREET PARKING AND LOADING) OF CHAPTER 93 (ZONING); TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN ADOPTION DATE; TO PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

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

WHEREAS, the governing authority of the City has the power to adopt ordinances promoting the public health, safety, and general welfare of its citizenry; and

WHEREAS, the governing authority of the City has, as a part of planning, zoning and growth management, been in review of the City's zoning ordinances and has been studying the City's best estimates and projections of the type of development which could be anticipated within the City; and

WHEREAS, the governing authority of the City therefore considers it paramount that land use regulation continue in the most orderly and predictable fashion with the least amount of disturbance to landowners and to the citizens of the City. The Mayor and Council have always had a strong interest in growth management so as to promote the traditional police power goals of health, safety, morals, aesthetics and the general welfare of the community; and in particular the lessening of congestion on City streets, security of the public from crime and other dangers,

promotion of health and general welfare of its citizens, protection of the aesthetic qualities of the City including access to air and light, and facilitation of the adequate provision of transportation and other public requirements; and

WHEREAS, it is the belief of the governing authority of the City that the concept of “public welfare” is broad and inclusive; that the values it represents are spiritual as well as physical, aesthetic as well as monetary; and that it is within the power of the City “to determine that a community should be beautiful as well as healthy, spacious as well as clean, well balanced as well as carefully patrolled.” Kelo v. City of New London, 545 U.S. 469 (2005); Berman v. Parker, 348 U.S. 26 (1954). It is also the opinion of the City that “general welfare” includes the valid public objectives of aesthetics, conservation of the value of existing lands and buildings within the City, making the most appropriate use of resources, preserving neighborhood characteristics, enhancing and protecting the economic well-being of the community, facilitating adequate provision of public services, and the preservation of the resources of the City; and

WHEREAS, the governing authority of the City is, and has been interested in, developing a cohesive and coherent policy regarding certain uses in the City, and has intended to promote community development through stability, predictability and balanced growth which will further the prosperity of the City as a whole; and

WHEREAS, since July 16, 2013, regulations contained within Chapter 93 of the Code of Ordinances of the City of Hapeville (“Zoning Code”) at Section 93-23-5 have governed the types of construction materials of which residential driveways must be composed; and

WHEREAS, prior to July 16, 2013, regulations contained within the Zoning Code at Section 93-23-5 have, in addition to governing the lighting and maintenance requirements of

commercial off-street parking and loading facilities, governed the types of construction materials of which commercial off-street parking and loading facilities must be composed; and

WHEREAS, the regulations in Section 93-23-5 of the Zoning Code regarding construction materials of residential driveways and commercial off-street parking and loading facilities do not concern the zoning powers of the City as such regulations do not classify property into separate districts and instead regulate such driveways and facilities in terms of their inherent character. See City of Walnut Grove v. Questco, 275 Ga. 266, 266 (2002); and

WHEREAS, accordingly, such regulations in Section 93-23-5 of the Zoning Code regarding construction materials should not remain in the Zoning Code; and

WHEREAS, accordingly, the governing authority of the City has determined that such regulation in Section 93-23-5 should be removed from the Zoning Code and inserted into another applicable part of the City's Code of Ordinances; and

WHEREAS, the governing authority of the City finds it desirable and in the interest of the public health, safety, and general welfare of its citizenry to amend its ordinances accordingly.

BE IT, AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HAPEVILLE, GEORGIA, and by the authority thereof:

Section One. The Code of Ordinances is hereby amended by repealing in its entirety Section 93-23-5 (Surfacing and Maintenance) of Article 23 (Off-street parking and loading) of Chapter 93 (Zoning).

Section Two. The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section Three. This Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City.

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

(b) It is hereby declared to be the intention of the Mayor and Council that, 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. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, 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 Mayor and 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 and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section Six. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section Seven. The effective date of this Ordinance shall be the date of adoption unless otherwise stated herein.

ORDAINED this _____ day of _____, 2016.

[SIGNATURES CONTINUED ON NEXT PAGE]

CITY OF HAPEVILLE, GEORGIA

Alan H. Hallman, Mayor

ATTEST:

Jennifer Elkins, City Clerk

APPROVED BY:

Steven M. Fincher, City Attorney

STATE OF GEORGIA**CITY OF HAPEVILLE****ORDINANCE NO. _____**

AN ORDINANCE TO AMEND CHAPTER 57 (“SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL”) OF THE CODE OF ORDINANCES, CITY OF HAPEVILLE, GEORGIA BY REPEALING THE CURRENT LANGUAGE IN SAID ARTICLE IN ITS ENTIRETY AND ENACTING NEW REGULATIONS IN LIEU THEREOF; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN ADOPTION DATE; TO PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

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

WHEREAS, Chapter 57 of the City’s Code of Ordinances regulates Soil Erosion, Sedimentation and Pollution Control within the municipal limits of the City; and

WHEREAS, the governing authority of the City determines that it is in the best interest of the health, welfare, safety and morals of the City that Chapter 57 of the City’s Code of Ordinances be assessed and reviewed to ensure that local laws remain consistent with the City’s comprehensive plan and adhere to constantly changing state and federal laws; and

WHEREAS, the health, safety, welfare, aesthetics and morals of the citizens of the City shall be improved and protected by the adoption and implementation of this Ordinance.

THEREFORE, BE IT ORDAINED BY THE GOVERNING AUTHORITY OF HAPEVILLE, GEORGIA THAT:

Section One. Chapter 57 (“Soil Erosion, Sedimentation and Pollution Control”) of the Code of Ordinances of the City of Hapeville, Georgia is hereby amended by striking, in its

entirety, the provisions presently found in said Article and inserting in lieu thereof the text set forth in Exhibit “A,” which is attached hereto and made a part hereof by reference.

Section Two. The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section Three. This Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City.

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

(b) It is hereby declared to be the intention of the Mayor and Council that, 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. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, 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 Mayor and 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 and that, to the greatest extent allowed by law, all remaining phrases,

clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section Five. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section Six. The effective date of this Ordinance shall be the date of adoption unless otherwise stated herein.

ORDAINED this _____ day of _____, 2016.

CITY OF HAPEVILLE, GEORGIA:

Alan Hallman, Mayor

ATTEST:

Jennifer Elkins, City Clerk

APPROVED BY:

Steven M. Fincher, City Attorney

EXHIBIT A

[See Attached]

Chapter 57 - SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL

Sec. 57-1-1. - Title.

This chapter will be known as the "Hapeville Soil Erosion, Sedimentation and Pollution Control Ordinance."

Sec. 57-1-2. – Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter, unless otherwise specifically stated:

- (1) **Best Management Practices (BMPs):**
These include sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the *Manual for Erosion and Sediment Control in Georgia* published by the Commission as of January 1 of the year in which the land-disturbing activity was permitted.
- (2) **Board:** The Board of Natural Resources.
- (3) **Buffer:** The area of land immediately adjacent to the banks of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.
- (4) **Certified Personnel:** A person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.
- (5) **Coastal Marshlands:** Shall have the same meaning as in O.C.G.A. § 12-5-282.
- (6) **Commission:** The Georgia Soil and Water Conservation Commission (GSWCC).
- (7) **CPESC:** Certified Professional in Erosion and Sediment Control with current certification by EnviroCert, Inc., which is also referred to as CPESC or CPESC, Inc.
- (8) **Cut:** A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to the excavated surface. Also known as excavation.
- (9) **Department:** The Georgia Department of Natural Resources (DNR).
- (10) **Design Professional:** A professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying; or a person that is a Certified Professional in Erosion and Sediment Control (CPESC) with a current certification by EnviroCert, Inc. Design Professionals shall practice in a manner that complies with applicable Georgia law governing professional licensure.
- (11) **Director:** The Director of the Environmental Protection Division or an authorized representative.
- (12) **District:** The Region 3 Soil and Water Conservation District.
- (13) **Division:** The Environmental Protection Division (EPD) of the Department of Natural Resources.
- (14) **Drainage Structure:** A device composed of a virtually nonerrodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for storm water management, drainage control, or flood control purposes.

- (15) **Erosion:** The process by which land surface is worn away by the action of wind, water, ice or gravity.
- (16) **Erosion, Sedimentation and Pollution Control Plan:** A plan required by the Erosion and Sedimentation Act, O.C.G.A. Chapter 12-7-1, et seq., that includes, as a minimum protections at least as stringent as the State General Permit, best management practices, and requirements in section 57-1-4(c) of this chapter.
- (17) **Fill:** A portion of land surface to which soil or other solid material has been added; the depth above the original ground surface or an excavation.
- (18) **Final Stabilization:** All soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, 100% of the soil surface is uniformly covered in permanent vegetation with a density of 70% or greater, or equivalent permanent stabilization measures (such as the use of rip rap, gabions, permanent mulches or geotextiles) have been used. Permanent vegetation shall consist of: planted trees, shrubs, perennial vines; a crop of perennial vegetation appropriate for the time of year and region; or a crop of annual vegetation and a seeding of target crop perennials appropriate for the region. Final stabilization applies to each phase of construction.
- (19) **Finished Grade:** The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.
- (20) **Grading:** Altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.
- (21) **Ground Elevation:** The original elevation of the ground surface prior to cutting or filling.
- (22) **Land-Disturbing Activity:** Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in section 57-1-3(5).
- (23) **Larger Common Plan of Development or Sale:** A contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this paragraph, “plan” means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.
- (24) **Local Issuing Authority (LIA):** The governing authority of any county or municipality which is certified pursuant to subsection (a) of O.C.G.A. § 12-7-8.
- (25) **Metropolitan River Protection Act (MRPA):** A state law referenced as O.C.G.A. § 12-5-440 et seq. which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.
- (26) **Natural Ground Surface:** The ground surface in its original state before any grading, excavation or filling.
- (27) **Nephelometric Turbidity Units (NTU):** Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided

- particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloidally dispersed or suspended particles are present.
- (28) **NOI:** A Notice of Intent form provided by EPD for coverage under the State General Permit.
- (29) **NOT:** A Notice of Termination form provided by EPD to terminate coverage under the State General Permit.
- (30) **Operator:** The party or parties that have: (A) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or (B) day-to-day operational control of those activities that are necessary to ensure compliance with an erosion, sedimentation and pollution control plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the erosion, sedimentation and pollution control plan or to comply with other permit conditions.
- (31) **Outfall:** The location where storm water in a discernible, confined and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into that receiving water.
- (32) **Permit:** The authorization necessary to conduct a land-disturbing activity under the provisions of this chapter.
- (33) **Person:** Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of the State of Georgia, any interstate body or any other legal entity.
- (34) **Phase or Phased:** Sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.
- (35) **Project:** The entire proposed development project regardless of the size of the area of land to be disturbed.
- (36) **Properly Designed:** Designed in accordance with the design requirements and specifications contained in the *Manual for Erosion and Sediment Control in Georgia* (Manual) published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted and amendments to the Manual as approved by the Commission up until the date of NOI submittal.
- (37) **Roadway Drainage Structure:** A device such as a bridge, culvert, or ditch, composed of a virtually nonerrodible material such as concrete, steel, plastic, or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled roadway consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.
- (38) **Sediment:** Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water, ice, or gravity as a product of erosion.
- (39) **Sedimentation:** The process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.
- (40) **Soil and Water Conservation District Approved Plan:** An erosion, sedimentation and pollution control plan approved in writing by the Region 3 Soil and Water Conservation District office or city as appropriate.

- (41) **Stabilization:** The process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.
- (42) **State General Permit:** The National Pollution Discharge Elimination System (NPDES) general permit or permits for storm water runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq., and subsection (f) of O.C.G.A. § 12-5-30.
- (43) **State Waters:** Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of Georgia which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.
- (44) **Structural Erosion, Sedimentation and Pollution Control Practices:** Practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures and sediment traps, etc. Such practices can be found in the publication *Manual for Erosion and Sediment Control in Georgia*.
- (45) **Trout Streams:** All streams or portions of streams within the watershed as designated by the Wildlife Resources Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. § 12-5-20, in the rules and regulations for Water Quality Control, Chapter 391-3-6 at www.gaepd.org. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.
- (46) **Vegetative Erosion and Sedimentation Control Measures:** Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:
- a. Permanent seeding, sprigging or planting, producing long-term vegetative cover, or
 - b. Temporary seeding, producing short-term vegetative cover; or
 - c. Sodding, covering areas with a turf of perennial sod-forming grass.
- Such measures can be found in the publication *Manual for Erosion and Sediment Control in Georgia*.
- (47) **Watercourse:** Any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

- (48) **Wetlands:** Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Sec. 57-1-3. - Exemptions.

This chapter shall apply to any land-disturbing activity undertaken by any person on any land except for the following:

- (1) Surface mining, as the same is defined in O.C.G.A. § 12-4-72, "The Georgia Surface Mining Act of 1968";
- (2) Granite quarrying and land clearing for such quarrying;
- (3) Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;
- (4) The construction of single-family residences, when such construction disturbs less than one (1) acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in O.C.G.A. § 12-7-6 and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the Director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of subsection (b) of O.C.G.A. § 12-7-6 and the buffer zones provided by this paragraph shall be enforced by the City;
- (5) Agricultural operations as defined in O.C.G.A. § 1-3-3, "definitions," to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;
- (6) Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in subsections (15) and (16) of section 57-1-4(c), no other land-disturbing activities, except for normal forest management practices,

- shall be allowed on the entire property upon which the forestry practices were conducted for a period of three (3) years after completion of such forestry practices;
- (7) Any project carried out under the technical supervision of the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture;
 - (8) Any project involving less than one (1) acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre or within 200 feet of the bank of any state waters, and for purposes of this paragraph, "State Waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one (1) acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainage way, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the City from regulating any such project which is not specifically exempted by subsections (1), (2), (3), (4), (5), (6), (7), (9) or (10) of this section;
 - (9) Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of the Department of Transportation or the State Road and Tollway Authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. § 12-7-7.1; except where the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the Local Issuing Authority, the City shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;
 - (10) Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the City shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and

(11) Any public water system reservoir.

Sec. 57-1-4. - Minimum Requirements for Erosion, Sedimentation and Pollution Control using Best Management Practices

(a) *General provisions.* Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of the ordinance and the NPDES General Permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by this chapter shall contain provisions for application of soil erosion, sedimentation and pollution control measures and practices. The provisions shall be incorporated into the erosion, sedimentation and pollution control plans. Soil erosion, sedimentation and pollution control measures and practices shall conform to the minimum requirements of subsections (b) and (c) of this section. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion, sedimentation and pollution during all stages of any land-disturbing activity in accordance with requirements of this chapter and the NPDES General Permit.

(b) *Minimum requirements/BMPs*

- (1) Best management practices as set forth in subsections (b) and (c) of this section shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the Director or to any other allegation of noncompliance with paragraph (2) of this subsection or any substantially similar terms contained in a permit for the discharge of storm water issued pursuant to subsection (f) of O.C.G.A. § 12-5-30, the "Georgia Water Quality Control Act". As used in this subsection the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the *Manual for Erosion and Sediment Control in Georgia* specified in O.C.G.A. § 12-7-6 subsection (b).
- (2) A discharge of storm water runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a Local Issuing Authority or of any state general permit issued by the Division pursuant to subsection (f) of O.C.G.A. § 12-5-30, the "Georgia Water Quality Control Act", for each day on which such discharge results in the turbidity of receiving waters being increased by more than twenty-five (25) nephelometric turbidity units for waters supporting warm water fisheries or by more than ten (10) nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the Director. This paragraph shall not apply to any land disturbance associated with the construction of single family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five (5) acres.

- (3) Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by the city or of any state general permit issued by the Division pursuant to subsection (f) of O.C.G.A. Section 12-5-30, the "Georgia Water Quality Control Act," for each day on which such failure occurs.
 - (4) The Director may require, in accordance with regulations adopted by the Board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur.
 - (5) The City may set more stringent buffer requirements than stated in subsections 15,16 and 17 of section 57-1-4(c) in light of O.C.G.A. § 12-7-6 (c).
- (c) The rules and regulations, ordinances, or resolutions adopted pursuant to O.C.G.A. § 12-7-1 et. seq. for the purpose of governing land-disturbing activities shall require, as a minimum, protections at least as stringent as the state general permit; and best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the *Manual for Erosion and Sediment Control in Georgia* published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:
- (1) Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;
 - (2) Cut-fill operations must be kept to a minimum;
 - (3) Development plans must conform to topography and soil type so as to create the lowest practicable erosion potential;
 - (4) Whenever feasible, natural vegetation shall be retained, protected and supplemented;
 - (5) The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
 - (6) Disturbed soil shall be stabilized as quickly as practicable;
 - (7) Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;
 - (8) Permanent vegetation and structural erosion control practices shall be installed as soon as practicable;
 - (9) To the extent necessary, sediment in run-off water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. § 12-7-1 et. seq.;
 - (10) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills;
 - (11) Cuts and fills may not endanger adjoining property;]
 - (12) Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;

- (13) Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum;
- (14) Land-disturbing activity plans for erosion, sedimentation and pollution control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in subsection (b)(2) of this section;
- (15) Except as provided in subsections (16) and (17) of this subsection (c), there is established a 25 foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the Director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director pursuant to O.C.G.A. § 12-2-8, where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; or along any ephemeral stream. As used in this provision, the term 'ephemeral stream' means a stream that, under normal circumstances, has water flowing only during and for a short duration after precipitation events; that has the channel located above the ground-water table year round; for which ground water is not a source of water; and for which runoff from precipitation is the primary source of water flow. Unless exempted as along an ephemeral stream, the buffers of at least 25 feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, the "Georgia Water Quality Control Act," shall remain in force unless a variance is granted by the Director as provided in this paragraph. The following requirements shall apply to any such buffer:
- (A) No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
- (B) The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines; and

- (16) There is established a 50 foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to Article 2 of Chapter 5 of Title 12, the "Georgia Water Quality Control Act," except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25 foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the Board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The Director may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:
- (A) No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed: provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
 - (B) The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines; and
- (17) There is established a 25 foot buffer along coastal marshlands, as measured horizontally from the coastal marshland-upland interface, as determined in accordance with O.C.G.A. § 12-5-280, et seq., the "Coastal Marshlands Protection Act of 1970," and the rules and regulations promulgated thereunder, except where the director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director pursuant to O.C.G.A. § 12-2-8, where an alteration within the buffer area has been authorized pursuant to O.C.G.A. § 12-5-286, for maintenance of any currently serviceable structure, landscaping, or hardscaping, including bridges, roads, parking lots, golf courses, golf cart paths, retaining walls, bulkheads, and patios; provided, however, that if such maintenance requires any

land-disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented, where a drainage structure or roadway drainage structure is constructed or maintained; provided, however, that if such maintenance requires any land-disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented, on the landward side of any currently serviceable shoreline stabilization structure, or for the maintenance of any manmade storm-water detention basin, golf course pond, or impoundment that is located entirely within the property of a single individual, partnership, or corporation; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented. For the purposes of this paragraph maintenance shall be defined as actions necessary or appropriate for retaining or restoring a currently serviceable improvement to the specified operable condition to achieve its maximum useful life. Maintenance includes emergency reconstruction of recently damaged parts of a currently serviceable structure so long as it occurs within a reasonable period of time after damage occurs. Maintenance does not include any modification that changes the character, scope or size of the original design and serviceable shall be defined as usable in its current state or with minor maintenance but not so degraded as to essentially require reconstruction.

- (A) No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat;
- (B) The buffer shall not apply to crossings for utility lines that cause a width of disturbance of not more than 50 feet within the buffer, provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.
- (C) The buffer shall not apply to any land-disturbing activity conducted pursuant to and in compliance with a valid and effective land-disturbing permit issued subsequent to April 22, 2014, and prior to December 31, 2015; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented or any lot for which the preliminary plat has been approved prior to December 31, 2015 if roadways, bridges, or water and sewer lines have been extended to such lot prior to the effective date of this Act and if the requirement to maintain a 25 foot buffer would consume at least 18 percent of the high ground of the platted lot otherwise available for development; provided, however, that adequate erosion

control measures are incorporated into the project plans and specifications and such measures are fully implemented;

- (D) Activities where the area within the buffer is not more than 500 square feet or that have a “Minor Buffer Impact” as defined in EPD Rule 391-3-7-.01(r), provided that the total area of buffer impacts is less than 5,000 square feet are deemed to have an approved buffer variance by rule. Bank stabilization structures are not eligible for coverage under the variance by rule and notification shall be made to the Division at least 14 days prior to the commencement of land disturbing activities.

- (d) Nothing contained in O.C.G.A. § 12-7-1 et. seq. shall prevent the city from adopting rules and regulations, ordinances, or resolutions which contain stream buffer requirements that exceed the minimum requirements in subsections (b) and (c) of this section.
- (e) The fact that land-disturbing activity for a project for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this chapter or the terms of the permit.

Sec. 57-1-5. - Application/permit process.

(a) *General.*

- (1) The property owner, developer and designated planners and engineers shall design and review before submittal the general development plans. The City shall review the tract to be developed and the area surrounding it. They shall consult the zoning ordinance, storm water management ordinance, subdivision ordinance, flood damage prevention ordinance, this chapter, and any other ordinances, rules, regulations or permits, which regulate the development of land within the jurisdictional boundaries of the City. However, the owner and/or operator are the only parties who may obtain a permit.
- (2) Wetlands as defined in 33 CFR Part 328.3(b) are an important resource, which are protected through the Federal Clean Water Act, as amended. This act regulates all dredge and fill activities in "water of the U.S." and is administered by the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency. Land disturbing activities may require a Section 404 permit administered by the U.S. Army Corps of Engineers. The United States Department of Interior has prepared a national wetlands inventory map covering the city. The map is known as the Hapeville National Wetlands Inventory Map and is incorporated in this article by reference. To assist applicants for land disturbance permits, the city has available for public inspection a copy of the Hapeville National Wetlands Inventory Map. It is encouraged that permit applicants for land disturbance use this map as a resource to identify wetlands. Permit applicants are cautioned, however, that all wetlands may not be identified by this map and the responsibility for defining wetlands and securing any necessary state or federal permits rests solely with the applicant. Applicants for land disturbance permits are advised that only the U.S. Army Corps of Engineers is responsible for certifying whether or not wetlands are

present on the site, the city is not involved with Section 404 permitting. As a part of the process of obtaining a land disturbance permit, all applicants must complete and submit an "acknowledgement and certification" form provided by the city which acknowledges the applicant has investigated Section 404 permitting criteria and has determined whether or not the permit is required for the project for which a land disturbance permit has been requested. Should the applicant certify a Section 404 permit is not required, the city must make a determination from the map as to whether or not the presence of wetlands is likely within the area in which the permit is requested. Should the city determine that the presence of wetlands is not likely in the area the city may issue the land disturbance permit. However, should the city determine that the presence of wetlands is likely in the area the city may not issue the land disturbance permit. A determination by the city that the presence of wetlands is likely in the area requires that the applicant obtain a determination to be made by the U.S. Army Corps of Engineers. If wetlands are present, the applicant must obtain a Section 404 permit prior to being issued a land disturbance permit. Should the applicant certify a Section 404 permit is required, the city may not issue a land disturbance permit until the applicant provides a copy of the Section 404 permit to the city. Any action by the city under this article does not relieve the property owner, developer, or petitioner from federal or state permitting requirements.

(b) *Application requirements.*

- (1) No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the city without first obtaining a permit from the city to perform such activity and providing a copy of Notice of Intent submitted to EPD, if applicable.
- (2) The application for a permit shall be submitted to the city and must include the applicant's erosion, sedimentation and pollution control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in subsection (c) of this section. Erosion, sedimentation and pollution control plans, together with supporting data, must demonstrate affirmatively that the land disturbing activity proposed will be carried out in such a manner that the provisions of subsections (b) and (c) of section 57-1-4 will be met. Applications for a permit will not be accepted unless accompanied by four (4) copies of the applicant's soil erosion, sedimentation and pollution control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan in accordance with EPD Rule 391-3-7-.10.
- (3) A fee, in the amount of \$500.00, shall be charged for each acre or fraction thereof in the project area.
- (4) In addition to the local permitting fees, fees will also be assessed pursuant to subsection (5) of O.C.G.A. § 12-5-23(a), provided that such fees shall not exceed \$80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre

of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to subsection (a) of O.C.G.A. § 12-7-8 half of such fees levied shall be submitted to the Division; except that any and all fees due from an entity which is required to give notice pursuant to subsection (9) or (10) of O.C.G.A. § 12-7-17 shall be submitted in full to the Division, regardless of the existence of a Local Issuing Authority in the jurisdiction.

- (5) Immediately upon receipt of an application and plan for a permit, the City shall refer the application and plan to the District for its review and approval or disapproval concerning the adequacy of the erosion, sedimentation and pollution control plan. The District shall approve or disapprove a plan within 35 days of receipt. Failure of the District to act within 35 days shall be considered an approval of the pending plan. The results of the District review shall be forwarded to the City. No permit will be issued unless the plan has been approved by the District, and any variances required by subsections (15), (16), and (17) of section 57-1-4(c) have been obtained, all fees have been paid, and bonding, if required as per subsection (7) of this subsection (b) have been obtained. Such review will not be required if the City and the District have entered into an agreement which allows the City to conduct such review and approval of the plan without referring the application and plan to the District. The City, with plan review authority, shall approve or disapprove a revised Plan submittal within 35 days of receipt. Failure of the City, with plan review authority, to act within 35 days shall be considered an approval of the revised Plan submittal.
- (6) If a permit applicant has had two or more violations of previous permits, this section, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing the application under consideration, the City may deny the permit application.
- (7) The City may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, \$3,000.00 per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this chapter or with the conditions of the permit after issuance, the City may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the City with respect to alleged permit violations.

(c) *Plan requirements.*

- (1) Plans must be prepared to meet the minimum requirements as contained in subsections (b) and (c) of section 57-1-4, or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. The *Manual for Erosion and Sediment Control in Georgia* is hereby

incorporated by reference into this chapter. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and storm water management facilities, local ordinances and State laws. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring, or inspections or any land disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the Commission and in consultation with the Division and the Stakeholder Advisory Board created pursuant to O.C.G.A. § 12-7-20.

- (2) Data Required for Site Plan shall include all the information required from the appropriate Erosion, Sedimentation and Pollution Control Plan Review Checklist established by the Commission as of January 1 of the year in which the land-disturbing activity was permitted.

(d) *Permits.*

- (1) Permits shall be issued or denied as soon as practicable but in any event not later than forty-five (45) days after receipt by the City of a completed application, providing variances and bonding are obtained, where necessary and all applicable fees have been paid prior to permit issuance. The permit shall include conditions under which the activity may be undertaken.
- (2) No permit shall be issued by the City unless the erosion, sedimentation and pollution control plan has been approved by the District and the City has affirmatively determined that the plan is in compliance with this chapter, any variances required by subsections (15), (16) and 17 of section 57-1-4(c) are obtained, bonding requirements, if necessary, as per subsection (b)(7) of this section are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the City are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
- (3) Any land-disturbing activities by a local issuing authority shall be subject to the same requirements of this chapter, and any other ordinances relating to land development, as are applied to private persons and the division shall enforce such requirements upon the City.
- (4) If the tract is to be developed in phases, then a separate permit shall be required for each phase.
- (5) The permit may be suspended, revoked, or modified by the City, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this chapter. A holder of a permit shall notify any successor in title to him as to

all or any portion of the land affected by the approved plan of the conditions contained in the permit.

- (6) The City may reject a permit application if the applicant has had two or more violations of previous permits or the Erosion and Sedimentation Act permit requirements within three years prior to the date of the application, in light of O.C.G.A. § 12-7-7 (f) (1).

Sec. 57-1-6. - Inspection and enforcement.

- (a) The community services department will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. Also, the City shall regulate primary, secondary and tertiary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. Tertiary permittees shall be responsible for installation and maintenance where the tertiary permittee is conducting land-disturbing activities. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this chapter, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this chapter.
- (b) The City shall amend its ordinances to the extent appropriate within twelve (12) months of any amendments to the Erosion and Sedimentation Act of 1975.
- (c) The community services department shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this chapter, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.
- (d) No person shall refuse entry or access to any authorized representative or agent of the City, the Commission, the District, or Division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.
- (e) The District or the Commission or both shall semi-annually review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to O.C.G.A. § 12-7-8 (a). The District or the Commission or both may provide technical assistance to any county or municipality for the purpose of improving the

effectiveness of the county's or municipality's erosion, sedimentation and pollution control program. The District or the Commission shall notify the Division and request investigation by the Division if any deficient or ineffective local program is found.

- (f) The Division may periodically review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to Code Section 12-7-8 (a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinance and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicates that the governing authority of any county or municipality certified pursuant to O.C.G.A. § 12-7-8 (a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. § 12-7-7 (e), the Division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have 90 days within which to take the necessary corrective action to retain certification as a Local Issuing Authority. If the county or municipality does not take necessary corrective action within 90 days after notification by the division, the division shall revoke the certification of the county or municipality as a Local Issuing Authority.

Sec. 57-1-7. - Penalties and incentives.

- (a) *Failure to Obtain a Permit for Land-disturbing Activity.* If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this chapter without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the City.
- (b) *Stop-work orders.*
- (1) For the first and second violations of the provisions of this chapter, the Director or the City shall issue a written warning to the violator. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the Director or the City shall issue a stop-work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the Director or the City shall issue an immediate stop-work order in lieu of a warning;
 - (2) For a third and each subsequent violation, the Director or the City shall issue an immediate stop-work order; and;
 - (3) All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.
 - (4) When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the City or by the Director or his or her Designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order shall be issued by the City

or by the Director or his or her Designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.

(c) *Bond forfeiture.* If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this chapter and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of subsection (7) of section 57-1-5(b). The City may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

(d) *Monetary penalties.*

(1) Any person who violates any provisions of this chapter, or any permit condition or limitation established pursuant to this chapter, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the Director issued as provided in this chapter shall be liable for a civil penalty not to exceed \$2,500.00 per day. For the purpose of enforcing the provisions of this chapter, notwithstanding any provisions in any City charter to the contrary, municipal courts shall be authorized to impose a penalty not to exceed \$2,500.00 for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this chapter under county ordinances approved under this chapter shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

Sec. 57-1-8. - Education and certification.

(a) Persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. § 12-7-20.

(b) For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the Commission present on site

whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land-disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.

- (c) Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this chapter.
- (d) If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of subsection (1) of O.C.G.A. § 12-7-19(b), then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in subsection (4) of O.C.G.A. § 12-7-19(b) and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

Sec. 57-1-9. - Administrative appeal; judicial review.

- (a) *Administrative remedies.* The suspension, revocation, modification or grant with condition of a permit by the City upon finding that the holder is not in compliance with the approved erosion, sediment and pollution control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the mayor and council within 60 days after receipt by the City of written notice of appeal.
- (b) *Judicial review.* Any person, aggrieved by a decision or order of the City, after exhausting its administrative remedies, shall have the right to appeal such decision by writ of certiorari to the Superior Court of Fulton County, as provided in Section 5-4-1 of the Official Code of Georgia Annotated.

Sec. 57-1-9. – Effectivity, Validity and Liability

- (a) *Effectivity.* This chapter shall become effective on the date of its adoption.
- (b) *Validity.* If any section, paragraph, clause, phrase, or provision of this chapter shall be adjudged invalid or held unconstitutional, such decisions shall not affect the remaining portions of this chapter.
- (c) *Liability.*
 - (1) Neither the approval of a plan under the provisions of this chapter, nor the compliance with provisions of this chapter shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the City or District for damage to any person or property.
 - (2) The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a

presumption of a violation of the standards provided for in this chapter or the terms of the permit.

- (3) No provision of this chapter shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any Waters of the State as defined thereby.

23 **BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF**
24 **THE CITY OF HAPEVILLE, GEORGIA**, and by the authority thereof:

25 **Section 1.** **That the City Code, Chapter 5, Alcohol Beverages, Article 6.3,**
26 **Growlers, Sec. 5-6.3-2, General Regulations, is hereby amended by adding a new**
27 **subsection (j) to read as follows:**

28 (j) Temporary Exemption. Nothing within this chapter shall prohibit a licensed growler store
29 from selling beer and wine by the glass, on premises, in a manner which is expressly permitted
30 by the state of Georgia under the Georgia Alcoholic Beverage Code. This exemption shall
31 remain in effect until March 31, 2017 or until the effective date of the City’s pending
32 comprehensive update of Chapter 5 of the City’s Alcohol Beverages Code, whichever occurs
33 sooner.

34 **Section 2.** **That the City Code, Chapter 26, Offenses and Miscellaneous Provisions,**
35 **Article 2, Personal Conduct, Sec. 26-2-20, Brown-bagging, is hereby amended by adding a**
36 **new subsection (d) to read as follows:**

37 (d) Temporary Exemption. Nothing within this section shall prohibit a licensed establishment
38 from engaging in alcohol related activities in a manner which is expressly permitted by the state
39 of Georgia under the Georgia Alcoholic Beverage Code. This exemption shall remain in effect
40 until March 31, 2017 or until the effective date of the City’s pending comprehensive update of
41 Chapter 5 of the City’s Alcohol Beverages Code, whichever occurs sooner.

42 **Section 3.** (a) It is hereby declared to be the intention of the Mayor and Council that all
43 sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their
44 enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

45 (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest
46 extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this
47 Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this
48 Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this

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

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

62 **Section 4.** All ordinances and parts of ordinances in conflict herewith are hereby
63 expressly repealed.

64 **Section 5.** Penalties in effect for violations of the Zoning Ordinance of the City of
65 Hapeville at the time of the effective date of this Ordinance shall be and are hereby made
66 applicable to this Ordinance and shall remain in full force and effect.

67 **Section 6.** The effective date of this Ordinance shall be the date of adoption unless
68 otherwise specified herein.

69 **ORDAINED** this ____ day of _____, 2016.

70 **CITY OF HAPEVILLE, GEORGIA**

71

72
73

ALAN HALLMAN, Mayor

74 **ATTEST:**

75

76 _____
77 **JENNIFER ELKINS**, City Clerk

78

79 **APPROVED AS TO FORM:**

80

81 _____
82 **STEVE FINCHER**, City Attorney
83

EXTENDED ALCOHOL ORDINANCE AMENDMENTS

<u>Issue/Provision</u>	<u>Current Hapeville Code</u>	<u>Revised Proposed Ordinance</u>
<p>Chapter 5, Alcohol Beverages, Article 6.3, Growlers, Sec. 5-6.3-2, General Regulations</p>	<p>(j) Temporary Exemption. Nothing within this chapter shall prohibit a licensed growler store from selling beer and wine by the glass, on premises, in a manner which is expressly permitted by the state of Georgia under the Georgia Alcoholic Beverage Code. This exemption shall remain in effect until December 31, 2016 or until the effective date of the City’s pending comprehensive update of Chapter 5 of the City’s Alcohol Beverages Code, whichever occurs sooner.</p>	<p>(j) Temporary Exemption. Nothing within this chapter shall prohibit a licensed growler store from selling beer and wine by the glass, on premises, in a manner which is expressly permitted by the state of Georgia under the Georgia Alcoholic Beverage Code. This exemption shall remain in effect until March 31, 2017 or until the effective date of the City’s pending comprehensive update of Chapter 5 of the City’s Alcohol Beverages Code, whichever occurs sooner.</p>
<p>Chapter 26, Offenses and Miscellaneous Provisions, Article 2, Personal Conduct, Sec. 26-2-20, Brown-bagging</p>	<p>(d) Temporary Exemption. Nothing within this section shall prohibit a licensed establishment from engaging in alcohol related activities in a manner which is expressly permitted by the state of Georgia under the Georgia Alcoholic Beverage Code. This exemption shall remain in effect until December 31, 2016 or until the effective date of the City’s pending comprehensive update of Chapter 5 of the City’s Alcohol Beverages Code, whichever occurs sooner.</p>	<p>(d) Temporary Exemption. Nothing within this section shall prohibit a licensed establishment from engaging in alcohol related activities in a manner which is expressly permitted by the state of Georgia under the Georgia Alcoholic Beverage Code. This exemption shall remain in effect until March 31, 2017 or until the effective date of the City’s pending comprehensive update of Chapter 5 of the City’s Alcohol Beverages Code, whichever occurs sooner.</p>



Physio-Control, Inc
 11811 Willows Road NE
 P.O. Box 97006
 Redmond, WA 98073-9706 U.S.A.
 www.physio-control.com
 tel 800.442.1142
 fax 800.732.0956

To Paul Long
 HAPEVILLE FD
 3468 N FULTON AVE
 HAPEVILLE, GA 30354
 (404) 867-5258
plong@hapeville.org

Quote Number 00054827
 Revision # ADDENDUM
 Created Date 9/30/2016
 Sales Consultant ChadClowers
 678-972-2769
 FOB Redmond, WA
 Terms All quotes subject to credit approval and the following terms and conditions
 NET Terms NET 30

Coverage Dates: 9.29.2016 - 5.31.2018
 1 LP15 SN: 39656917
 1 LP12 SN: 36999254

Payable in ANNUAL installments
 15% discount on accessories and electrodes
 FAX 800-772-3340

Expiration Date 12/30/2016

Product	Product Description	Quantity	List Price	Unit Discount	Unit Sales Price	Total Price
LP12-OSCOMP-2	LIFEPAK 12 Service - 2 YEAR. On-site Comprehensive Coverage.	1.00	2,832.00	-464.39	2,367.61	2,367.61
LP15-OSCOMP-2	LIFEPAK 15 Service - 2 YEAR. On-site Comprehensive Coverage.	1.00	3,360.00	-550.97	2,809.03	2,809.03

Subtotal USD 5,176.64
 Estimated Tax USD 0.00
 Estimated Shipping & Handling USD 0.00

Grand Total USD 5,176.64

Pricing Summary Totals
 List Price Total USD 6,192.00
 Total Contract Discounts Amount USD 0.00
 Total Discount USD -1,015.36
 Trade In Discounts USD 0.00
 Tax + S&H USD 0.00

PHYSIO-CONTROL, INC. REQUIRES WRITTEN VERIFICATION OF THIS ORDER. A PURCHASE ORDER IS REQUIRED ON ALL ORDERS \$5,000 OR GREATER BEFORE APPLICABLE FREIGHT AND TAXES. THE UNDERSIGNED IS AUTHORIZED TO ACCEPT THIS ORDER IN ACCORDANCE WITH THE TERMS AND PRICES DENOTED HEREIN.

CUSTOMER APPROVAL (AUTHORIZED SIGNATURE)

NAME

TITLE

DATE

Reference Number AC/03831401/112523

General Terms for all Products, Services and Subscriptions.

Physio-Control, Inc. ("Physio") accepts Buyer's order expressly conditioned on Buyer's assent to the terms set forth in this document. Buyer's order and acceptance of any portion of the goods, services or subscriptions shall confirm Buyer's acceptance of these terms. Unless specified otherwise herein, these terms constitute the complete agreement between the parties. Amendments to this document shall be in writing and no prior or subsequent acceptance by Seller of any purchase order, acknowledgment, or other document from Buyer specifying different and/or additional terms shall be effective unless signed by both parties.

Pricing. Prices do not include freight insurance, freight forwarding fees, taxes, duties, import or export permit fees, or any other similar charge of any kind applicable to the goods and services. Sales or use taxes on domestic (USA) deliveries will be invoiced in addition to the price of the goods and services unless Physio receives a copy of a valid exemption certificate prior to delivery. Discounts may not be combined with other special terms, discounts, and/or promotions.

Payment. Payment for goods and services shall be subject to approval of credit by Physio. Unless otherwise specified by Physio in writing, the entire payment of an invoice is due thirty (30) days after the invoice date for deliveries in the USA, and sight draft or acceptable (confirmed) irrevocable letter of credit is required for sales outside the USA.

Minimum Order Quantity. Physio reserves the right to charge a service fee for any order less than \$200.00.

Patent Indemnity. Physio shall indemnify Buyer and hold it harmless from and against all demands, claims, damages, losses, and expenses, arising out of or resulting, from any action by a third party against Buyer that is based on any claim that the services infringe a United States patent, copyright, or trademark, or violate a trade secret or any other proprietary right of any person or entity. Physio's indemnification obligations hereunder will be subject to (i) receiving prompt written notice of the existence of any claim; (ii) being able to, at its option, control the defense and settlement of such claim (provided that, without obtaining the prior written consent of Buyer, Physio will enter into no settlement involving the admission of wrongdoing); and (iii) receiving full cooperation of Buyer in the defense of any claim.

Limitation of Interest. Through the purchase of Physio products, services, or subscriptions, Buyer does not acquire any interest in any tooling, drawings, design information, computer programming, patents or copyrighted or confidential information related to said products or services, and Buyer expressly agrees not to reverse engineer or decompile such products or related software and information.

Delays. Physio will not be liable for any loss or damage of any kind due to its failure to perform or delays in its performance resulting from an event beyond its reasonable control, including but not limited to, acts of God, labor disputes, the requirements of any governmental authority, war, civil unrest, terrorist acts, delays in manufacture, obtaining any required license or permit, and Physio inability to obtain goods from its usual sources.

Limited Warranty. Physio warrants its products and services in accordance with the terms of the limited warranties located at <http://www.physio-control.com/Documents/>. The remedies provided under such warranties shall be Buyer's sole and exclusive remedies. Physio makes no other warranties, express or implied, including, without limitation, **NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND IN NO EVENT SHALL PHYSIO BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL OR OTHER DAMAGES.**

Compliance with Confidentiality Laws. Both parties acknowledge their respective obligations to maintain the security and confidentiality of individually identifiable health information and agree to comply with applicable federal and state health information confidentiality laws.

Compliance with Law. The parties agree to comply with any and all laws, rules, regulations, licensing requirements or standards that are now or hereafter promulgated by any local, state, and federal governmental authority/agency or accrediting/administrative body that governs or applies to their respective duties and obligations hereunder.

Regulatory Requirement for Access to Information. In the event 42 USC § 1395x(v)(1)(I) is applicable, Physio shall make available to the Secretary of the United States Department of Health and Human Services, the Comptroller General of the United States General Accounting Office, or any of their duly authorized representatives, a copy of these terms, such books, documents and records as are necessary to certify the nature and extent of the costs of the products and services provided by Physio.

No Debarment. Physio represents and warrants that it and its directors, officers, and employees (i) are not excluded, debarred, or otherwise ineligible to participate in the Federal health care programs as defined in 42 USC § 1320a-7b(f); (ii) have not been convicted of a criminal offense related to the provision of healthcare items or services; and (iii) are not under investigation which may result in Physio being excluded from participation in such programs.

Choice of Law. The rights and obligations of Physio and Buyer related to the purchase and sale of products and services described in this document shall be governed by the laws of the state where Buyer is located. All costs and expenses incurred by the prevailing party related to enforcement of its rights under this document, including reasonable attorney's fees, shall be reimbursed by the other party.

Additional Terms for Purchase and Sale of Service Plans.

In addition to the General Terms above, the following terms apply to all Physio Service Plans. **Service Plans.** Physio shall provide services according to the applicable Service Plan purchased by Buyer and described at <http://www.physio-control.com/ServicePrograms.aspx> for the length of the subscription purchased and for the devices specified as covered by the Service Plan ("Covered Equipment").

Pricing. If the number or configuration of Covered Equipment changes during the Service Plan subscription, pricing shall be pro-rated accordingly. For Preventative Maintenance, Inspection Only, Comprehensive, and Repair & Inspect Service Plans, Buyer is responsible to pay for preventative maintenance and inspections that have been performed since the last anniversary of the subscription start date and such services shall not be pro-rated.

Device Inspection Before Acceptance. All devices that are not covered under Physio's Limited Warranty or a current Service Plan must be inspected and repaired (if necessary) to meet specifications at then-current list prices prior to being covered under a Service Plan.

Unavailability of Covered Equipment. If Covered Equipment is not made available at a scheduled service visit, Buyer is responsible to reschedule with the Physio Service Technician, or ship-in the Equipment to a Physio service depot. Physio reserves the right to charge Buyer a surcharge for a return visit. Surcharges will be based on then-current Physio list price of desired services, less 10% for labor and 15% for parts, plus applicable travel costs. The return visit surcharge will be in addition to the subscription price of the Service Plan. To avoid the surcharge, Buyer may ship devices to a Physio service depot. Buyer shall be responsible for round-trip freight for ship-in service.

Unscheduled or Uncovered Services. If Buyer requests services to be performed on Covered Equipment which are not covered by a Service Plan, or are outside of designated Services frequency or hours, Physio-Control will charge Buyer for such services at 10% off Physio-Control's standard rates (including overtime, if appropriate) and applicable travel charges. Repair parts required for such repairs will be made available at 15% off the then-current list price.

Loaners. If Covered Equipment must be removed from service to complete repairs, Physio will provide Buyer with a loaner device, if one is available. Buyer assumes complete responsibility for the loaner and shall return the loaner to Physio in the same condition as received, normal wear and tear exempted, upon the earlier of the return of the removed Covered Equipment or Physio's request.

Cancellation. Buyer may cancel a Service Plan upon sixty (60) days' written notice to Physio. In the event of such cancellation, Buyer shall be responsible for the portion of the designated price which corresponds to the portion of the Service Plan subscription prior to the effective date of termination and the list-price cost of any preventative maintenance, inspections, or repairs rendered after the last anniversary date of the subscription start date.

No Solicitation. During the Service Plan subscription and for one (1) year following its expiration Buyer agrees to not to actively and intentionally solicit anyone who is employed by Physio to provide services such as those described in the Service Plan.

RESOLUTION # _____

WHEREAS the Board of Directors of the Georgia Municipal Association has established a Certified City of Ethics program; and,

WHEREAS the City of Hapeville has participated in this program since 2002 and wishes to re-new its status as a Certified City of Ethics under the GMA Program; and,

WHEREAS part of the certification process requires the Mayor and Council to subscribe to the ethics principles approved by the GMA Board;

NOW THEREFORE BE IT RESOLVED by the governing authority of the City of Hapeville, Georgia, that as a group and as individuals, the governing authority subscribes to the following ethics principles and pledges to conduct its affairs accordingly:

- * Serve Others, Not Ourselves
- * Use Resources with Efficiency and Economy
- * Treat All People Fairly
- * Use the Power of Our Position For The Well Being Of Our Constituents
- * Create an Environment Of Honesty, Openness And Integrity

RESOLVED this _____ day of _____, 20__.

Mayor

Councilmember

Councilmember

Councilmember

Councilmember

Councilmember

ATTEST:

Note: A copy of the approved resolution and ordinance by cities who desire to participate in the GMA "Certified City of Ethics" program should be submitted to GMA, Attention: Legal Department, 201 Pryor Street, SW, Atlanta, Georgia 30303



President

Boyd Austin
Mayor, Dallas

First Vice President

Dorothy Hubbard
Mayor, Albany

Second Vice President

Linda Blechinger
Mayor, Auburn

Third Vice President

Phil Best
Mayor, Dublin

Immediate Past President

Mike Bodker
Mayor, Johns Creek

Executive Director

Lamar Norton

October 4, 2016

Mayor Alan Hallman
City of Hapeville
3468 N Fulton Ave
Hapeville, GA 30354-1466

RE: GMA Certified City of Ethics Program

Dear Mayor Hallman:

The City of Hapeville is scheduled to recertify in 2017 as a Georgia Certified City of Ethics. To remain certified, the city must submit to GMA for review and approval a copy of any changes to the city's ethics ordinance since initial certification and a current resolution signed by a majority of the governing body re-adopting the five ethics principles. You have two opportunities to recertify. To recertify and be recognized at Mayors' Day in January 2017, these materials must be received by GMA no later than December 1, 2016. To recertify and be recognized at the GMA Annual Convention in June 2017, these materials must be received by April 1, 2017. Please forward the materials to GMA Legal Assistant, Gina Shirley.

Please visit GMA's website, www.gmanet.com, to see the program requirements and sample ordinance and view the GMA publication "Ethics in Government: Charting the Right Course." If you have any additional questions about the program, please feel free to give Gina a call at (678) 686-6258 or email rshirley@gmanet.com.

We appreciate your participation in this important program.

Sincerely,

A handwritten signature in blue ink that reads "Susan J. Moore".

Susan J. Moore
General Counsel

C: Ms. Jennifer Elkins, City Clerk



ALAN HALLMAN
MAYOR

RUTH BARR
ALDERMAN AT LARGE

MICHAEL RANDMAN
COUNCILMAN AT LARGE

JOSHUA POWELL
COUNCILMAN WARD I

DIANE DIMMICK
COUNCILMAN WARD II

MEMORANDUM

From: William R. Whitson, City Manager 
To: Mayor and City Council
Subject: Proposed Legislative Program- Hapeville, GA. 2016
Date: November 30, 2016

As you know, each year the State legislature meets in Atlanta to decide various policy issues for the State. As part of that process the Georgia Municipal Association (GMA) develops a legislative policy document to outline the legislative priorities for local governments across Georgia. This document (attached) is a direct result of local official's policy, work and discussion form large and small communities around the State.

Specifically, it is my understanding that there is one (1) additional issue that the City will be pursuing this year to remove the language in our Charter regarding the need for a Water & Sewer Authority. As directed, we are retaining a legislative expert to assist us in filing and passing a local bill that would address this issue.

In closing, I would recommend that the Council adopt the following Resolution and authorize staff to work with the Legislative delegation to bring about this legislative tool for our community and many others across Georgia that could benefit from this approach.

Should you have any questions, please feel free to contact me or Chief Glavosek.

Copy: Steve Fincher, City Attorney
Tom Gehl, Director-Governmental Relations
Al Outland, Georgia Municipal League
South Fulton League
City Staff

3468 North Fulton Avenue, Hapeville, Georgia 30354
City Hall 404.669.2100 www.hapeville.org

Community Service
3474 N. Fulton Avenue
404-669-2120

Economic Development
3468 N. Fulton Avenue
404-669-8269

Fire Department
606 King Arnold Street
404-669-2141

Police Department
700 Doug Davis Drive
404-768-7171

Recreation Department
3444 N. Fulton Avenue
404-669-2136



2017

**Legislative
Policies**



GMA Legislative Policy Council

2015 – 2016 Members

Boyd Austin - City of Dallas
Chair

Teri Anulewicz - City of Smyrna	Isaiah Hugley - City of Columbus
David Belle Isle - City of Alpharetta	Deborah Jackson - City of Lithonia
Shelly Berryhill - City of Hawkinsville	Terrell Jacobs - City of Douglas
Phil Best - City of Dublin	Mike Jewell - City of Lawrenceville
Linda Blechinger - City of Auburn	Joan Jones - City of Johns Creek
Mike Bodker - City of Johns Creek	Josephine Kelly - City of Porterdale
Larry Bradley - City of Monroe	Kay Love - Roswell
Keith Brady - City of Newnan	Evie McNiece - City of Rome
Jimmy Burnette - City of Suwanee	Cesar Mitchell - City of Atlanta
Lisa Clarke Hill - City of Moultrie	Larry Morgan - City of Louisville
Michelle Cooper Kelly - City of Marietta	Kay Pippin - City of Jackson
Hardie Davis - City of Augusta	Buddy Pittman - City of Eastman
Jim Elliott - City of Warner Robbins	Robert Reichert - City of Macon
Beth English - City of Vienna	Ken Smith - City of Kingsland
Andrea Gibby - City of Young Harris	Dianne Tate - City of Cartersville
Larry Hanson - City of Valdosta	Jim Thornton - City of LaGrange
Teddy Harris - City of Rossville	Billy Trapnell - City of Metter
Jason Holt - City of Fitzgerald	Keith Turman - City of Royston
Dorothy Hubbard - City of Albany	Kenneth Usry - City of Thomson
	Vince Williams - City of Union City

Support *Your* Hometown

Legislative Principles

Tools to Build

GMA supports the growth and development of strong and accountable municipalities that serve as vibrant centers of commerce, provide safe hometowns and reflect local values.

Authority to Lead

GMA supports the authority of municipalities to respond to local needs and circumstances as well as cities' role in promoting local leadership and local accountability.

Partnerships to Succeed

GMA supports active and informed municipal government participation in the complex local-state-federal intergovernmental system that is based on trust and accountability.

Table of Contents

Community Development	Chapter 1
Environment and Natural Resources	Chapter 2
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Public Safety	Chapter 4
Revenue and Finance	Chapter 5
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GMA Community Development Policy Committee

Policies in this chapter are listed in priority order

POLICY RECOMMENDATIONS

1. Municipal Broadband

GMA opposes any legislation that would limit the ability of local leaders to invest in the broadband infrastructure that is important to meet the economic development and quality-of-life needs of their citizens and businesses.

Explanation: Broadband is a utility that is as important as water, gas and electricity for economic development and quality of life. Many of Georgia's cities have slow or limited access to the Internet compared to regional and international peers. Limiting the option of publically funded broadband would limit the ability of communities to alleviate that disadvantage in those instances where private providers have decided those investments do not fit their business model. GMA opposes legislation that would tie the hands of municipal officials, inhibiting them from efforts to build digital networks they need to attract economic development and create a high quality of life for their citizens.

2. Local Control in Alcohol Sales

GMA supports local control in granting permission for tasting, pouring and package sales of wine, beer and liquor. Furthermore, GMA supports examining the economic development opportunities provided by craft brewers and distilleries.

Explanation: Communities across the state have varying perspectives relating to tastings, pouring, and package sales in their cities. Decisions relating to beer, wine and liquor should be made at the local level. GMA supports legislation that provides flexibility to cities to make decisions about alcohol sales and opposes

legislation that imposes state law or circumvents local decisions about alcohol licenses. Studies indicate that craft breweries bring jobs and economic development to downtowns and craft breweries and distilleries should be encouraged to locate in Georgia.

3. Funding for Mental Health, Addictive Diseases and Developmental Disabilities

GMA supports funding for a robust system of care for behavioral health, addictive diseases and developmental disabilities. State hospital or other institutional closures should use an open, engaged process in cooperation with the impacted cities and hospital staff. GMA encourages the state to pursue adaptive re-use of closed facilities.

Explanation: GMA recognizes the need for a robust system of care that supports recovery and independence for people living with mental illness, addictive disorders and developmental disabilities. Locally provided state services to individuals living with disabilities are critical to providing an appropriate safety net and an alternative to incarceration. These services also help people meaningfully contribute to and participate in the life of our communities. In the event that closure of a state hospital is anticipated, the state should discuss the planned closure with the affected city to ensure adequate planning for residents and employees.

4. Redevelopment

GMA supports amending the Urban Redevelopment Law to ensure that conflict of interest provisions are meaningful. GMA encourages full funding of the Georgia Renaissance Fund and increased funding for technical support for downtown development and community redevelopment.

Explanation: Georgia's laws on urban redevelopment and tax increment financing provide critical tools for encouraging development and financing redevelopment. Administrative and legal costs for implementing redevelopment projects should be kept as low as possible to ensure that taxpayers receive maximum value for the projects.

5. Regulatory Authority over Residential Housing and Commercial Property

GMA supports municipal powers that ensure adequate living conditions for all residents through consistent and responsible enforcement of local health, public safety and safety codes. GMA supports local initiatives and programs that assist local governments in determining ownership of vacant and foreclosed property. Additionally, GMA supports legislation allowing cities to inspect rental property as a condition of the issuance of an occupation tax certificate.

Explanation: Municipal governments should work with private property owners, investors, banks and residents to ensure that living quarters for all citizens are maintained to safe, healthy and aesthetic minimums. Health and safety codes were designed to provide residents with certain basic minimum protections. Municipalities must be able to enforce these codes to protect all citizens. Due to the foreclosure crisis, vacant and abandoned buildings have presented public safety concerns for citizens, affecting quality of life, property values and safety. Additionally, municipalities need the authority to ensure the safety of residential rental properties. Statutory authority to inspect of residential rental properties would allow cities to ensure the health and safety of its citizens while protecting the property values of neighboring residential and commercial property.

6. Hotel/Motel Tax

The hotel/motel tax should provide flexibility to cities to expend funds collected for economic development and tourism promotion. GMA supports the full collection of hotel/motel tax for

all hotels regardless of the occupant's length of stay.

Explanation: The revenues generated from the tax are an important funding source for cities, and any changes to the statute should ensure maximum flexibility to the city to spend the funds for tourism promotion and economic development.

7. Impact Fees

GMA opposes any efforts to amend the Georgia Development Impact Fee Act to give counties the authority to impose impact fees within municipal limits for countywide services. GMA also opposes any effort to artificially limit the amount of the impact fee that may be levied and any effort to further limit the geographic area in which impact fees may be expended.

Explanation: Georgia's Development Impact Fee Act is a balanced and equitable tool to help pay for new growth and development. While some question the appropriate service area for the expenditure of impact fee revenues, the questions often result from a natural confusion between the definition of "project improvements," which are not included in the impact fee, and "system improvements," which are subject to impact fees. GMA supports the ability of municipal leaders to establish impact fees for projects within municipal boundaries. Counties should only have authority to establish impact fees for projects in the unincorporated area. Existing law already provides a mechanism for municipalities and counties to work together on impact fees through intergovernmental contracts. Allowing the unilateral imposition of impact fees by county commissioners would upset and override existing Service Delivery Strategy Act and Special Purpose Local Option Sales Tax Act agreements. GMA believes that municipal and county officials, as well as school officials, should communicate more rather than less with respect to land use and development and work cooperatively to ensure sound growth patterns and prosperous municipal centers.

FEDERAL ISSUES

1. Municipal Bond Tax Exemption

GMA calls on the federal government not to limit in any way the income tax exemption for municipal bonds.

Explanation: The American Society of Civil Engineers estimates that the nation should spend over \$3.6 trillion between 2013 and 2020 on infrastructure projects. Much of this need must be met by states, counties, and cities with municipal bonds being the primary tool for doing so. Tax-exempt bonds are the foundation of public finance. They have been used for over 100 years to help build roads, bridges, sewers, dams, city halls, prisons, schools, hospitals, libraries, low income housing, and thousands of other public and private projects. Today, over 60% of tax-exempt bonds are held by individuals either directly or through mutual funds, with 51% of all tax-exempts owned by individuals with an adjusted gross income of under \$200,000 annually. According to the Protecting Bonds to Save Infrastructure and Jobs 2013 Report, a 28% cap would cost state and local governments an additional \$173 billion in interest expense and if eliminated altogether, the cost would reach \$495 billion. The direct cost of the tax exemption on the federal government is currently estimated at \$37 billion annually. This amounts to a small federal expenditure in terms of the total federal budget and is overwhelmingly justified by the overall investment and job creation generated by the availability of low-cost borrowing. Regardless of the budgetary impact on the federal government, tax-exempt bonds are a primary catalyst for economic development, job creation, and investment. The elimination of the exemption would cost billions to the national, state, and local economies in lost projects and investments.

2. Community Development Block Grant (CDBG)

GMA joins local and state governments across the nation in supporting continued, full funding of the CDBG program for municipal and county community and economic development programs and projects, and supports continued administration of the CDBG program at the state level. Further, as the Department of Housing and Urban Development (HUD) administers the State CDBG program, GMA encourages HUD to meet the letter and spirit of that rule's "maximum feasible deference" clause.

Explanation: CDBG has served to create jobs, develop affordable housing, stabilize neighborhoods and provide necessary public services to non-entitlement local governments throughout Georgia. The strength of the CDBG program lies in local determination of immediate need, flexibility in addressing problems, identifying eligible activities, and responsible administration of funds by state and local officials.

3. Census Count for Deployed Soldiers

GMA urges the U.S. Secretary of Commerce to change its existing policy for decennial Census counts to allow all US Army soldiers to be included in the count at their home installation, regardless of deployment status on the date of the Census.

Explanation: Since the Vietnam era, the U.S. Secretary of Commerce has counted deployed Army personnel at their "home of record" rather than at their home installation for Census population counts. Since the 1970's, significant changes have taken place in the U.S. Military – there is no longer a draft and the size of the Army is smaller. Cities and counties that are home to military bases provide services for soldiers and their families, regardless of the deployment status of a soldier at the time of the Census count. It is imperative to the local governments that serve military bases that soldiers be counted at their home base whether or not they are deployed on the date of the decennial Census. Federal and state funds and formulas for economic development, water allocation, transportation, housing, health and human services, education, public safety, and

other critical programs are all based on decennial census data. The rules governing census counts for Navy and Air Force service personnel count those individuals at their home installation and consistent policy should be used for Army soldiers so that the cities and counties with Army installations will have an accurate census count so they will qualify for the resources necessary to continue to provide a high quality of life for soldiers and their families.

GMA Environment and Natural Resources Policy Committee

Policies within this chapter are listed in priority order

POLICY RECOMMENDATIONS

1. Water Resource Policy

GMA supports equitable access for all Georgians to a reliable supply of quality water while ensuring that the available resources protect public health and environmental quality and support economic development.

GMA supports the full implementation of a statewide, comprehensive water management plan that is continually updated, refined and includes meaningful municipal government involvement. GMA believes that adequate funding for the next phases of the water planning effort and planning costs for the state water plan should not be in the form of additional permit conditions which equate to an unfunded mandate. GMA recommends that regional water planning councils become permanent bodies and existing members, where practical, should be retained to maximize consistency in future planning efforts.

GMA recommends that all legislation, study committees and administrative actions on water policy be coordinated with the work of the regional water planning councils in accordance with the statewide water plan. Regional water plans should be enforced and adhered to by the Environmental Protection Division.

Explanation: Since most of the water supply and water treatment systems across the state are owned and operated by municipalities, GMA – and more importantly, the municipalities that manage water – must be at the table as the comprehensive water plan is discussed and developed. Additionally, the effect of local land use decisions on water quality will be a major source of discussion within the planning process and has far-reaching implications in terms of how governments may be required to manage water resources in the future. GMA supports incentives and technical assistance for local governments for

the implementation of water planning programs. Future funding for the implementation of regional water plans should be explored, including the consideration of funding mechanisms such as per capita assessments or water withdrawal fees, and such revenue should remain in each region where it is generated.

Municipalities must be engaged in the local and regional planning process and should be prepared to help support these planning efforts financially. Only through active involvement in the local and state planning process will municipal officials be able to ensure that their citizens will have equitable access to a reliable supply of quality water while ensuring that the water plan protects public health, environmental quality and supports economic development.

2. Water, Wastewater and Sewer

GMA supports cities' authority to own and operate and set rates for public water, wastewater and sewer systems to meet the demands of citizens. GMA supports the right of cities to impose rate differentials to account for the disproportionate cost of providing service to extraterritorial customers.

Explanation: Cities must maintain the ability to recapture the cost of providing services to all customers and not saddle their citizens with an unfair proportion of the cost. Cities are constitutionally permitted to provide water, wastewater and sewer services to their citizens, and many are created to do exactly that. To allow some citizens to pick and choose subscription to a particular service by which a city was established would circumvent the creation of the city and the delivery of services which the citizens choose upon incorporation in some instances. The service cannot skip certain homes or waive fees for those choosing not to participate as infrastructure costs must be borne by all taxpayers who may be served by the public system. Indeed, city residents are

oftentimes contributing to general obligation bonds for the city's water and wastewater infrastructure, while those living outside of the city do not have the same bond obligations.

3. Stormwater Utilities

Given the regulatory demands of managing stormwater runoff and nonpoint sourcewater pollution, GMA supports cities' current authority to enact stormwater utilities.

Explanation: Federal and state mandates have imposed various responsibilities on local governments for managing stormwater and non-point source pollution from unmanaged stormwater run-off is a major source of water pollution. As a result, many local governments have decided to create stormwater utilities to pay for the costs of managing stormwater to protect the state's precious water resources. Furthermore, the State Water Plan explicitly endorses and encourages the creation of local government stormwater utilities as a means of funding to control stormwater run-off and non-point source pollution.

Stormwater utilities should continue to be recognized as a viable option for local governments to use in being good stewards of the state's valuable water resources.

4. Increased Technical and Practical Assistance by State Environmental Staff

GMA supports additional state funding to adequately staff positions within the Environmental Protection Division (EPD) that would enable EPD to provide increased technical and practical assistance to Georgia's municipal governments, to cultivate a relationship of support based on our mutual goal of a clean environment. GMA supports the creation of an office within the Department of Natural Resources dedicated to technical and practical assistance for local governments.

Explanation: Rather than having the state occupy only a regulatory role, greater emphasis should be placed on providing technical assistance to municipal governments as they strive to fulfill

environmental goals. GMA hopes that any increased technical staff at the state level would bring about a more efficient process for state permits. Provision by EPD of basic guidelines, procedures and templates would result in more complete permit application submissions and a timelier, efficient review. A practicum considering geographic location, growth rate and population density should be developed to recognize the diversity of Georgia's municipalities and the practical application of environmental stewardship by local governments and public utilities.

5. Expedited Environmental Protection Division Permitting Process

GMA recommends a streamlined permitting process and expedited project review that will result in efficiencies at EPD.

Explanation: As Georgia grows and infrastructure requirements change, municipal leaders make responsible investment decisions to accommodate these increased demands. The EPD must approve of new or modified permit applications prior to the groundbreaking of these public works projects, and municipal governments are often forced to wait more than a year for a response from EPD on a permit application. The anticipated costs of these infrastructure projects often rise exponentially between the time the permit is applied for and the response from EPD. Since an infusion of funds to allow EPD to increase the permit review time period is not anticipated, a solution is needed to ensure EPD can allocate its resources where they are needed most.

6. Greater Regulation of Solid Waste Transfer Facilities

Solid waste transfer stations should be formally permitted by the Environmental Protection Division and comply with local zoning and ordinances. Additionally, any solid waste transfer station should be subject to the same local host fee currently applied to solid waste disposal facilities.

Explanation: Private, for-profit solid waste companies are increasingly relying on solid waste

transfer stations as a way of handling waste streams eventually bound for a landfill. Oftentimes, these solid waste transfer stations are located in areas zoned for industrial use. However, these stations do not require an EPD permit or consistency with local solid waste management plans as landfills do, nor do they require a demonstration of need to EPD prior to operating under a "permit-by-rule." In addition, solid waste transfer stations do not get assessed a local host fee, yet there are local costs associated with hosting a solid waste transfer station, such as public education efforts for solid waste management, administration of the local solid waste management plan, and offsetting the impact of such a facility on a community.

7. Recreation and Conservation Funding

GMA supports the creation of a stable source of grant and loan funding to assist local governments in open space protection, acquisition and renovation, purchasing adequate buffers to protect water quality, the development of park areas and recreation facilities, flood control and regional stormwater retention facilities. Additionally, GMA supports adequate funding of the Georgia Recreation Assistance Grant Program and the implementation of the State Comprehensive Outdoor Recreation Program (SCORP) as administered by the Georgia Department of Natural Resources. GMA supports cities' ability to use resources efficiently and expediently.

Explanation: Limited funding has hampered the ability of most municipalities and counties in Georgia to develop adequate open recreational space and public recreation facilities. Recent studies by the Georgia Department of Natural Resources and the Georgia Recreation and Park Association clearly document funding needs to support the state's growing population. Georgia needs an ongoing and adequately funded incentive grant program to meet needed local recreation and parks priorities.

8. Regional Recycling

GMA supports regional recycling efforts in order to bring access to recycling to more communities.

State supported public and private partnerships forged at the regional level will incentivize the needed infrastructure to encourage wider citizen involvement and support for recycling efforts. GMA supports efforts to educate citizens on the recycling process.

Explanation: GMA's member cities vary in geographic size and density. In order to realize the benefits of recycling, regional efforts are needed. We must work toward a greener Georgia with our various partners, such as Keep Georgia Beautiful, through a statewide recycling strategy.

9. Streamlined Environmental Funding

GMA supports the State of Georgia developing a strategic plan for creating a streamlined process for funding environmental assets and eliminating barriers to accessing these funds.

Explanation: Currently, there are many different sources of funding for environmental assets, some of which overlap. GMA recommends that the State develop a streamlined process for funding so that environmental assets are adequately funded while not being burdensome and duplicative.

FEDERAL ISSUES

1. Storage for Water Supply at Federal Reservoirs

GMA supports an update of the river basin water control plans and manuals by the US Army Corps of Engineers which safeguards current and future authority to use its reservoirs to provide municipal and industrial water supply.

Explanation: The U.S. Army Corps of Engineers updated the Master Manual for the Alabama-Coosa-Tallapoosa River Basin in 2014, but in doing so it failed to reallocate storage for municipal and industrial water supply or otherwise address longstanding water supply needs. The Cobb County-Marietta Water Authority first requested additional storage in Allatoona Lake in 1981; the Corps has never acted on that request.

The Corps is also working on a new master manual for the Apalachicola-Chattahoochee-Flint River Basin, which is expected to be released in 2017. The manual will include water supply contracts for counties and municipalities in North Georgia that rely on Lake Lanier and the Chattahoochee River for water supply.

GMA opposes any limitation, legislative or otherwise, on the Corps' existing water supply authority. Federal water infrastructure should continue to be available to meet municipal water supply needs when this is the highest and best use of the resources. Water is a scarce resource and caring for this resource takes collaboration and planning.

2. Federal Conservation and Sustainability Funding

GMA supports continued and expanded funding for land & water conservation and energy efficiency. Federal funding should promote flexibility and streamline implementation in use of that funding.

Explanation: The federal Land & Water Conservation Fund has since 1966 provided over \$83 million in grant funds for outdoor recreation. With continuing annual appropriations, the Land & Water Conservation Fund will make a difference by funding needed parklands and recreational facilities in Georgia's cities.

BUDGET RECOMMENDATIONS

1. Georgia Environmental Finance Authority Funding

GMA supports protecting the Georgia Environmental Finance Authority's assets and providing adequate funding levels for GEFA's loan programs.

Explanation: The Georgia Environmental Finance Authority's (GEFA) operates a number of grant and loan programs to help protect and promote Georgia's environmental assets. GEFA provides various grant and loan programs that are a critical source of funds for water, land

conservation projects and energy conservation projects.

2. Protection of Funds to Support Local Government Environmental Needs

GMA supports protecting the assets of the Georgia Environmental Finance Authority, the Hazardous Waste Trust Fund and the Solid Waste Trust Fund. GMA supports returning all fees, (including but not limited to NPDES fees, to the Environmental Protection Division) as stipulated in the Erosion and Sedimentation Act and other applicable statutes. These assets must be protected in order to ensure that local governments have a predictable and secure means of financing environmental projects that keep their communities safe. These funds also help local governments meet various mandated state and federal laws and regulations. GMA opposes efforts to transfer the assets of these dedicated sources of local government environmental financing.

Explanation: The Georgia Environmental Finance Authority's (GEFA) water and sewer revolving loan program provides local governments with a source of low-cost financing for water and wastewater infrastructure improvements. After the securitization of GEFA's Georgia Fund portfolio, it is imperative that the state leadership rebuild the asset base for low interest loans from the Georgia Fund in the coming years. Failure to rebuild a reliable source of loan funds would negatively impact the ability of communities to pay for water and wastewater infrastructure to meet the challenges of future economic development.

In recent years, The Hazardous Waste Trust Fund was reduced to a level that will result in no new clean-up projects and leave reimbursements to local governments for clean-up projects unpaid. This trust fund is financed through fines for environmental violations, through fees on hazardous waste generators and handlers, and through a tipping fee on municipal solid waste. GMA has worked to ensure that at least half of the money expended for hazardous site clean-ups is spent on local government projects.

The Solid Waste Trust Fund has also been reduced in recent budgets. This fund is generated by the fee on scrap tires and is used for direct scrap tire cleanup through the EPD and also for technical assistance and litter abatement programs such as Keep Georgia Beautiful affiliates, which are managed through DCA. Without money to clean up tires, Georgia residents will face health problems caused by the proliferation of mosquitoes in standing water, as well as other resulting pollution.

GMA Municipal Government Policy Committee

Policies within this chapter are listed in priority order

POLICY RECOMMENDATIONS

1. Restriction on Municipal Powers

Protection of home rule powers and local control is of paramount importance to all municipalities. GMA strongly opposes any legislation that restricts the authority of municipalities to respond to and meet the needs of their citizens.

Explanation: Municipal government is the government closest and most responsive to the needs of municipal residents and businesses. Recent polling information indicates that citizens want local control of taxing ability, zoning, quality of life issues and public safety. GMA is concerned with the continued erosion of home rule and any restrictions on the ability of municipalities to enact ordinances and enforce regulations to protect the health, safety and welfare of municipal residents.

2. Service Delivery Strategy

GMA is supportive of the Service Delivery Strategy Act and most of the provisions included in that statute. However, GMA recognizes that problems exist with the implementation of the law. GMA supports a stronger enforcement mechanism to ensure adherence to service delivery agreements. GMA further encourages changes to the statute that would enable local governments to avoid duplication and protect the taxpayer from unfair taxation. City residents should not be taxed by a county for services not received. GMA encourages the active involvement of every city in any applicable service delivery agreement. Cities and counties should be required to take Local Option Sales Tax distribution into consideration when negotiating SDS. Currently there are sanctions that withhold Qualified Local Government Status from parties that fail to reach agreement on SDS negotiations, and GMA opposes the imposition of additional sanctions.

Explanation: GMA believes that each municipality should have access to the dispute resolution process regardless of the size of the municipality. GMA contends that even though efforts have been made to remove county level constitutional officers from SDS planning, tax funds supporting those positions are still negotiable between municipalities and the county in an effort to reach tax equity. GMA contends that eliminating the Service Delivery Strategy Act would negatively impact municipalities if done without considering other related legislative actions that have been enacted since SDS was created. Furthermore, because of the unique nature of water and sewer services, any city providing such services should be a party to any applicable service delivery agreement.

3. Sovereign Immunity

When a city works with the state or a county to provide services or facilities, the city should have the same sovereign immunity as the county or state, whichever is greater.

Explanation: Municipalities act for the public good and respond to the public need and therefore must provide a broad range of services and perform a broad range of functions throughout their corporate boundaries regardless of how much exposure to liability may be involved. The exposure of municipal treasuries to tort liability must be limited. Municipalities deserve the protection offered by county sovereign immunity or the State Tort Claims Act.

4. Management of Public Rights-of-Way

The public should be compensated for the use of municipal rights-of-way. Use of the municipal right of way by any private company or individual without appropriate compensation to the public is

a gratuity. GMA opposes any legislation that weakens the authority of Georgia's municipalities to regulate the use of their public rights-of-way and which weakens the authority to locally determine appropriate compensation for such use.

Explanation: Municipalities currently have the authority to regulate the use of public rights-of-way and contract with utility providers for their use. Any changes to the use of public rights-of-way could hinder economic growth for municipalities and could jeopardize public safety.

5. Annexation/Deannexation

GMA supports existing annexation and deannexation law which affords property owners the right to petition the municipal governing authority for both annexation and deannexation.

Explanation: During each legislative session, bills are introduced that further limit the ability of the property owner to petition for annexation. The issues generally are about zoning changes, density, or service delivery demands and these are best addressed at the local level between the property owner, the municipality and the county. Growth and development continues the need to create housing, jobs, and quality of life desired by the citizens across the state. The right to petition for deannexation should be available and the right to weigh the benefits and disadvantages that deannexation causes should be reserved to local municipal officials and should avoid placing hardship on citizens and property owners remaining within the municipal boundaries. The authority to unilaterally annex unincorporated islands should be retained, regardless of when the island was created, to avoid service delivery conflicts and increased costs on existing taxpayers unless the city is permitted to create a special service tax district for unincorporated islands.

6. Early Voting

GMA supports full access to the polls for municipal elections and opposes any attempt aimed at voter suppression. GMA supports a timeframe of three weeks of early voting for municipal elections with an option to reduce the timeframe to a minimum of one week including a

minimum of one weekend day. Due to light turnout for municipal elections, the option of reducing early voting to one week of early voting is appropriate for city elections, which are non-partisan and held in odd-numbered years.

Explanation: Access to the polls for municipal elections is critical for a healthy, functioning democracy and to ensure that mayors and city council members are representative of the voters who they are elected to represent. While the three-week early voting is a tool that is effectively used in high turnout state and county elections, municipal elections are non-partisan and are held on odd-number years. The volume of voters in a municipal election is significantly less than in state and county elections and many cities will only process a handful of early voters during the required three-week timeframe. City officials have expressed concern that the cost of administering an extended voting period for very few early voters is not an efficient use of taxpayer resources and a local delegation should have the option to shorten the early voting timeframe for municipal elections to reflect the lighter turnout in municipal elections.

7. Consolidation

GMA supports local decision-making authority for municipal operations. In some instances, consolidation of municipal and county governments may be the most efficient manner to provide services to citizens. GMA opposes attempts to consolidate municipal and county operations without consultation and consent of municipal elected officials and the same timeframes and limitations that are imposed for the creation of a new city should apply to legislation for consolidation.

Explanation: GMA seeks to ensure that discussions about consolidation are deliberate and include the affected municipal elected officials.

8. Frivolous Litigation

GMA supports legislation which inhibits frivolous litigation against cities, allows cities to recover court costs and attorney fees resulting from frivolous litigation, and requires

any litigant to provide a city with reasonable notice before any litigation is commenced. GMA supports legislation which prevents the creation of multiple standards to comply with laws of general applicability.

Explanation: Legislation that creates new or additional legal exposure to cities creates burdensome costs to municipal taxpayers. Cities should be provided the same opportunity to recover litigation costs that a plaintiff is entitled to recover; the false notion that cities have “deep pockets” to respond to and incur legal costs should not be codified by the General Assembly. In many cases, costly litigation may be avoided if ante litem notices are provided to the city. Multiple standards of application for a generally applicable law lead to litigation.

9. Municipal Incorporations

GMA supports citizen access to the heightened services and more responsive representation offered by municipal government. The incorporation of new municipalities should be limited to areas that would be fiscally feasible. Furthermore, new incorporations should be the most economical and effective means of providing municipal services and should not interfere with the natural growth or operation of existing municipalities.

Explanation: Recently, Georgia has witnessed a surge of interest by various communities in the benefits of municipal government. As the level of government that is closest to the people, municipalities offer home rule that gives citizens greater influence in the character of their community and the nature of services that they wish to receive. As an entity that supports home rule and the benefits that municipalities offer, GMA is supportive of their aspirations.

New incorporations should be undertaken with careful attention to the practical challenges of effectively providing services. In order to thrive, municipalities need an adequate mix of residential and commercial property. New municipalities are most appropriate in areas that have adequate

population and density to support the effective provision of municipal services.

Finally, care should be taken to ensure that new incorporations do not harm existing municipalities. A natural characteristic of municipalities is that they grow, and the most common way in which this is accomplished is through judiciously exercised annexation. Most existing municipalities have logical growth areas outside their existing limits, where the creation of a new municipality could lead to an inefficient duplication of service.

10. Immigration

GMA will seek to ensure that any state laws placing mandates on cities related to immigration enforcement are practical, unambiguous and reasonably administrable.

Explanation: Recent legislation has placed unnecessary mandates and burdensome administrative work upon city employees. The state laws creating these mandates are either so vague or so broad in critical areas as to make local compliance either extremely difficult or pointless. Any new law should be clear so that cities can implement reasonable efforts to curtail illegal immigration.

FEDERAL ISSUES

1. Local Control of Land Use

GMA supports a balanced approach to telecommunications policy that allows new technologies to flourish while preserving traditional local regulatory authority.

Explanation: Federal policies should not undermine the ability of municipal officials to protect the health, safety and welfare of their residents by diminishing local authority to manage public rights-of-way, to zone, to collect just and fair compensation for the use of public assets. The Federal Government must not preempt or restrict zoning authority and other local land use laws or requirements applied in a non-discriminatory and timely manner that regulate the location,

placement, size, appearance, screening or siting of transmission and receiving facilities and any other communications facilities such as satellite dishes, radio towers, broadcast facilities, microwave facilities, equipment housing and similar facilities. Disputes over local zoning and land use matters must be adjudicated by the state courts and not the FCC.

GMA Public Safety Policy Committee

Policies within this chapter are listed in priority order

POLICY RECOMMENDATIONS

1. Public Safety Collective Bargaining and Mandated Pay and Benefits

GMA strongly opposes legislation establishing collective bargaining for local government employees, placing costly restrictions and requirements on the relationship between municipalities and municipal employees or mandating pay and benefit levels.

Explanation: Due to its cost, inefficiency and detrimental effect on the provision of government services and because it violates the principle of home rule, GMA opposes legislation seeking to establish collective bargaining for local government employees. All local government employees are afforded adequate constitutional due process protection. GMA opposes legislation that would directly affect local public safety personnel policies, be an unnecessary and unwarranted intrusion into local matters and provide extraordinary rights for one class of municipal employee. GMA supports the adoption and implementation of appropriate personnel policies by local elected officials.

GMA also supports improved public safety pay and benefits as determined at the local government level and opposes the imposition of pay and benefit levels by state or federal mandate. GMA has and is committed to continuing to work with local governments on identifying pay and benefit improvement alternatives and methods of funding these improvements.

2. Funding for Local Law Enforcement Officer Equipment and Training, Municipal Judge Training and Municipal Court Clerk Training

GMA continues to support utilizing funds collected for public safety equipment and

training, municipal court judge and municipal court clerk training solely for that purpose. GMA supports adequate funding for local public safety personnel training and counseling, municipal court judge and municipal court clerk training.

Explanation: Article III, Section IX, Paragraph VI (d) of the Georgia Constitution authorizes the imposition of additional penalties to be used to provide training for law enforcement officers. Code Section 15-21-70 et. seq. provides that the fine monies collected be submitted to the state and placed in the general fund and spent on law enforcement officer training. While the bulk of the money is collected from cases brought to court by local police agencies, most of the appropriations for training have gone to state agencies and officers. According to the Peace Officer Standards and Training Council, municipal police officers comprise the majority of law enforcement officers in Georgia and as a result, have the majority of interactions with the general public. Proper training of police officers is an essential part of any public safety effort. The state should therefore appropriate adequate funding to both the Georgia Public Safety Training Center and to regional academies to ensure that the majority of all law enforcement personnel are adequately trained. In addition to adequate funding for training, funding for counseling and treatment for public safety personnel who experience mental trauma should be considered in state appropriations.

3. Decriminalization of Misdemeanor Offenses

GMA opposes attempts towards decriminalization of misdemeanor offenses, including traffic offenses, unless such legislation does not threaten to compromise public safety and remains revenue neutral to the operations of municipal court and municipal government.

Explanation: In 2011, the Special Council on Criminal Justice Reform issued its report detailing a large array of ideas for updating Georgia's criminal justice system. One proposed idea was to reclassify and decriminalize minor traffic offenses under three points. Numerous other states have reclassified and decriminalized minor traffic offenses and many of those states have encountered unintended consequences. In order to ensure the payment of imposed fines many states have gone from the 'stick' of potential jail time to the loss of license or motor vehicle registration. Such actions may threaten public safety by causing more drivers to be on the roads without proper licensing, registration, and potentially insurance.

Additionally, municipal courts, including indigent defense costs, are funded by the municipality in which they are located. Any attempt to decriminalize misdemeanor offenses, including minor traffic offenses, must ensure that there is no negative fiscal impact on the municipal court or the municipality. Fine collection is already a difficult proposition and without the proper incentive many people may simply choose to ignore court imposed fines for misdemeanor offenses. Fine collections are important for covering the administrative costs of operating a municipal court, and thus for ensuring the laws are obeyed and public safety is not compromised.

4. Municipal Court Fines and Fine Add-Ons

GMA will seek to have the payment of municipal fines take precedence over the remittance of revenue to fine add-on recipients in partial payment cases. GMA adamantly opposes any new additional state imposed fine add-ons collected on offenses adjudicated in municipal court. GMA supports an administrative and processing fee based on a percentage of the fine add-ons collected and remitted to various entities.

Explanation: Municipal courts and municipal police departments are wholly funded by municipal tax payers. Cases brought to such municipal courts are typically made by municipal police or code enforcement personnel,

are adjudicated by municipal judges and the administration is handled by municipal personnel. Municipalities pay to house municipal prisoners in county jails and must spend their own resources to provide for indigent defense. In recent years, the creation of new fine add-ons and regulatory changes have placed fine add-on recipients above municipalities in the priority for receiving fine payment in cases where the entire fine is not immediately paid in full. The effect of these changes has been to force municipal courts to act as tax collections agencies for state government programs that rarely benefit municipalities. Municipal courts carry a large burden in collecting and remitting fine add-ons to various entities and should be able to retain a percentage of the amounts collected as an administrative fee for the work done by the municipal court.

The creation of new state imposed fine add-ons, given the current number of existing fine add-ons and the partial payment priority system currently in place, is overburdening defendants that are adjudicated in municipal court. Additional fine add-ons result in sending more defendants to probation and imposing more costs on the administration of municipal courts.

5. Funding Crime Labs

GMA believes that adequate and proper funding of state crime labs is a responsibility of state government and opposes efforts to shift costs for their support from the state to local governments.

Explanation: State crime labs are a vital resource used by local law enforcement agencies seeking to prosecute state crimes on behalf of the State of Georgia. Efforts that seek to make local governments pay for their operation fail to recognize that cities already remit fine add-ons to the state to pay for this service and that shifting additional costs to local agencies merely increases the tax burden locally.

6. Local Law Enforcement Jurisdiction

GMA supports the ability of municipal law enforcement agencies to patrol and enforce the traffic laws on all federal, state and local public roads in their jurisdiction.

Explanation: Numerous proposals aimed at making it more difficult for local law enforcement agencies to enforce traffic laws on Interstates and state highways have been recently circulated. These proposals incorrectly presume that traffic enforcement is designed to generate revenue for local governments, when in fact such enforcement is critical to public safety. Georgia has fewer than 1,000 state patrol officers and relies heavily on local law enforcement to fill in the gaps of patrolling public highways. Not only do local traffic enforcement efforts save lives on our highways, they also result in numerous arrests of fugitives and felons that have otherwise escaped from the criminal justice system. Legal remedies including investigations by the state Department of Public Safety and the accountability of local elected officials at election time provide an adequate check on any abuses. Hampering the ability of local law enforcement to patrol the highways and Interstates will be devastating to public safety on the local and the state level.

7. Firearms on Public Property

GMA supports the Second Amendment of the United States Constitution. GMA believes reasonable laws regulating persons with serious mental health issues and their ability to obtain firearms licensing are warranted. GMA supports the ability of local governments to set policies regarding the carrying of weapons and firearms by their employees and volunteers while they are engaged in the course of their employment. GMA supports municipal law enforcement and believes that criminal laws are best enforced by properly trained law enforcement personnel.

Explanation: Many municipal officials are strong advocates for the right of gun ownership. However, GMA believes that those elected officials are the best qualified to craft local

policies about when it is appropriate for firearms and weapons to be brought onto municipal public property.

8. Bias-Based Profiling

GMA opposes the practice of profiling of protected classes and encourages efforts by municipal police departments to train officers not to engage in such profiling. GMA supports legislation that requires training, supervision and local policies designed to prevent bias-based profiling, provided that any data collection mandates apply only to those agencies found to be engaged in such practices.

Explanation: Many municipal police departments already train their officers not to engage in bias-based profiling, a practice that undermines public confidence in law enforcement. Several recent state proposals, however, would have required that police officers collect additional data at every traffic stop. Given that municipalities already send a copy of every traffic citation issued to the state, containing identifying data, additional data collection seems unnecessary and duplicative. GMA will work to ensure that legislation that attempts to address the issue of racial profiling does not create administrative burdens that interfere with local public safety efforts.

9. Fireworks, Fees and Taxation

GMA believes fireworks present unique public safety, health, and welfare challenges. GMA supports local control over the sale, place of use, zoning, use and regulation of fireworks by local ordinance. GMA also supports changes to the current law to allow local governments to be the final authority to determine whether fireworks may be sold or detonated in the jurisdiction and take such actions as are necessary for the health, safety and welfare of its property and residents. GMA further supports the ability of cities to impose an additional fee or tax upon the retail sales of fireworks within the jurisdiction for municipal public safety purposes.

Explanation: Given the public safety implications in the use of fireworks, local governments should have wide authority over zoning and regulation of their sales and use of fireworks. Additionally, a local option sales tax or supplementary fee should be permitted to be placed upon the retail sales of such fireworks for the use of local public safety budgets.

10. Secondhand Dealers and Pawnshops

GMA opposes legislation relating to secondhand dealers, pawnshops, and other similar establishments which would preempt local law enforcement programs that facilitate the recovery of stolen goods. GMA opposes legislation which would preempt such local law enforcement programs or create fiscal and fee limitations upon these programs, making it impossible to operate them from a fiscal standpoint.

Explanation: Numerous municipalities utilize tracking systems which allow for their local law enforcement to track transactions at local pawnbrokers and other similar establishments. These tracking systems require the pawnbroker to enter inventory into a database which can be checked by the local law enforcement to determine whether the items are legally owned or whether they have been previously stolen. Municipalities charge a fee to cover the costs of running such programs and are precluded by state law from charging fees in excess of the cost of program maintenance.

11. Volunteer Firefighter Incentives

GMA supports incentivizing the recruitment and retention of volunteer firefighters with a state income tax credit or credits for state issued driver's licenses and firefighter training.

Explanation: Small and mid-sized municipalities in Georgia are dependent on volunteers to operate their fire departments. Attracting and retaining volunteers has become very difficult in many places. Offering those volunteers that have maintained their training and participation for at least three consecutive years an annual \$1,000 state income tax credit

would help municipalities retain trained and experienced volunteers.

12. Traffic Camera and Digital Enforcement Technology

GMA supports legislation that would authorize municipalities to use video and digital technology to enforce traffic laws.

Explanation: Red-light video technology has been in use in municipalities across the state for several years now and has led to increased safety at many intersections. GMA feels that use of a similar technology to enforce speeding laws in clearly marked school zones, to enforce compliance with stop arms on school buses, or in other problem traffic enforcement areas will also lead to substantial safety improvements.

13. Juvenile Justice Reform

In the interest of the public health, safety, and welfare of municipal citizens, GMA supports juvenile justice reform which promotes and teaches education and responsibility to juvenile offenders and helps provide them paths to a successful adult life. In supporting juvenile justice reform, GMA calls for the ability of municipal governments to review and assess the community outcomes related to any such reform. GMA also supports the following: proper treatment for juveniles exhibiting behavioral patterns that may cause criminal activity; adequate state funding for juvenile detention facilities; staff training for the those working in such facilities; and state funding to provide access for early intervention programs to discourage criminal or negative attention-seeking behavior.

Explanation: Municipalities support changes to the state's juvenile justice system which will provide children more opportunities to obtain an education and jobs that will keep them out of trouble with the law and help direct them towards becoming key contributors into society. Providing juvenile offenders with education, training, and hope will help problem juveniles become positive adult contributors to municipal society and help municipalities' interests in

protecting the health, safety, and welfare of all municipal residents.

14. Human Trafficking

GMA supports federal, state and local action which gives law enforcement additional tools and resources to combat and prevent human trafficking. Such tools and resources shall include, but not be limited to, enhanced technology development and deployment, training, building partnerships with schools, state law enforcement and community organizations, and increased penalties for traffickers and consumers.

Explanation: Additional resources for police and other officials combating traffickers, customers, and other criminals will promote cooperation between different levels of government which is vital to eliminating human trafficking. These efforts will also provide better avenues for education and awareness of human trafficking to stop such crimes through prevention and support of victims. Combating human trafficking protects the health, welfare, and safety of city residents by protecting children from potential dangerous lifestyles, encouraging students to receive a formal education, keeping potential criminal elements at bay, and protecting the freedoms of all persons.

15. Drug Abuse

GMA supports federal, state and local action which gives appropriate local public safety personnel and municipal courts additional tools and resources to combat and prevent drug abuse.

Explanation: Drug abuse is an epidemic that affects cities of all sizes and socio-economic statuses. The state has, in recent years, taken a lead in attempting to combat the growing drug war through methods such as community based treatment and accountability courts. However, cities need additional resources to provide local services to combat and prevent drug abuse from growing into an even larger problem.

GMA Revenue and Finance Policy Committee

Policies within this chapter are NOT listed in priority order.

POLICY RECOMMENDATIONS

General Taxation

1. Revenue Options

The state tax code should provide a wide variety of revenue options that would be available equally to all municipal governments. These options should include flexibility for municipal officials to adopt revenue and revenue sources as necessary to respond to local growth, decline, recession, community desires and emergencies, should encourage community input and should ensure tax equity and the elimination of double taxation.

Explanation: A diversity of revenue sources is essential for municipal governments to meet the needs of their citizenry. The state should respect the right of Georgia taxpayers, through their municipal officials, to choose the proper methods and in the appropriate amounts necessary to fully fund important quality of life services. Additionally, any revision should provide for tax equity based on the economic input and value provided to the state by the citizens of individual local governments as well as the services provided by and demanded of individual local governments.

2. Tax Reform – Key Principles of Local Taxation

GMA supports tax reform that increases transparency, respects home rule and the need for municipal government officials to respond to the needs of their constituents. GMA also supports a thorough review of existing tax exemptions and incentives.

Explanation: During each legislative session, numerous changes are made to Georgia's tax code, often through individual bills. These tax cuts and tax shifts have resulted in an unbalanced tax code, including regional distortions in the tax

base, which has in turn led to budget shortfalls at the state and local levels. Since many types of taxation work together to provide revenue for the state and local governments, any change to one type of tax will often affect the others. To ensure that Georgia has a balanced and equitable system of taxation, the state should take a comprehensive approach to taxes as a whole. Of pressing need for immediate reform is the motor vehicle Title Ad Valorem Tax Fee (TAVT) state and local percentage share. Any revision of the tax code should respect the needs of municipal governments and the important and often diverse services that municipalities provide to their residents and property owners.

3. Fiscal Notes – Analysis of New State Regulations on Local Governments

GMA supports a constitutional amendment requiring state agencies to analyze, consider and disclose the fiscal effect of new or amended state laws and regulations on local governments.

Explanation: State law requires that any legislation that would increase local government expenditures or decrease local revenues by \$5 million or more over a three year period must have a fiscal note attached. The Department of Community Affairs is responsible for the preparation of these local government fiscal notes. Likewise, the law provides that no regulation, rule, order, or administrative law that would have a fiscal impact exceeding \$5 million on local governments is valid unless the agency or department submits a fiscal note to the General Assembly 30 days prior to adopting the new policy. Although the General Assembly and state agencies, boards and departments are required to determine the aggregate fiscal cost to local governments of new state laws or regulations, the process is not uniformly and consistently applied. In addition, state agencies, boards and departments are not required to consider the effect that a rule or regulation may have on each individual local government that is affected. This

lack of understanding of the actual fiscal impact of state law or regulations on an individual local government leads to local revenue shortfalls, often resulting in tax increases, extended local debt, or further revenue loss due to fines for a failure to comply. Allowing tax legislation that affects local government revenues to lay on the table for one year before any action could be taken would give DCA and local governments enough time to fully understand its fiscal impact.

Sales Taxes

1. Full Collection of Sales Taxes; Provision of Data

GMA recommends that the state take necessary steps to ensure the full collection and timely remittance of all sales and use taxes due to the state and to local governments, including additional funding for the Department of Revenue for audits and compliance purposes. GMA supports legislation requiring the Department of Revenue to collect, compile and provide to municipal governments data necessary to determine the aggregate amount of sales tax generated by industry for businesses located in each municipality and the aggregate amount of sales tax generated by industry for businesses located in the unincorporated area of each county.

Explanation: Representatives of the Georgia Department of Revenue have stated that the department is able to audit less than 1 percent of the businesses in each sector remitting state and local government sales taxes to the state. While most businesses comply with sales tax laws, untold dollars remain on the table, uncollected by the state, as a result of inadequate enforcement. While it is impossible to know how much sales tax revenue remains uncollected in Georgia, a voluntary system of compliance allows for shortfalls. In order to ensure full collections of sales tax revenues, the state should provide the Department of Revenue with more capacity for enforcement, including ample auditors.

For years, municipal officials have requested data detailing the situs of retail transactions.

Municipal officials claim that this data will increase compliance by allowing municipal officials to compare gross sales reported municipality-wide to the state with the aggregate gross sales reported to municipal officials through the collection of occupation taxes or other proxies. Moreover, this data will indicate the health and vitality of the retail sector of the local economy and demonstrate whether economic development efforts focused on increasing retail activity are having the desired impact. Finally, anecdotal evidence in other states indicates that as more detailed sales tax data is reported, compliance increased.

GMA believes that the following five steps would substantially improve the reporting and accuracy of sales tax collection.

- (1) Require the Department of Revenue to collect data showing sales tax collections in municipal jurisdictions;
- (2) Fully capture all data, whether electronically or manually filed;
- (3) Require the Department of Revenue to share aggregate sales tax data for collections within municipal boundaries;
- (4) Support confidentiality and privacy of information shared with cities;
- (5) Support efforts to increase audits to ensure compliance.

2. Municipal Option Sales Tax (MOST)

GMA supports legislation allowing each municipality to hold a referendum to enact a permanent municipal option sales tax (MOST) that would be used for property tax relief, infrastructure improvements, the provision of municipal services or any combination thereof.

Explanation: Georgia's cities have documented billions in capital needs that cannot be met through existing revenue sources alone.

Municipalities and counties compete for limited local sales taxes while struggling to provide

services such as clean water, an efficient and safe transportation network, parks and recreation and public safety. This proposal would allow municipal voters to decide how to pay for services and prepare for the future while providing an alternative to property tax. The Department of Revenue should be provided the proper resources to administer the distribution of funds and collections data at the municipal level.

3. Homestead Option Sales Tax

GMA supports legislation requiring a Municipal Option Sales Tax referendum in any county which imposes the Homestead Option Sales Tax (HOST).

Explanation: In most parts of the state the majority of sales tax is generated inside of the city limits. However, cities located inside a county that levies a Homestead Option Sales Tax (HOST) do not receive sales tax revenue to roll back property taxes. Therefore, cities must rely heavily on property taxes to fund the majority of its services. In order to level the playing field, the option for a city to levy a MOST should be required in any county where a HOST is imposed.

4. Sales Tax Exemptions

GMA opposes the erosion of the local sales tax base caused by the creation of statewide sales tax exemptions.

Explanation: Like the property tax, the gradual erosion of the sales tax base due to exemptions for general and special interests has challenged municipalities' abilities to adequately fund services. Since 1989, the number of statewide sales tax exemptions in Georgia has increased significantly without overall consideration of the cumulative effect on the revenue base of local governments or the creation of regional revenue distortions. This concern is significant in light of the limited revenue options available to local governments coupled with increasing levels of service responsibility and state and federal unfunded mandates. Ultimately, sales tax exemptions merely shift the tax burden from certain consumers to property owners and unevenly shift this burden in areas of greater

distortion. GMA believes any new sales tax exemption should have realizable goals; a time limited sunset; a fiscal note; and an annual cost/benefit analysis.

5. National E-Commerce Legislation

GMA urges Congress to take action to authorize all state and local governments to collect sales taxes on remote sales (online and catalog sales), which will level the playing field between local brick and mortar businesses and online retailers.

Explanation: Georgia is one of twenty-nine states with "use tax" laws, meaning that when consumers make an online purchase, they are required to pay sales taxes on that item. However, most consumers are either not aware of this requirement, or they ignore it and the tax is not paid. In Georgia, the uncollected state and local sales and use taxes from all remote sales (catalog and online purchases) in 2012 was estimated at \$837 million. Action by Congress to pass an e-commerce bill would correct this tax avoidance problem by requiring all consumers to pay sales taxes for online and catalog sales. Until this loophole is closed, local brick and mortar businesses are operating at a competitive disadvantage to online retailers. In addition to leveling the playing field for hometown businesses, the ability for cities to collect taxes on remote sales will also benefit local taxpayers. The ongoing loss of sales tax revenues could require an increase in other tax rates, primarily the property tax, or continued decreases in services.

Property Taxes

1. Assessment Limitations and Appeals

GMA supports reasonable reform of the approach to property assessments which minimizes undue hardship and confusion to property owners, ensures equity among comparable properties and taxpayers, provides for adjustment of values that mimics market conditions, and strikes a balance between the goals of providing more certainty to taxpayers and retaining uniformity, flexibility and revenues necessary to provide services at the local level.

Explanation: Local governments need a broad tax base in order to provide services in times of market fluctuations. Any changes to the property assessment process should reflect the highest order of consideration to ensure against tax inequities. Reactionary policies, such as freezes and caps, defy free-market principles, lead to tax inequities, and can decrease the flexibility necessary for the provision of basic services to residents.

Other states that have implemented caps or freezes have created hardship for local governments and for schools, for property owners – particularly new property owners – and on economic development. Property assessment restrictions force municipal governments to live off new growth or to increase millage rates.

Moreover, uniformity is an issue. Property owners with identical properties receive identical services but may pay grossly different property taxes based simply on the date on which their respective property was purchased. Consideration must be given to timely reassessment and reevaluation practices to help ensure uniformity, balance in taxation, and current market value.

2. Property Tax Exemptions

GMA opposes the erosion of the property tax base caused by the creation of property tax exemptions unless such exemptions are approved by local government action. In the event the General Assembly creates a property tax exemption, the State should fully reimburse local governments for the revenue loss.

Explanation: The gradual erosion of the property tax base due to the exemptions for general and special interests has challenged local governments' abilities to adequately fund services. Since 1989, the number of statewide property tax exemptions has increased significantly without overall consideration of the cumulative effect on the revenue base of municipalities. This concern is significant in light of the limited revenue options available to municipalities coupled with increasing levels of

service responsibility and state and federal unfunded mandates.

Home Rule

1. Local Expenditure Caps

GMA opposes local government expenditure caps.

Explanation: Recent legislative attempts to place spending caps on local governments are based on a one-size-fits-all approach to Georgia's diverse and myriad municipalities, counties and school systems. Different communities have different needs and different resources. While most local officials work to keep expenses low, citizen demand, market forces, emergencies and court decisions at times force expenditure increases on local governments. Local elected officials are accountable to their electorate and are elected to make the tough budgetary decisions necessary to provide adequate police, fire, transportation, economic development, recreation and other services demanded by their particular electorate. Many necessary costs, such as health and liability insurance, motor fuels, asphalt and construction materials are beyond the control of local officials. Fast paced development, state and federal mandates, and age of infrastructure can create unanticipated water, sewer and transportation costs. Local elected officials must have the spending flexibility to pay these costs while still providing the general quality of life services expected by their citizens. Arbitrary caps on spending interfere with local decision-making, local accountability, and the ability to meet the needs of Georgians at the local level.

2. Tax Equity / Double Taxation

GMA supports legislation that will ensure local government tax equity by prohibiting county governments from taxing municipal property owners for services that the municipal government provides or that the property owners do not otherwise receive from the county government.

Explanation: The Service Delivery Strategy Act, as well as the Local Option Sales Tax and other laws affecting local government revenue, are

intended to encourage and achieve tax equity at the local level. These laws are carefully designed around the premise that each local situation is different, and allow local governments to address tax equity issues at the local level. However, due to the complexity of issues included in service delivery and local option tax negotiations, combined with the negative consequences resulting from the failure to reach agreement, double taxation remains a reality for many municipalities and municipal taxpayers throughout the state. Municipal property owners and taxpayers continue to pay county taxes for county services that are not provided in the municipality or for county services that are jointly provided by the municipality. In effect, citizens in many municipalities are paying twice for the same service. The General Assembly should pass a constitutional amendment prohibiting this practice.

3. Unfunded Mandates:

GMA opposes any legislation which creates unfunded mandates that impact cities.

Explanation: Unfunded mandates, typically laws or regulations created by the state or federal government which are imposed on local governments, impose costs or require local government expenditures without providing the funding to pay for those costs or expenditures. In order to pay for the mandates, local governments are often forced to raise taxes or to reduce services and costs in other areas. Any requirements imposed on local governments by the state or federal government should be accompanied by sufficient funding to pay for the cost of complying with the requirements.

Other Revenue Sources

1. Franchise Fees Governed by State Law

GMA supports the use of municipal franchise fees for an electric, gas or telecommunications utility to compensate the municipality and citizens for use of the municipal right-of-way.

Explanation: Franchise fees are typically implemented as part of an agreement between municipalities and a utility company, or other enterprises such as cable companies that utilize public rights-of-way. Franchise fees are essentially the “consideration” of these agreements. They compensate municipalities for the use of the public rights-of-way by a utility.

2. Debt Setoff

GMA supports legislation authorizing local governments to establish a debt setoff program in conjunction with the Georgia Department of Revenue to collect debt owed to local governments.

Explanation: A debt set-off program will allow debts on past-due utility accounts and other debts owed to local governments to be set off against a debtor’s individual state income tax refund. Governments would submit the debts owed to a central clearing house that would transmit the debts to the Department of Revenue’s Income Tax Division for set-off against state income tax returns. Persons listed as debtors to local governments would receive notice of their stated debts and would have the opportunity to appeal and/or pay the debt prior to any offset against income tax refunds. Similar programs have already been successfully implemented in North Carolina and South Carolina.

3. Protection of State Funds to Support Government Needs

GMA supports a constitutional amendment that would require state funds collected for a specific government purpose to be used for that specific purpose.

Explanation: In years past, funds typically used to support government projects were used or proposed to be used to help meet the state’s budget deficit. The reduction or elimination of funds designed to assist government compliance with state and federal mandates can be detrimental to the health, safety and welfare of all Georgians.

GMA Transportation Policy Committee

Policies within this chapter are listed in priority order

POLICY RECOMMENDATIONS

1. Transportation Finance

GMA recognizes that new and expanded sources of federal, state, and local revenue are needed to provide for the state's growing population, meet increased demands on our transportation systems related to the Savannah Harbor Deepening Project, and allow the state to remain a significant player in the regional and global economy. Long-term, sustainable, and diverse funding streams are necessary to expand and improve the statewide multi-modal transportation network. Specifically, transportation revenues must address needs beyond roads and bridges, including sidewalks, bicycle paths, transit, light rail, and commuter passenger rail.

Explanation: The Transportation Funding Act of 2015 addresses needs identified by the State to maintain the existing system of roads and bridges. Flexible, sustainable revenue options will be needed to insure the ability of the state and local governments to address long-term transportation infrastructure needs. In addition to meeting needs for new roads and bridges, transportation funds must be made available for a wide array of multi-modal local transportation initiatives. With the passage of the Fixing America's Surface Transportation (FAST) into law, there will now be long-term funding certainty for surface transportation infrastructure planning and investment. The FAST Act authorizes \$305 billion over fiscal years 2016 through 2020 for highway, highway and motor vehicle safety, public transportation, motor carrier safety, hazardous materials safety, and rail. While GMA applauds efforts in Congress to authorize a bill that addresses transportation infrastructure needs and provides local decision making for how funds are used, action will be needed at the federal level to identify a long-term source to fully fund the FAST Act for all

five years of the program. Collaboration between the federal, state, and local governments and proper funding are critical to invest in the state and local comprehensive transportation network.

2. Remove Cap on Local Taxing Authority

GMA urges the General Assembly to take swift action to remove the cap on local taxing authority that exists in the Transportation Funding Act of 2015, and to allow for periodic adjustments to the average retail price on which the local sales taxes are based.

Explanation: As currently written, the Transportation Funding Act of 2015 includes a \$3 cap on the amount that local governments and schools can levy sales taxes on motor fuels. In contrast, state excise taxes on motor fuels will be periodically adjusted to account for inflationary and fuel efficiency changes, with no cap. Imposing an artificial cap on local government taxing authority will result in an immediate negative impact for many counties around the state and will not allow local governments to generate sufficient revenues to pay for transportation infrastructure as costs for projects continue to rise each year. Removing this cap and incorporating automatic adjustments based on average statewide retail prices, will help insure an adequate, sustainable revenue stream will be available to help address local transportation needs.

3. Rail Transit Service in Georgia

GMA supports the operation of commuter passenger rail service and encourages the accelerated development and implementation of the entire Georgia Rail Passenger Program. Finally, GMA believes that in order to address the long-term funding needs for transit across the state, it is critical that funding for Georgia rail come from statewide sources. To facilitate

implementation of the state's rail program, Georgia's governor should make appointments to and revive the Georgia Rail Passenger Authority. Additionally, state leaders should consider joining the Southern Rail Commission, an interstate rail compact currently comprising the states of Louisiana, Mississippi and Alabama, to advocate for and obtain federal funds for passenger rail service in the Southeast region.

Explanation: As Georgia's population increases, it is becoming more and more difficult to move people in an efficient and cost effective manner, especially in and between the state's metropolitan areas. The development of viable commuter and passenger rail service is essential to the economic well-being of the state and its municipalities and counties. Complete implementation of the state's rail program will allow real choice in modes of travel for the people of Georgia for years to come. It should be noted that statewide funding for rail transit would not negatively impact the state's existing motor fuel tax, because funding would come from other state and federal appropriations.

4. Public Airports: Funding Source

GMA supports the creation of a funding source for public airports and urges the legislature to earmark the sales tax on aviation fuels, goods and services as a means of providing revenue for development of public airports. GMA also pledges to work with potential partners such as the Georgia Airports Association to accomplish this goal.

Explanation: The state's 104 general aviation and air carrier airports have a significant economic impact statewide as well as in the communities they serve. The Georgia Department of Transportation (GDOT) estimates that Georgia's commercial and general aviation airports generate more than \$62.6 billion annually in economic impact. Georgia DOT has historically received an average \$2 million appropriation per year for the State Airport Aid Program from state general funds. The funding covers the state's 5 percent match on federal airport improvement projects as well as 75

percent of funding for state and local projects. The 2003 Georgia Statewide Aviation System Plan identified the state's air carrier and general aviation airport needs over the next 20 years and highlighted two primary concerns:

- (1) Developing Georgia's airports to accommodate the needs of today's operating business aviation fleet; and
- (2) Maintaining and preserving badly aging facilities.

Over the next 20 years, the Statewide Aviation System Plan identified \$2 billion in airport improvements needed for Georgia's airports. There is currently no sustainable source of funding identified to meet these needs. If the sales tax on aviation fuels, goods and services was earmarked for public airports, it would serve as a stable funding source to help meet these needs. GMA pledges to work in partnership with commercial airlines and other stakeholders to educate them about the importance of funding for regional airports. The enhancement of the statewide aviation network is crucial to economic development in Georgia.

5. Foster an Improved Relationship between GDOT and Georgia's Municipalities.

GMA supports the creation of a stronger relationship between GDOT and municipalities that fosters better communication, local input, greater flexibility and an understanding of and sensitivity to the individual character of Georgia's communities in the design and implementation of transportation projects in municipalities. GMA also supports GDOT efforts to streamline and expedite the completion of local transportation projects. GMA believes the following three steps should be taken to build this relationship:

- (1) GMA urges the state legislature to provide sufficient funding to GDOT to ensure that the Department has adequate staff to provide project review and implementation for local road projects in a timely manner so that scarce state, local, and regional transportation

resources can be used as efficiently and effectively as possible.

(2) GMA supports an enhanced, substantive role for cities in the evolving statewide planning and project prioritization process at the Georgia Department of Transportation.

(3) GMA supports continued, sustained funding for local projects and priorities within this evolving process.

Explanation: Across the state, municipal officials have expressed increasing and often overwhelming frustration with a lack of responsiveness from DOT, which has resulted in an inability to get decisions made about local transportation and traffic problems. Municipal officials complain that DOT is slow and inefficient in completing local transportation projects, with projects getting bogged down in permitting and review and often causing delays of many years, with accompanying increased costs to complete projects. Delays are impacting public-private investment in downtowns and economic development in municipalities, which ultimately provides benefits for the state as a whole. Furthermore, GMA urges DOT to work in partnership with local government officials to come up with a streamlined process and timeline that allows city officials to get status reports and updates at every step in the implementation of transportation projects, including design, permitting, construction, and completion of projects.

6. Local Control of Local Road Projects

GMA urges GDOT to authorize a process to certify local governments to carry out an approved list of projects on local roads without GDOT review and approval.

Explanation: Completion of basic local road projects is often prolonged by the GDOT review and approval process, delaying completion of these projects and resulting in increased project costs. A GDOT-approved list of local projects which can be completed without approval by the Department would allow local officials to

expedite road projects and address infrastructure needs more efficiently.

7. Review and Update LMIG Distribution Formula

GMA urges the Georgia Department of Transportation to work with local officials, GMA, and ACCG to review and update the Local Maintenance & Improvement Grant (LMIG) distribution formula no less than every four years using available data from the U.S. Census Bureau and other sources to reflect intensity of use and the economic impact of transportation projects.

Explanation: Currently, LMIG funds are allocated by a formula based on road miles and population. State law authorizes the GDOT Planning Director the discretion to set the formula and to “include considerations of paved and unpaved lane miles and vehicle miles traveled and may include population, employment, and local funding matches available, as well as other factors as may be determined by the division and the director.” Currently, the formula is based on 1/3 population from yearly census estimates and 2/3 local government-maintained centerline road mileage submitted by each local government. At a minimum, the current formula should adhere to state law and replace the word “centerline” with the word “lane” to reflect road capacity. Since GDOT originally set this formula, new information has become readily available which more accurately reflects employment and other factors. Routine periodic review of the formula will allow GDOT to consider incorporating new data to distribute funds where they are needed the most.

8. Transit Governance

GMA supports the concept of allowing for the creation of regional transit systems among local governments which see the need to use transit as a mobility tool to further their economic development vitality and quality of life. GMA supports legislation authorizing a transit governance mechanism that will maximize the

efficient delivery of transit services throughout the regions of the state as determined regionally by various local governments.

Explanation: Transit expansion and development has consistently emerged as a regional transportation priority, most notably in the Atlanta metro area, but regions throughout the state are also considering transit components and projects. A locally developed and managed regional transit governance mechanism could create a framework through which communities that currently operate transit systems and those that may desire to do so in the future could coordinate their services, set common priorities and seek new funding.

9. Increased Truck Weights

GMA opposes legislation to allow increased truck weight limits.

Explanation: State and federal legislative proposals to raise allowable truck weight limits will result in more rapid deterioration of state and local roadways and bridges. Heavy trucks traveling through cities already cause damage to historic buildings, residences, businesses, and municipal infrastructure such as sidewalks and streetscapes. Increasing the current allowable weight variance will only intensify the burden on the state's roadway system and result in added costs to taxpayers.

BUDGET RECOMMENDATIONS

1. State Transportation Funding Levels

GMA supports continued and sustained state funding levels for the Local Maintenance and Improvement Grant program.

Explanation: Increased and sustainable levels of funding for the LMIG program are essential to the economic vitality of local communities throughout Georgia, which are dependent upon a comprehensive, well-constructed, and adequately maintained state and local transportation network.

FEDERAL POLICY

1. Protect Regional Airports

GMA supports federal policies oriented to the viable, safe operation of airports and which recognize and support regional airports as a major tool for economic development across Georgia.

Explanation: As federal funding for all state and local programs decline, Georgia's regional airports have experienced diminishing financial support combined with increased federal regulation. While municipal leaders understand the financial pressures associated with adopting a federal budget and addressing the federal deficit, it is imperative that federal policies do not hinder the ability of regional airports to determine the safest and best way to meet the needs of today's business aviation fleets and to manage aircraft ingress and egress. The ability of local, experienced airport managers to have flexibility in the operation of regional airports will allow these resources to continue to be vital economic resources to the Georgia and the communities they serve.

City of Hapeville

RESOLUTION # 2016-12

Whereas, the City of Hapeville is an urban community located in the metro Atlanta area near the busiest airport in the World, and

Whereas, the City of Hapeville is an active member of the South Fulton County Municipal League, the Aerotropolis Alliance and Georgia Municipal Association (GMA), and

Whereas, The City of Hapeville is diligently working to raise the quality of Life in our community, and

Whereas, the City of Hapeville is concerned about our aging housing stock and desires to engage in high quality redevelopment efforts, and

Whereas, the City Council is concerned over the continued erosion of local home rule in issues related to housing policy, local rights-of-way management, hotel/motel tax collections, and alcohol sales in local communities to name just a few, and

Whereas, the State legislature continues to pursue policies further infringing on local home rule powers regarding various housing issues, management of local rights-of-way, and sales of alcohol, and

Whereas, the State legislature is urged to act in order to clean up outdated provisions of the City of Hapeville's Charter, and

Whereas, the City of Hapeville is in support of the GMA legislative policy for 2017 and the policy adopted by GMA addresses many of the issues supported by the City Council;

Now therefore, be it resolved, that the Mayor & City Council of Hapeville Georgia would like to express the need for greater local home rule and self determination. And be it further resolved that; the Mayor & Council also would urge the State to adopt legislation that limits interference of local control and promotes home rule principals for local governments in Georgia; and be it further resolved that the Mayor & City Council requests that outdated provisions of our Charter be removed; and be it further resolved that the Mayor & City Council is in support of the 2017 GMA Legislative Program in its entirety and authorize the City Manager and City Attorney to speak for and pursue all reasonable measures to achieve the City's stated legislative goals.

And be it further resolved that the City Clerk be authorized to transmit a copy of this resolution to the local State legislative delegation in advance of the upcoming legislative session in January, 2017.

This Resolution having been properly considered and adopted by the City Council of the City of Hapeville, Georgia, the same is hereby APPROVED this __ day of _____, 2016.

CITY OF HAPEVILLE, GEORGIA

Alan Hallman, Mayor

ATTEST:

Jennifer Elkins, City Clerk

APPROVED AS TO FORM:

Steven M. Fincher
Attorney for City of Hapeville



October 18, 2016

To: City of Hapeville
3474 N. Fulton Ave
Hapeville, GA 30354

Attn: Lemuel Eubanks

**Re: CMP Culvert Restoration
Moreland Way**

Utility Asset Management, Inc. proposes to provide mobilization, materials, tools, labor, supervision, equipment, insurance and licensing to repair existing corrugated metal culverts. Our proposed method of repair is by spin-casting an engineered 8000 PSI fiber reinforced pipe repair mortar at a finished thickness of 1 inch based on calculations for specific jobsite conditions. *This method will fully restore the structural integrity of the existing culvert.* We do not anticipate the need for a major bypass operation, and have included minimal incidental pumping.

Scope of Work :

Clean / Desilt; Patch / seal open joints; fill voids in invert and pour new concrete invert as necessary; Spin Cast approximately 240 LF of existing 48 inch and 60 LF of 36" corrugated metal pipe at 1" thick.

Cost of Work:

48" CMP	\$215.00 / LF x 240	=	\$51,600.00
36" CMP	\$162.00 / LF x 60	=	\$ 9,720.00

Utility Asset Management, Inc. guarantees its workmanship, and as a certified and licensed installer for the engineered materials, ensures that the manufacturer's warranty is intact.

CERTIFIED FEMALE BUSINESS ENTERPRISE

Corporate Office:
86 Peaches Drive
Reynolds, GA 31076
478-847-2301

Atlanta Area Office:
75 Mendel Drive
Suite C
Atlanta, GA 30336
404-691-4836

E-Fax : 678-623-0282



Quote No. GA16171

Owner to Provide:

1. Reasonable access to the jobsite
2. Access to a potable water supply for materials mixing and equipment clean-up.
3. A nearby location for materials and equipment storage overnight.

Please feel free to call if you have questions or if you require additional information.

Sincerely,

Anita Clyne
President
Utility Asset Management, Inc.

PROPOSAL ACCEPTANCE:
The proposal price, specifications and conditions are hereby accepted

Authorized Signature

Title

Date

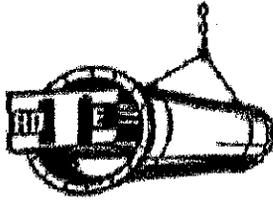
CERTIFIED FEMALE BUSINESS ENTERPRISE

Corporate Office:
86 Peaches Drive
Reynolds, GA 31076
478-847-2301

Atlanta Area Office:
75 Mendel Drive
Suite C
Atlanta, GA 30336
404-691-4836

E-Fax : 678-623-0282

Moreland Way Storm Drain Rehab



RDJE, Inc.

679 Hwy 29 South, Suite A
Newnan, GA 30263

Contact: Joe Webb
Phone: 678-633-2632
Fax:

Quote To: City of Hapeville

Job Name:

Date of Plans:

Revision Date:

Phone:

Fax:

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT
1	Prep & Line Existing 48" CMP w/2" of Geocast	340.00	LF	275.00	93,500.00
GRAND TOTAL					\$93,500.00

NOTES:

Standard Terms & Conditions for RDJE Quotes:

- + No Engineering included.
- + No Tap fees, Permits, or Impact fees included.
- + No Stabilization Stone included.
- + No Special Licenses included.
- + Permanent grassing/sod not included.
- + Lanscaping not included.
- + Concrete paving not included.
- + Mass rock excavation/blasting not included
- + Trench rock excavation/blasting not included.
- + Traffic control not included.
- + Extra fee charged for Repair of Damages by others.
- + Extra fee charged for Locating Lines following installation.
- + Removal of Unsuitable Materials not included.
- + Removal of Hazardous Materials not included.
- + Additional Stone Bedding, if required, will be added at \$30.00 per ton.
- + All permits and easements shall be obtained by others.
- + This quote is based upon one mobilization and the continuous uninterrupted progress for each utility. Should work be interrupted by the actions or inactions of others, additional costs for delays will be invoiced at the Crew Cost rate given below.
- + This quote is based upon Crew Cost of \$3200.00 per day. Any work outside the scope of work listed on the attached estimate sheets will be performed at this rate for the crew cost plus a time extension for the number of days required for the additional work.
- + All work performed under this agreement and any additions, deletions, or repairs of damages shall be performed by RDJE for the addressee only. No third-party negotiations, payables, or receivables will be accepted by RDJE.
- + This quote is based upon knowledge of conditions existing at the time of the estimate.

- + Periodic pay applications based on work completed and materials stored will be submitted as the work progresses. Payments shall be due within ten days of submittal date.
- + Final payment and release of any retainage shall be made within 90 days of work completion. Payments not made when due shall accrue interest at rate of 1-1/2% per month.
- Other item, not listed, are not included. Pricing for additional items are furnished upon request.
- + Any additional work must be mutually agreed upon in writing prior to the work being performed.
- + Well Point pumping is not included in this quote. If ground water in encountered, additional cost will be negotiated.

- + Because of the uncertainty of supply and the rapid increase of prices, Material Suppliers will hold quoted prices for no more than 30 days; therefore, this quote shall remain in effect for 30 days only, then shall be subject to re-evaluation.

This document along with the referenced documents can serve as our contract upon your approval and authorization as indicated by your signature in the space provided.

Accepted
For: _____

Accepted

For: RDJE, Inc.

By: _____

By: _____

Date: _____

Date: _____



Georgia[®] Department of
Community Affairs

November 21, 2016

To Whom It May Concern:

Enclosed you will find a copy of the 2017 Georgia Classic Main Street Program Memorandum of Understanding and the 2017 National Main Street Center's sublicensing agreement. As per the National Main Street Center requirements, all accredited Main Street cities must have a current signed MOU and sublicensing agreement on file with the Georgia Department of Community Affairs in order to retain the services of our office along with the use of the Main Street name. *MOU*

The enclosed document must be signed by the Mayor, Board Chair and local Manager and returned to DCA by no later than **February 17, 2017**. Failure to comply may result in probationary status or loss of accreditation for the local Main Street program in 2017.

As per this MOU agreement the local municipality is required to notify the Office of Downtown Development within one week of any Downtown Director Vacancy. If at any point during the 2017 calendar year there is a change in the local program manager, the local program is required to submit a new MOU including the new manager's signature to DCA, clarifying that person's understanding of the requirements of the this relationship.

Regards,

Jessica Reynolds

Jessica Reynolds,
Director, Office of Downtown Development &
Georgia Main Street Program
Georgia Department of Community Affairs



60 Executive Park South, N.E. • Atlanta, Georgia 30329-2231 • 404-679-4940

www.dca.ga.gov

An Equal Opportunity Employer





2017 Georgia Classic Main Streets Memorandum Of Understanding

MOU

1/1/2017

This document should be signed by all local parties (Mayor, Board Chair, Main Street Program Manager) and returned including original signatures to the Georgia Department of Community Affairs, c/o Leigh Burns, 60 Executive Park South, NE, Atlanta, Georgia 30329 by FEBRUARY 17, 2017.

**GEORGIA CLASSIC MAIN STREETS PROGRAM
MEMORANDUM OF UNDERSTANDING**

2017 Program Year

This agreement is entered into and executed by the Georgia Department of Community Affairs Office of Downtown Development (hereinafter referred to as "DCA"), the City/Town of _____, Georgia (hereinafter referred to as "Community"), the Local Main Street Program Board of Directors, and the Downtown Manager for the Community. DCA will enter into this agreement with the above parties to provide services in return for active and meaningful participation in the Georgia Classic Main Streets Program by the Community as specified below.

This agreement outlines the necessary requirements set forth by DCA for the Community's participation in the Georgia Classic Main Streets Program for 2017. DCA is the sponsoring state agency for the Georgia Classic Main Street program and is licensed by the National Main Street Center (hereinafter referred to as "National Program") to designate, assess, and recommend for accreditation Main Street programs within the State of Georgia.

In recognition of the agreement by DCA, the Community, the Board of Directors, and the Downtown Manager to maintain an active Local Main Street Program, the parties have agreed to the following:

ARTICLE 1: THE COMMUNITY AGREES TO—

1. Appoint or contract with an entity to serve as the Board of Directors for the local Main Street Program. The city council may not serve as the Main Street Board.
2. Set and review boundaries for the target area of the local Main Street Program.
 - A. A copy of these boundaries should remain on file with DCA at all times.
 - B. The Community should work with the Board of Directors to review boundaries at least once every three years.
3. Employ a paid professional downtown manager responsible for the daily administration of the local Main Street Program.
 - A. The downtown manager must have a job description that identifies at least 75% of their duties (if a full time employee) or all of their duties (if a part-time employee) that are directly related to Main Street activities. A copy of the job description should remain on file with DCA at all times.
 - B. The downtown manager should be paid a salary consistent with other community and economic development professionals within the state. The program manager's salary must be paid in excess of minimum wage.
 - C. The Community must notify DCA within one week of any downtown manager vacancy and the Community must appoint an interim downtown manager until the position is filled. DCA must have accurate contact information for the downtown manager at all times.
 - D. Provide an annual evaluation of the downtown manager. If the manager is employed by an entity other than the local government, require that entity to provide an annual evaluation and performance review.
4. Provide for local Main Street Program solvency through a variety of direct and in-kind financial support.
 - A. If the downtown manager is an employee of the local Main Street Program and not the Community, the Community assures that the program has the financial means to pay for said manager for the period of this agreement.
 - B. The local Main Street program must maintain an identifiable and publicly accessible office space. DCA encourages this space to be in the local Main Street program area.
 - C. The local Main Street program must have sufficient funding to provide travel and training for the downtown manager and the Board of Directors.
5. Assist the downtown manager in compiling data required as part of the monthly reporting process.
 - A. Provide for a positive relationship between the downtown manager and key city staff to access the following information in a timely manner:
 - i. Business license data
 - ii. Building permit data
 - iii. Property tax data
 - iv. Geographic Information Systems data (mapping support when available)

- B. Review reported data submitted by the downtown manager to assure accuracy.
- 6. Use the "Main Street America™" name in accordance with the National Main Street Policy on the Use of the Name Main Street.
- 7. Notify DCA in writing prior to any wholesale changes in the local program, including staff changes, major funding changes, change in organizational placement of the program or major turnover in the board of directors. Such notice should be within one business week of said changes. Changes may result in program probation, the loss of accreditation or removal of program designation.

ARTICLE 2: THE BOARD OF DIRECTORS AGREES TO—

- 1. Assist the downtown manager in creating an annual work plan that incorporates incremental and meaningful goals related to the Main Street Approach™ to downtown revitalization: Community Transformation Strategies, Organization, Design, Promotion and Economic Vitality.
 - A. The work plan should include specific tasks, assignments or a point of contact for the task, related budget needs, and a timeline.
 - B. The work plan should be created on a Calendar Year format in concurrence with this Agreement (2017), and can serve as a strategic plan for the local program for a period of three years or less.
 - C. A copy of the work plan should be on file and updated with DCA.
- 2. Provide opportunities for regular public engagement and support of the Local Main Street Program.
 - A. DCA recommends a public downtown visioning event/town hall meeting at least once every three years.
 - B. The Board should identify opportunities for volunteer support and assistance in executing the work plan.
 - C. The Board should actively engage the community for financial and in-kind support of the local program.
- 3. Conduct, at least, one board training, orientation or planning retreat per year for the local program.
- 4. Meet a minimum of 6 times per year and minutes of each meeting are maintained and distributed. Such meetings should be open to the public and public notice should be given related to meeting times and agendas.
- 5. Attend training when possible to become better informed about the Main Street Approach™ and trends for downtown revitalization and to support the downtown manager.
- 6. Newly Appointed Board Members are required to attend Main Street 101, hosted by the Office of Downtown Development, within their first year of their first term.
- 7. Assure the financial solvency and effectiveness of the Local Main Street Program.
 - A. Adopt an annual budget that is adequate to support the annual work plan, maintain an office and support staff, and provide for training and travel.
 - B. Maintain current membership of the Local Main Street Program to the National Main Street Center to be eligible for accreditation.
 - C. Provide for policies to expend funds, enter into debt, and provide programming support for the local Main Street Program.

ARTICLE 3: THE DOWNTOWN MANAGER AGREES TO—

- 1. Complete all reporting required by DCA to maintain National Accreditation of the local Main Street Program.
 - A. Complete monthly economic and programming activity reports, including portions of said reports that are required as part of the local program assessment process by DCA. These reports must be completed by the 30th of the following month. (Example: March report due by April 30th). Failure to complete monthly reports in a timely manner may result in program probation, the loss of accreditation or removal of program designation.
 - B. Participate in occasional surveys by DCA related to Main Street programming.
 - C. Provide documentation of all meetings, work plans, budgets, job descriptions, and mission/vision statements for the organization.
 - D. Provide documentation to support the work of the organization as it relates to the Main Street Approach™, including information related to historic preservation as required by the National Main Street Center.
 - E. Provide, from time to time, documentation related to local ordinances, plans, codes, and policies that are specific to the Community's downtown area.
- 2. Participate in training to broaden the impact of the local Main Street Program.
 - A. One representative from the local program should attend at least one Regional Managers meeting in 2017.
 - B. The downtown manager and/or board members are expected to attend at least one preservation-related training annually.
 - C. DCA requires managers to attend at least 30 hours of training annually (including webinars, regional managers meetings, annual trainings, statewide workshops, etc.) Eligible training hours can come from both DCA and non-

DCA hosted training events. Training must be relevant to the field of downtown development, historic preservation, planning, community development and economic development.

- D. Respond to requests by DCA in a timely manner.
3. Take advantage of the Georgia Classic Main Street network of professional downtown managers.
4. All newly hired managers must complete Main Street 101 training with DCA within the first 6 months of employment in the local community.
5. Provide regular updates between the local Main Street Program and the Community.
 - A. Managers are encouraged to provide at least quarterly reports to the local government.
 - B. Managers are encouraged to provide copies of all minutes, budgets, and work plans to the local government in a timely manner.
6. Maintain and preserve project files. Document downtown projects and other major local program information in a thorough and systematic fashion. All relevant programmatic documentation should be uploaded and stored in the DCA shared Dropbox folder created for your local program. This is to help ensure a seamless transfer of project files to city representatives or successor manager in the event of personnel changes.

ARTICLE 4: DCA AGREES TO—

1. Supervise all communications between the Community, state government agencies and the National Main Street Center as it relates to the local Main Street Program.
2. Conduct a curriculum of training on an annual basis to assist the downtown manager, the Main Street Board, and the Community with the local downtown revitalization program.
 - A. DCA will offer a series of webinars (live and pre-recorded) on a diverse set of downtown related topics and will upload a copy of recorded webinars to the Georgia Main Street YouTube Channel.
 - B. DCA will offer seven Regional Managers Meetings statewide in 2017.
 - C. DCA will offer four Main Street 101 workshops and one Main Street 201 workshop throughout the year, with topics related to the Main Street Approach™
3. Assist local Main Street Programs with organizational issues that may prevent the successful progress of the Community's downtown revitalization strategy.
 - A. DCA may provide assistance, directly or through partnerships, to assist in the execution of local organization strategy sessions, trainings, retreats, and community visioning sessions.
 - B. DCA may assist communities in selecting candidates for the position of downtown manager as requested.
 - C. DCA may require a local Main Street Program to host an on-site assessment visit if the program has had a major leadership or organization change, is currently in a probationary status, or is in jeopardy of losing accreditation or designation status.
4. Provide timely assistance and guidance to the Community as a result of requests for service, monthly reports, or the annual assessment process.
 - A. DCA may contact a community upon observation of monthly reporting abnormalities, missing data or missing reports. If a community becomes delinquent in multiple reports, DCA may contact the local board chair or city administrator about the delinquency.
 - B. DCA may assist in training local staff or volunteers in the reporting process.
 - C. DCA will provide unlimited telephone consultations with local programs.
 - D. DCA will attempt to provide on-site assistance as feasible.
5. Provide ongoing press coverage of the Georgia Classic Main Streets Program, including social media outreach, to recognize and publicize the work of local programs.
6. Provide access to resource materials, sample codes and ordinances, organizational documents, and templates for local programs.
7. Conduct an annual program assessment for the Community highlighting success and opportunities for improvement.
8. Provide design services to the local program at a discounted rate. Services may include phone consultations, site visits, design training, services for local property owners and merchants, conceptual drawings, property plans and layouts, corridor plans and strategies, historic preservation plans, and historic research, among other services as requested.
9. Provide economic development assistance to encourage small business development, real estate development and property rehabilitation within the downtown area.

ARTICLE 5: ALL PARTIES AGREE THAT—

1. This agreement shall be valid through December 31, 2017.
2. This agreement may be terminated by DCA or the Community by written notice of 60 days. Termination of this agreement by the Community will result in the loss of local Main Street designation. Communities that choose to terminate their Georgia Classic Main Streets Program affiliation will be required to formally apply for and participate in the Start-Up process if they desire to regain their National Accreditation in the future.
3. If the Community, Board of Directors and/or Downtown Manager fail to fulfill their obligations set forth in this agreement, DCA reserves the right to determine a course of action for the local Main Street Program as it deems appropriate. Such course may include probation, loss of accreditation or termination of designation.
4. If at any point during the 2017 calendar year there is a change in the local program manager, the local program is required to submit a new MOU including the new manager's signature certifying that person's understanding of the requirements of this relationship.
5. Any change in the terms of this agreement must be made in writing and approved by both parties.

GEORGIA CLASSIC MAIN STREET PROGRAM
MEMORANDUM OF UNDERSTANDING: 2017 Program Year

THIS AGREEMENT IS HEREBY EXECUTED BY AND BETWEEN THE PARTIES BELOW:

LOCAL GOVERNMENT (COMMUNITY): _____

Mayor/Chief Elected Official's Signature

Date

Printed Name

Date Term Expires

MAIN STREET BOARD OF DIRECTORS

President/Board Chairperson's Signature

Date

Printed Name

Date Term Expires

DOWNTOWN MANAGER

Manager's Signature

Date

Printed Name

Date Hired

Please check here if this position is vacant.

GEORGIA DEPARTMENT OF COMMUNITY AFFAIRS
OFFICE OF DOWNTOWN DEVELOPMENT
GEORGIA MAIN STREET PROGRAM

Director's Signature

Date

Jessica Reynolds
Director, Office of Downtown Development
Georgia Department of Community Affairs
60 Executive Park South, NE
Atlanta, Georgia 30329

Phone: 404-679-4859
Email: Jessica.reynolds@dca.ga.gov

 Georgia Department of
Community Affairs

November 21, 2016

To Whom It May Concern:

sub.lic. agreement
Enclosed you will find a copy of the 2017 Georgia Classic Main Street Program Memorandum of Understanding and the 2017 National Main Street Center's sublicensing agreement. As per the National Main Street Center requirements all accredited Main Street cities must have a current signed MOU and sublicensing agreement on file with the Georgia Department of Community Affairs in order to retain the services of our office along with the use of the Main Street name.

The enclosed document must be signed by the Mayor, Board Chair and local Manager and returned to DCA by no later than **February 17, 2017**. Failure to comply may result in probationary status or loss of accreditation for the local Main Street program in 2017.

As per this MOU agreement the local municipality is required to notify the Office of Downtown Development within one week of any Downtown Director Vacancy. If at any point during the 2017 calendar year there is a change in the local program manager, the local program is required to submit a new MOU including the new manager's signature to DCA, clarifying that person's understanding of the requirements of the this relationship.

Regards,

Jessica Reynolds

Jessica Reynolds,
Director, Office of Downtown Development &
Georgia Main Street Program
Georgia Department of Community Affairs



TRADEMARK SUBLICENSE AGREEMENT

This Trademark Sub-license Agreement (“Sub-license Agreement”) is entered into between the Office of Downtown Development (“**Coordinating Program**”) and _____ (“**Sublicensee**”), effective as of January 1, 2017. For good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. Background.

A. The National Main Street Center, Inc. (“NMSC”) operates a membership program called MAIN STREET AMERICA™. As a part of that program, MAIN STREET AMERICA™ Coordinating Program Membership is available to statewide, regional or citywide organizations that oversee multiple local downtown and neighborhood programs within their service area and work to preserve and revitalize commercial districts. Local Program membership in the MAIN STREET AMERICA™ program is available at the Affiliate or Accredited levels to individual programs or organizations that satisfy the membership eligibility criteria described on the NMSC website (currently located at: <http://www.preservationnation.org/main-street/about-main-street/main-street-america/main-street-america-tier.html#.VmYLY7grLIU>).

B. Organization is a Coordinating Program member of NMSC in good standing and has entered into a Trademark License Agreement with the NMSC which grants to the State Program the right to sublicense to its Local Programs the use of the NMSC name and trademarks described below.

C. Sublicensee is a Local Program Member in good standing of the MAIN STREET AMERICA™ program at the Accredited level. Sublicensee is also located within the Coordinating Program’s geographic service area. Therefore, Sublicensee has the opportunity to enter into this Trademark License Agreement, which grants certain rights to use the NMSC’s name and trademarks, including MAIN STREET AMERICA™ and MAIN STREET®, as described below.

D. The NMSC’s parent entity, the National Trust for Historic Preservation (“National Trust”), owns the following registered trademarks, which it has delegated to the NMSC the right to sublicense. NMSC and CoordinatingProgram have entered into a Trademark Licensing Agreement which grants the Coordinating Program the right to sublicense the following registered trademarks:

Mark	U.S. Registration Number
MAIN STREET	Reg. Nos. 3,365,568 and 2,057,207
NATIONAL MAIN STREET CENTER	Reg. No. 2,013,837

These registered trademarks owned by the National Trust, together with the MAIN STREET AMERICA™ word marks and logos referred to in Section 2.A.1 below, the NATIONAL MAIN STREET CENTER logo referred to in Section 2.A.ii below are referred to herein as the “Trademarks.”

E. The Trademarks are well known and recognized by the general public and associated in the public mind with the NMSC and the National Trust. The Coordinating Program and the Sublicensee recognize the mutual benefits that accrue from the Sublicensee’s use of the Trademarks in accordance with the terms and conditions of this Sublicense Agreement, including the recognition and credibility brought to the Sublicensee through its use of these Trademarks and the

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benefit to the Coordinating Program and NMSC from association with high-performing Local Programs.

2. Grant of Sub-License.

A. Subject to the terms and conditions of this Sublicense Agreement, the Coordinating Program hereby grants the Sublicensee the non-exclusive right and license to use the Trademarks to identify and promote its participation in the MAIN STREET AMERICA™ program, as well as its relationship and association with the Coordinating Program and NMSC, in connection with the following activities:

- i. **MAIN STREET AMERICA™ word and logo marks.** The Sublicensee's rights to use the MAIN STREET AMERICA™ word mark and the following MAIN STREET AMERICA logo are limited to Sublicensees which are members in good standing at the Accredited membership level of the MAIN STREET AMERICA™ program:

For use by Local Programs who are Designated Members at the Accredited Level:



- ii. **NATIONAL MAIN STREET CENTER® word and logo marks.** The Sublicensee's right to use the NATIONAL MAIN STREET CENTER word mark and the following NATIONAL MAIN STREET CENTER logo solely and exclusively to indicate its association with the National Main Street Center:



- iii. **MAIN STREET® word mark.** The Sublicensee's right to use the MAIN STREET trademark is limited to use made to identify Sublicensee and/or its activities, including as part of the name of the Licensee (e.g. "Main Street Iowa"), in connection with commercial district revitalization and related consultation, education, and training.

3. Scope of and Limitations on Use. Use of the Trademarks by the Sublicensee will be subject to the following limitations:

A. Sublicensee must display the Accredited level MAIN STREET AMERICA membership mark on their website. All uses of the MAIN STREET AMERICA word mark and logo by Sublicensee must follow the specific mark, color, and character usage set forth in the Brand Identity Guidelines attached as Exhibit A, which are incorporated by reference as if fully set forth herein. Sublicensee will not use or develop any different logos or designs (including any symbols or

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stylized presentations), in connection with the MAIN STREET AMERICA mark or logo. Use of the MAIN STREET AMERICA word mark and logos by Sublicensee is a mandatory condition of membership in the MAIN STREET AMERICA program.

B. The MAIN STREET mark, as part of the name and identity of Sublicensee's organization, programs, and activities, can be used on materials designed to promote the work of Sublicensee (e.g., website, brochures, newsletter, letterhead or other printed promotional materials). The right to use the MAIN STREET mark by the Sublicensee is an optional benefit of membership in the MAIN STREET AMERICA program.

C. All uses of the NATIONAL MAIN STREET CENTER logo by Sublicensee must follow the specific mark, color, and character usage set forth in the Brand Identity Guidelines attached as Exhibit A, which are incorporated by reference as if fully set forth herein. Sublicensee will not use or develop any different logos or designs (including any symbols or stylized presentations) in connection with the NATIONAL MAIN STREET CENTER mark. Use of the NATIONAL MAIN STREET CENTER logo by Sublicensee is an optional benefit of membership in the MAIN STREET AMERICA program.

D. This Sublicense Agreement is subject to the terms, conditions, and limitations of the Trademark License Agreement between NMSC and the Coordinating Program.

E. Sublicensee will not apply to register any of the Trademarks, or any other trademark that incorporates any part of the Trademarks or "National Trust for Historic Preservation." Sublicensee will not state or imply that it owns any such trademarks.

F. The Sublicensee will not use the Trademarks in combination with or in juxtaposition with other trademarks except as may be approved in writing by the NMSC. The Sublicensee will apply and display the ® symbol and the ™ symbol next to or with respect to the Trademarks as directed by the Coordinating Program.

G. Other than as specifically provided herein, Sublicensee is not granted any other rights to use, license or sublicense the Trademarks.

4. Term. This Sublicense Agreement will become effective immediately upon the date of last signature below, and, unless terminated early under Sections 5 or 10, will be effective through December 31, 2017, at which time it may be renewed by mutual written agreement of the parties hereto.

5. Conditions. This Sublicense Agreement between State Program and Sublicensee is conditioned upon Sublicensee having an active MAIN STREET AMERICA membership at the Accredited level with NMSC. The requirements of this membership are currently available at: <http://www.preservationnation.org/main-street/about-main-street/main-street-america/main-street-america-tier.html#.VmYLY7grLIU>, and are incorporated herein by reference.

6. Acknowledgment of Ownership. Use of the Trademarks indicates acknowledgment by the Sublicensee of the NMSC's and the National Trust's rights and title to the Trademarks, (i.e. MAIN STREET AMERICA, NATIONAL MAIN STREET CENTER, and MAIN STREET), and that Sublicensee will not at any time do, or permit to be done, any act or thing that will in any way impair the rights of the NMSC or the National Trust. All use of the Trademarks by the Sublicensee will inure to the benefit of the NMSC and the National Trust.

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7. Good will and promotional value. Sublicensee recognizes and acknowledges the value of good will associated with the Trademarks and agrees that it will not conduct any activity, provide any service, or produce or distribute goods which in any way damages or reflects adversely upon the NMSC or the National Trust.

8. Non-assignment. This Sublicense Agreement is personal to the Sublicensee, and may not be assigned to any other individual, program, organization, or agency. Any attempted assignment will be null and void.

9. Compliance Verification. It is the responsibility of the Sublicensee to verify compliance with the terms of this Sublicense Agreement, and to provide complete and accurate usage reports to the State Program. If the State Program or the NMSC has reason to believe that the Sublicensee is in violation of this Sublicense Agreement, the State Program or NMSC shall have the right to make inquiries with Sublicensee as necessary to determine compliance. In such case, the Sublicensee will cooperate with the State Program and/or NMSC in its investigation and provide in a timely fashion any and all information that is requested.

10. Termination.

A. Coordinating Program may terminate this Sublicense Agreement if the Sublicensee violates any of the provisions of this Sublicense Agreement or fails to satisfy the membership criteria established by the NMSC for Accredited Local Programs. Such termination will be effective thirty (30) days after the Coordinating Program sends written notice of such termination to Sublicensee. During this thirty (30) day period, Sublicensee may attempt to cure such violation. If the violation is not cured during this period, the termination will be effective upon the expiration of the thirty (30) day period.

B. This Sublicense Agreement will automatically terminate immediately without any notice required, notwithstanding the above paragraph, if the Coordinating Program or NMSC determines: (i) that sublicensee's actions could negatively affect the goodwill, image, or reputation of the NMSC, the National Trust for Historic Preservation, the Coordinating Program, or any of the Trademarks; (ii) the Sublicensee discontinues all or a significant portion of its business; (iii) the National Trust terminates, revokes, or fails to renew the NMSC's rights to use, license, or sublicense the Trademarks; or (iv) the NMSC terminates, revokes or fails to renew the Coordinating Program's rights to use, license or sublicense the Trademarks.

C. Upon the expiration or early termination of this Agreement, the Sublicensee will discontinue use of the Trademarks and will destroy and delete tangible and electronic documents and files containing any such marks, except for a limited number of copies retained for archival purposes only.

11. Governing Law. This Agreement is entered into in the District of Columbia and will be governed by and construed in accordance with the laws of the District of Columbia, USA, without giving effect to conflict of laws provisions.

12. Annual Report, Notices, Other Communication. Upon request by the Coordinating Program or NMSC, Sublicensee shall submit samples of any materials on which the Trademarks licensed under this agreement were used during the year. Such samples shall be submitted within ten business days of receipt of a written request from the Coordinating Program or NMSC.

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13. Notices. Any notices which either party is required or may desire to serve upon the other party shall be in writing and may be served either personally or by depositing the same in the mail (first class postage prepaid, certified and return receipt requested) or with a reputable overnight express delivery service (with confirmed delivery, charge prepaid or billed to shipper), addressed to the party to be served as follows, unless a different address is designated in writing by the party to be served. Notice shall also be required to be given by electronic mail on the same date as deposited in the mail. Notice given by mail alone shall not be sufficient.

To Coordinating Program:

Name: The Office of Downtown Development
Address: Georgia Department of Community Affairs,
c/o Office of Downtown Development
60 Executive Park South, NE
Atlanta, GA 30329
Phone: 404-679-4859
Email: jessica.reynolds@dca.ga.gov

To Sublicensee:

Name: _____
Address: _____

Phone: _____
Email: _____

14. Successors. ~~This Agreement shall be binding upon, and will inure to the benefit of, the parties and their respective permitted successors and assigns.~~

15. Modification. No amendment or modification of the terms or conditions of this License Agreement will be valid unless in writing and signed by both parties.

16. Waiver. The failure of either party to partially or fully exercise any right or the waiver by either party of any breach, shall not prevent a subsequent exercise of such right or be deemed a waiver of any subsequent breach of the same or any other term of this Sublicense Agreement. No waiver shall be valid or binding unless in writing and signed by the waiving party.

17. Severability. If any provision of this Sublicense Agreement or the application of any provision hereof to any person or circumstances is held to be void, invalid, or inoperative, the remaining provisions of this Agreement shall not be affected and shall continue in effect and the invalid provision shall be deemed modified to the least degree necessary to remedy such invalidity.

18. Entire Agreement. This Sublicense Agreement is the entire agreement between the parties with respect to the matters referred to herein and it supersedes and replaces all prior and contemporaneous oral and written understandings pertaining to the subject matter hereof.

Coordinating Program

By: Jessica Reynolds, Director
Office of Downtown Development

Sublicensee

By: _____
Name, Title

Date: _____