

Mayor and Council Session

700 Doug Davis Drive
Hapeville, GA 30354

May 7, 2019 6:00PM

Agenda

1. Call To Order

2. Roll Call

Mayor Alan Hallman
Alderman Mike Rast
Councilman at Large Travis Horsley
Councilman Ward I Mark Adams
Councilman Ward II Chloe Alexander

3. Welcome

4. Pledge Of Allegiance

5. Invocation

6. Presentation

6.I. State Of The City Presentation By Mayor Hallman

Background:

Each year the Mayor provides the citizens of the community an update on the State of the City. The remarks by the Mayor will cover last year's accomplishments and some of the future policy directions for 2019. The presentation will be released to the public early next week.

Documents:

[STATE OF THE CITY ADDRESS SLIDES.PDF](#)

7. Public Hearing

7.I. Consideration And Action On Conditional Use Permit For The Construction Of A 74-Unit Senior Housing Development At 325 Sunset Avenue

Background:

Phil Ellen on behalf of Georgia Communities, Inc. seeks approval of a conditional use permit to operate a senior living facility within a new development located at 325 Sunset Avenue, Parcel Identification Number 14 009600060133. The property is zoned U-V, Urban Village. Multifamily uses are permitted as a Conditional Use within the U-V Zoning District and are subject to the provisions of Article 3.2.

The Planning Commission considered this item on April 9, 2019 and recommended the Mayor and Council grant the conditional use permit. Staff supported their recommendation.

Staff Comments:

Applicant's Comments:

Public Comments:

Documents:

[325 SUNSET AVENUE - CONDITIONAL USE PERMIT APPLICATION.PDF](#)
[PLANNERS REPORT 325 SUNSET AVE CONDITIONAL USE PERMIT.PDF](#)
[SUMMARY MINUTES - 4-9-2019.PDF](#)

8. Questions 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.

9. Consent Agenda

9.I. Approval Of Minutes

- April 2, 2019
- April 16, 2019

9.II. Approval Of Executive Session Minutes

- April 2, 2019
- April 16, 2019

10. Old Business

10.I. Consideration And Action On Mobile Food Vendor Ordinance - 2nd Reading

Background:

On April 16, a revised Mobile Food Vendor Ordinance was presented to Mayor and Council for a first reading. Mayor and Council gave suggestions to incorporate into the ordinance. Attached is the revised ordinance for consideration and action.

Documents:

[MOBILE FOOD VENDOR ORDINANCE.PDF](#)

10.II. Consideration And Action On Vacant Building Fee Ordinance - 2nd Reading

Background:

On March 19, Mayor and Council discussed the Vacant Building Fee ordinance draft. The consensus of Mayor and Council was for legal to add language that speaks to sex trafficking/sex violation. The ordinance is attached for consideration and action.

A first reading of the ordinance was conducted on April 16.

Documents:

[ORDINANCE - VACANT BUILDING FEE.PDF](#)

11. New Business

11.I. Consideration And Action On Caduceus USA's Request To Use Jess Lucas Park For Annual Employee Back To School Jamboree On July 13

Background:

Grace Legendre with Caduceus USA is requesting to use Jess Lucas Park on July 13, 2019 from 2:30PM-5:30PM for their annual employee Back to School Jamboree. Caduceus, who's had a Hapeville presence since 1999, expects approximately 150 people (employees and their families). There will be music, a bouncy house, a game truck and food at the park for the event. Last year, the event was approved and held on July 14, 2018.

Documents:

[EVENT REQUEST FORM.PDF](#)
[BACK-TO-SCHOOL JAMBOREE.PDF](#)

11.II. Consideration And Action On Proclamation Recognizing Municipal Clerks' Week

Background:

This May, Municipal Clerks Week will be celebrating its 50th anniversary. Initiated in 1969 by International Institute of Municipal Clerks (IIMC) and endorsed by all of its members throughout the United States, Canada and 15 other countries, the week is a time of celebration and reflection on the importance of the Clerk's office.

The week will feature a week-long series of activities aimed at increasing the public's awareness of Municipal Clerks and the vital services they provide for local government and the community.

Attached is the proclamation for consideration and action.

Documents:

[MUNICIPAL CLERK PROCLAMATION.PDF](#)

11.III. Consideration And Action On Final Audit Fee For The 2018 - Additional Funding

Background:

Mauldin & Jenkins has completed the City of Hapeville Audit for Fiscal 2018. The firm experienced costs well in excess of the \$37,000 bid amount for the 2nd year of the audit. The 2017/18 added a single audit due to Federal Funds in excess of \$750,000 and \$5,000 for GEFA reporting. Additional staff and partner time incurred totaled \$39,184.43. Mauldin & Jenkins requests a final balance billing of \$20,000 to settle the 2017/18 audit.

Documents:

[MAULDIN AND JENKINS - 2018 FINAL.PDF](#)

11.IV. Consideration And Action On Agreement With Fulton County Arts Council Grant In The Amount Of \$10,000

Background:

The Fulton County Arts Council (FCAC) is in place to enhance the quality of life of Fulton County Residents. FCAC serves as the funding agency to support cultural programs and the agency which provides services to Fulton County based nonprofit arts organizations and Fulton County residents.

FCAC granted the City of Hapeville \$10,000 to fund the art that will be placed on the Pedestrian Bridge. This is a 1:1 match. The grant will help fund Phase II of the project.

The contract will be uploaded to the City's website on Monday.

11.V. Consideration On Booting Ordinance - 1st Reading

Background:

At the January 22 Work Session, Mayor and Council discussed and gave recommendations for the Booting Ordinance draft. Attached is the revised ordinance for Mayor and Council's consideration.

Documents:

[BOOTING ORDINANCE REVISED.PDF](#)

11.VI. Discussion Initiated By Councilman Horsley On Optotrafic Model Ordinance

Background:

Attached is the ordinance for Riverdale Park, MD and the official code of Georgia. If a local ordinance is required, Councilman Horsley would like to have an agreement on Tuesday for legal to draft an ordinance for a first read at the mid-month.

Documents:

[RIVERDALEPARK_ORDINANCE.PDF](#)
[O.C.G.A. 40-6-163.PDF](#)

12. City Manager Report

13. Public Comments

Members of the public wishing to speak shall sign in with the City Clerk prior to the start of the meeting. Time limitations for Registered Comments are three (3) minutes per person. The total Registered Comment session shall not last more than fifteen (15) minutes unless extended by Council. Each member of the public, who fails to sign up with the City Clerk prior to the start of the meeting, wishing to address Mayor and Council shall have a total of two (2) minutes. The entire general comment session for Unregistered Comments shall not last more than ten (10) minutes unless extended by Council.

14. Mayor And Council Comments

15. Executive Session

When Executive Session 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).

16. 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.



State of the City Address

May 7, 2019

Delivered by: Mayor Alan Hallman

Objective

- Provide a “snapshot” of 2018 and the transition into 2019
- Agenda Highlights:
 - Leadership & Teamwork
 - Significant Milestones
 - Financial Position
 - City Management/Services
Departmental Highlights/Goals



Leadership & Teamwork



**Mayor
Alan Hallman**



**Alderman at Large
Mike Rast**



**Councilman at Large
Travis Horsley**



**Councilman (Ward 1)
Mark Adams**



**Councilman (Ward 2)
Chloe Alexander**



Vision Statement:

Hapeville, a dynamic model community, where people feel welcome and safe and aspire to live, work and pursue their dreams.

Core Values:

- Superior Services
- Innovative and Creative
- Culturally Vibrant
- Fiscally responsible - stewardship
- Preservation of small town charm and history
- People centric
- Transparency

Significant Milestones

- Kimpton Hotel (First Full Year)
- Dogwood Streetscapes Completion
- Hapeville Performing Arts Center – Under Construction
- Railroad Facilities Improvement Project
- Pedestrian Bridge Art Project
- RaceTrac Gas Station Opening
- AeroATL Greenway Plan
- Historic Mural beautifies City Hall

Kimpton Hotel (First Year Operations)

- First new hotel on the east side of Hartsfield-Jackson Atlanta International Airport since the opening of the new International Terminal.
- Located immediately adjacent to the Porsche Experience Center, celebrated its grand opening in late 2017.
- Offers 214 guest rooms and signature suites; refined yet approachable restaurants and bars featuring fresh, seasonal cooking; and 6,500 square feet of event space including a 3,600 square foot ballroom, a Rooftop Lounge with panoramic views of the Porsche handling course.



Dogwood Streetscapes Completion

- Construction on the Dogwood Streetscape Project was completed in 2018. The streetscape includes new bike lanes, new curbs & gutters, new sidewalks and pedestrian lighting.



Hapeville Performing Arts Center – Under Construction

- The Hapeville Performing Arts Center is currently under construction and scheduled to be finished in the spring.



Railroad Facilities Improvement Project

- The Rail Facilities Improvement Project is currently under construction and scheduled to be completed during the summer. This project includes new curb & gutter, new paving, new fencing and other safety features along the railroad corridor.



Pedestrian Bridge Art Project:

- The Hapeville Pedestrian Bridge will be transformed into a work of art that will draw visitors from the metropolitan Atlanta area.
- The City of Hapeville received two matching grants from the Georgia Council for the Arts and Fulton County Arts Council to help jump start the project.
- Local artist Whitney and Micah Stansell were selected and together they created an LED display of changing lights and images that will feature the “Hapeville” sign that will light up at night.



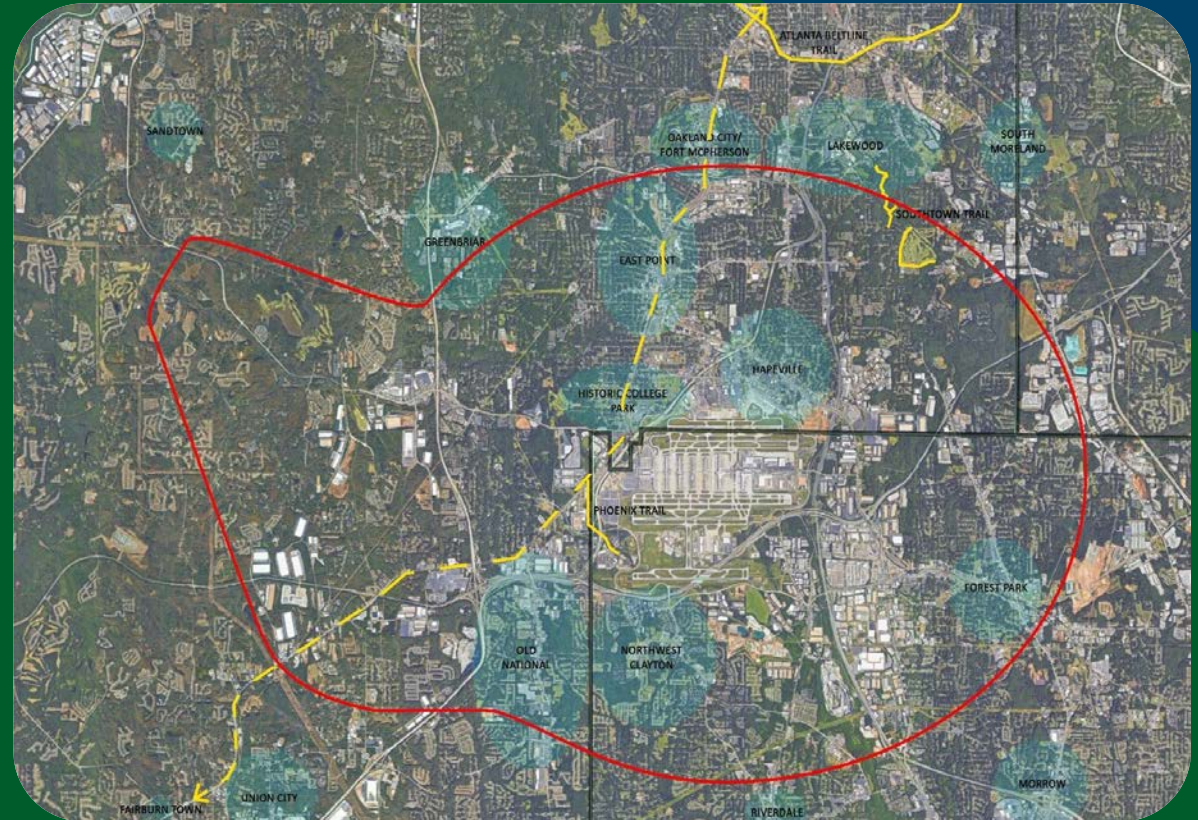
RaceTrac Gas Station Opening:

- The City of Hapeville is excited to welcome RaceTrac Convenience Market/Fueling Facility to our community.
- The recently constructed facility is located at 1180 Virginia Avenue and was completed in late 2018.



AeroATL Greenway Plan:

- In early 2017, the Aerotropolis Atlanta Community Improvement Districts (AACID's) was awarded a grant from the Atlanta Regional Commission to complete the AeroATL Greenway Plan.
- The draft plan was completed in 2018 and features a comprehensive trail master plan for the Aerotropolis area, connecting the communities around Hartsfield-Jackson Atlanta International Airport.



Historic Mural at City Hall Honors Marjorie Prothro

- The Hapeville Main Street Board presented an historic and beautiful artwork featured on the side wall of Hapeville City Hall.
- The artist Charmain Minniefield pays tribute to the first African-American Hapeville business owner, Ms. Marjorie Prothro.

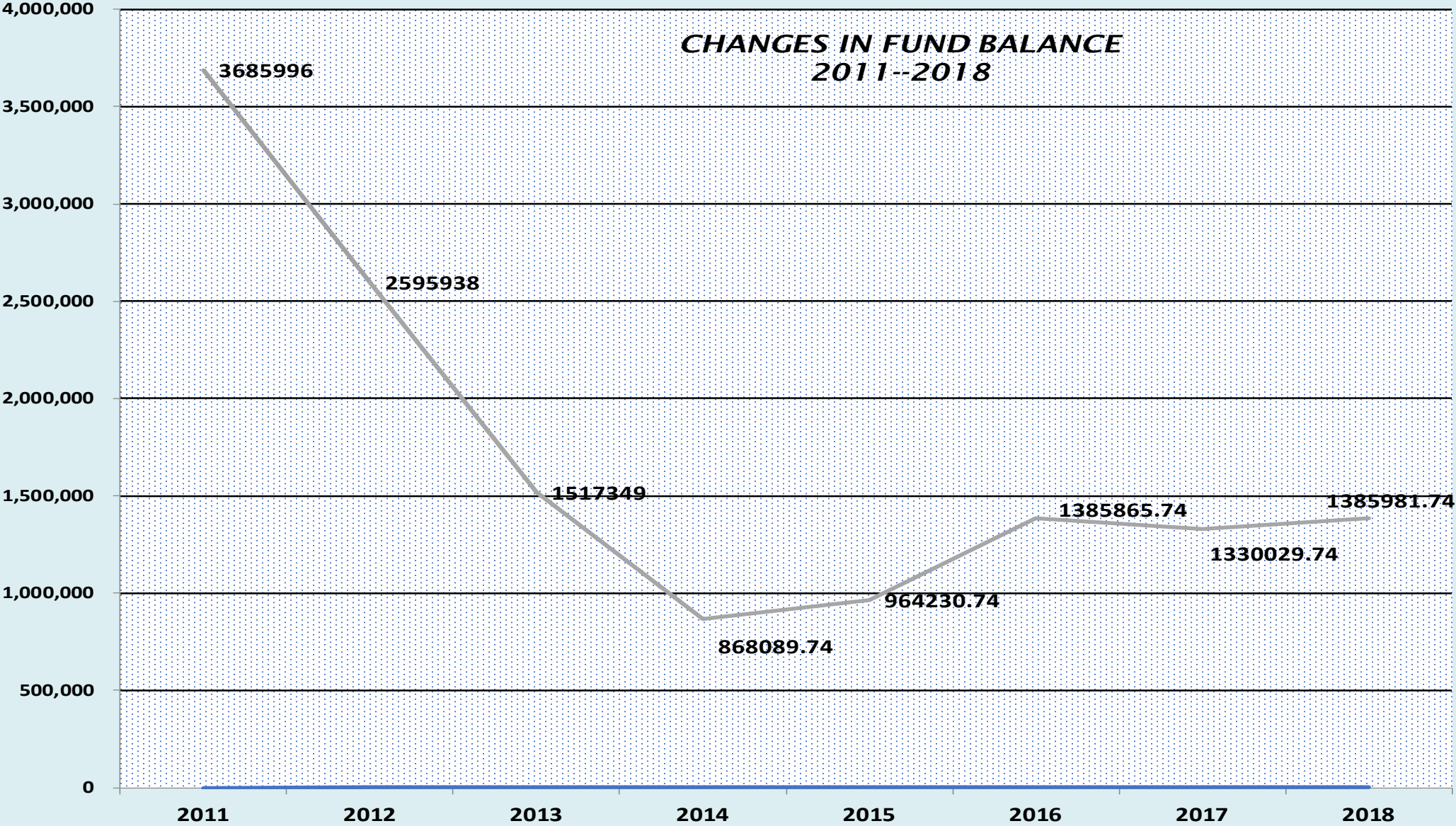




Financial Position

Changes in Fund Balance
Property Taxes

***CHANGES IN FUND BALANCE
2011--2018***



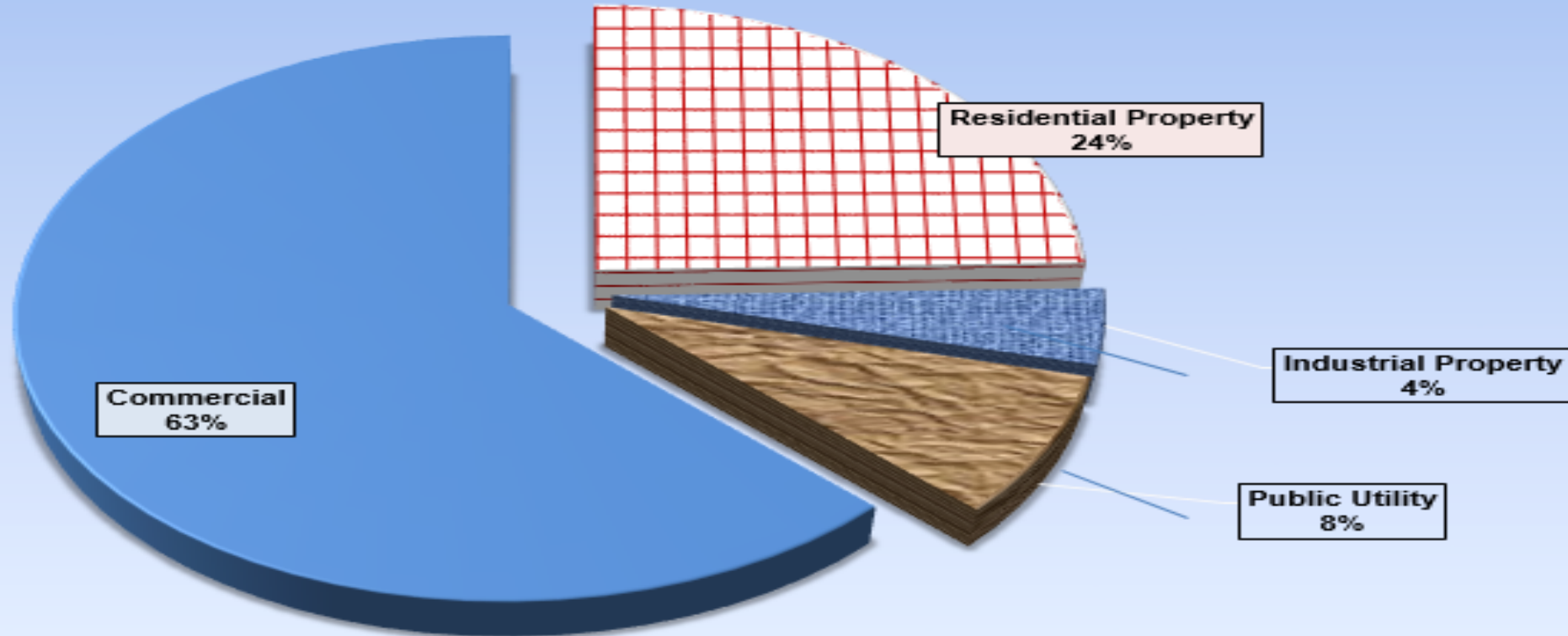
Fund Balance has leveled after several years of significant decline

GENERAL FUND

ASSESSED VALUE OF TAXABLE PROPERTY -----BY SOURCE

	2014	2015	2016	2017	2018	% of Total
Residential	46,201,180	45,694,000	48,282,180	47,598,750	95,981,100	24.5%
Commercial	221,817,397	221,178,849	246,085,831	360,684,028	296,483,259	75.5%

Composition of Property Tax Levy



**75+% of all taxes come from
"Non-residential Property "**

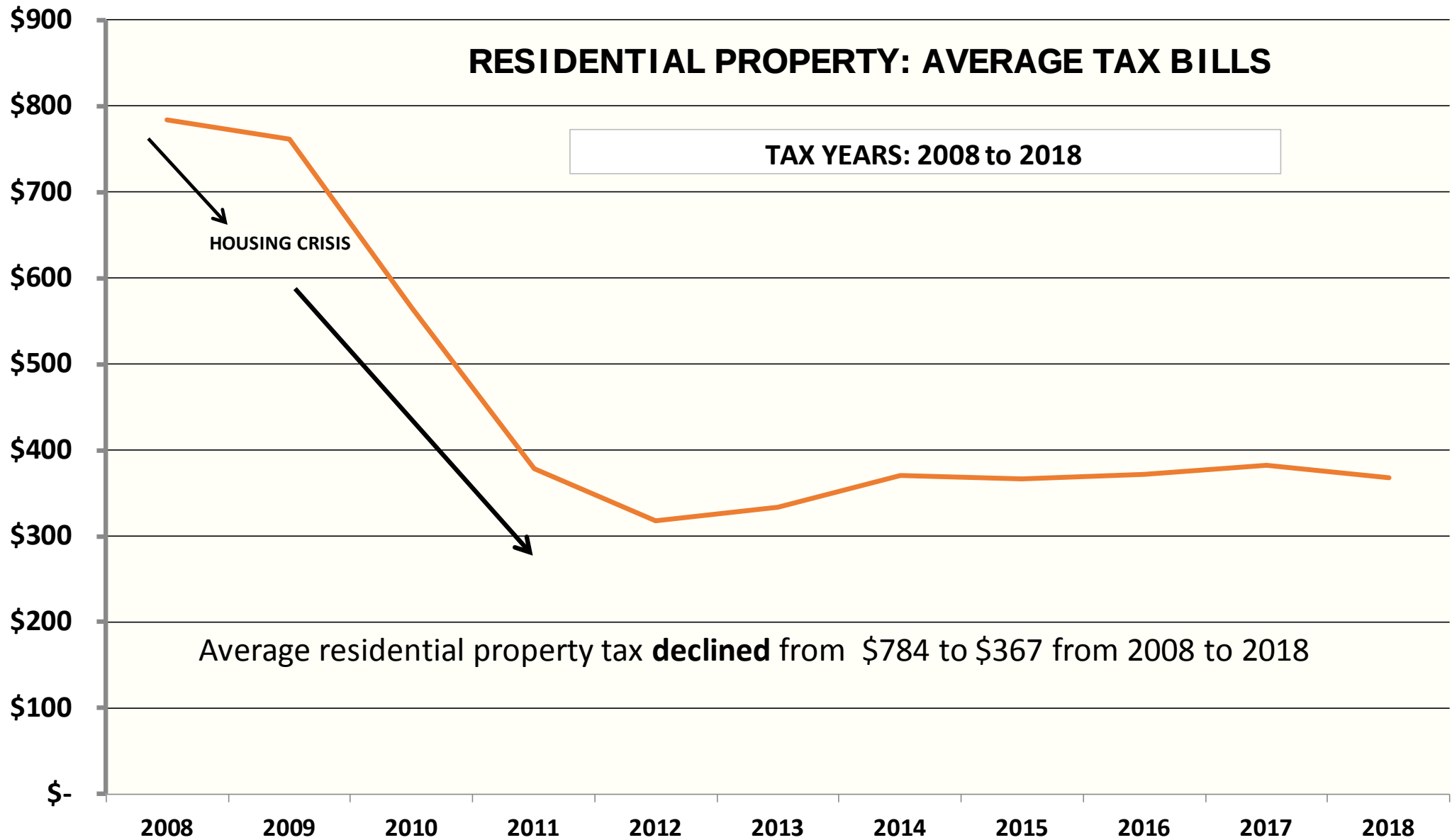
RESIDENTIAL PROPERTY: AVERAGE TAX BILLS

TAX YEARS: 2008 to 2018

ANNUAL RESIDENTIAL TAX BILL

HOUSING CRISIS

Average residential property tax **declined** from \$784 to \$367 from 2008 to 2018





City Services

Departmental Highlights and Goals

Finance Department



Finance Department:

2018 Accomplishments

- Awarded the National GGFOA Certificate for Achievement in outstanding reporting for fifth sequential year
- Improved internal controls by training, staffing, documentation of transactions, separation of duties and written procedures
- City's "net revenues" totaled \$354,755 (2015 to 2018)
- City's General Fund equity increased 41% from \$868,090 to \$1,222,865.
- General Fund "balanced budget" from 2015 to 2019 (no erosion of "Fund Balance" - equity)

Finance Department:

2019 Goals

- Continue to Improve City's Financial Condition: Fund Balance/equity and available cash.
- Increase Revenues with new sources, improved collections and enhancements.
- Continue training of accounting staff
- Improve Financial Report Preparation and Timing
- Provide Support for Annual Budget Process
- Improve execution and support of annual audit and financial report



IT Department



IT Department:

2018 Accomplishments



- Core network infrastructure refresh
 - Standardize on Meraki platform
 - Replaced aging unsupported equipment
- Replaced and modernized phone systems
 - Implemented Webex calling system
- Implemented user cyber security training
 - Quarterly testing of users
 - Users that failed are required to retake training course
- Workstation refreshes

IT Department: 2019 Goals



- ❖ Continue workstation refresh
 - Prioritizing off of age
 - Prioritizing off of department
- ❖ Update IT Roadmap for advancing technologies and Create a three year plan

Police Department



Police Department: 2018 Accomplishments

Continued outreach initiatives to citizens through participation in Safetyville Summer Camp, National Night Out, Trunk or Treat, Lunch with Leos and Story Time Reading with Hapeville Elementary School students.





National Night Out 2018

Police Department:

2018 Accomplishments

- Continued to keep staffing vacancies a top priority. Hired four full-time Police Officers, one part-time/Reserve Police Officer, one full-time Assistant Court Clerk and one full-time Code Enforcement Officer.
- Successfully managed three promotional assessments to fill vacant supervisory positions throughout the agency.
- Upgraded equipment to improve efficiency to include: new Motorola Radios, two License Plate Readers to patrol cars, three additional cameras around the Doc Morris Baseball Fields, replaced portable fingerprint identification device, started the process for a paperless court system, and started the process of implementing an electronic warrant system.

Police Department:

2018 Accomplishments

- Hapeville patrol officers began actively networking with officers from other Metro Atlanta police departments in real time using a secure law enforcement app.
- E911 center processed 38,740 incoming administrative and service related calls. Police responded to 5,992 calls with an average response time of 1 minute 55 seconds. Code Enforcement created 975 new cases.
- Due to cost and maintenance, the Police Department's State Certification and CALEA, National Accreditation programs were eliminated. This decision effectively eliminated one additional full-time Accreditation Manager position causing an expected savings of nearly \$80,000 annually.

Police Department: 2019 Goals

- The department will be focusing on our greatest asset, our employees. We recognize the importance of maintaining a motivated workforce, well equipped, trained and able to provide the level of service the citizens of Hapeville expect. We recognize that ensuring employee longevity and institutional knowledge is paramount for the success of the operation.

Fire Department



Fire Department: 2018 Accomplishments

- Participated in 8,700 hours of emergency response training.
- Conducted a 4-month, in-house, Advanced Firefighter course.
- Worked to establish Intergovernmental agreements for the provision of mutual aid.
- Continued to expand Community Risk Reduction programs
- Average Emergency Response time 2:14.



Fire Department: 2018 Accomplishments

- Worked with Community Services to recover \$89,000 from FEMA, in disaster relief funds from Hurricane Irma.
- Collected money for the Hapeville Toys for Kids project: approximately \$3,000.
- Collected money for the Georgia Firefighter Burn Foundation: approximately \$3,000.
- Ordered a new ambulance in FY18-19.



Fire Department: 2019 Goals

- Encourage larger participation in community safety programs (CERT, First Aid, BLS, CPR) through direct communication via the water bills and neighborhood associations.
- Expand emphasis on emergency management and disaster preparation.
- Work to expand emphasis on providing adequate staffing for all emergency response apparatus in accordance with NFPA 1710



- Work to Achieve Insurance Services Office (ISO) rating of Class I F.D.
- Place our newly purchase ambulance in service.

Community Service Department



Community Services: 2018 Accomplishments

- New playground was installed in the Virginia Park Neighborhood; funded with Community Development Block Grant Funds.



Community Services: 2018 Accomplishments

- The Dogwood Streetscape is a grant project that was completed in 2018. This project consisted of new sidewalks, new planters, new pedestrian street lighting and new paving.



Community Services: 2019 Goals

- Completion of Hapeville Theater
- Completion of the Rail Facilities Corridor Improvement Project Completion of the Loop Road Streetscape Project
- Completion of the AMI Water Metering Project



Recreation Department



Recreation Department: 2018 Accomplishments



- For the fifth consecutive year, the Recreation Department was awarded the non – matching grant “Bright from the Start” from the State of Georgia. This grant enables the Recreation Department to feed children breakfast and lunch who are registered in the Busy Bee Summer Camp program or resides in the City of Hapeville for free during the months of June and July.

Recreation Department:

2018 Accomplishments

- Held the First Annual La Fiesta del Cinco Hapeville Festival.
- Absorbed the administration responsibilities of the Coffee and Chrome car series.
- Produced or assisted in providing 20 special events for the community.



Recreation Department:

2018 Accomplishments

- Fielded 44 youth athletic teams, in five different sports, that played over 400 athletic contests without any significant injury to the participants. Yielding five league champions, three league runner ups, one district champion and one state runner up.



Hapeville Football Team



Recreation Department:

2019 Goals

- Continue to search for grants and sponsors that will help offset the cost of programming.
- Introduce new and innovative programs to offer to our citizens.
- Provide recreational offerings at parks that are targeted to a particular age demographic, particularly those facilities that would expand the opportunities for teens, senior citizens, and families.

Economic Development Department



Economic Development: 2018 Accomplishments

- Continued seeking grants in support of public art projects and completion of artwork of two crosswalks through a grant from KaBoom! to promote kids to play everywhere.
- Continued Intergovernmental Relations efforts resulting in spotlight on Hapeville at the Annual Aerotropolis Event highlighting Hapeville's continued partnership and support of the Community Improvements District (CID) planning efforts.
- Increased communication efforts through various social media campaigns and an "E-News" option to promote Department and City activities and initiatives.

Economic Development: 2018 Accomplishments

- Continued implementation of the City's LCI master plan recommendations through the Wayfinding and Virginia Avenue Roundabout Study and Demonstration Project which will examine the options for the development of a roundabout at the Virginia Ave/Doug Davis/Clay Place/ Hamilton Avenue Intersection.
- Established the City as a "Camera Ready" community by adopting the 2018 Film Policy which established guidelines for television, music, and film production companies that pursue media opportunities within the City.

Economic Development: 2019 Goals

- Creation of a Hapeville Welcome Packet: including information for city services, events and marketing.
- Continue creation of a citywide business data collection to improve business communications and increase accuracy of tracking growth and trends that is useful for staff, potential investors and state agencies.
- Continue seeking grants, managing incentive programs including the Opportunity Zone, and leveraging public/private partnerships and resources for business attraction.

Planning and Zoning



Recognition:



- Hapeville was selected by the American Planning Association – Georgia Chapter as the Small-Scale Winner for Outstanding Planning Process for the 2017 Comprehensive Plan/LCI Study Update.

Planning & Zoning: 2018 Accomplishments

- Awarded the Livable Centers Initiative (LCI) study grant for implementation of the LCI master plan recommendations.
- Awarded the Community Development Assistance Program from the Atlanta Regional Commission for a parking study and affordable housing technical grant.

Planning & Zoning: 2018 Accomplishments

- Fast tracked and processed review of several key developments including RaceTrac, Embassy Suites, and a 22,000-sf mixed-use development.
 - Embassy Suites – 174-room, 156,900-sf hotel located at 3399 International Boulevard. The Developer is YM Hospitality. Construction will begin in 2019!
 - A 22,000-sf mixed-use commercial/retail development located at 917 Virginia Avenue. The Developer is Rajesh Patel. Construction will be in 2019!



Planning & Zoning: 2018 Accomplishments

- Initiated essential text amendments to the Home Occupation, Arts Overlay District, and Restaurant ordinances.
- Updated the Future Land Use Map (FLUM) as part of the Comprehensive Plan process.

Planning & Zoning: 2019 Goals

- Coordinate the LCI Study grant for the Virginia Avenue wayfinding and roundabout study and demonstration.
- Re-adopt the Official Zoning Map.
- Continue to expedite review/approval of all applications: rezoning, variances, appeals, special use permits, site plan, design review, occupational tax and signs.

Main Street



Main Street: 2018 Accomplishments

- Obtained \$13,000 in grants towards transforming the Pedestrian Bridge into public art.
- Through the selection process and film attendance, the Board supported and volunteered with the South Arts Film Series.
- Continued Support for the South Arts Film Festival.



Main Street: 2019 Goals



- Continue to align the program with the National Program
- Higher participation for training opportunities
- Continue supporting Hapeville as a regional arts destination
- Establish and Maintain a Business Ambassador Program



Ribbon Cuttings

Human Resources



Human Resource Department: 2018 Accomplishments

- Revised and updated the Employee Handbook
- Changed the healthcare insurance from an HMO to an Open Network
- Completed Open Enrollment for Full-time Employees and Retirees
- Filled critical positions – City Manager, City Clerk, Asst. Finance Director
- Implemented ACA with Paycom
- Continued Organization for Personnel Files

Human Resource Department: 2019 Goals

- Electronic Job Application
- Employee Page for general information (i.e. Employee Handbook, Onboarding information, Benefit information)

City Clerk's Office



City Clerk's Office

2018 Accomplishments

- Earned 2018 Municipality Qualifying Certification
- Implemented onsite shredding process
- Prepared for March 2019 Special Election
- Led the Copier Services RFP and selection process
- Codified Code of Ordinances
- Updated City Website with Alcohol License and Renewal Process Info.
- Processed 219 Open Records Requests
- Processed 4 Alcohol Application Requests

City Clerk's Office

2019 Goals

- Continue Educational Courses to maintain City Clerk Certification
- Assist in implementing Live Streaming/Video and Agenda Management Software
- Revamp Filing System for Physical and Electronic files in Clerk's Office to include searchable tool for easier access to records

19-PC-04-08

**CITY OF HAPEVILLE
ECONOMIC DEVELOPMENT DEPARTMENT
PLANNING COMMISSION APPLICATION**

Name of Applicant Georgia Communities, Inc.

Mailing Address: 745 Ponce de Leon Terrace

Telephone 256-490-4866 Mobile # same Email phil@georgiacommunities.org

Property Owner (s) Patricia Murray

Mailing Address 2911 Veazey Road, Greensboro, GA, 30642

Telephone _____ Mobile # [REDACTED]

Address/Location of Property: 325 Sunset Avenue

Parcel I.D. # **(INFORMATION MUST BE PROVIDED):** 1400960060133

Present Zoning Classification: Urban Village Size of Tract: 1.71 acre(s)

Present Land Use: Undeveloped land

Please check the following as it applies to this application

☐ Site Plan Review

☒ Conditional Use Permit

☐ Temporary Use Permit

Other (Please State) _____

I hereby make application to the City of Hapeville, Georgia for the above referenced property. I do hereby swear or affirm that the information provided here and above is true, complete and accurate, and I understand that any inaccuracies may be considered just cause for invalidation of this application and any action taken on this application. I understand that the City of Hapeville, Georgia, reserves the right to enforce any and all ordinances. I further understand that it is my/our responsibility to conform with all of City of Hapeville's Ordinances in full. I hereby acknowledge that all requirements of the City of Hapeville shall be adhered too. I can read and write the English language and/or this document has been read and explained to me and I have full and voluntarily completed this application. I understand that it is a felony to make false statements or writings to the City of Hapeville, Georgia pursuant to O.C.G.A. 16-10-20 and I may be prosecuted for a violation thereof.

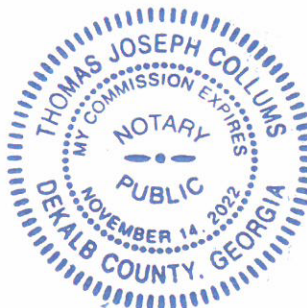
[Signature]
Applicant's signature

Date: March 11, 2019

Sworn to and subscribed before me

This 12th day of March, 2019.

[Signature]
Notary Public



**CITY OF HAPEVILLE
ECONOMIC DEVELOPMENT DEPARTMENT
PLANNING COMMISSION APPLICATION**

WRITTEN SUMMARY

In detail, provide a summary of the proposed project in the space provided below. (Please type or print legibly.)

Project Overview

Hapeville Station Senior Residences is a proposed 74-unit community that will serve seniors ages 55 and above. The development will be located at 325 Sunset Avenue at the southwest corner of Sunset Avenue and King Arnold Street. This location is ideal for independent senior living, as it provides convenient access to amenities such as the Hapeville Senior Center and Downtown Arts District, as well as on-site access to public transportation. We believe the proposed use is highly responsive to the city's recent Comprehensive Plan Update / LCI Study noting opportunities for residential development within downtown's gateway zones. In addition to contributing to the ongoing revitalization of the area, Hapeville Station is being intentionally planned to promote innovative aging-in-place strategies for local seniors. Our team is partnering with Georgia Tech's HomeLab research initiative to deploy technologies that promote health, wellness, and independence for older adults.

Request

The site for Hapeville Station is currently zoned Urban Village. This application package is being submitted to formally request a conditional use approval from the city, as required for proposed multifamily uses in the Urban Village zone.

CITY OF HAPEVILLE
ECONOMIC DEVELOPMENT DEPARTMENT
PLANNING COMMISSION APPLICATION

AUTHORIZATION OF PROPERTY OWNER

I CERTIFY THAT I AM THE OWNER OF THE PROPERTY LOCATED AT:

369 North Central Ave Hapeville

325 Sunset Ave Hapeville

City of Hapeville, County of Fulton, State of Georgia

WHICH IS THE SUBJECT MATTER OF THIS APPLICATION. I AUTHORIZE THE APPLICANT NAMED BELOW TO ACT AS THE APPLICANT IN THE PURSUIT OF THIS APPLICATION FOR PLANNING COMMISSION REVIEW.

Name of Applicant Georgia Communities, Inc.

Address of Applicant
745 Ponce de Leon Terrace, Atlanta, GA 30306

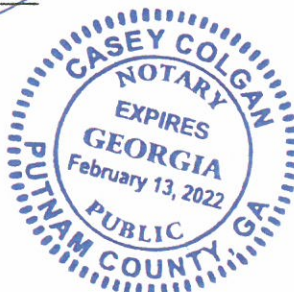
Telephone of Applicant
256-490-4866

Patricia Murray
Signature of Owner

Patricia Murray
Print Name of Owner

Personally Appeared Before Me this 8th day of March, 2019.

Casey
Notary Public



Site Plan Checklist – Please include with your application.

A site plan is used to determine the practical ability to develop a particular property within the City of Hapeville. Information relating to environmental condition, zoning, development impact, consistency with the Hapeville Comprehensive Plan and relevant town master plans will be considered in the decision process. To be considered, a site plan **must** contain the following information:

(Please **initial** each item on the list above certifying the all required information has been included on the site plan)

PE A brief project report shall be provided to include an explanation of the character of the proposed development, verification of the applicant's ownership and/or contractual interest in the subject site, and the anticipated development schedule. Please complete and submit all forms contained within the application for site plan review.

PE Site plans shall be submitted indicating project name, applicant's name, adjoining streets, scale, north arrow and date drawn.

PE The locations, size (sf) and height (ft) of all existing and proposed structures on the site. Height should be assessed from the base of the foundation at grade to the peak of the tallest roofline.

PE Site plans shall include the footprint/outline of existing structures on adjoining properties. For detached single-family residential infill development, the front yard setback shall be assessed based on the average setback of existing structures on adjoining lots. Where practical, new construction shall not deviate more than ten (10) feet from the average front yard setback of the primary residential structure on an adjoining lot. Exemption from this requirement due to unnecessary hardship or great practical difficulty can be approved at the discretion of the Planning Commission. To be considered for an exemption, the applicant must submit a "Request for Relief" in writing with their site plan application, including the conditions that necessitate relief (i.e. floodplain, wetland encroachment, excessive slope, unusual lot configuration, legally nonconforming lot size, unconventional siting of adjoining structures, etc).

- PE
_____ The location and general design cross-section characteristics of all driveways, curb cuts and sidewalks including connections to building entrances. A walkway from the primary entrance directly to the public sidewalk is required for all single-family residential development.
- PE
_____ The locations, area and number of proposed parking spaces. Please refer to Article 22.1 Chart of Dimensional Requirements to determine the correct number of parking spaces for your particular type of development.
- PE
_____ Existing and proposed grades at an interval of five (5) feet or less.
- PE
_____ The location and general type of all existing trees over six (6) inch caliper and, in addition, an identification of those to be retained. Requirements for the tree protection plan are available in Code Section 93-2-14(f). Please refer to Sec. 93-2-14(y) to determine the required tree density for your lot(s).
- PE
_____ A Landscape Plan: The location and approximate size of all proposed plant material to be used in landscaping, by type such as hardwood deciduous trees, evergreen trees, flowering trees and shrub masses, and types of ground cover (grass, ivies, etc.). Planting in parking areas should be included, as required in Section 93-23-18.
- PE
_____ The proposed general use and development of the site, including all recreational and open space areas, plazas and major landscape areas by function, and the general location and description of all proposed, outdoor furniture (seating, lighting, telephones, etc.). Detached single-family residential development may be exempt from this requirement.
- PE
_____ The location of all retaining walls, fences (including privacy fences around patios, etc.) and earth berms. Detached single-family residential development may be exempt from this requirement.
- PE
_____ The identification and location of all refuse collection facilities, including screening to be provided. Detached single-family residential development may be exempt from this requirement.

*We have included photos of similarly scaled developments in lieu of elevations

- PE
Provisions for both on-site and offsite storm-water drainage and detention related to the proposed development.
- PE
Location and size of all signs. Detached single-family residential development may be exempt from this requirement.
- PE
Typical elevations of proposed building provided at a reasonable scale (1/8" = 1'0") and include the identification of proposed exterior building materials. Exterior elevations should show all sides of a proposed building.
- PE
Site area (square feet and acres).
- PE
Allocation of site area by building coverage, parking, loading and driveways, and open space areas, including total open space, recreation areas, landscaped areas and others. Total dwelling units and floor area distributed generally by dwelling unit type (one-bedroom, two-bedroom, etc.) where applicable.
- PE
Floor area in nonresidential use by category. Detached single-family residential development may be exempt from this requirement.
- PE
Total floor area ratio and/or residential density distribution.
- PE
Number of parking spaces and area of paved surface for parking and circulation
- PE
At the discretion of the planning commission, analyses by qualified technical personnel or consultants may be required as to the market and financial feasibility, traffic impact, environmental impact, storm water and erosion control, etc. of the proposed development.

Please initial each item on the list above certifying the all required information has been included on the site plan, sign and submit this form with your site plan application. Failure to include this form and information required herein may result in additional delays for the consideration of your application.

Applicant Signature: 
 Date March 11, 2014

Legal Description

ALL that tract or parcel of land lying and being in Land Lot 96 of the 14th District of Fulton County, Georgia, and being more particularly described as follows:

BEGINNING at the Southwest corner of King Arnold Street and Sunset Avenue (formerly Sunset Street), if said street lines were extended to form an angle instead of a curve; running thence South along the West side of Sunset Avenue, 390.83 feet to an iron pin found; thence North 78 degrees 42 minutes 54 seconds West along the North line of property now or formerly owned by Wendy's, 193.15 feet to an iron pin found; thence North 01 degree 07 minutes 43 seconds East, 399.9 feet to an iron pin found on the Southwesterly side of King Arnold Street; thence Southeasterly along the Southwesterly side of King Arnold Street, 191.51 feet to a point on the West side of Sunset Avenue, if extended, and the point of beginning; LESS AND EXCEPTING that portion of the above described property used in rounding the corner of King Arnold Street and Sunset Avenue.

Known as 325 Sunset Avenue, Hapeville, GA 30354

HAPEVILLE STATION SENIOR RESIDENCES

Project Report

City of Hapeville Planning Commission Application

March 12, 2019





GEORGIA
COMMUNITIES

Project Overview

Hapeville Station Senior Residences is a proposed 74-unit community that will serve seniors ages 55 and above. The development will be located at 325 Sunset Avenue at the southwest corner of Sunset Avenue and King Arnold Street. This location is ideal for independent senior living, as it provides convenient access to amenities such as the Hapeville Senior Center and Downtown Arts District, as well as on-site access to public transportation. We believe the proposed use is highly responsive to the city's recent Comprehensive Plan Update / LCI study noting opportunities for residential development within downtown's gateway zones. In addition to contributing to the ongoing revitalization of the area, *Hapeville Station* is being intentionally planned to promote innovative aging-in-place strategies for local seniors. Our team is partnering with Georgia Tech's HomeLab research initiative to deploy technologies that promote health, wellness and independence for older adults.

Conditional Use Request

The site for *Hapeville Station Senior Residences* is currently zoned Urban Village. This information package is being submitted to formally request a conditional use approval from the city, as required for proposed multifamily uses in the Urban Village zone.

Development Character

Hapeville Station will deliver 74 one-bedroom and two-bedroom units within a single, 4-story building. The development will fully comply with the city's architectural requirements and will seek to promote the pedestrian-friendly environment sought within the Urban Village zone. The development's scale, orientation on the site, and façade are being carefully designed to integrate with the downtown corridor as it transitions to low-density residential neighborhoods. Attached to this summary as Exhibit A are recent developments reflecting the scale, exterior and interior amenities that will be included in *Hapeville Station*, courtesy of our architect Martin Riley & Associates.

Property Details

Georgia Communities, Inc. will be purchasing 325 Sunset Avenue (parcel I.D. 1400960060133), totaling 1.71 acres, from current owner Patricia Murray. Our Purchase & Sale Agreement demonstrating site control is attached to this form as Exhibit B. We will also be entering an agreement with Ms. Murray to utilize 0.51 acres of the adjacent parcel (#14009600060125), as shown on our site plan, to accommodate the required 74 off-street parking spaces. We will be



jointly submitting the required documentation to the city's Board of Appeals for approval of our proposed parking plan, as allowed in Section 93-23-12 of Hapeville's Code of Ordinances. The combined total acreage of the Hapeville Station concept is 2.22 acres.

Development Schedule

Georgia Communities, Inc. will be applying to the Georgia Department of Community Affairs (DCA) for an allocation of housing tax credits necessary to finance the project. Each year DCA allocates tax credits in a competitive process in order to increase the supply of workforce and senior housing. Through the equity raised from the sale of credits, we will be able to deliver a market-rate quality development that maintains affordability for prospective senior residents. Rental rates are expected to range from \$550 to \$800, well below available rents at comparable developments.

Although DCA does not publish its internal deadlines for selecting applications, based on prior experience we anticipate the following:

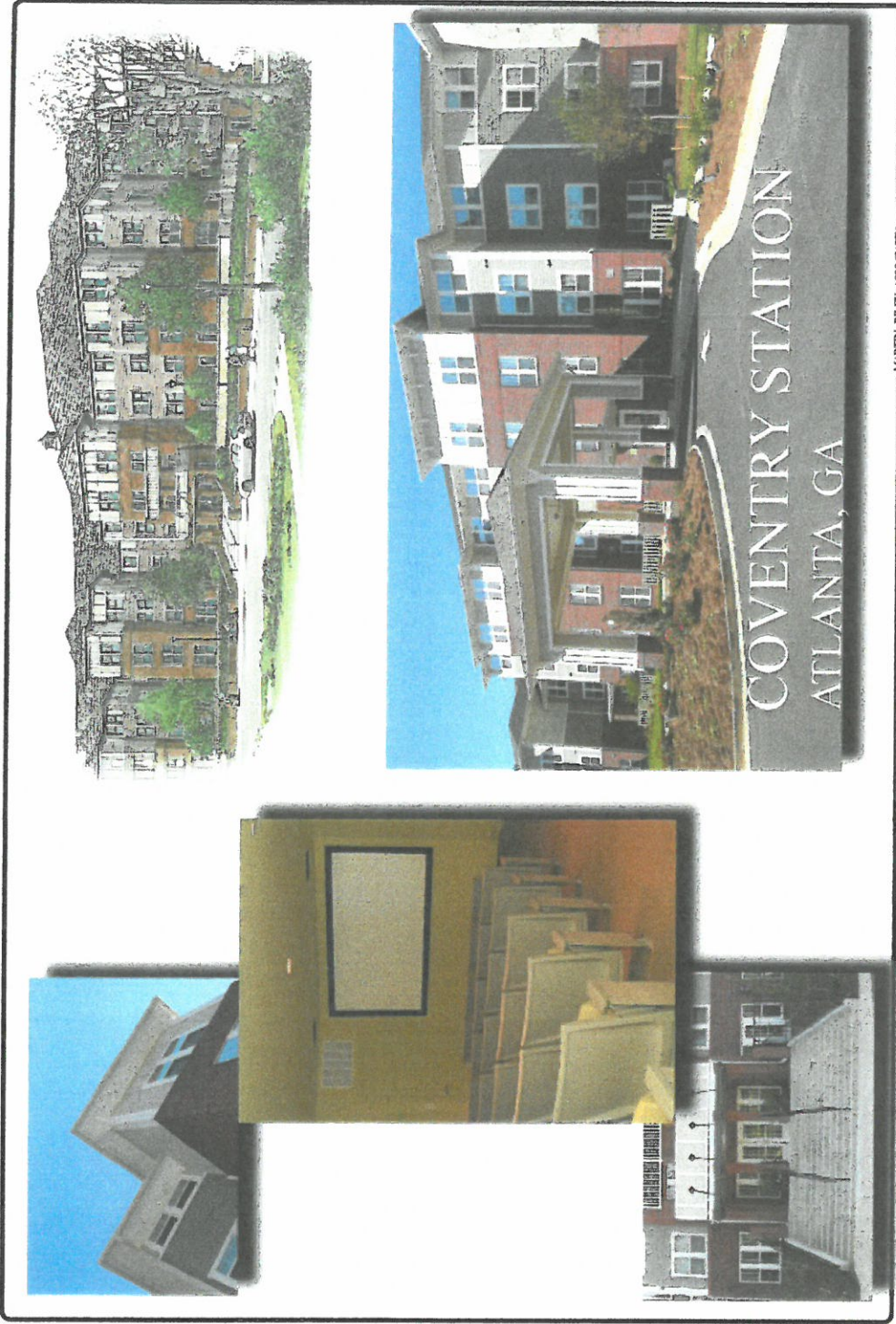
- May 23- application for *Hapeville Station* submitted to DCA
- November 1, 2019- DCA provides notice of selection
- February 28, 2020- anticipated closing date and commencement of construction
- October 2021- construction completion

Project Team

Georgia Communities, Inc. and co-developer Paladin, Inc. have extensive experience in the successful development and ownership of workforce and senior housing. Our combined portfolio totals 35 properties and 1,596 units across the Southeast. We specialize in partnering with local communities to create high-quality housing that is managed with excellence over the long-term. Occupancy across our portfolio stands at 96%, with lengthy wait lists typical in our senior communities. We seek to deliver housing concepts that help seniors live active, healthy lives in their own communities, and we are excited for the opportunity to deliver this experience at *Hapeville Station*.

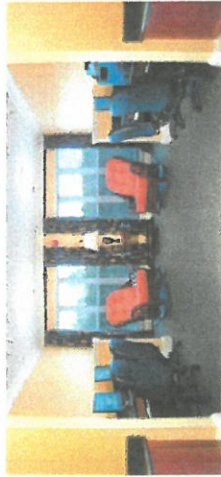


Exhibit A – Similar Project Concepts



ASHFORD PARKSIDE SENIOR RESIDENCES

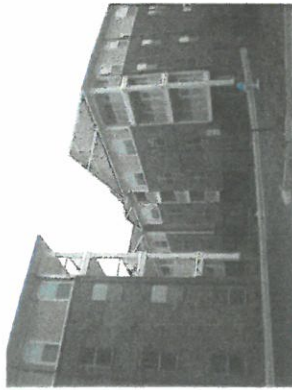




ALLEGRE POINT

DEKALB COUNTY, GEORGIA





GALLERIA MANOR OF SMYRNA
SMYRNA, GA

7/19/2010

COMMERCIAL PURCHASE AND SALE AGREEMENT

Offer Date: MARCH 11, 2019



A. KEY TERMS AND CONDITIONS

2019 Printing

1. Purchase and Sale. The undersigned buyer(s) ("Buyer") agree to buy and the undersigned seller(s) ("Seller") agree to sell the real property described below including all fixtures, improvements and landscaping therein ("Property") on the terms and conditions set forth in this Agreement. a. Property Identification: Address: <u>325 Sunset Ave + 0.514 acres of 369 N. CENTRAL AVE</u> City <u>HAPEVILLE</u>, County _____, Georgia, Zip Code _____ MLS Number: _____ Tax Parcel I.D. Number: <u>14009600060133</u> b. Legal Description: The legal description of the Property is [select one of the following below]: ☒ (1) attached as an exhibit hereto; ☐ (2) the same as described in Deed Book _____, Page _____ of the land records of the above county; OR ☐ (3) Land Lot(s) _____ of the _____ District, _____ Section/ GMD, _____ Lot _____, Block _____, Unit _____, Phase/Section _____ of _____ Subdivision/Development, according to the plat recorded in Plat Book _____, Page _____, et. seq., of the land records of the above county.	
2. Purchase Price of Property to be Paid by Buyer. \$ <u>1,340,000</u>	3. Closing Costs. Seller's Contribution at Closing: \$ <u>- 0 -</u>
4. Closing and Possession. a. Closing Date: <u>On or before 2/28/20</u>	b. Seller Retains Possession of Property Through: <u>closing</u>
5. Holder of Earnest Money ("Holder"). <u>Old Republic National Title Co.</u>	6. Closing Attorney/Law Firm. <u>Coleman Talley LLP</u>
7. Earnest Money. Earnest Money shall be paid by ☒ check ☐ cash or ☐ wire transfer of immediately available funds as follows: ☒ a. \$ <u>7,500</u> as of the Offer Date. <u>binding agreement date - see special stip #1</u> ☐ b. \$ <u>22,500</u> within <u>10</u> days from the Binding Agreement Date. ☒ c. <u>75,000 see special stip #1 thru May 23, 2019</u>	
8. Due Diligence Period: Property is being sold subject to a Due Diligence Period of <u>10</u> days from the Binding Agreement Date.	
9. Buyer shall have _____ days from the Binding Agreement Date in which to furnish written title objections to Seller.	
10. Seller shall deliver Due Diligence Materials to Buyer within _____ days from Binding Agreement Date.	
11. Buyer ☒ may OR ☐ may not assign this Agreement in accordance with the terms of this Agreement.	
12. Disputes regarding earnest money shall be resolved by a reasonable interpretation by ☐ Holder; OR ☒ arbitration.	
13. Brokerage Relationships in this Transaction. a. Selling Broker is <u>Lake Area Realty</u> and is: (1) ☐ representing Buyer as a client. (2) ☒ working with Buyer as a customer. (3) ☐ acting as a dual agent representing Buyer and Seller. (4) ☐ acting as a designated agent where: _____ _____ has been assigned to exclusively represent Buyer. b. Listing Broker is <u>Lake Area Realty</u> and is: (1) ☒ representing Seller as a client. (2) ☐ working with Seller as a customer. (3) ☐ acting as a dual agent representing Buyer and Seller. (4) ☐ acting as a designated agent where: _____ _____ has been assigned to exclusively represent Seller. c. Material Relationship Disclosure: The material relationships required to be disclosed by either Broker are as follows:	
14. Time Limit of Offer. The Offer set forth herein expires at _____ o'clock _____, m. on the date _____.	

Buyer(s) Initials P.E.

Seller(s) Initials SM

THIS FORM IS COPYRIGHTED AND MAY ONLY BE USED IN REAL ESTATE TRANSACTIONS IN WHICH F. Patrick Leonard IS INVOLVED AS A REAL ESTATE LICENSEE. UNAUTHORIZED USE OF THE FORM MAY RESULT IN LEGAL SANCTIONS BEING BROUGHT AGAINST THE USER AND SHOULD BE REPORTED TO THE GEORGIA ASSOCIATION OF REALTORS® AT (770) 451-1831.

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CF04, Commercial Purchase and Sale Agreement, Page 1 of 7, 01/01/19

B. CORRESPONDING PARAGRAPHS FOR SECTION A

1. **Purchase Price and Method of Payment.** The Purchase Price shall be paid in U.S. Dollars at closing by wire transfer of immediately available funds, or such other form of payment acceptable to the closing attorney.
2. **Due Diligence.** Buyer has paid Seller the sum of \$25, the receipt of which is hereby acknowledged by Seller, as option money for Buyer having the right to terminate this agreement during the Due Diligence Period. Prior to closing, Buyer and Buyer's agents shall have the right to enter upon Property at Buyer's expense, and at reasonable times, to inspect, survey, examine, and test Property as Buyer may deem necessary as part of Buyer's acquisition of Property. Buyer shall indemnify and hold Seller and all Brokers harmless from and against any and all claims, injuries, and damages to persons and/or property arising out of or related to the exercise of Buyer's rights hereunder. During the Due Diligence Period Buyer may evaluate Property, the feasibility of the transaction, the availability and cost of financing, and any other matter of concern to Buyer. During the Due Diligence Period, Buyer shall have the right to terminate this Agreement upon notice to Seller if Buyer determines, based on an evaluation of the above, that it is not desirable to proceed with the transaction. In such event, Holder shall promptly refund Buyer's earnest money in accordance with the earnest money paragraph below.
3. **Earnest Money.**
 - a. **Receipt:** In the event Buyer terminates this Agreement during the Due Diligence Period or does not otherwise close this transaction, Buyer shall promptly return all Due Diligence materials to Seller. The earnest money shall be deposited into Holder's escrow/trust account (with Holder being permitted to retain the interest if the account is interest bearing) not later than: (a) five (5) banking days after the Binding Agreement Date hereunder or (b) five (5) banking days after the date it is actually received if it is received after the Binding Agreement Date. If Buyer writes a check for earnest money and the same is deposited into Holder's escrow/trust account, Holder shall not be required to return the earnest money until the check has cleared the account on which the check was written. In the event any earnest money check is dishonored for any reason by the bank upon which it is drawn, Holder shall promptly give notice to Buyer and Seller. Buyer shall have 3 banking days after notice to deliver good funds to Holder. In the event Buyer does not timely deliver good funds, Seller shall have the right to terminate this Agreement upon written notice to Buyer.
 - b. **Entitlement to Earnest Money:** Subject to the Disbursement of earnest money paragraph below:
 - (1) Buyer shall be entitled to the earnest money upon: (a) failure of the parties to enter into a binding agreement; (b) failure of any contingency or condition to which this Agreement is subject; (c) termination of this Agreement due to the default of Seller; (d) the termination of this Agreement in accordance with a specific right to terminate set forth in the Agreement; or (e) upon the closing of Property.
 - (2) Seller shall be entitled to the earnest money if this Agreement is terminated due to the default of Buyer. In such event, Holder may pay the earnest money to Seller by check, which if accepted and deposited by Seller, shall constitute liquidated damages in full settlement of all claims of Seller. It is agreed to by the parties that such liquidated damages are not a penalty and are a good faith estimate of Seller's actual damages, which damages are difficult to ascertain.
 - c. **Disbursement of Earnest Money:** Holder shall disburse Earnest Money only as follows: (a) at Closing; (b) upon a subsequent written agreement signed by Buyer and Seller; (c) as set forth below in the event of a dispute regarding earnest money; or (d) the failure of the parties to enter into a binding agreement (where there is no dispute over the formation or enforceability of the Agreement). No party shall seek damages from Holder, nor shall Holder be liable for any such damages, for any matter arising out of or related to the performance of Holder's duties hereunder.
 - d. **Disputes Regarding Earnest Money:** In the event Buyer or Seller notifies Holder of a dispute regarding the disposition of Earnest Money that Holder cannot resolve, Holder shall settle the dispute in accordance with method selected on the cover page of this Agreement.
 - (1) **Reasonable Interpretation by Holder:** In the event earnest money disputes are to be resolved by Holder herein, Holder may disburse the earnest money upon a reasonable interpretation of the Agreement, provided that Holder first gives all parties 10 days notice stating to whom and why the disbursement will be made. Any party may object to the proposed disbursement by giving written notice of the same to Holder within the ten (10) day notice period. Objections not timely made in writing shall be deemed waived. If Holder receives an objection and after considering it, decides to disburse the earnest money as originally proposed, Holder may do so and send notice to the parties of Holder's action. If Holder decides to modify its proposed disbursement, Holder shall first send a new ten (10) day notice to the parties stating the rationale for the modification and to whom the disbursement will now be made. If there is a dispute over the earnest money which the parties cannot resolve after a reasonable period of time, and where Holder has a bona fide question as to who is entitled to the earnest money, Broker may interplead the earnest money into a court of competent jurisdiction. Holder shall be reimbursed for and may deduct from any funds interpleaded, its costs and expenses, including reasonable attorney's fees actually incurred. The prevailing defendant in the interpleader lawsuit shall be entitled to collect its attorney's fees and court costs and the amount deducted by Holder from the non-prevailing defendant.
 - (2) **Arbitration:** In the event arbitration is selected as the method to resolve earnest money disputes, such disputes shall be resolved by arbitration in accordance with the Federal Arbitration Act 9 U.S.C. § 1 et. seq. and the rules and procedures of the arbitration company selected to administer the arbitration. Upon making or receiving a demand for arbitration, the parties shall work together in good faith to select a mutually acceptable arbitration company with offices in Georgia to administer and conduct the arbitration. If the parties cannot mutually agree on an arbitration company, the company shall be selected as follows. Each party shall simultaneously exchange with the other party a list of three arbitration companies with offices in Georgia acceptable to that party to administer and conduct the arbitration. If there is only one (1) arbitration company that is common to both lists, that company shall administer and conduct the arbitration. If there is more than one arbitration company that is common to both lists, the parties shall either mutually agree on which arbitration company shall be selected or flip a coin to select the arbitration company. If there is not initially a common arbitration company on the lists, the parties shall repeat the process by expanding their lists by two each time until there is a common name on the lists selected by the parties. The decision of the arbitrator shall be final and the arbitrator shall have authority to award attorneys' fees and allocate the costs of arbitration as part of any final award.

4. **Seller's Obligations at Closing.** At Closing, Seller shall deliver to Buyer: (a) a Closing Statement; (b) Limited Warranty Deed; (c) FIRPTA Affidavit (indicating that Seller is not a "foreign person" or "foreign corporation" as that term is defined in Section 1445(f)(3) of the Internal Revenue Code of 1986); (d) an Affidavit of Seller's Residence Regarding Georgia Withholding Tax, establishing that Seller is exempt from the requirements of O.C.G.A. § 48-7-128, the Georgia Withholding Statute (or Affidavit of Exemption or Affidavit of Seller's Gain, if withholding is required); (e) a transfer tax declaration form properly signed and executed by Seller; and, (f) all documents which Seller must execute under the terms of this Agreement to cause the Title Company to deliver to Buyer the Title Policy, including, without limitation, a title affidavit from Seller to Buyer and to the Title Company in the form customarily used in Georgia commercial real estate transactions so as to enable the Title Company to issue Buyer the Title Policy with all standard exceptions deleted and subject only to the Permitted Exceptions and evidence reasonably satisfactory to Title Company of its due and proper authority and power to perform its obligations hereunder. In addition, Seller shall deliver to Buyer at Closing all documents/items indicated in Exhibit "C", if any. (All documents to be delivered by Seller under this paragraph, including all documents/items indicated in Exhibit "C" are collectively "Seller's Closing Documents".)
5. **Conditions to Closing.**
- a. **Conditions in Favor of Buyer:** The obligation of Buyer to consummate the transaction contemplated herein is conditioned upon the following conditions precedent as of the Closing Date:
- (1) All representations and warranties of Seller made herein shall remain true and correct;
 - (2) Seller shall have performed all of the covenants undertaken by Seller in this Agreement to be performed by Seller at or prior to Closing;
 - (3) Seller shall have delivered to the Buyer properly executed originals of Seller's Closing Documents;
 - (4) There shall have been no material adverse change in the physical condition of Property, except as otherwise provided for in this Agreement; and
 - (5) The issuance at Closing of the Title Policy (or marked binder), with all standard exceptions deleted and subject only to the Permitted Exceptions.
- b. **Conditions in Favor of Seller:** The obligation of Seller to consummate the transaction contemplated herein is conditioned upon the following conditions precedent as of the Closing Date:
- (1) All representations and warranties of Buyer made herein shall remain true and correct;
 - (2) Buyer shall have performed all of the covenants undertaken by Buyer in this Agreement to be performed by Buyer at or prior to Closing; and
 - (3) Buyer shall have: (a) delivered to the Seller properly executed originals of the transfer tax declaration form, title policy documents, closing statement, and any other documents identified in Exhibit "C" that require Buyer's signature; and (b) paid the Purchase Price, plus or minus prorations and adjustments, to Seller.
6. **Costs.**
- a. **Seller's Costs:** Seller shall pay the amount of Seller's Monetary Contribution at Closing, if any, referenced in this Agreement, the cost of recording any title curative document, including, without limitation, satisfactions of deeds to secure debt, quitclaim deeds and financing statement terminations; all deed recording fees and the fees of Seller's counsel.
- b. **Buyer's Costs:** Buyer shall pay the cost of Buyer's counsel and consultants; all transfer taxes; any costs in connection with Buyer's inspection of Property and any costs associated with obtaining financing for the acquisition of Property (including any intangibles tax, all deed recording fees and the cost of recording Buyer's loan documents); and the cost of any title examination, survey of the Property obtained by Buyer and any owner's or lender's title insurance.
7. **Taxes and Prorations.** Ad valorem property taxes, community association fees, solid waste and governmental fees and utility bills for which service cannot be terminated as of the date of closing; rents, tenant improvements costs and leasing commissions on Property for the calendar year in which the Closing takes place shall be prorated as of 12:01 a.m. on the Closing Date. In the event ad valorem property taxes are based upon an estimated tax bill or tax bill under appeal, Buyer and Seller shall, upon the issuance of the actual tax bill or the appeal being resolved, promptly make such financial adjustments between themselves as are necessary to correctly prorate the tax bill. In the event there are tax savings resulting from a tax appeal, third party costs to handle the appeal may be deducted from the savings for that tax year before re-prorating. Any pending tax appeal shall be deemed assigned to Buyer at closing.
8. **Title.**
- a. **Warranties of Seller:** Seller warrants that at Closing, Seller shall convey good and marketable, fee simple title to Property to Buyer by limited warranty deed, subject only to the following exemptions:
- (1) Liens for ad valorem taxes not yet due and payable;
 - (2) Those exceptions to which Buyer does not object or which Buyer waives in accordance with the Title Objections paragraph below.
 - (3) Those Permitted Exceptions attached hereto and incorporated herein as an exhibit to which Buyer has agreed not to object. For all purposes under this Agreement, "Good and marketable, fee simple title" with respect to Property shall be such title: (a) as is classified as "marketable" under the Title Standards of the State Bar of Georgia; and (b) as is acceptable to and insurable by a title insurance company doing business in Georgia ("Title Company"), at standard rates on an American Land Title Association Owner's Policy ("Title Policy").

- b. **Title Objections:** Seller shall have until the Closing to cure all valid title objections ("Title Cure Period"). Seller shall satisfy any existing liens or monetary encumbrances identified by Buyer as title objections which may be satisfied by the payment of a sum certain prior to or at Closing. Except for Seller's obligations in the preceding sentence, if Seller fails to cure any other valid title objections of Buyer within the Title Cure Period (and fails to provide Buyer with evidence of Seller's cure satisfactory to Buyer and to the Title Company), Buyer may, as Buyer's sole remedies: (1) rescind the transaction contemplated hereby, in which case, Buyer shall be entitled to the return of Buyer's earnest money; (2) waive any such objections and elect to close the transaction contemplated hereby irrespective of such title objections and without reduction of the Purchase Price; or (3) extend the Closing Date for a period of time not to exceed fifteen (15) days to allow Seller further time to cure such valid title objections. Failure to act in a timely manner under this paragraph shall constitute a waiver of Buyer's rights hereunder. Buyer shall have the right to re-examine title prior to Closing and notify Seller at Closing of any title objections which appear of record after the date of Buyer's initial title examination and before Closing.
9. **Destruction of Property Prior to Closing.** If the Property is destroyed or substantially destroyed prior to Closing, Seller shall give Buyer prompt notice thereof, which notice shall include Seller's reasonable estimate of: (1) the cost to restore and repair the damage; (2) the amount of insurance proceeds, if any, available for the same; and (3) whether the damage will be repaired prior to Closing. Upon notice to Seller, Buyer may terminate this Agreement within 7 days of receiving such notice from Seller. If Buyer does not terminate this Agreement, Buyer shall be deemed to have accepted Property with the damage and shall receive at Closing: (1) any insurance proceeds which have been paid to Seller but not yet spent to repair the damage; and (2) an assignment of all unpaid insurance proceeds on the claim.
10. **Representations and Warranties.**
- a. **Seller's Representations and Warranties:** As of the Binding Agreement Date and the Closing Date, Seller makes the representations and warranties to Buyer, if any, as indicated in Exhibit "D", if attached.
- b. **Buyer's Representations and Warranties:** As of the Binding Agreement Date and the Closing Date, Buyer represents and warrants to Seller that Buyer has the right, power and authority to enter into this Agreement and to consummate the transaction contemplated by the terms and conditions of this Agreement; and the persons executing this Agreement on behalf of Buyer have been duly and validly authorized by Buyer to execute and deliver this Agreement and shall have the right, power and authority to enter into this Agreement and bind Buyer.
11. **Brokerage.** Seller has agreed to pay Listing Broker(s) a real estate commission pursuant to that certain brokerage engagement agreement entered into between the parties and incorporated herein by reference ("Listing Agreement"). Pursuant to the terms of the Listing Agreement, the Listing Broker has agreed to share that commission with the Selling Broker.
- The closing attorney is hereby authorized and directed to pay the Broker(s) at closing, their respective commissions out of the proceeds of the sale. If the sale proceeds are insufficient to pay the full commission, the party owing the commission shall pay any shortfall at closing. If more than one Broker is involved in the transaction, the closing attorney is directed to pay each Broker its respective portion of said commission. The acceptance by the Broker(s) of a partial real estate commission at the closing shall not relieve the Seller of the obligation to pay the remainder thereof after the closing unless the Broker(s) have expressly and in writing agreed to accept the lesser amount in full satisfaction of the Broker(s) claim to a commission.
12. **Disclaimer.** Buyer and Seller have not relied upon any advice or representations of Brokers other than what is included in this Agreement. Brokers shall have no duty to advise Buyer and Seller on any matter relating to the Property which could have been revealed through a survey, title search, Official Georgia Wood Infestation Report, inspection by a professional home inspector or construction expert, utility bill review, an appraisal, inspection by an environmental engineering inspector, consulting governmental officials or a review of this Agreement and transaction by an attorney, financial planner, mortgage consultant or tax planner. Buyer and Seller should seek independent expert advice regarding any matter of concern to them relative to the Property and this Agreement.
13. **Assignment.** If Buyer does not have the right to assign this Agreement, then Buyer cannot assign this Agreement without the prior written permission of Seller. Any such approved assignment shall not release the original Buyer from any liabilities or obligations herein. Notice of such assignment shall be delivered to the Seller within 2 working days of execution, but not less than 5 days from closing. If Buyer has the right to assign this Agreement, then this Agreement may be assigned by the Buyer to any legal entity of which the Buyer or a principal or principals of Buyer own at least a 25% interest.
14. **Time Limit of Offer.** The Time Limit of the Offer shall be the date and time referenced herein when the Offer expires unless prior to that date and time both of the following have occurred: (a) the Offer has been accepted by the party to whom the Offer was made; and (b) notice of acceptance of the Offer has been delivered to the party who made the Offer.

C. OTHER TERMS AND CONDITIONS

1. **Notices.**
- a. **Generally:** All notices given hereunder shall be in writing, legible and signed by the party giving the notice. In the event of a dispute regarding notice, the burden shall be on the party giving notice to prove delivery. The requirements of this notice paragraph shall apply even prior to this Agreement becoming binding. Notices shall only be delivered: (1) in person; (2) by courier, overnight delivery service or by certified or registered U.S. mail (hereinafter collectively "Delivery Service"); or (3) by e-mail or facsimile. The person delivering or sending the written notice signed by a party may be someone other than that party.

- b. **Delivery of Notice:** A notice to a party shall be deemed to have been delivered and received upon the earliest of the following to occur: (1) the actual receipt of the written notice by a party; (2) in the case of delivery by a Delivery Service, when the written notice is delivered to an address of a party set forth herein (or subsequently provided by the party following the notice provisions herein), provided that a record of the delivery is created; (3) in the case of delivery electronically, on the date and time the written notice is electronically sent to an e-mail address or facsimile number of a party herein (or subsequently provided by the party following the notice provisions herein). Notice to a party shall not be effective unless the written notice is sent to an address, facsimile number or e-mail address of the party set forth herein (or subsequently provided by the party following the notice provisions herein).
- c. **When Broker Authorized to Accept Notice for Client:** Except where the Broker is acting in a dual agency capacity, the Broker and any affiliated licensee of the Broker representing a party in a client relationship shall be authorized agents of the party and notice to any of them shall for all purposes herein be deemed to be notice to the party. Notice to an authorized agent shall not be effective unless the written notice is sent to an address, facsimile number or e-mail address of the authorized agent set forth herein (or subsequently provided by the authorized agent following the notice provisions herein). Except as provided for herein, the Broker's staff at a physical address set forth herein of the Broker or the Broker's affiliated licensees are authorized to receive notices delivered by a Delivery Service. The Broker, the Broker's staff and the affiliated licensees of the Broker shall not be authorized to receive notice on behalf of a party in any transaction in which a brokerage engagement has not been entered into with the party or in which the Broker is acting in a dual agency capacity. In the event the Broker is practicing designated agency, only the designated agent of a client shall be an authorized agent of the client for the purposes of receiving notice.

2. **Default.**

- a. **Rights of Buyer or Seller:** A party defaulting under this Agreement shall be liable for the default. The non-defaulting party may pursue any lawful remedy against the defaulting party.
- b. **Rights of Broker:** In the event a party defaults under this Agreement, the defaulting party shall pay as liquidated damages to every broker involved in this transaction with whom the defaulting party does not have a brokerage engagement agreement an amount equal to the share of the commission the broker would have received had the transaction closed. For purposes of determining the amount of liquidated damages to be paid by the defaulting party, the written offer(s) of compensation to such broker and/or other written agreements establishing such broker's commission are incorporated herein by reference. The liquidated damages referenced above are a reasonable pre-estimate of the Broker(s) actual damages and are not a penalty. In the event a Broker referenced herein either has a brokerage engagement agreement or other written agreement for the payment of a real estate commission with a defaulting party, the Broker shall only have such remedies against the defaulting party as are provided for in such agreement.
- c. **Attorney's Fees:** In any litigation or arbitration arising out of this Agreement, including but not limited to breach of contract claims between Buyer and Seller and commission claims brought by a broker, the non-prevailing party shall be liable to the prevailing party for its reasonable attorney's fees and expenses.

3. **Other Provisions.**

- a. **Condemnation:** Seller shall: (1) immediately notify Buyer if the Property becomes subject to a condemnation proceeding; and (2) provide Buyer with the details of the same. Upon receipt of such notice, Buyer shall have the right, but not the obligation for 7 days thereafter, to terminate this Agreement upon notice to Seller in which event Buyer shall be entitled to a refund of all earnest money and other monies paid by Buyer toward the Property without deduction or penalty. If Buyer does not terminate the Agreement within this time frame, Buyer agrees to accept the Property less any portion taken by the condemnation and if Buyer closes, Buyer shall be entitled to receive any condemnation award or negotiated payment for all or a portion of the Property transferred or conveyed in lieu of condemnation.
- b. **Duty to Cooperate:** All parties agree to do all things reasonably necessary to timely and in good faith fulfill the terms of this Agreement. Buyer and Seller shall execute and deliver such certifications, affidavits, and statements required by law or reasonably requested by the closing attorney, mortgage lender and/or the title insurance company to meet their respective requirements.
- c. **Electronic Signatures:** For all purposes herein, an electronic or facsimile signature shall be deemed the same as an original signature; provided, however, that all parties agree to promptly re-execute a conformed copy of this Agreement with original signatures if requested to do so by the buyer's mortgage lender or the other party.
- d. **Entire Agreement, Modification and Assignment:** This Agreement constitutes the sole and entire agreement between all of the parties, supersedes all of their prior written and verbal agreements and shall be binding upon the parties and their successors, heirs and permitted assigns. No representation, promise or inducement not included in this Agreement shall be binding upon any party hereto. This Agreement may not be amended or waived except upon the written agreement of Buyer and Seller. This Agreement may not be assigned by Buyer except with the written approval of Seller. Any assignee shall fulfill all the terms and conditions of this Agreement.
- e. **Extension of Deadlines:** No time deadline under this Agreement shall be extended by virtue of it falling on a Saturday, Sunday or federal holiday except for the date of closing.
- f. **GAR Forms:** The Georgia Association of REALTORS®, Inc. ("GAR") issues certain standard real estate forms. These GAR forms are frequently provided to the parties in real estate transactions. No party is required to use any GAR form. Since these forms are generic and written with the interests of multiple parties in mind, they may need to be modified to meet the specific needs of the parties using them. If any party has any questions about his or her rights and obligations under any GAR form he or she should consult an attorney. The parties hereto agree that the GAR forms may only be used in accordance with the licensing agreement of GAR. While GAR forms may be modified by the parties, no GAR form may be reproduced with sections removed, altered or modified unless the changes are visible on the form itself or in a stipulation, addendum, exhibit or amendment thereto.
- g. **Governing Law and Interpretation:** This Agreement may be signed in multiple counterparts each of which shall be deemed to be an original and shall be interpreted in accordance with the laws of Georgia. No provision herein, by virtue of the party who drafted it, shall be interpreted less favorably against one party than another. All references to time shall mean the time in Georgia. If any provision herein is to be unenforceable, it shall be severed from this Agreement while the remainder of the Agreement shall, to the fullest extent permitted by law, continue to have full force and effect as a binding contract.

- h. **No Authority to Bind:** No Broker or affiliated licensee of Broker, by virtue of this status, shall have any authority to bind any party hereto to any contract, provisions herein, amendments hereto, or termination hereof. However, if authorized in this Agreement, Broker shall have the right to accept notice on behalf of a party. Additionally, any Broker or real estate licensee involved in this transaction may perform the ministerial act of filling in the Binding Agreement Date. In the event of a dispute over the Binding Agreement Date, it may only be resolved by the written agreement of the Buyer and Seller.
- i. **Notice of Binding Agreement Date:** The Binding Agreement Date shall be the date when a party to this transaction who has accepted an offer or counteroffer to buy or sell real property delivers notice of that acceptance to the party who made the offer or counteroffer in accordance with the Notices section of the Agreement. Notice of the Binding Agreement Date may be delivered by either party (or the Broker working with or representing such party) to the other party. If notice of accurate Binding Agreement Date is delivered, the party receiving notice shall sign the same and immediately return it to the other party.
- j. **Repairs:** All agreed upon repairs and replacements shall be performed in a good and workmanlike manner prior to closing.
- k. **Survival of Agreement:** The following shall survive the closing of this Agreement: (1) the obligation of a party to pay a real estate commission; (2) any warranty of title; (3) all representations of Seller regarding the Property; (4) the section on condemnation; and (5) any obligations which the parties herein agree shall survive the closing or may be performed or fulfilled after the closing.
- l. **Warranties Transfer:** Seller agrees to transfer to Buyer, at closing, subject to Buyer's acceptance thereof (and at Buyer's expense, if there is any cost associated with said transfer), Seller's interest in any existing manufacturer's warranties, service contracts, termite treatment and/or repair guarantee and/or other similar warranties which, by their terms, may be transferable to Buyer.
- m. **Terminology:** As the context may require in this Agreement: (1) the singular shall mean the plural and vice versa; and (2) all pronouns shall mean and include the person, entity, firm, or corporation to which they relate. The letters "N.A." or "N/A", if used in this Agreement, shall mean "Not Applicable", except where the context would indicate otherwise.
- n. **Time of Essence:** Time is of the essence of this Agreement.

4. **Definitions.**

- a. **Banking Day:** A "Banking Day" shall mean a day on which a bank is open to the public for carrying out substantially all of its banking functions. For purposes herein, a "Banking Day" shall mean Monday through Friday excluding federal holidays.
- b. **Binding Agreement Date:** The "Binding Agreement Date" shall be the date when a party to this transaction who has accepted an offer or counteroffer to buy or sell real property delivers notice of that acceptance to the party who made the offer or counteroffer in accordance with the Notices section of the Agreement.
- c. **Broker:** In this Agreement, the term "Broker" shall mean a licensed Georgia real estate broker or brokerage firm and its affiliated licensees unless the context would indicate otherwise.
- d. **Business Day:** A "Business Day" shall mean a day on which substantially all businesses are open for business. For all purposes herein, a "Business Day" shall mean Monday through Friday excluding federal holidays.

5. **Beware of Cyber Fraud:** Fraudulent e-mails attempting to get you to wire money to criminal computer hackers are increasingly common in real estate transactions. Under this scam, computer hackers fraudulently assume the online identity of the actual mortgage lender, closing attorney and/or real estate broker with whom you are working in the real estate transaction. Posing as a legitimate company, they then direct you to wire money to them. In many cases, the fraudulent e-mail is sent from what appears to be the authentic web page of the legitimate company responsible for sending the wiring instructions. You should use great caution in sending or receiving funds based solely on wiring instructions sent to you by e-mail. Independently verifying the wiring instructions with someone from the company sending them is the best way to prevent fraud. In particular, you should treat as highly suspect any follow up e-mails you receive from a mortgage lender, closing attorney and/or real estate broker directing you to wire funds to a revised account number. Never verify wiring instructions by calling a telephone number provided along with a second set of wiring instructions since you may end up receiving a fraudulent verification from the computer hackers trying to steal your money. Independently look up the telephone number of the company who is supposed to be sending you the wiring instructions to make sure you have the right one.

6. **Exhibits and Addenda.** All exhibits and/or addenda attached hereto, listed below, or referenced herein are made a part of this Agreement. If any such exhibit or addendum conflicts with any preceding paragraph, said exhibit or addendum shall control:

☒ Exhibit "A" Legal Description

☐ Exhibit "B" Due Diligence Materials

☐ Exhibit "C" Addition to Seller's Closing Documents

☒ Exhibit "D" Seller's Warranties and Representations - *Exhibit C*

☐ Exhibit "E" Permitted Title Exceptions

☒ Other *EXHIBIT B SCHEMATIC SITE PLAN*

☐ Other _____

☐ Other _____

☐ Other _____

SPECIAL STIPULATIONS: The following Special Stipulations, if conflicting with any exhibit, addendum, or preceding paragraph (including any changes thereto made by the parties), shall control:

☒ Additional Special Stipulations are attached.

Buyer Acceptance and Contact Information**1 Buyer's Signature**

Print or Type Name

Phil Ellen

Date

3/12/19

Buyer's Address for Receiving Notice

745 Ponce de Leon Terrace NE

Atlanta, GA 30306

Buyer's Phone Number: ☐ Cell ☐ Home ☐ Work

Buyer's E-mail Address

phil.ellen@aol.com

2 Buyer's Signature

Print or Type Name

Date

Buyer's Address for Receiving Notice

Buyer's Phone Number: ☐ Cell ☐ Home ☐ Work

Buyer's E-mail Address

☐ Additional Signature Page (F267) is attached.**Selling Broker/Affiliated Licensee Contact Information**

LAKE AREA REALTY, LLC

Selling Brokerage Firm

Broker/Affiliated Licensee Signature

Date

Print or Type Name

GA Real Estate License #

Licensee's Phone Number

Fax Number

Licensee's E-mail Address

REALTOR® Membership

Broker's Address

Broker's Phone Number

Fax Number

MLS Office Code

Brokerage Firm License Number

Seller Acceptance and Contact Information**Seller's Signature**

Print or Type Name

Patricia Murray

Date

3-11-19

Seller's Address for Receiving Notice

Seller's Phone Number: ☐ Cell ☐ Home ☐ Work

Seller's E-mail Address

2 Seller's Signature

Print or Type Name

Date

Seller's Address for Receiving Notice

Seller's Phone Number: ☐ Cell ☐ Home ☐ Work

Seller's E-mail Address

☐ Additional Signature Page (F267) is attached.**Listing Broker/Affiliated Licensee Contact Information**

LAKE AREA REALTY, LLC

Listing Broker Firm

Broker/Affiliated Licensee Signature

Date

Print or Type Name

GA Real Estate License #

Licensee's Phone Number

Fax Number

Licensee's E-mail Address

REALTOR® Membership

Broker's Address

Broker's Phone Number

Fax Number

MLS Office Code

Brokerage Firm License Number

Binding Agreement Date: The Binding Agreement Date in this transaction is the date of _____
and has been filled in by _____.

SPECIAL STIPULATIONS

PAGE 1



2019 Printing

These Special Stipulations are part of the Agreement with an Offer Date of 3-11-2019
for the purchase and sale of that certain Property known as, 325 Sunset Ave + 0.514 ACRES of
369 N. Central Ave, Hapeville, Georgia

[NOTE: The language set forth in this special stipulation(s) is furnished by the parties and is particular to this transaction.]

1. Earnest Money: At binding agreement date, Buyer shall pay \$7,500 in non-refundable earnest money to the seller. This \$7,500 is only refundable in the event that the seller defaults. In addition, within 10 days of the binding agreement date, Buyer shall deposit \$22,500 with Old National Title Company, 1125 Sanctuary Parkway, Suite 140, Alpharetta, GA 30009 Attn: Robbie J. Dimon. The \$22,500 deposit shall be immediately refundable to Buyer upon the request by Buyer to the Escrow Agent: (A) any time prior to the expiration of the Due Diligence period; (B) in the event that Buyer does not submit an application as outlined below; (C) in the event of any breach of this Agreement by Seller; or (D) as may otherwise be specifically set forth in this agreement. In the event that the Buyer has not terminated this agreement, on May 23, 2019, escrow agent is authorized to transfer the \$22,500 to the Seller by overnight check or wire transfer, at which time it becomes non-refundable. After May 23, 2019 transfer, the \$22,500 is only refundable in the event that the seller defaults. If the Buyer receives notification of selection to receive tax credit funding from DCA (selection is typically November), the Buyer will make a \$75,000 non-refundable payment to the Seller within 5 business days of said notification. This \$75,000 is only refundable in the event that the seller defaults. All payments listed above shall be applied to the Purchase Price at closing. If Buyer fails to consummate the transaction as required under the terms of the Contract, Seller shall retain the Deposit as full and final liquidated damages. If Seller fails to consummate the transaction as required under the terms of this contract, the Deposit shall be returned to Buyer and Buyer shall be entitled to such remedies as set forth in the contract, including specific performance. Buyer and seller agree that GAR form 507 will be utilized to govern transfer of all earnest money payments to the Seller's general fund and will be unrestricted.
2. Buyer shall have the right to assign its rights and to delegate its duties under this agreement without notice or consent from Seller.
3. Closing date: On or before February 28, 2020. Additionally, Buyer will have two ninety (90) day extensions, collectively referred to as the Extension Period, of the closing date available upon the payment of additional non-refundable earnest money of \$25,000 each, payable to the seller at the time, which shall be applied to the purchase price.
4. Seller and Buyer shall cause an easement agreement in substantially the same form as attached to be recorded in the Fulton County, GA deed records, at Closing whereby Seller shall grant Buyer an access easement to and from the Property and Sunset Ave. With the execution of this agreement, Buyer and Seller have executed the attached Memorandum of Commercial Purchase and Sale Agreement which shall be recored, at Buyer's expense, in Fulton County, GA deed records.

Buyer's/Tenants Initials: P.L.

Seller's/Landlord's Initials: GM

Selling/Leasing Broker's Initials:
(or Broker's Affiliated Licensee) PL

Listing Broker's Initials:
(or Broker's Affiliated Licensee) PL

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F246, Special Stipulations, 01/01/19

SPECIAL STIPULATIONS

PAGE 2



2019 Printing

These Special Stipulations are part of the Agreement with an Offer Date of 3-11-19
for the purchase and sale of that certain Property known as, 325 SUNSET AVE + 0.514 ACRES,
of 369 N. Central Ave, Hapeville, Georgia _____.

[NOTE: The language set forth in this special stipulation(s) is furnished by the parties and is particular to this transaction.]

5. Assignment: Seller shall have the right to assign (sell) the Contract. The Assignment Agreement would require Assignee to succeed to all of the rights and obligations of the assignor and shall, for all purposes, hereof, be substituted as and deemed the "Seller". The Seller has the right to market this agreement and disclose this agreement to interested parties.
6. In the event that the Buyer does not perform the items listed in the special stipulations section of this agreement, Seller at their discretion, may terminate this agreement by notification to buyer in writing. Buyer has 10 days from notification to remedy.
7. In the event of conflict in language between the contract and its exhibits and the language of the special stipulations, the special stipulations shall take priority.

Buyer's/Tenants Initials: _____

P.L.

Seller's/Landlord's Initials: _____

SM

Selling/Leasing Broker's Initials:
(or Broker's Affiliated Licensee)

PL

Listing Broker's Initials:
(or Broker's Affiliated Licensee)

PL

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F246, Special Stipulations, 01/01/19

EXHIBIT A: LEGAL DESCRIPTION

LEGAL DESCRIPTION

All that certain 2 acres, more or less, tract or parcel of land situated and lying in Land Lot 96, 14th District, Hapeville, Fulton County, Georgia at the intersection of King Arnold Street and Sunset Avenue, as depicted on the drawing attached on the following page and incorporated herein and being portions of that certain real property possessing Tax ID #s 14 009600060133 and 14 009600060125.

The final legal description for the Property shall be modified and finalized according to a survey plat provided by Buyer, approved by Seller, and recorded prior to Closing.

EXHIBIT C: SELLER'S WARRANTIES AND REPRESENTATIONS

(a) Seller. Seller represents, warrants and covenants to Buyer and the Title Company, as of the Binding Agreement Date (with such representations and warranties to be re-made as of Closing) that:

(i) Seller has the right, power and authority to enter into this Agreement and to sell the Property in accordance with the terms hereof, and Seller has granted no option to any other person or entity to purchase the Property. The undersigned person executing this Agreement, whether individually or on behalf of an entity, is duly authorized to do so. This Agreement and the consummation of the transaction hereunder by, or on behalf of, Seller have been duly and validly authorized by all necessary parties including, without limitation, members, officers, shareholders, partnerships, corporations or limited liability companies.

(ii) To the best of Seller's knowledge, the Property complies with, conforms to and obeys all laws existing on the date of Closing of all governmental authorities or agencies having jurisdiction over the Property, and any requirement contained in any hazard insurance policy covering the Property or board of fire underwriters or other body exercising similar functions which are applicable to the Property or to any part thereof or which are applicable to the use or manner of use, occupancy, possession or operation of the Property.

(iii) To the best of Seller's actual knowledge, but without additional inquiry, neither the Property nor any portion thereof violates any zoning, building, fire, health, pollution, subdivision, environmental protection or waste disposal ordinance, code, law or regulation or any requirement contained in any hazard insurance policy covering the Property; and Seller shall give prompt notice to Buyer of any such violation which shall be received by Seller prior to Closing.

(iv) Seller has not received notice of and has no knowledge of any suits, judgments, or violations relating to or at the Property of any zoning, building, fire, health, pollution, environmental protection, or waste disposal ordinance, code, law or regulation which has not been heretofore corrected; that there is no suit or judgment presently pending or, to the best knowledge and belief of Seller, threatened which would create a lien upon the Property in the hands of Buyer after Closing; and Seller shall give prompt notice to Buyer of any such suit or judgment filed, entered or threatened prior to Closing.

(v) There are no known pending, threatened or contemplated eminent domain proceedings affecting the Property or any part thereof; and Seller shall give prompt notice to Buyer of any such proceedings which occur or are threatened prior to Closing.

(vi) Seller has not received notice of and has no actual knowledge of pending or contemplated changes in the present status of zoning of the Property, and Seller shall give prompt notice to Buyer of any such proposed changes of which Seller is aware prior to the Closing.

(vii) The Seller is not involved in any bankruptcy, reorganization or insolvency proceeding.

(viii) All taxes, assessments, water charges and sewer charges affecting the Property or any part thereof due and payable at the time of the Closing shall have been, or will be at Closing, paid in full. All current special assessments which are or will become a lien known to

the Seller at the time of Closing on the Property shall also have been paid and discharged at Closing (in pro rata shares between Seller and Buyer), whether or not payable in installments.

(ix) There are no leases affecting the Property, no parties in possession of the Property nor any parties entitled to possession thereof.

(x) All service contracts, if any, (except those specifically approved by Buyer which shall be assigned to Buyer at Closing) shall be terminated and paid in full as of the Closing Date.

(xi) The Property is or will be at Closing, subdivided as an independent and conveyable parcel in accordance with all applicable rules, regulations, zoning and ordinances.

(xii) The Property has or will have prior to Closing, a unique tax parcel number separate from other property owned by Seller.

(xiii) The Property has or will have prior to Closing vehicular and pedestrian access to a public right-of-way, SPECIFICALLY, SUNSET AVENUE.

(xiv) Hazardous Materials. To the best of Seller's knowledge: (i) the Property has not in the past been used and is not presently being used for the handling, storage, manufacturing, refining, transportation or disposal of "toxic material", "hazardous substances" or "hazardous waste"; (ii) there has not been and is not presently leeching or drainage of waste materials or hazardous substances into the groundwater beneath or adjacent to the Property; (iii) no buried, semi-buried or otherwise placed tanks, storage vessels, drums, or containers of any kind located on the Property used for the storage of hazardous waste, hazardous substances or toxic material; (iv) there are no asbestos containing materials located on the Property; (v) no construction material used in any improvements located at the Property contains any substance or material presently known to be a hazardous substance or toxic material; (vi) Seller has not disposed upon the Property any hazardous substances on or below the surface of the Property or within two thousand (2,000) feet of the boundary thereof including, without limitation, contamination of the soil, subsoil or groundwater; and (vii) the Property is not in violation of any law, rule or regulation of any government entity having jurisdiction thereof or which exposes Buyer to liability to third parties. The terms "hazardous waste", "hazardous substances" and "toxic material" include, without limitation, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials defined in the Comprehensive Environmental Response Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sect. 9601 et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sect. 5101 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sect. 6901 et seq.), the regulations adopted and publications promulgated pursuant to the foregoing and any other federal, state or local environmental law, ordinance, rule or regulation. Furthermore, Seller has not received a summons, citation, directive, letter or other communication, written or oral, from any governmental authority as to any of the above environmental concerns.

(A) Without limiting the other provisions of this Agreement, Seller shall cooperate, at no cost to Seller, with Buyer's investigation of matters relating to the foregoing provisions of this Section and provide access to and copies of all data and/or documents in Seller's or Seller's agent's possession dealing with potentially hazardous materials used at the Property and any disposal practices followed. Seller agrees that Buyer

may make inquiries of governmental agencies regarding such matters, without liability to Buyer for the outcome of such discussions.

(xv) Seller has provided Buyer true and complete copies of all surveys, appraisals, engineering reports and other related documentation available to Seller and all amounts due for the services performed for the same have been paid in full.

(xvi) While this Agreement is in effect, Seller shall not solicit, accept or negotiate other offers with respect to the Property or execute any deeds, easements, rights-of-way affecting the Property or subject the Property to any additional covenant, easement, restriction or encumbrance.

(xvii) Nondisclosure of Information. In consideration of, and as a material inducement to, Buyer entering into this Agreement, Seller agrees not to disclose or permit disclosure of this Agreement, the parties involved in the Project, or any Information to third parties or to employees of Seller other than attorneys, consultants and agents who are required to have the information in order to carry out the discussions regarding this Agreement and have entered into similar confidentiality agreements. The Seller agrees that it shall take all necessary measures to protect the secrecy of and avoid disclosure or use of Information of Buyer in order to prevent such Information from falling into the public domain or the possession of persons other than those persons authorized under this Agreement to have any such information. The provisions of this Section shall survive the Closings or any expiration or termination of this Agreement. "Information" includes, without limitation, plans, specifications, drawings, designs, financial information, reports, contracts, emails, names of parties involved, and all record-bearing media (electronic or otherwise) containing or disclosing such information.



DEPARTMENT OF PLANNING AND ZONING

PLANNER'S REPORT

To: Adrienne Senter
From: Lynn M. Patterson
Date: March 21, 2019
RE: Conditional Use Permit – 325 Sunset Avenue

BACKGROUND

The City of Hapeville received a request for a Conditional Use Permit from Georgia Communities, Inc. to operate a senior living facility within a new development located at 325 Sunset Avenue. Prior to submission of the site plan and required approvals, the property will be replatted such that the parking will be added to the developed parcel. The properties are zoned U-V, Urban Village. The property is currently vacant.

Multifamily uses are permitted as a Conditional Use within the U-V Zoning District and are subject to the provisions of Article 3.2 below:

CODE

ARTICLE 11.2. - U-V ZONE (URBAN VILLAGE)

Sec. 93-11.2-5. - Conditional uses.

Specific uses may be permitted as conditional uses, provided conformance to the purpose and intent of the applicable code. Such uses are:

- (9) All multifamily uses shall be conditional uses in U-V zone. In addition to meeting the conditional use provisions, all multifamily uses in U-V shall comply with [subsection] 93-11.2-3(19).

Sec. 93-11.2-3. - Permitted uses.

- (19) Residential density limitations shall be as follows:

- a. The maximum permitted residential density of a master planned development shall be 40 units per acre as calculated based on the sum of all residential uses and the total acreage of the project, including multiple parcels or city blocks, but not rail lines, public streets, or other areas not owned by the applicant;
- b. The built residential density of individual parcels or blocks within a master planned development may be greater or less than 40 units per acre, provided the project's combined average maximum permitted residential density is not exceeded; and
- c. Any changes to an approved site plan shall require approval of the city planning commission and shall be reviewed based on the geographic extent of the original approved site plan, shall not exceed maximum density requirements of the original application, and shall indicate all built or planned improvements.

The property will have 74 units across a two acre development, which is compliant.

ARTICLE 3.2 – Conditional Uses

Sec. 93-3.2-1. - Permit required.

Zoning districts established herein permit certain uses which are allowable therein provided they meet specified conditions, as set forth therein and here. No such use shall be permitted until a conditional use permit has been issued authorizing such use. The procedures for granting such permits shall be the same as for amendments to the zoning ordinance or zoning map.

Sec. 93-3.2-2. - Review of applications.

Those conditions specified in the zoning district regulations shall be considered to be the minimum standards which must be met before the conditional use application may be considered by the planning commission for review and recommendation and the mayor and council for decision. In deciding upon whether or not a conditional use meets the minimum standards and promotes the health, safety, morals, or general welfare of the city, the mayor and council shall utilize the applicable standards of review of [section 93-25-6](#).

Sec. 93-3.2-3. - Issuance of permit.

If the mayor and council, after applying the evidence to the standards of review, have been convinced that the allowance of the conditional use will promote the health, safety, morals, or general welfare of the city, a conditional use permit may be granted, subject to those provisions that may be imposed by the mayor and council.

Sec. 93-3.2-4. - Procedures regarding delays in use of condition.

If a building permit, grading permit or occupation tax permit has not issued and construction (if any is necessary) begun within a 12-month period after such conditional use is approved, the conditional use may be withdrawn at a meeting of the mayor and council. The mayor and council may then reinstate the prior zoning district and regulations. In the alternative, the mayor and council may extend the conditional use for 12 months and any number of subsequent 12-month periods by only one such period at a time.

Sec. 93-3.2-5. - Special use permit procedures.

Mayor and Council may in considering a special use permit following a public hearing impose reasonable conditions deemed necessary to the protection or benefit of owners of adjacent and nearby properties to ensure compatibility of the proposed development or use with surrounding uses. The decision of mayor and council concerning consideration of a special use shall be given to the applicant in writing, by certified U.S. mail to the address indicated in the application. Aggrieved applicants shall have 30 calendar days from the date of receipt of the notice in which to petition the superior court of Fulton County for writ of certiorari.

Sec. 93-3.2-6. - Special use permit criteria and standards.

(a) *Special use permit criteria.* Special uses are compatible uses of land or the improvement of structures within a zoning district that reasonably require special consideration and therefore, are not allowed "by right." The following standards shall be considered in evaluating the appropriateness of all proposed special uses of property:

- (1) Impact on the use or development of adjacent properties, or the surrounding area, as concerns public health, safety or general welfare;
The use of the property for a senior living facility would not adversely affect the public health, safety or general welfare of the surrounding area. It addresses a latent need for affordable, senior housing as the City's population is aging. A recent (draft) study from the ARC indicates that housing prices have risen 49% over the past decade and that XX% of the population is burdened by housing costs. Senior housing and those that include affordable housing units can help to address this need with regard to general welfare.
- (2) Capacity of the lot to accommodate the use and satisfy the dimensional requirements of the ordinance;
Once re-platted, the property will accommodate all dimensional requirements, including parking. The conditional use should be granted with the condition that the additional property must be included in any site plan.
- (3) Compatibility with adjacent properties and other land uses in the vicinity;
The area has been designated as medium intensity mixed use in the future land use map. This encourages higher densities and multi-family developments. Directly across Sunset Avenue is

St. John's Catholic School. There is a residential neighborhood to the north. Along King Arnold, Sunset and North Central Avenue, there are a mix of residential and commercial in the vicinity. The proposed use for a multifamily facility is compatible.

- (4) Potential nuisance or hazardous characteristics, specifically as concerns the number of individuals projected to use such facility or nature of the activity;
There are no concerns related to the nature of a senior living facility with regard to potential nuisance or hazardous characteristics. The project is a senior housing facility which will include residents, visitors, staff and potentially community offerings for seniors.
- (5) Impact on traffic movement, availability of off-street parking, options for buffering or protective screening, hours and manner of operation, lighting, signs and access to the property; and
There is expected to be an increase in traffic adjacent to the site, but this will be mitigated by the proximity of the development to North Central Avenue and Interstate 75. Parking is adequate at the site. Operating hours will be continuous as this is a residential development. The property will be accessed by an existing curb cut on Sunset Avenue.
- (6) Conformance of the special use to other requirements of the ordinance.
The property will be in compliance with Section 93-11.2-3(19) (see above).

RECOMMENDATION

The proposed use of a senior living facility is compatible with the U-V Zoning District and poses no foreseeable conflict with the intent of the district. The conditional use application is recommended for approval. Any site plan will be required to accommodate all parking needs.



Planning Commission Meeting

700 Doug Davis Drive
Hapeville, Georgia 30354

April 9, 2019 6:00PM

SUMMARY MINUTES

1. Welcome and Introduction

Roll Call:

Brian Wismer, Chairman

Jeanne Rast, Vice Chairman

Lucy Dolan

Mark Farah, absent

Kaity Ferrero, absent

Larry Martin

Charlotte Rentz

2. Minutes of February 12, 2019 – Approved with changes

3. New Business

a. 325 Sunset Avenue

Conditional Use Permit

Phil Ellen on behalf of Georgia Communities, Inc. requested approval of a conditional use permit to operate a senior living facility at 325 Sunset Avenue, Parcel Identification Number 14 009600060133. The property is zoned U-V, Urban Village.

The proposed 74-unit development will serve seniors ages 55 and above and include 1 & 2-bedroom units. In an effort to promote quality of life, the development will include several amenities such as an exercise facility, computer lab, and an event room for birthday parties and bingo to name a few.

Prior to submission of the site plan and required approvals, the property will be replatted such that the parking will be added to the developed parking.

Commissioner Martin expressed concern regarding the use of undeveloped land within the city.

- Public Comment – none.

MOTION ITEM: Lucy Dolan made a motion, Larry Martin seconded to recommend the Mayor and Council grant the conditional use permit to operate a senior living facility at 325 Sunset Avenue. Motion Carried: 4-0.



b. 525 King Arnold Street

Site Plan Review

Will Bryant of behalf of Fulton County Library System requested site plan approval for the construction of a 5,975-sf library at 525 King Arnold Street, Parcel Identification Number 14 0095 LL0701 and 14 0095 LL0131. The properties are zoned V, Village.

Approved with Conditions

- Public Comment – None.

c. Veterinarians, animal hospitals and kennels

Text Amendment

Consideration to amend the code for veterinarians, animal hospitals and kennels, of the Code of Ordinances for the City of Hapeville. **Recommended Approval as Submitted.**

- Public Comment – None. ,

4. Old Business

a. Accessory Uses/Buildings

Text Amendment

Consideration and Action of an Ordinance to amend Section 93-2-5, Accessory uses, accessory buildings, yard requirements of accessory buildings, outbuildings and fences, of the Code of Ordinances for the City of Hapeville, Georgia. **Recommended approval with changes**

b. Chart of Dimensional Requirements

Residential Building Height

Discussion regarding the height requirements for new residential development.

This item was discussed at the February 12, 2019 meeting. **Tabled**

- Public Comment

c. Proposed Zoning Code Amendments

Open discussion regarding proposed zoning code amendments. **No action taken**

- Public Comment

5. Next Meeting Date – May 14, 2019 at 6:00PM

6. Adjourned at 8:00 p.m.

**STATE OF GEORGIA
CITY OF HAPEVILLE**

ORDINANCE NO. _____

AN ORDINANCE TO REVISE CHAPTER 11 (“BUSINESS LICENSING AND REGULATION”), ARTICLE 11 (“COMMERCIAL SOLICITATIONS AND TRANSIENT MERCHANTS”) SECTION 11-11-2 (“DEFINITIONS”) AND SECTION 11-11-3 (“SOLICITING”) OF THE CODE OF ORDINANCES, CITY OF HAPEVILLE, GEORGIA TO PROVIDE FOR THE REGULATION OF MOBILE FOOD VENDORS; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, the mayor and council shall have full power and authority to provide for the execution of all powers, functions, rights, privileges, duties and immunities of the city, its officers, agencies, or employees granted by the City of Hapeville’s Charter or by state law; and,

WHEREAS, the municipal government of the City of Hapeville (hereinafter “City”) and all powers of the City shall be vested in the mayor and council. The mayor and council shall be the legislative body of the City; and,

WHEREAS, existing ordinances, resolutions, rules and regulations of the City and its agencies now lawfully in effect not inconsistent with the provisions of the City’s charter shall remain effective until they have been repealed, modified or amended; and,

WHEREAS, amendments to any of the provisions of the City’s Code may be made by amending such provisions by specific reference to the section number of the City’s Code; and,

WHEREAS, every official act of the mayor and council which is to become law shall be by ordinance; and,

WHEREAS, the governing authority of the City finds it desirable to provide for the licensing, operation and regulation of Mobile Food Vendors.

BE IT, AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HAPEVILLE, GEORGIA THAT:

Section One. Section 11-11-2 (Definitions) in Chapter 11 (Business Licensing and Regulation), Article 11 (Commercial Solicitations and Transient Merchants) of the City Code of Ordinances is hereby amended and revised as follows:

Sec. 11-11-2. Definitions.

As used in this article, the following terms shall have the respective meanings ascribed to them:

Ice Cream Truck shall mean a motor vehicle in which ice cream, popsicles, ice sherbets, snow cones or other frozen desserts of any kind are carried for the purpose of retail sale on the streets of the city.

Mobile Food Vendor shall mean a retail food establishment that reports to and operates from a Commissary and is readily moveable, is a motorized wheeled vehicle or a towed wheeled vehicle designed and equipped to serve food.

Solicit or *soliciting* shall mean taking orders, selling, or seeking orders or clients for the purchase of goods, wares, merchandise, foodstuffs, products, subscriptions, or services of any kind, character, or description whatsoever. The terms "solicit" or "soliciting" shall not include transient merchants.

Transient merchant shall mean any person or entity who sets up or displays merchandise for sale outside of a building on any lot where the person or entity setting up or displaying such merchandise does not also lawfully conduct business regularly in a building located on that lot. A transient merchant shall not include a person conducting a yard sale at a private residence.

Section Two. Chapter 11 (Business Licensing and Regulation), Article 11 (Commercial Solicitations and Transient Merchants) of the City Code of Ordinances is hereby amended and renamed to "Section 11-11-3 (Regulation and Licensing Mobile Food Vendors)" and said section is stricken in its entirety and replaced as follows:

Section 11-11-3 - Regulation and Licensing of Mobile Food Vendors.

(a) It shall be unlawful for any person to sell, or offer for sale, food of any type from a Mobile Food Vendor without a license first having been granted under this section, except for such activities conducted in connection with City-sponsored events.

(b) An application for a permit hereunder shall be submitted to the City Clerk or his or her designee setting forth all information required hereunder and in compliance with this ordinance. The City Clerk or his or her designee shall develop a form of application for the purpose of compliance with this article. The application shall be accompanied by an executed indemnity agreement indemnifying and releasing the City, its agents, employees and elected officials from any and all liability against any and all claims, actions and suits of any type whatsoever arising in connection with the activities of the Mobile Food Vendor pursuant to the permit issued hereunder. Mobile Food Vendor permits shall be active for ninety (90) days commencing on the day of issuance. Three day food permits shall expressly state the days of validity on the permit.

(c) The following information shall be provided with each application for a Mobile Food Vendor permit, along with an application fee of \$100.00 for a 90-day permit or \$50.00 for a three consecutive day permit, and an executed Release and Indemnification Agreement provided by the City:

- (1) Name of the Mobile Food Vendor;
- (2) Make, model and license plate number of vending unit;
- (3) Owner's contact information;
- (4) Operator's contact information;
- (5) Copy of approved permit from the Fulton County Health Department;
- (6) List of operating locations and times including map detailing the position of the vehicle, and current zoning in said locations;
- (7) Signatures from property owners indicating consent for the use of their property;
and
- (8) Signature of applicant indicating agreement to the listed requirements.

(d) Except for Ice Cream Trucks, no Mobile Food Vendor shall conduct business or operate in the public right-of-way. Mobile Food Vendors must be located in a lot that can safely be accessible by patrons. Mobile Food Vendors cannot be parked on sidewalks, grass, or areas not intended for parking vehicles.

(e) A Mobile Food Vendor shall not operate on any private property without the prior written consent of the owner. A Mobile Food Vendor shall not be allowed to park overnight on any private property without the prior written consent of the owner.

(f) A Mobile Food Vendor may operate on City owned property, if: (1) the Mobile Food Vendor has received permission to do so from the City Manager; and (2) has indicated the appropriate City owned location, date, and times of use on the application. At no time shall a Mobile Food Vendor be allowed to park overnight on any City owned property. Designated City lots, dates and times are attached hereto and incorporated herein as Exhibit "A".

(g) A Mobile Food Vendor shall maintain a one million dollar (\$1,000,000.00) liability insurance policy. Proof of current liability insurance, issued by an insurance company licensed to do business in Georgia, protecting the Mobile Food Vendor, the public and the City from all claims for damage to property and bodily injury, including death, which may arise from operation under or in connection with the permit, shall be provided to the City as part of its permit application. If the Mobile Food Vendor does not have insurance, the Mobile Food Vendor may be under the umbrella of an existing business with the business' permission to do so. Such arrangement documentation shall be included with the application to the City.

(h) A Mobile Food Vendor shall not make sounds or announcements to call attention to the mobile food vehicle either while traveling on the public rights-of-way or when stationary. At all times said Mobile Food Vendor shall be in compliance with the City's noise ordinance.

(i) The license under which a Mobile Food Vendor is operating must be firmly attached and visible on the Mobile Food Vendor at all times.

(j) Any driver of a Mobile Food Vendor motorized vehicle must possess a valid Georgia driver's license.

(k) Mobile Food Vendors shall not be located within fifteen (15) feet of any street intersection or pedestrian crosswalk or ten (10) feet of any driveway.

(l) A Mobile Food Vendor shall not sell or offer to sell any goods, foods, products, or services between the hours of 10:00 p.m. to 9:00 a.m., unless otherwise approved and extended by the City Manager.

(m) Vending structures shall not be left unattended or stored at any time on the open vending site when vending is not taking place or during restricted hours of operation.

(n) No sale or offer for sale of ice cream, frozen milk, frozen dairy or ice confection products shall be made from a Mobile Food Vendor unless each side of the vehicle is marked, in letters and numbers at least three (3) inches in height, with the name and address of the Mobile Food Vendor licensee.

(o) Mobile Food Vendors shall comply with all state, federal and local health and safety regulations and requirements and shall obtain and maintain any and all licenses required by any other health organization or governmental organization having jurisdiction over this subject matter.

(p) The following safety regulations shall apply to any and all vehicles operating under this article or used for mobile retail food establishments:

- (1) Every vehicle shall be equipped with a reverse gear signal alarm with a sound distinguishable from the surrounding noise level.
- (2) Every vehicle shall be equipped with two (2) rear-vision mirrors, one (1) at each side, firmly attached to the outside of the motor vehicle, and so located as to reflect to the driver a view of the highway to the rear, along both sides of the vehicle.

(q) A Mobile Food Vendor may only sell food and non-alcoholic beverage items. A Mobile Food Vendor may sale alcoholic beverages if all proper licensing requirements are satisfied and if the Mobile Food Vendor has all necessary permits and/or licenses.

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

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

Section Five. Severability.

(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 Seven. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

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

ORDAINED this _____ day of _____, 2019.

CITY OF HAPEVILLE, GEORGIA

Alan Hallman, Mayor

ATTEST:

City Clerk

APPROVED BY:

City Attorney

**STATE OF GEORGIA
CITY OF HAPEVILLE**

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 54 (“NUISANCES”), ARTICLE 2 (“UNFIT DWELLINGS OR STRUCTURES”), SECTION 54-2-1 (“DEFINITIONS”) AND SECTION 54-2-3 (“DETERMINATION BY PUBLIC OFFICER THAT UNDER EXISTING ORDINANCES, DWELLINGS, BUILDINGS, OR STRUCTURES ARE VACANT AND SAMPLE CONDITIONS OF NUISANCES”) OF THE CODE OF ORDINANCES, CITY OF HAPEVILLE, GEORGIA; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, the mayor and council shall have full power and authority to provide for the execution of all powers, functions, rights, privileges, duties and immunities of the city, its officers, agencies, or employees granted by the City of Hapeville’s Charter or by state law; and,

WHEREAS, the municipal government of the City of Hapeville (hereinafter “City”) and all powers of the City shall be vested in the mayor and council. The mayor and council shall be the legislative body of the City; and,

WHEREAS, existing ordinances, resolutions, rules and regulations of the City and its agencies now lawfully in effect not inconsistent with the provisions of the City’s charter shall remain effective until they have been repealed, modified or amended; and,

WHEREAS, amendments to any of the provisions of the City’s Code may be made by amending such provisions by specific reference to the section number of the City’s Code; and,

WHEREAS, every official act of the mayor and council which is to become law shall be by ordinance; and,

WHEREAS, the governing authority of the City finds it desirable to amend and update the ordinance regarding vacant dwellings, buildings or structures and establish fees regarding the same.

BE IT, AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HAPEVILLE, GEORGIA THAT:

Section One. Section 54-2-1 (Definitions) in Chapter 54 (Nuisances), Article 2 (Unfit Dwellings or Structures) of the City Code of Ordinances is hereby amended by striking the section in its entirety and inserting in lieu thereof the following language:

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

Applicable codes means:

- (1) Any optional housing or abatement standard provided in chapter 2 of title 8 of the O.C.G.A. as adopted by ordinance or operation of law, or general nuisance law, relative to the safe use of real property;
- (2) Any fire or life safety code as provided for in chapter 2 of title 25 of the O.C.G.A.; and
- (3) Any building codes adopted by local ordinance prior to October 1, 1991, or the minimum standard codes provided in O.C.G.A. chapter 2 of title 8 after October 1 provided that such building or minimum standard codes for real property improvements shall be deemed to mean those building or minimum standard codes in existence at the time such real property improvements were constructed unless otherwise provided by law.

Child-related crime means any act which is a violation of O.C.G.A. Chapter 6 of Title 16 (O.C.G.A. § 16-6-1 et seq.) relating to children under the age of 18 years.

Closing means causing a dwelling, building, or structure to be vacated and secured against unauthorized entry.

Drug crime means an act which is a violation of O.C.G.A. Article 2 of Chapter 13 of Title 16 (O.C.G.A. § 16-13-20 et seq.), known as the Georgia Controlled Substances Act.

Dwellings, buildings, or structures means any building or structure or part thereof used and occupied for human habitation or commercial, industrial, or business uses, or intended to be so used, and includes any outhouses, improvements, and appurtenances belonging thereto or usually enjoyed therewith and also includes any building or structure of any design. The term "dwellings, buildings, or structures" shall not mean or include any farm, any building or structure located on a farm, or any agricultural facility or other building or structure used for the production, growing, raising, harvesting, storage, or processing of crops, livestock, poultry, or other farm products.

Governing authority means the mayor and council of the city.

Municipality means any incorporated city within this state.

Owner means the holder of the title in fee simple and every mortgagee of record.

Parties in interest means:

- (1) Persons in possession of said property and premises;
- (2) Persons having of record in the county in which the dwelling, building, or structure is located any vested right, title, or interest in or lien upon such dwelling, building, or structure or the lot, tract, or parcel of real property upon which the structure is situated or upon which the public health hazard or general nuisance exists based upon a 50-year title examination conducted in accordance with the title standards of the State Bar of Georgia;

(3) Persons having paid an occupational tax to the governing authority for a location or office at the subject building or structure; or

(4) Persons having filed a property tax return with the governing authority as to the subject property, building, or structure.

Public authority means any member of a governing authority, any housing authority officer, or any officer who is in charge of any department or branch of the government of the municipality, county, or state relating to health, fire, or building regulations or to other activities concerning dwellings, buildings, or structures in the county or municipality.

Public officer means the officer or officers who are authorized by O.C.G.A. §§ 41-2-7, 41-2-8 and 41-2-9 through 41-2-17 and by this chapter adopted under O.C.G.A. §§ 41-2-7, 41-2-8 and 41-2-9 through 41-2-17 to exercise the powers prescribed by this chapter or any agent of such officer or officers.

Repair means altering or improving a dwelling, building, or structure so as to bring the structure into compliance with the applicable codes in the jurisdiction where the property is located and the cleaning or removal of debris, trash, and other materials present and accumulated which create a health or safety hazard in or about any dwelling, building, or structure.

Resident means any person residing in the jurisdiction where the property is located on or after the date on which the alleged nuisance arose.

Section Two. Section 54-2-3 (Determination by public officer that under existing ordinances dwellings, buildings, or structures are vacant and sample conditions of nuisances) in Chapter 54 (Nuisances), Article 2 (Unfit Dwellings or Structures) of the City Code of Ordinances is hereby amended by striking the section in its entirety and inserting in lieu thereof the following language:

(a) *Determination of Nuisance.* The public officer may determine, under existing ordinances, that a dwelling, building, or structure is unfit for human habitation or is unfit for its current commercial, industrial, or business use if he/she finds that conditions exist in such building, dwelling, or structure which are dangerous or injurious to the health, safety, or morals of the occupants of such dwelling, building, or structure; of the occupants of neighborhood dwellings, buildings, or structures; or of other residents of the city. Such conditions include the following (without limiting the generality of the foregoing):

- (1) Defects therein increasing the hazards of fire, accidents or other calamities;
- (2) Lack of adequate ventilation, light, or sanitary facilities;
- (3) Dilapidation;
- (4) Disrepair;
- (5) Structural defects;
- (6) Uncleanliness;
- (7) Use in connection with drug crimes, sex crimes, or

(7) Other additional standards which may from time to time be adopted and referenced herein by ordinance amendment.

(b) *Determination and Notice.* The public officer may determine that a dwelling, building, or structure is vacant, dilapidated, or being used in connection with the commission of drug crimes or child-related crimes based upon personal observation or report of a law enforcement agency and evidence of drug or child-related crimes being committed. If the public officer determines that the dwelling, building, or structure is vacant, dilapidated, or being used in connection with the commission of drug or child-related crimes, then the public officer must send a notice via certified mail to the owner of record of the dwelling, building, or structure. Said notice shall (1) enumerate the condition that the public officer determined the dwelling, building or structure to constitute a nuisance; (2) enumerate the actions which such person should take in order to abate the nuisance; and (3) the fines incurred if such nuisances is not abated.

(c) *Fines.* The record owner of the dwelling, building, or structure shall have forty-five (45) days from the date of the notice to abate the nuisance. If the record owner fails to do so, then the public officer shall send citation via certified mail to the record owner. The fine shall be \$150.00 for residential properties and \$350.00 for commercial properties, and shall double every ninety (90) days that the nuisance is not abated. Notice must be provided to property owner of the fine and any subsequent fines thereafter. The municipality reserves the right to utilize any and all available remedies at law to abate said nuisance.

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

Section Four. Severability.

(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. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

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

ORDAINED this _____ day of _____, 2019.

CITY OF HAPEVILLE, GEORGIA

Alan Hallman, Mayor

ATTEST:

Crystal Griggs-Epps, City Clerk

APPROVED BY:

City Attorney

Crystal Griggs-Epps

From: noreply@civicplus.com
Sent: Thursday, March 14, 2019 1:38 PM
To: Crystal Griggs-Epps
Subject: Online Form Submittal: Event Request Form

Event Request Form

All requests for the use of City Staff, services, utilities or the placement of a banner on City property must be approved by the Mayor and Council, prior to the use of the same. Please submit this Request to the City Clerk's Office two weeks prior to the meeting of the Mayor and Council; being placed on the agenda does not ensure approval of request. The Mayor and Council may assess fees for the use of City Staff, services, utilities, and property. The Mayor and Council meet the first and third Tuesdays of each month.

Date 3/14/2019

CONTACT INFORMATION

Contact Person Grace Legendre

Name of Organization Caduceus USA

Mailing Address 535 N Central Avenue Hapeville GA 30354

Telephone #: 4047611263

Cell #:

Fax #: Field not completed.

E-mail Address grace.legendre@caduceususa.com

(Section Break)

EVENT INFORMATION

Name of the Event: Back To School Jamboree

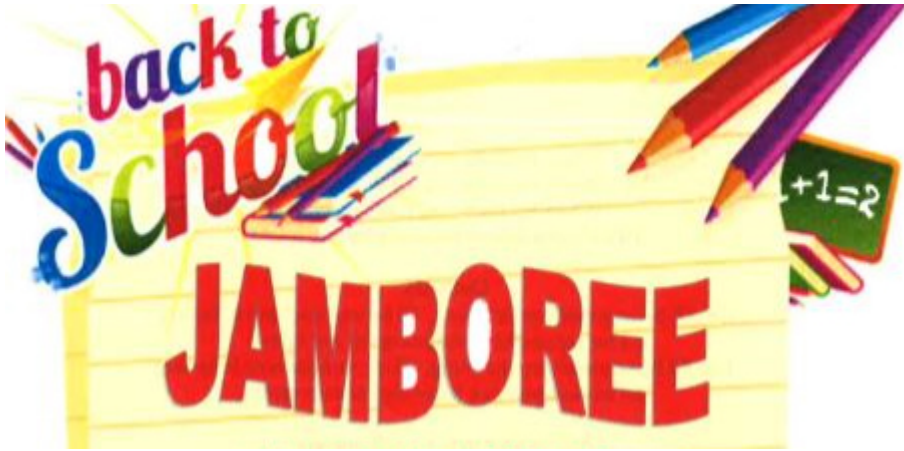
Date of the Event: 07/13/2019

Start time: 2:30 PM

End time: 5:30 PM

Location of the Event: Jesse Lucas Park

How many attendees?	150
Banner:	No
If yes, where is the banner to be placed?:	<i>Field not completed.</i>
Specify dates banner will hang in proposed location:	<i>Field not completed.</i>
If placing a banner on City property, provide a description of the banner (measurements, color, etc.):	<i>Field not completed.</i>
Upload a pdf version of the banner:	<i>Field not completed.</i>
 <i>*Banners placed on the Jess Lucas Park fence facing S. Central Avenue must be placed to the left of the telephone pole of Christ Church.</i>	
Will there be alcohol at this event?	No
Will there be a DJ/Music at this event?	Yes
Additional information about this event:	<i>Field not completed.</i>
<i>(Section Break)</i>	
CITY SERVICES: (check all that apply)	Electricity
If requesting City Staff, please specify:	<i>Field not completed.</i>
If requesting road closures, please specify which roads:	<i>Field not completed.</i>
 <i>**An application for temporary road closure will need to be filled out at the Hapeville Police Department located at 700 Doug Davis Drive, Hapeville.</i>	
<i>(Section Break)</i>	
OFFICE USE ONLY	<i>Field not completed.</i>
Date Heard by Mayor and Council:	<i>Field not completed.</i>



Saturday, July 13th, 2019
2:30–4:30pm

Back-To-School Jamboree

The 2019/2020 School year is fast approaching and it's time to prepare for a great school year. With that being said, let's all pull our resources together to collaborate and share with each other so that all of the Caduceus school-age children win together.

City of Hapeville Park
3444 South Central Ave.
Hapeville, GA 30354

Live local
entertainment, food,
and fun!

***"Xtreme Fun on
Wheels"*** And bouncy
house will be
available at the park
from 2:30 PM. Come
early to enjoy all of
the FUN!!!!

All children who
attend, will receive a
free Caduceus bag
filled with school
supplies!

This event is free for
all Caduceus
Employees and their
Families only.





Proclamation

50th ANNIVERSARY OF MUNICIPAL CLERKS WEEK
May 5 - 11, 2019

Whereas , The Office of the Municipal Clerk, a time honored and vital part of local government exists throughout the world, and

Whereas , The Office of the Municipal Clerk is the oldest among public servants, and

Whereas , The Office of the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels, and

Whereas , Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all.

Whereas , The Municipal Clerk serves as the information center on functions of local government and community.

Whereas , Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, provincial, county and international professional organizations.

Whereas , It is most appropriate that we recognize the accomplishments of the Office of the Municipal Clerk.

Now, Therefore , I, Alan Hallman, Mayor of Hapeville, do recognize the week of May 5 through May 11, 2019, as Municipal Clerks Week, and further extend appreciation to our Municipal Clerk, Crystal Griggs-Epps and to all Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

Dated this 7th day of May 2019

Mayor: _____

Attest: _____

Tim Young

From: Doug Moses <dmoses@mjcpa.com>
Sent: Monday, April 29, 2019 2:03 PM
To: Tim Young
Subject: City of Hapeville

Good afternoon Tim,
Hope all is well.

Did you have a chance to get the extra audit fee for cost overruns approved by the Mayor and City Council? The additional fee that I'm proposing is \$20,000.

Below is a breakdown of the final numbers.

Audit Fee including single audit - \$42,000
GEFA Letter fee - 5,000
Total engagement fee \$47,000

Invoices billed and paid:

\$6,900

\$35,100

\$42,000 Total Paid

invoice billed but not paid yet

\$5,000 M&J Accounts Receivable

Remaining Final WIP Not Billed - \$39,184.43

Request from M&J for extra billing invoice - (20,000.00)

Amount proposed as Write-off (will not bill) - 19,184.43

I was hoping to do the final billing invoice tomorrow as we are approaching our fiscal year-end and the managing partner of the Firm is pushing us to get engagements closed out with final billing invoice.

Look forward to hearing from you.

--

Thanks!

Douglas Alexander Moses, CPA, Member/Partner
Mauldin & Jenkins, LLC
200 Galleria Parkway, S.E., Suite 1700
Atlanta, Ga. 30339-5946
Direct: (678) 742-6773
Toll Free: 1 800-277-0080
Fax: (678) 742-6790
email: dmoses@mjcpa.com

STATE OF GEORGIA
CITY OF HAPEVILLE

ORDINANCE NO._____

AN ORDINANCE BY COUNCIL MEMBERS _____

AN ORDINANCE AMENDING PART II, CHAPTER 41, ARTICLE VIII, (VEHICLE IMMOBILIZATION DEVICES) OF THE CITY OF HAPEVILLE CODE OF ORDINANCES SO AS TO AMEND AND STRENGTHEN THE REGULATORY REQUIREMENTS IMPOSED THEREBY; AND FOR OTHER PURPOSES.

WHEREAS, the City of Hapeville has an interest in maintaining the public safety and general welfare of citizens of the City of Hapeville and its visitors; and

WHEREAS, Chapter 41 Article VIII (Vehicle Immobilization Services) of the City of Hapeville Code of Ordinances was adopted in 2009 to authorize vehicle immobilization on private property in the City of Hapeville as long as compliance with certain conditions by such services and operators is maintained;

WHEREAS, since the enactment of the Vehicle Immobilization Services Code, it has come to the attention of the Hapeville City Council that the requirements imposed thereby are inadequate to secure the rights of private property owners along with the public safety and welfare of the citizens of and visitors to the City of Hapeville;

WHEREAS, the City of Hapeville desires to amend the requirements imposed by the Vehicle Immobilization Services Ordinance to more securely safeguard the public safety and welfare of the citizens of and visitors to the City of Hapeville; and

WHEREAS, to properly balance the rights of private property owners and the welfare of the citizens of, and visitors to, the City of Hapeville, the City of Hapeville desires to set a uniform fee charged by a vehicle immobilization service to remove the vehicle immobilization device; and

WHEREAS, due to the vulnerability vehicle owners, passengers, drivers, or persons in charge thereof may feel when interacting with vehicle immobilization operators, the City of Hapeville wishes to require vehicle immobilization service operator permits to be displayed all times when such operators are in the process of installing or removing a vehicle immobilization device, for such operators to wear something clearly designating their association with a licensed vehicle immobilization service when such operators are in the process of installing or removing vehicle immobilization devices; and

WHEREAS, due to the vulnerability vehicle owners, passengers, drivers, or persons in charge thereof may feel when interacting with vehicle immobilization operators, the City of Hapeville wishes to require more stringent criminal background examination for vehicle immobilization service operators; and

WHEREAS, advances in technology have made self-releasing vehicle immobilization devices available; and

WHEREAS, these devices may be released by the owners, passengers, driver or persons in charge of vehicle who have had their vehicles immobilized by vehicle immobilization operators through the secure payment of the vehicle immobilization fee via a smartphone app, or a secure encrypted means; and

WHEREAS, the ability to remove a vehicle immobilization device without the assistance of a Vehicle Immobilization Operator shall enable the owner, passenger, driver or person in charge of the vehicles to more efficiently pay the appropriate fee and secure the release of their vehicle; and

WHEREAS, to help ensure that vehicle owners, passengers, drivers, or persons in charge thereof have adequate notice that their failure to abide by the conditions private property owners have placed on the use of their parking lots or facilities may result in the installation of a vehicle immobilization device on their vehicle, the City of Hapeville wishes to require uniform and adequate signage, to be approved by the City of Hapeville and to be posted on private property whereon vehicle immobilization services are to be employed; and

WHEREAS, to safeguard the welfare of owners, passengers, drivers, or persons in charge thereof have adequate notice that their failure to abide by these conditions private property owners have placed on the use of their parking lots or facilities may result in the installation of a vehicle immobilization device on their vehicle, the City of Hapeville wishes to require uniform and adequate signage; and

WHEREAS, the City of Hapeville desires for the amendments contained in this Ordinance to be effective April 1, 2019; and

WHEREAS, after July 1, 2019, all licensed or permitted services or operators shall comply with the amendments contained in this Ordinance, regardless of their being licensed or permitted at the time of the approval of this Ordinance.

THE CITY COUNCIL OF THE CITY OF HAPEVILLE, GEORGIA, HEREBY ORDAINS, AS FOLLOWS:

ARTICLE 8. - VEHICLE IMMOBILIZATION DEVICES

Sec. 41-8-1. - Definitions.

On-site vehicle immobilization services shall mean entities that do not operate parking facilities as their primary purpose, including, but not limited to, educational institutions, houses of worship, restaurants, shopping centers and freestanding establishments with adjacent parking for patrons, customers, or invitees that use vehicle immobilization devices as a method of parking control.

Operator shall mean any person, including a sole proprietor, independent contractor, partnership or similar business entity, operating vehicle immobilization devices for a vehicle immobilization service.

Self-release vehicle immobilization device shall mean any device that is designed or adopted to be attached to a parked motor vehicle so as to prohibit the motor vehicle's usual manner of movement or operation, and which may be released upon electronic payment of the fee without assistance of an Operator.

Vehicle immobilization device, device or boot shall mean any mechanical device that is designed or adopted to be attached to a wheel, tire, or other part of a parked motor vehicle so as to prohibit the motor vehicle's usual manner of movement or operation. Unless otherwise specified, the term Vehicle Immobilization Device shall include a self-release vehicle immobilization device.

Vehicle immobilization service or service shall mean a person, including a sole proprietor, independent contractor, partnership or similar business entity, offering services anywhere in the territorial limits of the city whereby vehicles are immobilized by the installation of a vehicle immobilization device.

SECTION 2: Chapter 41 Article VIII of the City of Hapeville Code of Ordinances shall be amended such that it shall read as follows:

Permit to Operate as an Operator of a Vehicle Immobilization Service.

- (a) It shall be unlawful for any vehicle immobilization service, entity, or person to operate within the territorial limits of the City of Hapeville without having obtained a vehicle immobilization service permit granted by the Chief of Police, or his or her designee.
- (b) Every operator, service, entity, or person desiring to obtain a permit required by this article shall file an application with the City of Hapeville Police Department on forms to be prepared and approved by the unit. The application shall state:
 - 1. The name and address of the applicant;
 - 2. The name and address of the principal place of business for the service, operator, entity or person;
 - 3. If a partnership, the names of the partners;
 - 4. If a corporation, the names of the officers;
 - 5. The charges to be imposed for vehicle immobilization services;
 - 6. The amounts and types of insurance held;
 - 7. Any such other information as may be required by the Chief of Police.

All statements in the application for a licenses required by this article shall be sworn by the applicant or by an authorized and qualified agent thereof.

- (c) Every person desiring to be an operator and obtain a permit as required by this article shall be fingerprinted by the Hapeville Police Department and submit to a criminal background search annually.

(d) No license or permit under this article shall be issued to any person who has been convicted in this or any other country within three years immediately prior to the application for a permit as required by this article of any misdemeanor crime involving solicitation for prostitution, distribution of possession of illegal narcotics, sex offenses or any other crime involving theft, violence or acts of moral turpitude. No permit under this article shall be issued to any person who has been convicted in this or any other county within five years immediately prior to the application for a permit of any felony.

(e) Should any person with a license or a permit obtained pursuant to this article be charged with committing any crime as described in this section, such charge shall constitute the basis for adverse action, including suspension or revocation of their operator permit. Immediately upon such suspension or revocation, written notice thereof shall be given to the operator, service, entity, or person, listed as the applicant on the permit application, in person or by certified United States mail addressed to his or her permanent address, or business address as set forth in the permit application. Operators, services, or entities must immediately return suspended or revoked permits obtained pursuant to this article to the Hapeville Police Department.

(f) Further, to be eligible for a permit under this article, the person applying must possess a current driver's license or state issued identification as provided by the laws of the state and proof of valid liability insurance with policy limits specified by the City Manager.

(g) Any person denied a license or a permit under this section or any person whose license or permit may be revoked under this section shall have the right to appeal this denial or revocation to the City Manager. Said appeal must be in writing and must be filed with the Hapeville City Clerk on or before the thirtieth (30th) day from the date stated on the notification of denial or revocation.

Any person denied a license or permit under this section or any person whose license or permit may be revoked after appeal to the City Manager shall have the right to appeal this denial or revocation to the Council for the City of Hapeville. Said appeal must be in writing and must be filed with the Hapeville City Clerk on or before the thirtieth (30th) day from the date stated on the notification of denial or revocation after appeal to the City Manager. The decision of the City Council shall be final.

(h) Once issued, permits obtained pursuant to this article shall be valid for one calendar year. Operators shall carry their permit at all times when they are in the process of installing or removing a vehicle immobilization device. Additionally, all operators shall wear something clearly designating their association with a licensed vehicle immobilization service or company when they are in the process of installing or removing a vehicle immobilization device.

SECTION 3: Chapter 41 Article VIII of the City of Hapeville Code of Ordinances shall be amended such that it shall read as follows:

General Requirements for Vehicle Immobilization Services and Operators

1. It shall be unlawful for either a vehicle immobilization service or an operator to procure a license or a permit by fraud or misrepresentation of fact.
2. It shall be unlawful for either a vehicle immobilization service or an operator to pay any amount in the form of a gratuity to any person, owner, employee, agent, of a commercial parking lot or residential property for information as to illegally parked vehicles. Payments that exceed the reasonable and customary fees charged by the owner or person in possession of the commercial parking lot or residential property for parking which will afford vehicle immobilization services the opportunity to obtain information as to illegally parked vehicles shall be considered an illegal kickback.
3. A vehicle immobilization service or operator must maintain, or provide access to, a 24-hour a day, 365 days per year phone number that is staffed by a live operator to communicate immediately with a driver of a vehicle that has been immobilized by the vehicle immobilization service or operator. This shall apply to vehicle immobilization services utilizing self-release vehicle immobilization devices.
4. It shall be unlawful for either a vehicle immobilization service or an operator to immobilize vehicles at any off-street pay parking facility, vacant lot, or other private property without having a valid written contract specifically for such services entered into with the private property owner or lawful lessee thereof.
5. It shall be unlawful for a vehicle immobilization service or operator to fail to arrive on the site where the vehicle was immobilized within thirty minutes of being contacted by the owner, driver or person in charge of the vehicle. It shall also be unlawful for either a vehicle immobilization service or an operator to fail to release vehicles from immobilization within fifteen minutes after receipt of payment from the owner, driver or person in charge of a vehicle that has been immobilized by a vehicle immobilization device.

6. All vehicle immobilization service or operators must utilize secure and encrypted processing systems for debit card and credit card payments such that said payments may be made and immediately processed in the driver's presence without need to photograph or manually credit card or debit card information for processing.

7. All vehicle immobilization service or operators must utilize secure and encrypted processing systems for copying state issued identifications such that said information may be obtained and confidentially stored without the need to photograph or manually record state issued identification information.

8. It shall be unlawful for a vehicle immobilization service or operator to fail to provide

a receipt of payment of the booting fee to the owner, driver or person in charge of a vehicle at the time that payment is made. The receipt shall have the following information: The name, address, and phone number of the vehicle immobilization service or company and the name and signature of the person who applied/removed the boot or vehicle immobilization device. Such receipts may be provided electronically.

9. A vehicle immobilization service must procure reasonable insurance, as determined by the City Manager, to cover damage caused to vehicles by the use of a vehicle immobilization device.

10. A vehicle immobilization service shall keep copies of permits issued to its operators under this article in their place of business, so that they may be inspected by any member of the Hapeville Police Department, upon request, at any time.

11. A vehicle immobilization service or operators utilizing Self-Release vehicle immobilization devices shall ensure that there is a drop off location either located in or directly adjacent to the lot wherein the Self-Release vehicle immobilization device

was utilized. Such drop-off locations shall be in the form of secured receptacles or at attended locations and must be accessible 24 hours per day. Said devices must have

a sticker thereon that contains the name and telephone number for the Vehicle Immobilization Service or Operator who owns the Self-Release vehicle immobilization device.

SECTION 4: Chapter 41 Article VIII of the City of Hapeville Code of Ordinances shall be amended such that it shall read as follows:

(a) It shall be unlawful for any person hired by an owner or leasee of any private property, or his agent or employee, located within the territorial limits of the City of

Hapeville to install or attach to any vehicle a vehicle immobilization device(s), boot(s), or any other instrument(s) that is/are designed to, or have the effect of, restricting the normal movement of such vehicle or by any other means whatsoever to restrict the normal movement of such vehicle, unless the owner or leasee of the property, or his agent or employee, has complied with all applicable provisions regarding the posting of vehicle immobilization signs that comply with the following requirements:

SIGNS

- (1) Signs shall be located at each designated entrance and exit to the parking facility, lot, or area where a vehicle immobilization device or boot is to be used indicating that parking prohibitions are in effect. Such signs must be erected so that the front of the signs are visible from each and every parking space or area in the parking facility lot or area. Parking spaces must be clearly marked to afford notice to drivers of vehicles who enter the premises.
- (2) Where there is no designated entrance and exit to the parking facility or lot, such signs shall be erected so as to be clearly visible from each and every parking space or area.
- (3) Such signs shall be in accordance with specifications promulgated by the Chief of Police and shall be presented by the operator, service, entity, or person desiring to obtain a permit as required by this article at the time of application for inspection and approval.
- (4) Such signs shall state the names of each and every company, person, or entity that have rights of possession or ownership of the premises, through color of title or lease, and authorize the use of vehicle immobilization devices on the premises.
- (5) Such signs shall state in letters at least three inches high as follows “Unauthorized Vehicles may be booted at the Vehicle Owner’s Risk and at the Vehicle Owner’s Expense”. Such signs shall also include the following information in letters at least two and one half inches high:
 - a. Cost of boot removal. Said amount shall not exceed \$75.00, the maximum fee for removal of the immobilization devices set forth herein;
 - b. A statement that cash, credit cards, and debit cards are accepted payments;
 - c. A statement that no additional fees will be charged for accepted forms of payment;
 - d. The name, address, and phone number of the vehicle immobilization company, operator, person, or entity responsible for affixing and removing the immobilization device;
 - e. The name of each company, person, or entity who is authorizing the use of immobilization devices on the premises;
 - f. The name and a contact phone number where complaints regarding the affixing or removal of immobilization devices may be made.

SECTION 5: Chapter 41 Article VIII of the City of Hapeville Code of Ordinances shall be amended such that it shall read as follows:

General Requirements for Vehicle Immobilization Services and Operators

1. It shall be unlawful for either a vehicle immobilization service or an operator to procure a license or a permit by fraudulent conduct or a false statement of a material fact.
2. It shall be unlawful for either a vehicle immobilization service or an operator to pay in the form of a gratuity any person who does not own or operate a commercial parking lot for information as to illegally parked vehicles.
3. It shall be unlawful for either a vehicle immobilization service or an operator to make any payment to an owner, employee, agent or a person in possession of a commercial parking lot in excess of the reasonable and customary fee ordinarily charged by the owner or person in possession of the parking lot for parking thereon, such payment shall be considered an illegal kickback.
4. It shall be unlawful for either a vehicle immobilization service or an operator to immobilize any vehicle located on any portion of a public street within the City of Hapeville.
5. It shall be unlawful for either a vehicle immobilization service or an operator to immobilize vehicles at any off-street pay parking facility, vacant lot, or other private property whereon persons must pay to park their vehicles without having signs as required by this ordinance.
6. A vehicle immobilization device cannot be affixed to a vehicle and a fee cannot be charged if the driver of the vehicle returns to the vehicle before the installation of the vehicle immobilization device is complete.
7. A vehicle immobilization service must maintain, or provide access to, a phone number that is staffed, 24-hours a day for 365 days a year, by a live operator to communicate immediately with a driver of vehicle that has been immobilized by the vehicle immobilization service. This shall apply to vehicle immobilization services utilizing Self-Release vehicle immobilization devices.
8. It shall be unlawful for either a vehicle immobilization service or an operator to immobilize vehicles at any off-street pay parking facility, vacant lot, or other private property whereon persons must pay to park their vehicles without having a valid written

contract specifically for such services entered into with the private property owner or lawful lessee thereof.

9. It shall be unlawful for a vehicle immobilization service or operator to fail to arrive on the site where the vehicle was immobilized within thirty minutes of being contacted by the owner, driver or person in charge of the vehicle. It shall also be unlawful for either
a
vehicle immobilization service or an operator to fail to release vehicles from immobilization fifteen minutes after receipt of payment from the owner, driver or person in charge of a vehicle that has been immobilized by a vehicle immobilization device.
10. It shall be unlawful for a vehicle immobilization service or operator to photograph or manually record state issued identification information, credit card, or debit card information for processing.
11. It shall be unlawful for a vehicle immobilization service or operator to fail to provide a receipt of payment of the booting fee to the owner, driver or person in charge of a vehicle. The receipt shall have the following information: The name, address, and phone number of the vehicle immobilization service or company and the name and signature or the person who applied/removed the boot or vehicle immobilization device. Such receipts may be provided to the owner operator of the vehicle electronically.
12. In the event that the application of a vehicle immobilization device damages a vehicle,
then the service must pay the cost of repairs for that damage.
12. In the event that the owner or operator of a vehicle, to which an immobilization device has been applied, attempts to operate said vehicle or remove the device, then the vehicle immobilization service is not liable for any damage to that vehicle.
Additionally, the owner, driver or person in charge of the vehicle will be liable to the vehicle immobilization service for the cost of damage to the vehicle immobilization device.
13. A vehicle immobilization service must procure reasonable insurance, as determined by
the City Council, City Manager, or the city police department, to cover damage caused
to vehicles by the use of a vehicle immobilization device.
14. A vehicle immobilization service shall keep copies of permits issued to its operators under this article in their place of business so that they may be inspected by any

member of the Hapeville Police Department at any time.

15. A vehicle immobilization service utilizing Self-release vehicle immobilization devices shall ensure that there is a drop off location either located in or directly adjacent to the lot wherein the Self-release vehicle immobilization device was utilized. Such drop-off locations be in the form of secured receptacles or at attended locations and must be accessible 24 hours per day.
16. All Self-release vehicle immobilization devices must have information thereon providing notice of where the device may be returned, along with the contact information for the Vehicle Immobilization Service.
17. Upon proper registration in accordance with this section, a written permit shall issue, to be valid for one calendar year from the date of issuance. Each person affixing or removing a vehicle immobilization device shall at all times carry upon his or her person the permit so issued pursuant to this article and shall display such permit upon request.

SECTION 6: Chapter 41 Article VIII of the City of Hapeville Code of Ordinances shall be amended such that it shall read as follows:

Any person who is convicted of violating any provision of this chapter shall be punished by a fine not to exceed \$1,000.00 or by imprisonment not to exceed six months, or both such fine and imprisonment.

SECTION 7: Chapter 41 Article VIII of the City of Hapeville Code of Ordinances shall be amended such that it shall read as follows: RESERVED.

SECTION 8: Chapter 41 Article VIII of the City of Hapeville Code of Ordinances shall be amended such that it shall read as follows:

The amendments of the foregoing ordinance shall become effective immediately, except that the specifications for the signs required in Section 4 shall be promulgated and approved by the Chief of Police by no later than April 1, 2019; and the sign requirements in Section 4 shall be otherwise effective July 1, 2019.

SECTION 9: Chapter 41 Article VIII of the City of Hapeville Code of Ordinances shall be amended such that it shall read as follows: That all ordinances and parts of ordinances in conflict herewith are hereby waived to the extent of the conflict only.

SECTION 10: Chapter 41 Article VIII of the City of Hapeville Code of Ordinances shall be amended such that it shall read as follows: That the Municipal Clerk for the City of Hapeville is instructed to retain all legislative history references in the codified version of Chapter 41, including Editor's notes, and shall not delete any such references, but shall amend them to include this ordinance.

ORDAINED this _____ day of _____, 2019.

CITY OF HAPVILLE, GEORGIA

Alan H. Hallman, Mayor

ATTEST:

(Ord. No. 2009-01, § 1, 3-1-2009; Ord. No. 2011-04, §§ 1—8, 5-3-2011)

(b) During any period in which a snow emergency condition exists and a snow emergency is in effect, it shall be unlawful to park any vehicle on any part of any street designated as a snow emergency street, provided that signs have been erected on that street giving notice that such street is a designated snow emergency street.

(c) During any period in which a snow emergency condition is in effect, it shall be unlawful to park any vehicle on the odd-numbered side of any public street in the Town of Riverdale Park regardless of whether such street has been designated a snow emergency street. Streets with parking restricted on one side are exempt from this section.

(d) Any vehicle parked in violation of the snow emergency provisions of the section may be removed and impounded by or under the direction of any duly-authorized police officer. The owner of said vehicle, in addition to any towing or impound fee, shall be liable for a fine of \$250.

§ 64-20 School Zone Speed Monitoring Systems Authorized.[Added 10-5-09, effective 10-25-09; amended 4-5-10, effective 4-25-10]

(A) Terms used in this section that are defined in Transportation Article, § 21-809, of the Maryland Annotated Code, as amended from time to time, shall have the same meanings in this section.

(B) The Town may use a speed monitoring system to monitor and enforce speed limit restrictions, including the issuance of citations, within the school zones designated in subsection (e) of this section. The locations in school zones within which speed monitoring systems are used from time to time shall be determined by the Town's Chief of Police.

(C) The Town shall use speed monitoring systems for the monitoring and enforcement of speed limit restrictions in accordance with the requirements set forth in Transportation Article, § 21-809, of the Maryland Annotated Code, as amended from time to time, and other applicable law.

(D) The Town may contract with a speed monitoring system operator to operate a speed monitoring system in the town in accordance with the requirements set forth in Transportation Article, § 21-809, of the Maryland Annotated Code, as amended from time to time, and other applicable law.

(E) The following school zones are established within the Town of Riverdale Park pursuant to Transportation Article, § 21-803.1, of the Maryland Annotated Code:

(1) Riverdale Elementary School zone. the limits of this school zone, and the maximum speed limits within this zone, are as follows:

a State Highway 410 (East West Highway) eastbound from Beale Circle east to State Highway 201 (Kenilworth Avenue), maximum speed set at 35 miles per hour.

b. State Highway 410 (East West Highway) westbound from State Highway 201 (Kenilworth Avenue) to 46th Avenue, maximum speed set at 35 miles per hour.

c. Taylor Road from Longfellow Street to Tuckerman Street, maximum speed set at 25 miles per hour.

d. Riverdale Road from 54th Avenue to Lafayette Avenue, maximum speed set at 20 miles per hour.

e. Queensbury Road from the Town's Public Works facility to Lafayette Avenue, maximum speed set at 25 miles per hour.

(2) Parkdale High School zone. The limits of this school zone, and the maximum speed limits within this zone, are as follows:

a. Good Luck Road eastbound and westbound from approximately 500 feet east of State Highway 201 (Kenilworth Avenue) to approximately 100 feet west of Crest Park Drive, maximum speed set at 35 miles per hour.

(3) De Matha Catholic High School zone. The limits of this school zone and the maximum speed limits within this zone, are as follows:

A. Federal Highway 1 (Baltimore Avenue) northbound from approximately 100 feet south of Madison Street to Sheridan Street, maximum speed set at 30 miles per hour.

B. Federal Highway 1 (Baltimore Avenue) southbound from state highway 410 (East West Highway) to approximately 100 feet north of Oliver Street, maximum speed set at 30 miles per hour.

(4) Saint Bernard's Elementary School zone. The limits of this school zone and the maximum speed limits within this zone, are as follows:

A. Riverdale Road from State Highway 201 (Kenilworth Avenue) to State Highway 410 (East West Highway), maximum speed set at 25 miles per hour.

B. State Highway 410 (East West Highway) eastbound and westbound from the Anacostia River northeast branch bridge to Riverdale Road, maximum speed set at 35 miles per hour.

C. State Highway 201 (Kenilworth Avenue) northbound and southbound from Carters Lane to River Road, maximum speed set at 35 miles per hour.

(5) William Wirt Middle School zone. The limits of this school zone and the maximum speed limits within this zone, are as follows:

State Highway 201 (Kenilworth Avenue) northbound and southbound
from River Road to Good Luck Road, maximum speed set at 35 miles per hour.

House Bill 978 (AS PASSED HOUSE AND SENATE)

By: Representatives Nimmer of the 178th, Coomer of the 14th, Carpenter of the 4th, Corbett of the 174th, Rhodes of the 120th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 8 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated,
2 relating to school buses, so as to revise the enforcement of civil monetary penalties regarding
3 violations of the duties of a driver when meeting or overtaking a school bus; to revise penalty
4 fees; to revise definitions; to provide for procedures and enforcement; to provide for
5 enforcement penalties through the Department of Revenue; to provide for dedication of fees
6 collected from local civil monetary penalties; to amend Article 2 of Chapter 14 of Title 40
7 of the Official Code of Georgia Annotated, relating to speed detection devices, so as to
8 provide for automated traffic enforcement safety devices in school zones; to provide for
9 definitions; to provide for the operation of automated traffic enforcement safety devices by
10 agents or registered or certified peace officers; to provide for automated traffic enforcement
11 safety device testing exceptions and procedures; to provide for automated traffic enforcement
12 safety device use warning signs; to provide for further exceptions for when case may be
13 made and conviction had for exceeding posted speed limit by less than ten miles per hour;
14 to provide for an exception for the ratio of speeding fines to an agency budget; to provide for
15 civil enforcement of violations recorded by automated traffic enforcement safety devices; to
16 provide for enforcement penalties through the Department of Revenue; to provide for rules,
17 regulations, and terms of use for automated traffic enforcement safety devices; to provide for
18 related matters; to repeal conflicting laws; and for other purposes.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20 **SECTION 1.**

21 Article 8 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to
22 school buses, is amended by revising Code Section 40-6-163, relating to duty of driver of
23 vehicle meeting or overtaking school bus, reporting of violations, and enforcement, as
24 follows:

"40-6-163.

(a) Except as provided in subsection (b) of this Code section, the driver of a vehicle meeting or overtaking from either direction any school bus stopped on the highway shall stop before reaching such school bus when there are in operation on the school bus the visual signals as specified in Code Sections 40-8-111 and 40-8-115, and such driver shall not proceed until the school bus resumes motion or the visual signals are no longer actuated.

(b) The driver of a vehicle upon a highway with separate roadways or a divided highway, including, but not limited to, a highway divided by a turn lane, need not stop upon meeting or passing a school bus which is on a different roadway or on another half of a divided highway, or upon a controlled-access highway when the school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

(c) Every school bus driver who observes a violation of subsection (a) of this Code section is authorized and directed to record specifically the vehicle description, license number of the offending vehicle, and time and place of occurrence on forms furnished by the Department of Public Safety. Such report shall be submitted within 15 days of the occurrence of the violation to the local law enforcement agency which has law enforcement jurisdiction where the alleged offense occurred.

(d)(1) As used in this subsection, the term:

(A) 'Agent' means a person or entity who is authorized by a law enforcement agency or governing body to administer the procedures contained herein and:

(i) Provides services to such law enforcement agency or governing body;

(ii) Operates, maintains, leases, or licenses a video recording device; or

(iii) Is authorized by such law enforcement agency or governing body to review and assemble the recorded images.

(B) 'Owner' means the registrant of a motor vehicle, except that such term shall not include a motor vehicle rental company when a motor vehicle registered by such company is being operated by another person under a rental agreement with such company.

~~(B)~~(C) 'Recorded images' means images recorded by a video recording device mounted on a school bus with a clear view of vehicles passing the bus on either side and showing the date and time the recording was made and an electronic symbol showing the activation of amber lights, flashing red lights, stop arms, and brakes.

~~(C)~~(D) 'Video recording device' means a camera capable of recording digital images showing the date and time of the images so recorded.

(2) Subsection (a) of this Code section may be enforced by using recorded images as provided in this subsection.

(3) For the purpose of enforcement pursuant to this subsection:

(A) The ~~driver~~ owner of a motor vehicle shall be liable for a civil monetary penalty to the governing body of the law enforcement agency provided for in subparagraph (d)(3)(B) of this Code Section if such vehicle is found, as evidenced by recorded images, to have been operated in disregard or disobedience of subsection (a) of this Code section and such disregard or disobedience was not otherwise authorized by law. The amount of such ~~fine~~ civil monetary penalty shall be ~~\$300.00 for a first offense, \$750.00 for a second offense, and \$1,000.00 for each subsequent offense in a five-year period~~ \$250.00;

(B) The law enforcement agency authorized to enforce the provisions of this Code section shall send by ~~regular~~ first class mail addressed to the owner of the motor vehicle ~~postmarked~~ not later than ten days after ~~the date of the alleged violation~~ obtaining the name and address of the owner of the motor vehicle:

(i) A citation for the alleged violation, which shall include the date and time of the violation, the location of the infraction, the amount of the civil monetary penalty imposed, and the date by which the civil monetary penalty shall be paid;

(ii) An image taken from the recorded image showing the vehicle involved in the infraction;

(iii) A copy of a certificate sworn to or affirmed by a certified peace officer employed by a law enforcement agency authorized to enforce this Code section and stating that, based upon inspection of recorded images, the owner's motor vehicle was operated in disregard or disobedience of subsection (a) of this Code section and that such disregard or disobedience was not otherwise authorized by law;

(iv) A statement of the inference provided by subparagraph (D) of this paragraph and of the means specified therein by which such inference may be rebutted;

(v) Information advising the owner of the motor vehicle of the manner and time in which liability as alleged in the citation may be contested in court; and

(vi) A warning that failure to pay the civil monetary penalty or to contest liability in a timely manner shall waive any right to contest liability and result in a civil monetary penalty;

(C) Proof that a motor vehicle was operated in disregard or disobedience of subsection (a) of this Code section shall be evidenced by recorded images. A copy of a certificate sworn to or affirmed by a certified peace officer employed by a law enforcement agency and stating that, based upon inspection of recorded images, a motor vehicle was operated in disregard or disobedience of subsection (a) of this Code section and that

such disregard or disobedience was not otherwise authorized by law shall be prima-facie evidence of the facts contained therein; and

(D) Liability under this subsection shall be determined based upon preponderance of the evidence. Prima-facie evidence that the vehicle described in the citation issued pursuant to this subsection was operated in violation of subsection (a) of this Code section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that such owner of the vehicle was the driver of the vehicle at the time of the alleged violation. Such an inference may be rebutted if the owner of the vehicle:

(i) Testifies under oath in open court or submits to the court a sworn notarized statement that he or she was not the operator of the vehicle at the time of the alleged violation and identifies the name of the operator of the vehicle at the time of the alleged violation; or

(ii) Presents to the court a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation.

(4) A violation for which a civil penalty is imposed pursuant to this subsection shall not be considered a moving traffic violation for the purpose of points assessment under Code Section 40-5-57. Such violation shall be deemed noncriminal, and imposition of a civil penalty pursuant to this subsection shall not be deemed a conviction and shall not be made a part of the operating record of the person upon whom such liability is imposed, nor shall it be used for any insurance purposes in the provision of motor vehicle insurance coverage.

~~(5) If a person summoned by regular mail fails to appear on the date of return set out in the citation and has not paid the penalty for the violation or filed a police report or notarized statement pursuant to subparagraph (D) of paragraph (3) of this subsection, the person shall then be summoned a second time by certified mail with a return receipt requested. The second summons shall include all information required in subparagraph (B) of paragraph (3) of this subsection for the initial summons and shall include a new date of return. If a person summoned by certified mail again fails to appear on the date of return set out in the second citation and has failed to pay the penalty or file an appropriate document for rebuttal, the person summoned shall have waived the right to contest the violation and shall be liable for the civil monetary penalty provided in paragraph (3) of this subsection. If a person is mailed a citation by first class mail pursuant to subparagraph (B) of paragraph (3) of this subsection, such person may pay the penalty or request a court date. Any citation executed pursuant to this paragraph shall provide to the person issued the citation at least 30 business days from the mailing of the citation to inspect information collected by the video recording device in connection with~~

135 the violation. If the person requesting a court date fails to appear on the date and time of
136 such hearing or if a person has not paid the penalty for the violation or filed a police
137 report or notarized statement pursuant to subparagraph (D) of paragraph (3) of this
138 subsection, such person shall then be sent a second citation by first class mail. The
139 second citation shall include all information required in subparagraph (B) of paragraph
140 (3) of this subsection for the initial citation and shall include a hearing date and time. If
141 a person fails to appear on the date and time of such hearing set out in the second citation
142 or if the person has failed to pay the penalty or file an appropriate document for rebuttal,
143 the person issued the second citation shall have waived the right to contest the violation
144 and shall be liable for the civil monetary penalty provided in paragraph (3) of this
145 subsection.

146 (6) Any court having jurisdiction over violations of subsection (a) of this Code section
147 shall have jurisdiction over cases arising under this subsection ~~and shall be authorized to~~
148 ~~impose the civil monetary penalty provided by this subsection.~~ Any person receiving a
149 notice pursuant to subparagraph (B) of this paragraph shall have the right to contest such
150 liability for the civil monetary penalty in the magistrate court or other court of competent
151 jurisdiction for a traffic violation. Except as otherwise provided in this subsection, the
152 provisions of law governing jurisdiction, procedure, defenses, adjudication, appeal, and
153 payment and distribution of penalties otherwise applicable to violations of subsection (a)
154 of this Code section shall apply to enforcement under this subsection except as provided
155 in subparagraph (A) of paragraph (3) of this subsection; provided, however, that any
156 appeal from superior or state court shall be by application in the same manner as that
157 provided by Code Section 5-6-35.

158 (7) If a violation has not been contested and the assessed penalty has not been paid, the
159 agent or governing body shall send to the person who is the registered owner of the motor
160 vehicle a final notice of any unpaid civil monetary penalty authorized by this Code
161 section, except in cases where there is an adjudication that no violation occurred or there
162 is otherwise a lawful determination that no civil monetary penalty shall be imposed. The
163 notice shall inform the registered owner that the agent or governing body shall send a
164 referral to the Department of Revenue if the assessed penalty and any late fee is not paid
165 within 30 days after the final notice was mailed and that such referral shall result in the
166 nonrenewal of the registration of such motor vehicle and shall prohibit the title transfer
167 of such motor vehicle within this state.

168 (8) The agent or governing body shall send a referral to the Department of Revenue not
169 sooner than 30 days after the final notice required under paragraph (7) of this subsection
170 was mailed if a violation of an ordinance or resolution adopted under this article has not

171 been contested and the assessed penalty has not been paid. The referral to the
172 Department of Revenue shall include the following:

173 (A) Any information known or available to the agent or governing body concerning the
174 license plate number, year of registration, and the name of the owner of the motor
175 vehicle;

176 (B) The date on which the violation occurred;

177 (C) The date when the notice required under this Code section was mailed; and

178 (D) The seal, logo, emblem, or electronic seal of the governing body.

179 (9) If the Department of Revenue receives a referral under paragraph (8) of this
180 subsection, such referral shall be entered into the motor vehicle database within five days
181 of receipt and the Department of Revenue shall refuse to renew the registration of such
182 motor vehicle and shall prohibit the title transfer of such vehicle within this state unless
183 and until the civil monetary penalty plus any late fee is paid to the governing body. The
184 Department of Revenue shall mail a notice to the registered owner of such motor vehicle
185 that informs such owner:

186 (A) That the registration of the vehicle involved in the violation will not be permitted
187 to be renewed;

188 (B) That the title of the vehicle involved in the violation will not be permitted to be
189 transferred in this state;

190 (C) That the aforementioned penalties are being imposed due to the failure to pay the
191 civil monetary penalty plus any late fee for an ordinance violation adopted under the
192 authority of this Code section; and

193 (D) Of the procedure that the person may follow to remove the penalties.

194 (10) The Department of Revenue shall remove the penalties on a vehicle if any person
195 presents the Department of Revenue with adequate proof that the penalty and any late fee,
196 if applicable, has been paid.

197 ~~(7)~~(11) Recorded images made for purposes of this subsection shall not be a public
198 record for purposes of Article 4 of Chapter 18 of Title 50.

199 ~~(8)~~(12) A governing authority shall not impose a civil penalty under this subsection on
200 the owner of a motor vehicle if the operator of the vehicle was arrested or issued a
201 citation and notice to appear by a certified peace officer for the same violation.

202 ~~(9)~~(13) A local school system may enter into an intergovernmental agreement with a
203 local governing authority to offset expenses regarding the implementation and ongoing
204 operation of video recording devices serving the purpose of capturing recorded images
205 of motor vehicles unlawfully passing a school bus.

(14) Any school bus driver operating a vehicle equipped with an activated video recording device shall be exempt from the recording provisions of subsection (c) of Code Section 40-6-163.

(15) The money collected and remitted to the governing body pursuant to subparagraph (d)(3)(B) of this Code section shall only be used by such governing body to fund local law enforcement or public safety initiatives. This paragraph shall not preclude the appropriation of a greater amount than collected and remitted under this subsection."

SECTION 2.

Article 2 of Chapter 14 of Title 40 of the Official Code of Georgia Annotated, relating to speed detection devices, is amended by adding two new Code sections to read as follows:

"40-14-1.1.

As used in this article, the term:

(1) 'Agent' means a person or entity who is authorized by a law enforcement agency or governing body to administer the procedures contained herein and:

(A) Provides services to such law enforcement agency or governing body;

(B) Operates, maintains, leases, or licenses an automated traffic enforcement safety device; or

(C) Is authorized by such law enforcement agency or governing body to review and assemble the recorded images captured by the automated traffic enforcement safety device for review by a peace officer.

(2) 'Automated traffic enforcement safety device' means a speed detection device that:

(A) Is capable of producing photographically recorded still or video images, or both, of the rear of a motor vehicle or of the rear of a motor vehicle being towed by another vehicle, including an image of such vehicle's rear license plate;

(B) Is capable of monitoring the speed of a vehicle as photographically recorded pursuant to subparagraph (A) of this paragraph; and

(C) Indicates on each photographically recorded still or video image produced the date, time, location, and speed of a photographically recorded vehicle traveling at a speed above the posted speed limit within a marked school zone.

(3) 'Owner' means the registrant of a motor vehicle, except that such term shall not include a motor vehicle rental company when a motor vehicle registered by such company is being operated by another person under a rental agreement with such company.

(4) 'Recorded images' means still or video images recorded by an automated traffic enforcement safety device.

241 (5) 'School zone' means the area within 1,000 feet of the boundary of any public or
242 private elementary or secondary school.

243 40-14-1.2.

244 Nothing in this article shall be construed to mean that an agent is providing or participating
245 in private investigative services or acting in such manner as would render such agent
246 subject to the provisions of Article 4 of Chapter 18 of Title 50."

247 **SECTION 3.**

248 Said article is further amended by revising subsection (c) of Code Section 40-14-2, relating
249 to permit required for use of speed detection devices, use not authorized where officers paid
250 on fee system, and operation by registered or certified peace officers, as follows:

251 "(c) A permit shall not be issued by the Department of Public Safety to an applicant under
252 this Code section unless the applicant provides law enforcement services by certified peace
253 officers 24 hours a day, seven days a week on call or on duty or allows only peace officers
254 employed full time by the applicant to operate speed detection devices. Speed detection
255 devices can only be operated by registered or certified peace officers of the county sheriff,
256 county, municipality, college, or university to which the permit is applicable; provided,
257 however, that an automated traffic enforcement safety device may be operated by an agent
258 or registered or certified peace officers of the county sheriff, county, or municipality to
259 which the permit is applicable. Persons operating the speed detection devices must be
260 registered or certified by the Georgia Peace Officer Standards and Training Council as
261 peace officers and certified by the Georgia Peace Officer Standards and Training Council
262 as operators of speed detection devices; provided, however, that agents may operate
263 automated traffic enforcement safety devices without such registrations or certifications."

264 **SECTION 4.**

265 Said article is further amended by revising Code Section 40-14-5, relating to testing and
266 removal of inaccurate radar devices from service, as follows:

267 "40-14-5.

268 (a) Each state, county, municipal, or campus law enforcement officer using a radar device,
269 except for an automated traffic enforcement safety device as provided for under Code
270 Section 40-14-18, shall test the device for accuracy and record and maintain the results of
271 the test at the beginning and end of each duty tour. Each such test shall be made in
272 accordance with the manufacturer's recommended procedure. Any radar unit not meeting
273 the manufacturer's minimum accuracy requirements shall be removed from service and
274 thereafter shall not be used by the state, county, municipal, or campus law enforcement

agency until it has been serviced, calibrated, and recertified by a technician with the qualifications specified in Code Section 40-14-4.

(b) Each county, municipal, or campus law enforcement officer using a radar device, except for an automated traffic enforcement safety device as provided for under Code Section 40-14-18, shall notify each person against whom the officer intends to make a case based on the use of the radar device that the person has a right to request the officer to test the radar device for accuracy. The notice shall be given prior to the time a citation and complaint or ticket is issued against the person and, if requested to make a test, the officer shall test the radar device for accuracy. In the event the radar device does not meet the minimum accuracy requirements, the citation and complaint or ticket shall not be issued against the person, and the radar device shall be removed from service and thereafter shall not be used by the county, municipal, or campus law enforcement agency until it has been serviced, calibrated, and recertified by a technician with the qualifications specified in Code Section 40-14-4.

(c)(1) The law enforcement agency, or agent on behalf of the law enforcement agency, operating an automated traffic enforcement safety device provided for under Code Section 40-14-18 shall maintain a log for the automated traffic enforcement safety device attesting to the performance of such device's self-test at least once every 30 days and the results of such self-test pertaining to the accuracy of the automated traffic enforcement safety device. Such log shall be admissible in any court proceeding for a violation issued pursuant to Code Section 40-14-18.

(2) The law enforcement agency, or agent on behalf of the law enforcement agency, operating an automated traffic enforcement safety device shall perform an independent calibration test on the automated traffic enforcement safety device at least once every 12 months. The results of such calibration test shall be admissible in any court proceeding for a violation issued pursuant to Code Section 40-14-18."

SECTION 5.

Said article is further amended by adding a new subsection to Code Section 40-14-6, relating to the requirement for warning signs, to read as follows:

"(c) In addition to the signs required under subsections (a) and (b) of this Code section, each law enforcement agency using an automated traffic enforcement safety device as provided for in Code Section 40-14-18 shall erect signs warning of the use of a stationary speed detection device within the approaching school zone. Such signs shall be at least 24 by 30 inches in area, shall be visible plainly from every lane of traffic, shall be viewable in all traffic conditions, and shall not be placed in such a manner that the view of such sign is subject to being obstructed by any other vehicle on such highway. Such signs shall be

311 placed within 500 feet prior to the warning sign announcing the reduction of the speed limit
312 for the school speed zone. There shall be a rebuttable presumption that such signs are
313 properly installed pursuant to this subsection at the time of any alleged violation under this
314 article."

315 **SECTION 6.**

316 Said article is further amended by revising Code Section 40-14-7, relating to the visibility
317 of a vehicle from which a speed detection device is operated, as follows:

318 "40-14-7.

319 ~~No~~ Except as provided for in Code Section 40-14-18, no stationary speed detection device
320 shall be employed by county, municipal, college, or university law enforcement officers
321 where the vehicle from which the device is operated is obstructed from the view of
322 approaching motorists or is otherwise not visible for a distance of at least 500 feet."

323 **SECTION 7.**

324 Said article is further amended by revising subsection (b) of Code Section 40-14-8, relating
325 to when case may be made and conviction had, as follows:

326 "(b) The limitations contained in subsection (a) of this Code section shall not apply in
327 properly marked school zones one hour before, during, and one hour after the normal hours
328 of school operation or programs for care and supervision of students before school, after
329 school, or during vacation periods as provided for under Code Section 20-2-65, in properly
330 marked historic districts, and in properly marked residential zones. For purposes of this
331 chapter, thoroughfares with speed limits of 35 miles per hour or more shall not be
332 considered residential districts. For purposes of this Code section, the term 'historic
333 district' means a historic district as defined in paragraph (5) of Code Section 44-10-22 and
334 which is listed on the Georgia Register of Historic Places or as defined by ordinance
335 adopted pursuant to a local constitutional amendment."

336 **SECTION 8.**

337 Said article is further amended by revising subsection (d) of Code Section 40-14-11, relating
338 to investigations by the commissioner of public safety, issuance of order suspending or
339 revoking a permit, and ratio of speeding fines to agency's budget, as follows:

340 "(d) There shall be a rebuttable presumption that a law enforcement agency is employing
341 speed detection devices for purposes other than the promotion of the public health, welfare,
342 and safety if the fines levied based on the use of speed detection devices for speeding
343 offenses are equal to or greater than 35 percent of a municipal or county law enforcement
344 agency's budget. For purposes of this Code section, fines collected for citations issued for

violations of Code Section 40-6-180 shall be included when calculating total speeding fine revenue for the agency; provided, however, that fines for speeding violations exceeding 20 miles per hour over the established speed limit and civil monetary penalties for speeding violations issued pursuant to Code Section 40-14-18 shall not be considered when calculating total speeding fine revenue for the agency."

SECTION 9.

Said article is further amended by adding a new Code section to read as follows:

"40-14-18.

(a)(1) The speed limit within any school zone as provided for in Code Section 40-14-8 and marked pursuant to Code Section 40-14-6 may be enforced by using photographically recorded images for violations which occurred only on a school day during the time in which instructional classes are taking place and one hour before such classes are scheduled to begin and for one hour after such classes have concluded when such violations are in excess of ten miles per hour over the speed limit.

(2) Prior to the placement of a device within a school zone, each school within whose school zone such automated traffic enforcement safety device is to be placed shall first apply for and secure a permit from the Department of Transportation for the use of such automated traffic enforcement safety device. Such permit shall be awarded based upon need. The Department of Transportation shall promulgate rules and regulations for the implementation of this paragraph.

(b) For the purpose of enforcement pursuant to this Code section:

(1) The owner of a motor vehicle shall be liable for a civil monetary penalty to the governing body of the law enforcement agency provided for in paragraph (2) of this subsection if such vehicle is found, as evidenced by photographically recorded images, to have been operated in disregard or disobedience of the speed limit within any school zone and such disregard or disobedience was not otherwise authorized by law. The amount of such civil monetary penalty shall be \$75.00 for a first violation and \$125.00 for a second or any subsequent violation, in addition to fees associated with the electronic processing of such civil monetary penalty which shall not exceed \$25.00; provided, however, that for a period of 30 days after the first automated traffic enforcement safety device is introduced by a law enforcement agency within a school zone, the driver of a motor vehicle shall not be liable for a civil monetary penalty but shall be issued a civil warning for disregard or disobedience of the speed limit within the school zone;

(2) A law enforcement agency authorized to enforce the speed limit of a school zone, or an agent working on behalf of a law enforcement agency or governing body, shall send by first class mail addressed to the owner of the motor vehicle within 30 days after

obtaining the name and address of the owner of the motor vehicle but no later than 60 days after the date of the alleged violation:

(A) A citation for the alleged violation, which shall include the date and time of the violation, the location of the infraction, the maximum speed at which such motor vehicle was traveling in photographically recorded images, the maximum speed applicable within such school zone, the civil warning or the amount of the civil monetary penalty imposed, and the date by which a civil monetary penalty shall be paid;

(B) An image taken from the photographically recorded images showing the vehicle involved in the infraction;

(C) A website address where photographically recorded images showing the vehicle involved in the infraction and a duplicate of the information provided for in this paragraph may be viewed;

(D) A copy of a certificate sworn to or affirmed by a certified peace officer employed by a law enforcement agency authorized to enforce the speed limit of the school zone and stating that, based upon inspection of photographically recorded images, the owner's motor vehicle was operated in disregard or disobedience of the speed limit in the marked school zone and that such disregard or disobedience was not otherwise authorized by law;

(E) A statement of the inference provided by paragraph (4) of this subsection and of the means specified therein by which such inference may be rebutted;

(F) Information advising the owner of the motor vehicle of the manner in which liability as alleged in the citation may be contested through an administrative hearing; and

(G) A warning that failure to pay the civil monetary penalty or to contest liability in a timely manner as provided for in subsection (d) of this Code section shall waive any right to contest liability;

(3) Proof that a motor vehicle was operated in disregard or disobedience of the speed limit of the marked school zone shall be evidenced by photographically recorded images. A copy of a certificate sworn to or affirmed by a certified peace officer employed by a law enforcement agency and stating that, based upon inspection of photographically recorded images, a motor vehicle was operated in disregard or disobedience of the speed limit in the marked school zone and that such disregard or disobedience was not otherwise authorized by law shall be prima-facie evidence of the facts contained therein; and

(4) Liability under this Code section shall be determined based upon a preponderance of the evidence. Prima-facie evidence that the vehicle described in the citation issued

pursuant to this Code section was operated in violation of the speed limit of the school zone, together with proof that the defendant was, at the time of such violation, the registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that such owner of the vehicle was the driver of the vehicle at the time of the alleged violation. Such an inference may be rebutted if the owner of the vehicle:

(A) Testifies under oath in open court or submits to the court a sworn notarized statement that he or she was not the operator of the vehicle at the time of the alleged violation;

(B) Presents to the court a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation.

(c) A violation for which a civil warning or a civil monetary penalty is imposed pursuant to this Code section shall not be considered a moving traffic violation for the purpose of points assessment under Code Section 40-5-57. Such violation shall be deemed noncriminal, and imposition of a civil warning or civil monetary penalty pursuant to this Code section shall not be deemed a conviction and shall not be made a part of the operating record of the person upon whom such liability is imposed, nor shall it be used for any insurance purposes in the provision of motor vehicle insurance coverage.

(d) If a person issued and mailed a citation pursuant to subsection (b) of this Code section fails to pay the civil monetary penalty for the violation or has not filed a police report or notarized statement pursuant to paragraph (4) of subsection (b) of this Code section in no less than 30 nor more than 60 days after such mailing as determined and noticed by the law enforcement agency, the agent or law enforcement agency shall send to such person by first class mail a second notice of any unpaid civil monetary penalty, except in cases where there is an adjudication that no violation occurred or there is otherwise a lawful determination that no civil monetary penalty shall be imposed. The second notice shall include all information required in paragraph (2) of subsection (b) of this Code section and shall include a new date of return which shall be no less than 30 days after such mailing as determined and noticed by the law enforcement agency. If such person notified by second notice again fails to pay the civil monetary penalty or file a police report or notarized statement pursuant to paragraph (4) of subsection (b) of this Code section by the new date of return, such person shall have waived the right to contest the violation and shall be liable for the civil monetary penalty provided for under this Code section, except in cases where there is an adjudication that no violation occurred or there is otherwise a lawful determination that no civil monetary penalty shall be imposed.

(e) Notices mailed by first class mail pursuant to this Code section shall be adequate notification of the fees and penalties imposed by this Code section. No other notice shall be required for the purposes of this Code section.

(f)(1) Any court having jurisdiction over violations of subsection (a) of this Code section shall have jurisdiction over cases arising under this subsection and shall be authorized to impose the civil monetary penalty provided by this subsection. Except as otherwise provided in this subsection, the provisions of law governing jurisdiction, procedure, defenses, adjudication, appeal, and payment and distribution of penalties otherwise applicable to violations of subsection (a) of this Code section shall apply to enforcement under this Code section except as provided in subsection (b) of this Code section; provided, however, that any appeal from superior or state court shall be by application in the same manner as that provided by Code Section 5-6-35.

(g) If a violation has not been contested and the assessed penalty has not been paid, the agent or governing body shall send to the person who is the registered owner of the motor vehicle a final notice of any unpaid civil monetary penalty authorized by this Code section, except in cases where there is an adjudication that no violation occurred or there is otherwise a lawful determination that no civil monetary penalty shall be imposed. The notice shall inform the registered owner that the agent or governing body shall send a referral to the Department of Revenue if the assessed penalty is not paid within 30 days after the final notice was mailed and such that such referral shall result in the nonrenewal of the registration of such motor vehicle and shall prohibit the title transfer of such motor vehicle within this state.

(h) The agent or governing body shall send a referral to the Department of Revenue not sooner than 30 days after the final notice required under subsection (g) was mailed if a violation of an ordinance or resolution adopted under this article has not been contested and the assessed penalty has not been paid. The referral to the Department of Revenue shall include the following:

(1) Any information known or available to the agent or governing body concerning the license plate number, year of registration, and the name of the owner of the motor vehicle;

(2) The date on which the violation occurred;

(3) The date when the notice required under this Code section was mailed; and

(4) The seal, logo, emblem, or electronic seal of the governing body.

(i) If the Department of Revenue receives a referral under subsection (h) of this Code section, such referral shall be entered into the motor vehicle database within five days of receipt and the Department of Revenue shall refuse to renew the registration of the motor vehicle and shall prohibit the title transfer of such vehicle within this state unless and until the civil monetary penalty plus any late fee is paid to the governing body. The Department of Revenue shall mail a notice to the registered owner:

491 (1) That the registration of the vehicle involved in the violation will not be permitted to
492 be renewed;

493 (2) That the title of the vehicle involved in the violation will not be permitted to be
494 transferred in this state;

495 (3) That the aforementioned penalties are being imposed due to the failure to pay the
496 civil monetary penalty and any late fee for an ordinance violation adopted under the
497 authority of this Code section; and

498 (4) Of the procedure that the person may follow to remove the penalties.

499 (j) The Department of Revenue shall remove the penalties on a vehicle if any person
500 presents the Department of Revenue with adequate proof that the penalty and any late fee,
501 if applicable, has been paid.

502 (k) Recorded images made for purposes of this Code section shall not be a public record
503 for purposes of Article 4 of Chapter 18 of Title 50.

504 (l) A civil warning or civil monetary penalty under this Code section on the owner of a
505 motor vehicle shall not be imposed if the operator of the vehicle was arrested or issued a
506 citation and notice to appear by a certified peace officer for the same violation.

507 (m) The money collected and remitted to the governing body pursuant to paragraph (1) of
508 subsection (b) of this Code section shall only be used by such governing body to fund local
509 law enforcement or public safety initiatives. This subsection shall not preclude the
510 appropriation of a greater amount than collected and remitted under this subsection."

511 **SECTION 10.**

512 All laws and parts of laws in conflict with this Act are repealed.