

**MINUTES OF REGULAR MEETING
COBB COUNTY BOARD OF COMMISSIONERS
FEBRUARY 9, 2021
9:00 AM**

The Regular Meeting of the Cobb County Board of Commissioners was held on Tuesday, February 9, 2021 at 9:00 a.m. in the second-floor public meeting room in the Cobb County Building, Marietta, Georgia. Present and comprising a quorum of the Board were:

Chairwoman Lisa Cupid
Commissioner JoAnn Birrell (via Webex)
Commissioner Keli Gambrill
Commissioner Jerica Richardson
Commissioner Monique Sheffield

CALL TO ORDER

Chairwoman Cupid called the meeting to order at 9:04 a.m.

PRESENTATIONS

1. **To receive an update regarding COVID 19 (Coronavirus) from Cobb/Douglas Public Health.**

Dr. Janet Memark, Cobb & Douglas Public Health Director, presented information regarding COVID 19 (Coronavirus) and the progress of administering the COVID vaccine.

PUBLIC HEARING

2. **To conduct a public hearing for employment of consultant services where contract fees will likely exceed \$100,000.00 for FY22 West Cobb Miscellaneous Water Main Replacement, Program No. W2411.**

Judy Jones, Water System Agency Director, presented information and requested a Public Hearing for the employment of a consultant or consulting firm where contract fees will likely exceed \$100,000.00 for design services for FY22 West Cobb Miscellaneous Water Main Replacement, Program No. W2411.

Chairwoman Cupid opened the Public Hearing and asked those persons wishing to speak to come forward. There being no speakers, the Public Hearing was closed.

No official action was taken by the Board.

3. **To conduct a public hearing for employment of consultant services where contract fees will likely exceed \$100,000.00 for FY22 Northeast Cobb Miscellaneous Water Main Replacement, Program No. W2400.**

Judy Jones, Water System Agency Director, presented information and requested a Public Hearing for the employment of a consultant or consulting firm where contract fees will likely exceed \$100,000.00 for design services for FY22 Northeast Cobb Miscellaneous Water Main Replacement, Program No. W2400

Chairwoman Cupid opened the Public Hearing and asked those persons wishing to speak to come forward. There being no speakers, the Public Hearing was closed.

No official action was taken by the Board.

4. **To conduct a public hearing for employment of consultant services where contract fees will likely exceed \$100,000.00 for FY22 South Cobb Miscellaneous Water Main Replacement, Program No. W2398.**

Judy Jones, Water System Agency Director, presented information and requested a Public Hearing for the employment of a consultant or consulting firm where contract fees will likely exceed \$100,000.00 for design services for FY22 South Cobb Miscellaneous Water Main Replacement, Program No. W2398.

Chairwoman Cupid opened the Public Hearing and asked those persons wishing to speak to come forward. There being no speakers, the Public Hearing was closed.

No official action was taken by the Board.

5. To conduct the second public hearing to solicit comments and input on the proposed amendments and consider adoption to Chapters 6 (Alcoholic Beverages), 18 (Building Regulations), 22 (Cable Communications), 50 (Environment), 54 (Fire Prevention and Protection), 66 (Historic Preservation), 78 (Licenses, Permits and Businesses), 106 (Streets, Sidewalks and Other Public Places), 110 (Subdivisions), 118 (Traffic and Vehicles), 122 (Utilities), and 134 (Zoning).

Jessica Guinn, Community Development Agency Director, presented the proposed amendments and requested a Public Hearing regarding Chapters 6 (Alcoholic Beverages), 18 (Building Regulations), 22 (Cable Communications), 50 (Environment), 54 (Fire Prevention and Protection), 66 (Historic Preservation), 78 (Licenses, Permits and Businesses), 106 (Streets, Sidewalks and Other Public Places), 110 (Subdivisions), 118 (Traffic and Vehicles), 122 (Utilities), and 134 (Zoning);

Chairwoman Cupid opened the Public Hearing and asked those persons wishing to speak to come forward. Following two speakers, the Public Hearing was closed

Motion by Cupid, second by Birrell, to **approve** the proposed amendments to Chapters 6 (Alcoholic Beverages), 18 (Building Regulations), 22 (Cable Communications), 110 (Subdivisions), 118 (Traffic and Vehicles), and 122 (Utilities), of the Cobb County Code, as *presented, and revised in draft amendment package I, version II, dated February 3, 2021.*

VOTE: **ADOPTED 5-0**

Chapter 50 (Environment)

Motion by Birrell, second by Sheffield, to **approve** the proposed amendments to Chapter 50 (Environment) of the Cobb County Code, as *presented, and revised in draft amendment package I, version II, dated February 3, 2021.* with the following revisions:

- **Section 50-105 (b) (4)** - Add "...or activity"
- **Section 50-257 (12)** - Add "chainsaws", add "in residentially-zoned parcels" Add ":00", i.e. 7:00

VOTE: **ADOPTED 5-0**

Motion by Cupid, second by Birrell, to **approve** the proposed amendments to Chapter 50 (Environment) of the Cobb County Code, as *presented, and revised in draft amendment package I, version II, dated February 3, 2021.*

VOTE: **ADOPTED 5-0**

Chapter 54 (Fire Prevention and Protection)

Motion by Cupid, second by Birrell, to **approve** the proposed amendments to Chapter 54 (Fire Prevention and Protection) of the Cobb County Code, *as presented, and revised in draft amendment package I, version II, dated February 3, 2021.*

VOTE: ADOPTED 5-0

Chapter 66 (Historic Preservation)

Motion by Cupid, second by Birrell, to **approve** the proposed amendments to Chapter 66 (Historic Preservation), of the Cobb County Code, *as presented, and revised in draft amendment package I, version II, dated February 3, 2021.*

VOTE: ADOPTED 3-2, Commission Gambrill and Commissioner Richardson opposed

Chapter 78 (Licenses, Permits and Businesses)

Motion by Cupid, second by Richardson, to approve the proposed amendments to Chapter 78 (Licenses, Permits and Businesses), of the Cobb County Code, *as presented, and revised in draft amendment package I, version II, dated February 3, 2021.*

VOTE: ADOPTED 5-0

Chapter 106 (Streets, Sidewalks and Other Public Places)

Motion by Cupid, second by Gambrill, to **approve** the proposed amendments to Chapter 106 (Streets, Sidewalks and Other Public Places), of the Cobb County Code, *as presented, and revised in draft amendment package I, version II, dated February 3, 2021.*

VOTE: ADOPTED 5-0

Chapter 134 (Zoning)

Motion by Cupid, second by Richardson, to **approve** the proposed amendments to Chapter 134 (Zoning), of the Cobb County Code, as presented, *and revised in draft amendment package I, version II, dated February 3, 2021*, with the following revisions:

- **Section 134-221.2, Redevelopment overlay district (ROD)** - Revise to read *"Commencing February 9, 2021 no new applications for ROD shall be accepted by the Board of Commissioners"*

Clerk's Note: The Austell Overlay District will be Section 134-291. Section 134-290 Backyard chickens for properties under 80,000 square feet was approved during the 2020 amendment cycle.

- **Section 134-291, Austell Road design overlay district** - *reference to guidelines, provides applicability, and process for amendment to guidelines.*
- **Section 134-312, Definitions** - *Change "building" to "structure" and delete Interstate 575 from the definition of "major road"*
- **Section 134-314(k) Signs prohibited** - *Add "except blade signs that may project 48 inches" per PC recommendation*
- **Section 134-321(e), Commercially and industrially-zoned properties** - *change to maximum allowable sign area to one square foot per one linear foot. No more than 100 square feet for 1 and 2 story buildings or buildings under 30 feet in height. No more than 150 square feet for buildings exceeding two stories or over 30 feet in height. Where the building is setback more than 200 feet from the right-of-way, one and two story building signs may be no more than 150 sf, and 200 sf for buildings exceeding two stories*
- **Section 134-322. – Nonresidential uses on residential properties and apartment and residential subdivision signs** – *change section heading to "Nonresidential uses on residential properties, and apartment and residential subdivision signs" and added "except apartment and residential subdivision signs" in 134-322(b) per PC recommendation.*

Chapter 134 (Zoning) (cont.)

Amended Motion by Cupid, second by Sheffield, to **approve** the original motion and the language from draft amendment package I, version I to Section 134-321(e) as read by Jessica Guinn, Community Development Agency Director:

- **Section 134-321 (e), Commercially and industrially-zoned properties** - To read *"The maximum sign area for a wall sign or awning sign for each occupant or tenant shall be calculated as follows: for each one linear foot of the wall or building along each face of the building devoted to each occupant or tenant, two square feet of sign area is allowed on that face, up to a maximum of 150 square feet for a building one to two stories in height or under 20 feet and a maximum of 200 square feet for a building over 2 stories or over 20 feet in height. In a multi-tenant center, wall signs shall be affixed to the walls (front, rear or side) of the tenant or sign applicant's actual tenant space."*

VOTE: **ADOPTED 5-0**

Chairwoman Cupid called for a brief recess at 10:42 a.m.; the meeting reconvened at 10:51 a.m.

PUBLIC COMMENT

1. **Jessica Renee'** addressed the Board regarding a Division of Family and Children Services matter.
2. **Davita Carter** addressed the Board regarding evictions in Cobb.
3. **Monica Delancy** addressed the Board regarding the Riverside Community and housing needs.
4. **Kathy Scott** addressed the Board regarding a possible land acquisition.
5. **Hill Wright** addressed the Board regarding the Small Business Grant procedures.

Non-Agenda Items

Motion by Gambrill, second by Richardson, to **approve** the addition of the following non-agenda items:

- To **approve** settlement of a workers' compensation claim on behalf of Pierre Hillman. (See item 32 of these minutes.)
- To **approve** settlement of a workers' compensation claim on behalf of Angela Davenport. (See item 33 of these minutes.)
- To **approve** settlement of a workers' compensation claim on behalf of Ajane Cotton Nguyen. (See item 34 of these minutes.)

CONSENT AGENDA

MOTION: Motion by Gambrill, second by Sheffield, to **approve** the following items on the Consent Agenda, *as revised*.

VOTE: **ADOPTED 5-0**

MOTION: Motion by Gambrill, second by Richardson, to **authorize** execution of the necessary documents by the appropriate County personnel.

VOTE: **ADOPTED 5-0**

Superior Court Administration

6. **To authorize the application for grant funds from the Criminal Justice Coordinating Council for the Cobb County Mental Health Court.**

To **authorize** the application for grant funds from Criminal Justice Coordinating Council for the Cobb County Mental Health Court; and **further authorize** the Chair or the Superior Court Administrator to execute the necessary documents. This funding will run July 1, 2021 through June 30, 2022.

7. **To authorize the application for grant funds from the Criminal Justice Coordinating Council (CJCC) for the Cobb County Veterans Accountability and Treatment Court.**

To **authorize** the application for grant funds from the Criminal Justice Coordinating Council for the Cobb County Veterans Accountability and Treatment Court; and **further authorize** the Chair or the Superior Court Administrator to execute the necessary documents. This funding will run July 1, 2021 through June 30, 2022.

Water System

8. To approve a work order under the FY21-FY22 Unit Price Contract for Water, Sewer, and Miscellaneous Services with Site Engineering, Inc. for Hartman Road Sewer Crossing, Program No. S1139.

To **approve** a work order under the FY21-FY22 Unit Price Contract for Water, Sewer, and Miscellaneous Services with Site Engineering, Inc., in the amount of \$135,773.22, for Hartman Road Sewer Crossing, Program No. S1139; **authorize** the corresponding budget transactions; and **further authorize** the Chair to execute the necessary documents.

Funding is available in the Water System's CIP Budget as follows:

Transfer from:

Unidentified New/Replacement Sewer Lines

Preliminary Estimates	510-500-5755-8005	S2503-Z	\$154,488.22
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Transfer to:

Hartman Road Sewer Crossing

Construction	510-500-5755-8260	S1139-C	\$135,773.22
Easements & Right-of-Way	510-500-5755-8020	S1139-R	\$ 15,000.00
Materials & Supplies	510-500-5755-8265	S1139-M	\$ 1,000.00
Contingency	510-500-5755-8810	S1139-T	\$ 2,715.00
Total			\$154,488.22

9. To approve Change Order No. 1 (final) to the construction contract with K. M. Davis Contracting Co., Inc. for the Noonday Creek Sewer Relocation–Barrett Parkway, Program No. S1101.

To **approve** Change Order No. 1 (final) to the construction contract with K. M. Davis Contracting Co., Inc., a savings to the project in the amount of \$10,313.20, for Noonday Creek Sewer Relocation–Barrett Parkway, Program No. S1101; **authorize** the corresponding budget transactions; and **further authorize** the Chair to execute the necessary documents.

No additional funding is required for the Water System's Noonday Creek Sewer Relocation–Barrett Parkway, Program No. S1101.

Decrease Encumbrance:

GAE 51009251813	510-500-5755-8260	S1101-C	\$10,313.20
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Transfer from:

Noonday Creek Sewer Relocation–Barrett Parkway

Construction	510-500-5755-8260	S1101-C	\$10,313.20
Interest Expense on Retainage	510-500-5755-6613	S1101-A	\$ 1,929.17
Materials & Supplies	510-500-5755-8265	S1101-M	\$ 2,000.00
Contingency	510-500-5755-8810	S1101-T	<u>\$18,700.00</u>
Total			\$32,942.37

Transfer to:

Unidentified New/Replacement Sewer Lines

Preliminary Estimates	510-500-5755-8005	S2503-Z	\$32,942.37
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Transportation

10. To approve the Federal Transit Administration Annual Certifications and Assurances required for Cobb County to receive federal financial assistance during Federal Fiscal Year 2021.

To **approve** the Federal Transit Administration (FTA) Annual Certifications and Assurances required for Cobb County to receive federal financial assistance during Federal Fiscal Year 2021; **authorize** Laraine Vance to submit FTA grant applications and execute FTA grant awards on behalf of Cobb County, *as needed*; and **further authorize** the Chair to execute the necessary documents.

11. To authorize the use of available State Contracts and Sourcewell cooperative purchasing programs for procurement of replacement vehicles and capital equipment exceeding \$100,000.00.

To **authorize** the use of available State Contracts and Sourcewell cooperative purchasing programs for procurement of replacement vehicles and capital equipment exceeding \$100,000.00.

Appropriated in the Department's approved FY21 Capital Budget, as follows:

Appropriated: 010-050-0781-8605 Autos, Vans, Trucks, Motorcycles \$378,000.00

12. To adopt a resolution to approve the transit-related 2021 Title VI Program Update for CobbLinc.

To **adopt** a resolution to approve the transit-related Title VI Program Update for 2021-2024 for the Department's CobbLinc transit system; and **authorize** the Chair to execute the necessary documents. A copy of said resolution is attached and made a part of these minutes.

Public Services Agency

Library System

13. To apply for and accept the Atlanta Science Festival Grant for the Atlanta Science Festival CCPLS Family Tech Time (2021).

To **authorize** the application for and acceptance of the Atlanta Science Festival Grant for the Atlanta Science Festival CCPLS Family Tech Time (2021); **authorize** the corresponding budget transactions; and **further authorize** the Chair or Helen Poyer, Library Director, to execute the necessary documents.

Increase Revenue:	270-080-L100-L101-4508	(Local Grants)	\$500.00
Increase Expenditure:	270-080-L100-L101-6204	(Other Supplies)	\$500.00

14. To authorize acceptance of the Sandra Deal Supplemental Reading Grant from the Board of Regents, Georgia Public Library Service.

To **authorize** the acceptance of the Sandra Deal Supplemental Reading Grant in the amount of \$1,524.59; **authorize** the corresponding budget transactions; and **further authorize** the Chair or Helen Poyer, Library Director, to execute the necessary documents.

Increase Revenue:	270-080-LI27-LI27-4455	(Georgia Public Library Service)	\$1,524.59
Increase Expenditure:	270-080-LI27-LI27-6204	(Other Supplies)	\$1,524.59

Support Services Agency

Fleet Management

15. To authorize the use of available State Contracts, Sourcewell (formerly NJPA), and other Contracted Pricing Agreements, for the procurement of replacement vehicles per Fleet Management's prioritized Vehicle Replacement Schedule.

To **authorize** the use of available state contracts, Sourcewell (formerly NJPA), and other Contracted Pricing Agreements, for the procurement of replacement vehicles per Fleet Management's prioritized Vehicle Replacement Schedule, in an amount not to exceed \$5,000,000.00; **authorize** the corresponding budget transactions; and **further authorize** the Chair to execute the necessary documents.

Funding is available in the FY2021 Fleet Management Budget.

010-060-1650-084-8605	(Autos, Vans, Trucks, & Motorcycles)	\$5,000,000.00
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Public Safety Agency

Police Department

16. To authorize the acceptance of a donation from Protect the Paws for K-9 ballistic vests.

To **authorize** the acceptance of a donation from Protect the Paws for K-9 ballistic vests; and **further authorize** the Chair to execute any necessary documents.

17. To authorize the acceptance of the FY2021 award of the Highway Enforcement of Aggressive Traffic grant from the Governor's Office of Highway Safety for the DUI Task Force.

To **authorize** the acceptance of the FY2021 award of the Highway Enforcement of Aggressive Traffic (H.E.A.T.) grant, in an amount not to exceed \$129,048.80, from the Governor's Office of Highway safety; **authorize** the corresponding budget transactions; and **further authorize** the Chair to execute the necessary documents.

The following budget appropriations will account for the receipt and expenditure of the grant funds:

Increase revenue:	270-130-GR63-4476	(Office of Highway Safety)	\$129,048.80
Increase expenditure:	270-130-GR63-VAR	(Salaries & Fringe)	\$129,048.80

Fire Department

18. To authorize the application for grant funds from Firehouse Subs for EMS equipment.

To **authorize** the application for grant funds from Firehouse Subs for EMS equipment.

19. To authorize the purchase of one rescue vehicle from Allan Vigil Ford for fire and emergency response.

To **authorize** the purchase of one 2021 Ford F350, in the amount of \$68,165.50, from Allan Vigil Ford for fire and emergency response; and **further authorize** the Chair to execute the necessary documents.

Funding is available within the approved FY21 Fire Budget:

230-130-1000-8610	(Specially Equipped Vehicle)	\$68,165.50
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20. To authorize the application of grant funding through FEMA Assistance to Firefighters Grant Program for various initiatives.

To **authorize** the application of grant funding through the FEMA Assistance to Firefighters Grant Program for various initiatives; and **further authorize** the Chair to execute the necessary documents.

There is a local match requirement of 10%. If funding is approved, CCFES will bring forth subsequent agenda items to the Board of Commissioners to accept and appropriate funding.

Community Development

21. To approve a deannexation resolution of consent per O.C.G.A. 36-36-22 regarding a petition for parcels 244, 03, and 282, in Land Lots 0164 and 0178 of the 20th District.

To **approve** a resolution consenting to deannexation from the City of Kennesaw per O.C.G.A. 36-36-22 regarding petitions for parcels 244, 03, and 282, in Land Lots 0164 and 0178 of the 20th District. The three parcels total 3.172 acre and are known as 2880 Ellis Rd., 0 Pine Mountain Rd., and 0 Elmhurst Blvd, respectively. A copy of attachment I is attached and made a part of these minutes.

22. To approve an annexation response of Intent to Object per HB 489 Intergovernmental Agreement and HB 2 regarding 4865 Cowan Road - City of Acworth.

To **approve** an annexation response of Intent to Object per HB 489 Intergovernmental Agreement and HB 2 regarding the annexation of Land Lot 0010, 20th District, 2nd Section, parcels 0320, 0330, 0350, 0850, and 0960, located at 4865 Cowan Road, into the City of Acworth. . A copy of attachment I is attached and made a part of these minutes.

23. To authorize the Chairwoman to execute applications to initiate a rezoning of property located at 1660 Mars Hill Road, located in Land Lot 225 of the 20th District.

To **authorize** the Chairwoman to execute applications to rezone county owned property located at 1660 Mars Hill Road, located in Land Lot 225 of the 20th District.

24. To approve a deannexation resolution of consent per O.C.G.A. 36-36-22 regarding a petition for one (1) parcel that is 0.856 acres located at 4058 Ayers Dr., from the City of Kennesaw.

To **adopt** a resolution consenting to deannexation per O.C.G.A. 36-36-22 regarding petition for Land Lot 60, 20th District, parcel 27, 2nd Section, located on .856 acres, known as 4058 Ayers Drive, from the City of Kennesaw. A copy of attachment I is attached and made a part of these minutes.

25. **To approve an annexation response of non-objection per HB 489 Intergovernmental Agreement and HB 2 regarding 2791 Madison Street - City of Smyrna.**

To **approve** a response of non-objection per HB 489 Intergovernmental Agreement and HB 2 regarding the annexation of 2791 Madison Street into the City of Smyrna. A copy of the response letter is attached and made a part of these minutes.

26. **To approve an annexation notice of non-objection per HB 489 Intergovernmental Agreement and HB 2 regarding a 19.1 acre parcel located in Land Lot 0774, 17th District, into the City of Smyrna.**

To **approve** a response of non-objection per HB 489 Intergovernmental Agreement and HB 2 regarding the annexation of a 19.1 acre parcel located in Land Lot 0774, 17th District, 2nd Section, parcel 0120, into the City of Smyrna. A copy of the response letter is attached and made a part of these minutes.

Internal Audit

27. **To approve fund balance appropriation of previously approved FY2020 funding into the Internal Audit Department's FY2021 budget for the completion of supplemental internal auditing services.**

To **approve** fund balance appropriation of previously approved FY2020 funding into the Internal Audit Department's FY2021 budget for the completion of supplemental internal auditing services; **authorize** the corresponding budget transactions; and **further authorize** the Chair to execute the necessary documents.

Increase Revenue:	010-075-1700-4980	(Fund Balance Appropriation)	\$100,000.00
Increase Expenditure:	010-075-1700-6326	(Professional Services)	\$100,000.00

Finance

28. **To adopt a resolution adopting all budget amendments set forth in agenda items on this date.**

To **adopt** a resolution adopting all budget amendments set forth in agenda items on this date. A copy of said resolution is attached and made a part of these minutes.

29. To approve all interfund transfers for claims and safety equipment purchases to allow Risk Management to reimburse the appropriate department.

To **approve** all interfund transfers for claims and safety equipment purchases; and **authorize** Risk Management to reimburse the appropriate department. A copy of the list of interfund transfers is attached and made a part of these minutes.

30. To approve a reimbursement to Braves Stadium Company, LLC ("BSC") from the Capital Maintenance Fund ("CMF") for Emergency Repairs to Truist Stadium's scoreboard upon invoices submitted to the County Finance Department detailing the work performed.

To **approve** a reimbursement to Braves Stadium Company, LLC ("BSC") from the Capital Maintenance Fund ("CMF") for Emergency Repairs to Truist Stadium's scoreboard upon invoices submitted to the County Finance Department detailing the work performed; **authorize** payment from the Capital Maintenance Fund for the emergency repair items upon receipt of acceptable invoices; and **further authorize** the corresponding budget transactions.

Funding will be made available with the following transactions:

Increase Revenue:

297-055-SCMT-4980 (Fund Balance)	\$100,000.00
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Increase Expenditure:

297-055-SCMT-6594 (Transfer-out)	\$100,000.00
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Increase Revenue:

386-755-4400-4960 (Transfer-in)	\$100,000.00
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Increase Expenditure:

386-755-4400-6605 (Property Loss - Insurance Deductible)	\$100,000.00
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County Clerk

31. To approve minutes.

To **approve** the minutes from the following meetings:

January 25, 2021 - Agenda Work Session
January 26, 2021 - BOC Work Session
January 26, 2021 - BOC Regular Meeting
January 27-29, 2021 - 2021 BOC Board Retreat

Non-Agenda

32. To approve settlement of a workers' compensation claim on behalf of Pierre Hillman.

To **approve** a settlement of the Workers' Compensation Claim No. SBWC W002970879 on behalf of Pierre Hillman; and **further authorize** the Human Resources Director and the Workers' Compensation Administrator to execute the necessary settlement documents.

Funding is available in the Workers' Compensation Claims Fund.

33. To approve settlement of a workers' compensation claim on behalf of Angela Davenport.

To **approve** a settlement of the Workers' Compensation Claim No. SBWC W003315594 on behalf of Angela Davenport; and **further authorize** the Human Resources Director and the Workers' Compensation Administrator to execute the necessary settlement documents.

Funding is available in the Workers' Compensation Claims Fund.

34. To approve settlement of a workers' compensation claim on behalf of Ajane Cotton Nguyen.

To **approve** a settlement of the Workers' Compensation Claim No. SBWC W003147635 on behalf of Ajane Cotton Nguyen; and **further authorize** the Human Resources Director and the Workers' Compensation Administrator to execute the necessary settlement documents.

Funding is available in the Workers' Compensation Claims Fund.

Non-Agenda Items

Motion by Gambrill, second by Richardson, to **approve** the addition of the following non-agenda item to the Support Services Regular Tab:

- To authorize a fund balance appropriation to supplement funding for the purchase of a Cabinet Shop facility, 2016 SPLOST project X0910 (See item 43 of these minutes.)

VOTE: **ADOPTED 5-0**

REGULAR AGENDA

Sheriff

35. To authorize the use of available State Contracts, Sourcewell (formerly NJPA), and other Contracted Pricing Agreements, for the procurement of replacement vehicles and take home vehicles.

Motion by Cupid, second by Gambrill, to **authorize** the use of available state contracts, Sourcewell (formerly NJPA), and other Contracted Pricing Agreements, for the procurement of replacement vehicles per Fleet Management's prioritized Vehicle Replacement Schedule, in an amount not to exceed \$1,000,000.00; **authorize** the corresponding budget transactions; and **further authorize** the Chair to execute the necessary documents.

Funding will be available with the following budget transactions:

Decrease Expenditure	347-210-X107-X1070-8005-A	Estimates	\$1,000,000.00
Increase Expenditure	347-210-X107-X1070-8605-P	Vehicles	\$1,000,000.00

The 2016 Special Purpose Local Option Sales Tax (SPLOST), adopted by the Board of Commissioners on July 22, 2014, provides for capital improvements and anticipated corresponding budget funding to address, inter alia, Countywide Improvements.

The replacement of Sheriff's Office vehicles is an eligible capital improvement project/program under the 2016 SPLOST and is an approved project of Countywide Improvements – Sheriff's (Cobb County 2016 SPLOST, p. 6) which provides for capital equipment replacement which includes vehicles.

SPLOST Project Summary as of January 6, 2021:

Capital equipment and various facility renovations/modifications: \$3,440,000.00

Expended: \$1,873,986.41

VOTE: **ADOPTED 5-0**

Transportation

36. To approve Change Order No. 1 (final) to the contract with Excellere Construction, LLC for drainage system repairs on Janet Lane, Project No. X2261, CCDOT Contract No. 001230.

Motion by Sheffield, second by Richardson, to **approve** Change Order No. 1 (final) to the contract with Excellere Construction, LLC, a savings to the project in an amount of \$18,523.64, for drainage system repairs on Janet Lane, Project No. X2261, CCDOT Contract No. 001230; **authorize** the corresponding budget transactions; and **further authorize** the Chair to execute the necessary documents.

A savings in the 2016 SPLOST Transportation Improvements Program Fund, as follows:

Decrease GAE 34707142058:

	347-050-X220-X220-8762-X2261-C	Turnkey Construction	\$8,523.64
Transfer from:	347-050-X220-X220-8762-X2261-C	Turnkey Construction	\$8,523.64
Transfer to:	347-050-X220-X220-8761-X2261-C	Preliminary Estimate	\$8,523.64

The 2016 Special Purpose Local Option Sales Tax (SPLOST), adopted by the Board of Commissioners on July 22, 2014, provides for capital improvements and anticipated corresponding budget funding to address, inter alia, Drainage System Improvements.

Janet Lane is an eligible project/program under the Infrastructure Preservation - Drainage System Improvements Component of the 2016 SPLOST Transportation Improvements (Cobb County 2016 SPLOST, pp. 7, 9). Drainage System Improvements include repair and replacement of roadway drainage systems throughout the County.

SPLOST Project Summary as of January 6, 2021:

Janet Lane Drainage	Budget:	\$111,400.00	Expended:	\$102,276.36
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A savings to the Water System DOT Projects – Relocate Lines Adopted CIP Budget, as follows:
Decrease GAE 51007142058:

	510-500-5756-6496-W5029-C	Drainage Contract R&M	\$10,000.00
Transfer from:	Janet Lane Drainage – Utility Allow.		
	510-500-5756-6496-W5029-C	Drainage Contract R&M	\$10,000.00
	510-500-5756-8265-W5029-M	Materials & Supplies	<u>\$ 1,000.00</u>
		Total:	\$11,000.00
Transfer to:	DOT Projects – Relocate Line		
	510-500-5756-8005-W4069-Z	Preliminary Estimate	\$11,000.00

VOTE: ADOPTED 5-0

37. To approve a contract with Glosson Enterprises, LLC, for roadway improvements on Canton Road Corridor, Project No. X2602, and Canton Road at Shallowford Road/Highland Terrace, Project No. X2304, CCDOT Contract No. 001525.

Motion by Birrell, second by Gambrill, to **approve** a contract with Glosson Enterprises, LLC, in an amount not to exceed \$3,435,631.85, for roadway improvements on Canton Road Corridor, Project No. X2602, and Canton Road at Shallowford Road/ Highland Terrace, Project No. X2304, CCDOT Contract No. 001525; **authorize** the corresponding budget transactions; and **further authorize** the Chair to execute the necessary documents.

Available in the 2016 SPLOST Transportation Improvements Program Fund, with the following budget transfer:

Transfer from:	347-050-X260-X260-8761-X2602-C	Preliminary Estimate	\$3,068,007.10
Transfer to:	347-050-X260-X260-8762-X2602-C	Turnkey Construction	\$3,068,007.10

The 2016 Special Purpose Local Option Sales Tax (SPLOST), adopted by the Board of Commissioners on July 22, 2014, provides for capital improvements and anticipated corresponding budget funding to address, inter alia, Roadway Improvements.

Canton Road Corridor is an eligible project under the Safety and Operational Improvements – Roadway Improvements Component of the 2016 SPLOST Transportation Improvements (Cobb County 2016 SPLOST, pp. 7, 19). Canton Road Corridor improvements include turning lanes and sidewalks.

SPLOST Project Summary as of January 6, 2021:

Canton Road Corridor	Budget:	\$5,137,262.57	Expended:	\$684,918.38
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Available in the Water System DOT Projects - Relocate Lines Adopted CIP Budget, with the following budget transfers:

Transfer from:	DOT Projects – Relocate Lines		
	510-500-5756-8005-W4069-Z	Preliminary Estimate	\$384,984.75
Transfer to:	Canton Road at Shallowford	Road/Highland Terrace	
	510-500-5756-8260-W4398-C	Construction	\$367,624.75
	510-500-5756-8265-W4398-M	Material and Supplies	\$ 10,000.00
	510-500-5756-8810-W4398-T	Contingency	\$ 7,360.00
		Total:	\$384,984.75

VOTE: ADOPTED 5-0

38. To approve Change Order No. 1 (final) to the contract with Excellere Construction, LLC for drainage system repairs on Seabury Court, Project No. X2264, CCDOT Contract No. 001536.

Motion by Sheffield, second by Richardson, to **approve** Change Order No. 1 (final) to the contract with Excellere Construction, LLC, a savings to the project in an amount of \$17,419.65, for drainage system repairs on Seabury Court, Project No. X2264, CCDOT Contract No. 001536; **authorize** the corresponding budget transactions; and **further authorize** the Chair to execute the necessary documents.

A savings to the 2016 SPLOST Transportation Improvements Program Fund, as follows:
Decrease GAE 34708112038:

347-050-X220-X220-8762-X2264-C	Turnkey Construction	\$12,419.65
Transfer from: 347-050-X220-X220-8762-X2264-C	Turnkey Construction	\$12,419.65
Transfer to: 347-050-X220-X220-8761-X2264-C	Preliminary Estimate	\$12,419.65

The 2016 Special Purpose Local Option Sales Tax (SPLOST), adopted by the Board of Commissioners on July 22, 2014, provides for capital improvements and anticipated corresponding budget funding to address, inter alia, Drainage System Improvements.

Seabury Court is an eligible project/program under the Infrastructure Preservation - Drainage System Improvements Component of the 2016 SPLOST Transportation Improvements (Cobb County 2016 SPLOST, pp. 7, 9). Drainage System Improvements include repair and replacement of roadway drainage systems throughout the County.

SPLOST Project Summary as of January 6, 2021:

Seabury Court Drainage	Budget:	\$60,000.00	Expended:	\$47,380.35
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A savings to the Water System DOT Projects - Relocate Lines Adopted CIP Budget, as follows
Decrease GAE 51008112038::

510-500-5756-8260-W5030-C	Construction	\$5,000.00
Transfer from: Seabury Court Drainage – Utility Allowance		
510-500-5756-8260-W5030-C	Construction	\$5,000.00
510-500-5756-8265-W5030-M	Materials & Supplies	\$1,000.00
510-500-5756-8810-W5030-T	Contingency	<u>\$ 200.00</u>
	Total:	\$6,200.00
Transfer to: DOT Projects – Relocate Lines		
510-500-5756-8005-W4069-Z	Preliminary Estimate	\$6,200.00

VOTE: ADOPTED 5-0

39. To approve Change Order No. 1 (final) to the contract with Butch Thompson Enterprises, Inc., for drainage system repairs on Powers Ferry Road at Interstate North Parkway, Project No. X2267, CCDOT Contract No. 001538.

Motion by Richardson, second by Gambrell, to **approve** Change Order No. 1 (final) to the contract with Butch Thompson Enterprises, Inc., a savings to the project in the amount of \$21,994.12, for drainage system repairs on Powers Ferry Road at Interstate North Parkway, Project No. X2267, CCDOT Contract No. 001538; **authorize** the corresponding budget transactions; and **further authorize** the Chair to execute the necessary documents.

A savings to the 2016 SPLOST Transportation Improvements Program Fund, as follows:
Decrease GAE 34709222037:

	347-050-X220-X220-8762-X2267-C	Turnkey Construction	\$21,994.12
Transfer from:	347-050-X220-X220-8762-X2267-C	Turnkey Construction	\$21,994.12
Transfer to:	347-050-X220-X220-8761-X2267-C	Preliminary Estimate	\$21,994.12

The 2016 Special Purpose Local Option Sales Tax (SPLOST), adopted by the Board of Commissioners on July 22, 2014, provides for capital improvements and anticipated corresponding budget funding to address, inter alia, Drainage System Improvements.

Powers Ferry Road at Interstate North Parkway is an eligible project/program under the Infrastructure Preservation - Drainage System Improvements Component of the 2016 SPLOST Transportation Improvements (Cobb County 2016 SPLOST, pp. 7, 9). Drainage System Improvements include repair and replacement of roadway drainage systems throughout the County.

SPLOST Project Summary as of January 6, 2021:

Powers Ferry Road at Interstate North Parkway Drainage

Budget:	\$230,000.00	Expended:	\$207,808.38
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VOTE: **ADOPTED 5-0**

40. **To determine that circumstances are such that it is necessary to proceed with condemnation proceedings by Declaration of Taking under O.C.G.A §32-3-4, et. seq., on one parcel for Akers Mill Road Managed Lanes Access, State P.I. No. 0015051, Cobb County Project No. X2410.**

Motion by Richardson, second by Gambrill, to **determine** that circumstances are such that it is necessary to proceed with condemnation proceedings by Declaration of Taking under O.C.G.A. §32-3-4, et. seq.; **authorize** the commencement of condemnation proceedings on one parcel for Akers Mill Road Managed Lanes Access, State P.I. No. 0015051, Cobb County Project No. X2410; **adopt** a Resolution and Order in form substantially similar to that presented and as approved by the County Attorney's Office; and **further authorize** the Chair to execute the necessary documents. A copy of attachment A is attached and made a part of these minutes.

VOTE: **ADOPTED 5-0**

41. **To approve Project No. X2751-TO#1 to the 2020 Master Task Order Contract with CDM Smith, Inc., for preliminary engineering design of Shaw Road Sidewalk, CCDOT Contract No. 001546.**

Motion by Birrell, second by Richardson, to **approve** Project No. X2751-TO#1 to the 2020 Master Task Order Contract with CDM Smith, Inc., in an amount not to exceed \$96,752.00, for preliminary engineering design of Shaw Road Sidewalk, CCDOT Contract No. 001546; **authorize** the corresponding budget transaction; and **further authorize** the Chair to execute the necessary documents.

Available in the 2016 SPLOST Transportation Improvements Program Fund, with the following budget transfer:

Transfer from:	347-050-X270-X270-8761-X2751-C	Preliminary Estimate	\$96,752.00
Transfer to:	347-050-X270-X270-8722-X2751-E	Engineering	\$96,752.00

The 2016 Special Purpose Local Option Sales Tax (SPLOST), adopted by the Board of Commissioners on July 22, 2014, provides for capital improvements and anticipated corresponding budget funding to address, inter alia, Sidewalks.

Shaw Road Sidewalk is an eligible project/program under the Pedestrian Improvements – Sidewalks Component of the 2016 SPLOST Transportation Improvements (Cobb County 2016 SPLOST, pp. 7, 14). Pedestrian Improvements within Commission District 3 include construction of sidewalks and other pedestrian improvements along roadways in the vicinity of schools, activity centers, multi-modal facilities (transit stops/shelters, etc.), and other congested areas, to include pedestrian bridges where needed.

SPLOST Project Summary as of January 6, 2021:

Shaw Road Sidewalk	Budget:	\$150,000.00	Expended:	\$0.00
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VOTE: **ADOPTED 5-0**

Support Services Agency

Information Services

42. To approve a Project Agreement with Controlled Access, Inc., for the installation of the County's enterprise video surveillance and access control system at the new Fleet Car Shop. This is a 2016 SPLOST project, Facilities Improvements Program X0920.

Motion by Cupid, second by Gambrell, to **approve** a Project Agreement with Controlled Access, Inc., in an amount not to exceed \$74,775.00 for the installation of the County's enterprise video surveillance and access control system at the new Fleet Car Shop; **authorize** a 10% contingency in amount not to exceed \$7,477.50; **authorize** the corresponding budget transactions; and further authorize the Chair to execute the necessary documents.

Funding is available in the 2016 SPLOST Building Security, Emergency/Life Upgrades with the following budget transfers:

Transfer from:	347-110-X092-8005-X0920-T	(Preliminary Estimates)	\$82,252.50
Transfer to:	347-110-X092-8676-X0920-T	(Professional Services)	\$74,775.00
	347-110-X092-8005-X0920-T	(Contingency)	\$ 7,477.50

The 2016 Special Purpose Local Option Sales Tax (SPLOST), adopted by the Board of Commissioners on July 22, 2014, provides for capital improvements and anticipated corresponding budget funding to address, inter alia, Facility Improvements.

The Building Security, Emergency/Life Upgrades is an eligible capital improvement project/program under the 2016 SPLOST and is an approved project of Support Services Facility Improvements Work Program (Cobb County 2016 SPLOST, p.37) which provides for improvements to modernize life safety systems in County facilities including video surveillance and access control.

SPLOST Project Summary as of January 6, 2021:

Building Security, Emergency/Life Upgrades

Budget: \$6,875,101.00

Expended: \$2,617,932.97

VOTE: **ADOPTED 5-0**

Property Management

43. To authorize a fund balance appropriation to supplement funding for the purchase of a Cabinet Shop facility, 2016 SPLOST project X0910.

Motion by Cupid, second by Gambrill, to **authorize** a fund balance appropriation, in the amount of \$500,000.00, in the General Fund; **authorize** an interfund transfer to the 2016 SPLOST Project X0910; **authorize** the corresponding budget transactions; and **further authorize** the Chairwoman to execute the necessary documents.

Increase Revenue	010-015-0145-4980	(Fund Balance Appropriation)	\$500,000.00
Increase Expenditure	010-015-0145-6594	(Interfund - Out)	\$500,000.00
Increase Revenue:	347-110-X091-X0910-4960-A	(Interfund - In)	\$500,000.00
Increase Expenditure	347-110-X091-X0910-8005-A	(Preliminary Estimates)	\$500,000.00

The 2016 Special Purpose Local Option Sales Tax (SPLOST), adopted by the Board of Commissioners on July 22, 2014, provides for capital improvements and anticipated corresponding budget funding to address, inter alia, Facilities improvements.

The Cabinet Shop is an eligible improvement project/program under the 2016 SPLOST and is an approved project of the Support Services Facilities Improvements (Cobb County 2016 SPLOST, p. 37) which provides for improvements to facilities and equipment.

VOTE: ADOPTED 5-0

Public Safety Agency

Fire Department

44. To approve a Memorandum of Understanding between Cobb County and Cobb & Douglas Public Health for COVID-19 specimen collection, vaccination, and storage.

Motion by Cupid, second by Gambrill, to **approve** a Memorandum of Understanding between Cobb County and Cobb & Douglas Public Health for COVID-19 specimen collection, vaccination, and storage; **authorize** the corresponding budget transactions; and **further authorize** the Chair to execute the necessary documents.

Funding will be made available with the following budgetary transactions:

Transfer From:	278-492-V9H4-6574	(Contribution)	\$120,000.00
Transfer To:	278-492-V9H4-6594	(Transfer Out)	\$120,000.00
Increase:	230-130-1000-4960	(Transfer In)	\$120,000.00
Increase:	230-130-1000-6014	(Salaries Overtime)	\$120,000.00

VOTE: **ADOPTED 5-0**

APPOINTMENTS

45. To announce the appointment of Deborah Dance to the Planning Commission.

Commissioner Birrell **announced** the appointment of Deborah Dance to the Planning Commission for a term balance to expire on December 31, 2022. This appointment will replace Judy Williams.

46. To announce the appointment of David Persson to the Transit Advisory Board.

Commissioner Birrell **announced** the appointment of David Persson to the Transit Advisory Board for a term balance to expire on December 31, 2022. This appointment will replace Wes Ruff.

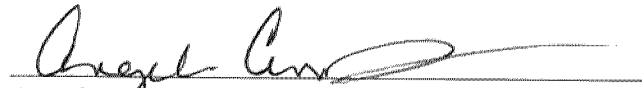
Clerk's Note: Chairwoman announced Commissioner Gambrill will represent The Board of Commissioner as the Board liaison for Cobb Travel and Tourism.

**MINUTES OF REGULAR MEETING
COBB COUNTY BOARD OF COMMISSIONERS
FEBRUARY 9, 2021
9:00 AM**

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ADJOURNMENT

The meeting was adjourned at 11:57 a.m.

A handwritten signature in dark ink, appearing to read 'Angela Cunningham', is written over a horizontal line.

Angela Cunningham
Deputy County Clerk
Cobb County Board of Commissioners

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2021 CODE AMENDMENTS

Official Code of Cobb County

**Part I. - Chapters 6, 18, 22, 50, 54, 66, 78, 106, 110, 118,
122, & 134**

Part II. - Chapter 2

FINAL

Package I

Version I - distributed on December 17, 2020

Version II- distributed February 3, 2021

Board of Commissioners Work Session

January 25, 2021 – 1:30 pm

Board of Commissioners Public Hearing Dates

January 26, 2021 – 7:00 pm

February 9, 2021 – 9:00 am

Planning Commission Public Hearing Date

January 5, 2021 – 7:00 pm

Cobb County Community Development

P.O. Box 649

Marietta, GA 30061

www.cobbcounty.org



Cobb County...Expect the Best!

PART I. – OFFICIAL CODE OF COBB COUNTY, GA

Chapter 6 – ALCOHOLIC BEVERAGES

ARTICLE I. – IN GENERAL

Section 6-1 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 6-1. – Definitions.

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

Sample means a small amount of any malt beverage, wine, or distilled spirits.

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

ARTICLE III. – LICENSES

DIVISION 1. – GENERALLY

Section 6-99 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sec. 6-99. – Annual license fee to be set by the board of commissioners.

(a) There is hereby levied an annual license fee and tax on all persons in the unincorporated area of the county for the manufacture, distribution, sale and consumption of alcoholic beverages, including spirituous malt and fermented wine. The annual license fee for each classification of license under this chapter shall be set by the board of commissioners.

(b) The schedule of fees for each license classification under this chapter shall be on file at the board of commissioners' office and at the business license office.

(c) Any new license issued under this chapter shall be effective annually from the date the license is issued until December 31 of each year. In the case of revocation or surrender of such license before the expiration of a full year since payment of the license fee, the holder of the license shall not be entitled to receive any refund whatsoever.

(d) All license fees required under this chapter shall be paid by certified or cashier's check, business check or credit card.

DIVISION 2. – ISSUANCE STANDARDS

Section 6-131 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sec. 6-131. – License prohibited for package sales in connection with sales of alcoholic beverages by the drink; wine and/or beer sampling.

(a) Except in a grocery store, farm winery, distillery, or brewery, no retail license for the sale of alcoholic beverages by the package shall be allowed where such sale would take place in, or

in connection with, any restaurant, cafe or eating place, or in the same room where a bar is maintained for the dispensing and sales of alcoholic beverages.

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

- (9) Any broken package containing alcoholic beverages on the licensed premises that is not licensed for retail sales for consumption on the premises shall be kept locked in a secure room or cabinet by the operator of the licensed premises except when in use during a tasting event;
- (10) Representatives and salespersons of manufacturers or wholesalers may attend a tasting event; provided, however, that such representatives and salespersons shall not host the tasting event, pour any alcoholic beverage, or provide anything of value to any consumer or to the licensee or an employee of a licensee; and
- (11) Any other terms, conditions, and limitations as may be required or imposed by the governing authority of the county or municipality in which the licensed premises is located.

ARTICLE IV. – OPERATING REGULATIONS FOR LICENSED ESTABLISHMENTS

DIVISION 1. – GENERALLY

Section 6-176 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 6-176. – Sale or delivery to unlicensed premises or unlicensed caterers.

(a) ~~It shall be unlawful for any licensee under this chapter to make deliveries of any alcoholic beverage by the package beyond the boundaries of the premises covered by the license.~~

A packaged goods retailer may deliver malt beverages, wine and distilled spirits in unbroken packages lawfully sold to and purchased by an individual for personal use and not for resale to an address designated by such individual subject to the requirements of OC.G.A.3-3-10 and any other applicable state law.

(b) It shall be unlawful for any licensee under this chapter to allow the sale or delivery of any alcoholic beverage by the drink to any area other than the premises covered by the license.

(c) It shall be unlawful for unlicensed individuals or caterers to sell alcoholic beverages.

(d) Notwithstanding the provisions of subsection (b), The Cobb Coliseum and Exhibit Hall Authority, as alcoholic beverage licensee, may sell and deliver alcoholic beverages by the drink and package to the garden area between 1 Galleria Parkway, 100 Galleria Parkway, 200 Galleria Parkway and 300 Galleria Parkway, commonly known as the Galleria garden, or any other property owned or controlled by the Cobb Coliseum and Exhibit Hall Authority. Sales by the package will only be allowed during special and temporary events approved by the Cobb County Business License Division Manager.

DIVISION 4. – HOURS OF OPERATION

Section 6-221 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 6-221. – Generally.

(a) *Sale by the package for off-premises consumption.*

- (1) Spirituous liquors. Spirituous liquors by the package shall not be sold or dispensed except between the hours of 8:00 a.m. and 11:45 p.m. each day on Monday through Saturday and on Sundays between the hours of ~~12:30 p.m.~~ 11:30 a.m. and 11:30 p.m. (to the extent allowed by state law).
- (2) ~~Malt beverages; and vinous beverages; and spirituous liquors~~. Malt beverages; and vinous beverages; ~~and spirituous liquors~~ by the package shall not be sold or dispensed except between the hours of 6:00 a.m. of one day and 2:00 a.m. the following day on Monday through Friday, and between the hours of 6:00 a.m. and midnight on Saturday and on Sundays between the hours of ~~12:30 p.m.~~ 11:30 a.m. and 11:30 p.m. (to the extent allowed by state law). However a farm winery, brewery and distillery may sell alcoholic beverages by the package in accordance with appropriate regulations contained in O.C.G.A. § 3-4-24.2, O.C.G.A. § 3-5-24.1, and O.C.G.A. § 3-6-21.2. Posting shall be provided that provides notice to the customer pertaining to the quantity of alcoholic beverages by the package that can be purchased.

Chapter 18 – BUILDING REGULATIONS

ARTICLE II. – ADMINISTRATION AND ENFORCEMENT

DIVISION 2. – BOARD OF ADJUSTMENTS AND APPEALS

Section 18-36 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 18-36. – Created; membership, terms, appointments and voting.

- {a} There is hereby created the county board of adjustments and appeals, which board shall be composed of nine members. ~~Each member of the board of commissioners shall be entitled to appoint one member to the board of adjustments and appeals. One member shall be a commercial builder, who shall be appointed for an initial term of one year; one member shall be an engineer, who shall be appointed for an initial term of one year; one member shall be an architect, who shall be appointed for an initial term of two years; one member shall be a developer, who shall be appointed for an initial term of two years; one member shall be a county homeowner, who shall be appointed for an initial term of three years. Thereafter, the aforesaid members shall be appointed for terms to run concurrently with and at the pleasure of the appointing commissioner's term of office and until a successor is appointed and qualified. If an appointing commissioner is no longer in office due to a general election or a special election in which more than one year remains in that commissioner's term, any member appointed by that commissioner shall be subject to removal with or without cause and without regard to any unexpired term by the newly elected commissioner filling such seat. The newly elected commissioner shall have the right to appoint a new member to the board of adjustments and appeals under the same requirements as his predecessor as set forth in this section.~~

1. The Board of Commissioners shall appoint five members to the board of adjustments and appeals. The qualifications for membership with at a minimum one member from the following professions or disciplines:

- a. Registered design professional with architectural experience or a building or superintendent of building construction with not fewer than 10 years of experience, 5 of which shall been in responsible charge of work;
- b. Registered design professional with structural engineering experience;

- c. Registered design professional with mechanical and plumbing engineering experience or a mechanical contractor with not fewer than 10 years of experience, 5 of which shall have been in responsible charge of work;
- d. Registered design professional with electrical engineering experience or an electrical contractor with not fewer than 10 years experience, 5 of which shall have been in responsible charge of work; and,
- e. Registered design professional with fire protection engineering experience or a fire protection contractor with not fewer than 10 years of experience, 5 of which shall have been in responsible charge of work.

Each member appointed under this subsection shall serve for 5 years or until a successor has been appointed by the Board of Commissioners.

2. The remaining four members of the board of adjustments and appeals after the appointments made under subsection (a) of this section shall be composed of the several chairmen of the respective county inspection department advisory boards created under this article.

3. The Chief Building Official shall be an ex officio member of the board, but shall have not vote on any matter before the board.

4. The Board of Commissioners shall appoint two alternate members who shall be called by the board chairperson to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications for board members from one of the professions or disciplines listed within this subsection.

- (b) Any vacancies on the board of adjustments and appeals shall be filled for the unexpired term in the manner in which original appointments are made. No board member shall be eligible for reappointment earlier than one year following the end of such member's previous term, with the exception of appointments immediately following any initial appointment under this section. ~~The chairman of the board of adjustments and appeals shall be selected from the aforesaid members of the board by a majority vote of the members of the entire board.~~
- (c) The board shall annually select one of its members to serve as Chairperson. Such selection shall be made by a majority vote of the members of the entire board. ~~The remaining four members of the board of adjustments and appeals after the appointments made under subsection (a) of this section shall be composed of the several chairmen of the respective county inspection advisory boards created under this article.~~
- (d) Any member of the board of adjustments and appeals who is absent without cause from two consecutive meetings of the board shall be automatically terminated from membership upon the board.
- (e) The presence of any five members of the board of adjustments and appeals shall constitute a quorum; and all decisions of the board shall require affirmative votes of a majority, but not less than three members present. No board member shall act in any case in which he has any personal interest.
- (f) Compensation of members of the board of adjustments and appeals shall be determined by the Board of Commissioners ~~board of commissioners.~~
- (g) A member shall not hear an appeal in which that member has a personal, professional, or financial interest.

Section 18-37 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 18-37. – Records and procedure.

- (a) The director of community development or his or her designee shall serve as a nonvoting secretary for the board of adjustments and appeals and shall make a detailed record of all its proceedings, which record shall set forth the reasons for the board's decision, the vote of each member participating therein, the absence of any member, any failure of a member to vote, and other matters.
- (b) The board of adjustments and appeals shall establish rules and regulations for its own procedure not inconsistent with the provisions of this Code, and shall meet at least monthly at such time as may best serve the needs of the business of the county building inspection department. In case of dispute or conflict as to times of meetings, the decision of the chairman of the board of adjustments and appeals shall be final. In the event of the filing of any appeal to be heard by the board of adjustments and appeals, the board shall meet in sufficient time to consider and render a decision on the appeal.
- (c) The board shall meet upon notice from the chairperson, within 10 days of the filing of an appeal or at regularly scheduled meeting.
- (d) All hearings before the board shall be open to the public. The appellant, appellant's representative, the chief building official and any person whose interests are affected shall be given an opportunity to be heard.
- (e) When five members of the board are not present to hear an appeal or for any reason in which quorum is not satisfied or is lost, either the appellant or the appellant's representative shall the right to request a postponement of the hearing.

Section 18-38 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 18-38. – Jurisdiction and appeals.

- (a) The board of adjustments and appeals shall have the authority and duty to act as follows:
 - (1) To issue interpretations of the building code when a disagreement arises between the building official and builders, contractors, or subcontractors.
 - (2) Approve requests for variances when alternative construction methods can be shown to provide an equivalent level of safety.
 - (3) Render decisions upon actions of the building official, as provided in the county's technical codes, when properly appealed.
 - (4) Render decisions in any appeal by a builder, electrical contractor, plumbing contractor, HVAC contractor, owner, or individual holding a building permit whenever the building official:
 - a. Rejects or refuses to approve a manner of construction;
 - b. Rejects materials used in construction; or
 - c. Where it is claimed that the county building or construction codes are inapplicable or that the intent and meaning of such codes have been misconstrued or incorrectly applied.Any notice of appeal under the provisions of this subsection (a)(4) must be received at least ten days prior to the next scheduled monthly meeting date of the board otherwise said appeal shall be heard by the board at the subsequent scheduled monthly meeting.
 - (5) Render decisions in any appeal brought by a builder, electrical contractor, plumbing contractor, HVAC contractor, owner or individual who holds a construction permit and who has been determined by the building official to have failed to correct building code violations. Such appeals shall proceed and shall be determined in accordance with the procedures and standards set forth in section 18-37.

- (6) In all other appeals not specifically provided for in this section, the board of adjustments and appeals may vary any provision of the building code or codes or any decision of the building official when, in the judgment of the board:
 - a. Literal enforcement of the code would constitute an injustice and would be contrary to the spirit or purpose of the code involved;
 - b. Strict enforcement of the ordinance would not serve the public interest; or
 - c. The interpretation of the building official should be reversed.
- (b) All appeals must be in writing, ~~and~~ signed by the appellant, and shall be filed within 20 days after notice has been served. All appeals shall be reviewed on an expedited basis by the appropriate county inspection department advisory board(s), and any recommendations of such board(s) shall be considered by the adjustments and appeals board in reaching its decision.
- (c) All decisions of the adjustments and appeals board are final and may only be reviewed by certiorari to the superior court of the county.

Chapter 22 – CABLE COMMUNICATIONS

Chapter 22 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sections 22-1 through 22-31. – Reserved.

Footnotes:

~~— (1) —~~

~~Cross reference — Licenses, permits and businesses, ch. 78.~~

~~State Law reference — Regulation of cable television systems by counties, O.C.G.A. § 36-18-1 et seq.~~

~~Sec. 22-1. Definitions.~~

~~For purposes of this chapter, terms, phrases, words, abbreviations and their derivations shall have the meanings given to them in the 1984 Cable Communications Policy Act of 1984, PL 98-549, as amended by the 1992 Cable Act (Public Law No. 102-385), unless otherwise defined in this section. In addition, the following terms, phrases, words, abbreviations and their deviations shall have the meanings given in this section:~~

~~Access channels means those channels on a cable system reserved by a grantee for use by members of the public, the county, or the county board of education for the cablecast of noncommercial programming under section 22-29 and the grantee's rules and regulations promulgated pursuant thereto.~~

~~Applicant means any person or entity submitting an application to the county for a franchise to operate a cable system under the terms and conditions set forth by the board of commissioners in this chapter.~~

~~Advertising and home shopping services revenues means the amount of a cable service provider or video service provider's nonsubscriber revenues from advertising disseminated through cable service or video service and home shopping services. The amount of such revenues that are allocable to the county shall be equal to the total amount of the cable service provider or video service provider's revenue received from such advertising and home shopping services multiplied by the ratio of the number of such provider's subscribers located in the county to the total number of such provider's subscribers. Such ratio shall be based on the number of such provider's subscribers as of January 1 of the current year, except that in the first year in which services are provided, such ratio shall be computed as of the earliest practical date.~~

~~Board of commissioners or board~~ means the present governing body of the county or any successor to the legislative powers of the present board of commissioners.

~~Cable Act~~ means the Cable Communications Policy Act of 1984, as amended.

~~Cable service~~ means the one-way transmission to subscribers of video programming or other programming service and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service. Cable service shall not include any video programming provided by a provider of commercial mobile service as defined in 47 U.S.C. Section 332(d) or video programming provided as part of and via a service that enable users to access content, information, e-mail, or other services offered over the public Internet.

~~Cable service provider~~ means any person or group of persons:

- ~~(1) Who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system; or~~
- ~~(2) Who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.~~

~~Cable system~~ means a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within the county, but such term shall not include:

- ~~(1) A facility that serves only to retransmit the television signals of one or more television broadcast stations;~~
- ~~(2) A facility that serves subscribers without using any public right-of-way as defined in this chapter;~~
- ~~(3) A facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. Sections 201 through 276, except that such facility shall be considered a cable system, other than for purposes of 47 U.S.C. Section 541(c), to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services as that term is defined in 47 U.S.C. Section 522(12);~~
- ~~(4) An open video system that complies with 47 U.S.C. Section 573; or~~
- ~~(5) Any facility of any electric utility used solely for operating such electric utility system.~~

~~Chairman~~ means the existing or succeeding chief administrative officer of the county or his designee.

~~County~~ means Cobb County, a political subdivision of the State of Georgia; when used as a geographical reference, "Cobb County" shall mean unincorporated areas of the county.

~~County manager~~ means the county official designated by the board of commissioners as such, or his designee, assigned responsibility for administering cable television operations within the county.

~~FCC~~ means the Federal Communications Commission, an agency of the United States government.

~~Franchise~~ means an initial authorization or renewal of an authorization issued by the county, regardless of whether the authorization is designated as a franchise, permit, license, resolution, contract, ordinance, certificate, agreement, or otherwise, that authorizes the construction or operation of a cable service provider or video service provider's network in the public rights-of-way.

~~Franchise agreement~~ means a written agreement executed by the county and a grantee, pursuant to section 22-29, which evidences the franchise granted by the county to that particular grantee.

~~Grantee~~ means a person to whom or to which a cable services franchise or video services franchise is granted by the board of commissioners under this chapter, and its successors and assigns.

~~Gross revenue~~ means all revenues received from subscribers for the provision of cable service or video service, including franchise fees for cable service providers and video service providers, and advertising and home shopping services revenues and shall be determined in accordance with generally accepted accounting principles. Gross revenues shall not include:

- ~~(1) Amounts billed and collected as a line item on the subscriber's bill to recover any taxes, surcharges, or governmental fees that are imposed on or with respect to the services provided~~

- or measured by the charges, receipts, or payments therefor; provided, however, that for purposes of this Code section, such tax, surcharge, or governmental fee shall not include any ad valorem taxes, net income taxes, or generally applicable business or occupation taxes not measured exclusively as a percentage of the charges, receipts, or payments for services;
- (2) ~~Any revenue, such as bad debt, not actually received, even if billed;~~
 - (3) ~~Any revenue received by any affiliate or any other person in exchange for supplying goods or services used by the provider to provide cable service or video programming;~~
 - (4) ~~Any amounts attributable to refunds, rebates, or discounts;~~
 - (5) ~~Any revenue from services provided over the network that are associated with or classified as noncable or nonvideo services under federal law, including, without limitation, revenues received from telecommunications services, information services other than cable service or video service, Internet access services, or directory or Internet advertising revenue, including, without limitation, yellow pages, white pages, banner advertisements, and electronic publishing advertising. Where the sale of any such noncable or nonvideo service is bundled with the sale of one or more cable services or video services and sold for a single nonitemized price, the term "gross revenues" shall include only those revenues that are attributable to cable service or video service based on the provider's books and records; such revenues shall be allocated in a manner consistent with generally accepted accounting principles;~~
 - (6) ~~Any revenue from late fees not initially booked as revenues, returned check fees, or interest;~~
 - (7) ~~Any revenue from sales or rental of property, except such property as the subscriber shall be required to buy or rent exclusively from the cable service provider or video service provider to receive cable service or video service;~~
 - (8) ~~Any revenue received from providing or maintaining inside wiring;~~
 - (9) ~~Any revenue from sales for resale with respect to which the purchaser shall be required to pay a franchise fee, provided the purchaser certifies in writing that it shall resell the service and pay a franchise fee with respect thereto; or~~
 - (10) ~~Any amounts attributable to a reimbursement of costs including, but not limited to, the reimbursements by programmers of marketing costs incurred for the promotion or introduction of video programming.~~

~~Original programming means programming produced specifically for or about a municipality or county or citizens thereof and shall include public government meetings. Original programming shall not include character generated messages, video bulletin board messages, traffic cameras, or other passively produced content.~~

~~Person means any person, firm, partnership, association, corporation or other entity of any kind.~~

~~Public right of way means the area in, on, along, over, or under the public roads that are part of the county road system.~~

~~Service area means the geographic territory within the unincorporated area of the county where a cable service provider or video service provider provides or has proposed to offer cable service or video service pursuant to a franchise.~~

~~Street means the surface of and the space above and below any public street, road, highway, freeway, lane, path, way, place, alley, court, boulevard, parkway, drive or easement held by the county for public travel or other use compatible to the construction or operation of a cable system.~~

~~Subscriber means any person or entity lawfully receiving video service from a video service provider or cable service from a cable service provider.~~

~~Video programming means programming provided by, or generally considered comparable to programming provided by, a television broadcast station, as set forth in 47 U.S.C. Section 522(20).~~

~~Video service means the provision of video programming through wireline facilities located at least in part in the county public rights-of-way without regard to delivery technology, including Internet~~

~~protocol technology. This term shall not include any video programming provided by a provider of commercial mobile service as defined in 47 U.S.C. Section 332(d) or video programming provided as part of and via a service that enables users to access content, information, e-mail, or other services offered over the public Internet.~~

~~Video service provider means an entity providing video service as defined in this Code section. This term shall not include a cable service provider.~~

~~{Ord. of 9-8-87; Code 1977, § 3-8-1; Ord. of 4-29-99; Amd. of 2-25-14}~~

~~**Cross reference**—Definitions generally, § 1-2.~~

~~Sec. 22-2. Grant of authority.~~

~~The board of commissioners is hereby authorized to grant the right, privilege and franchise to construct, operate and maintain a cable system within the streets of the county, subject to the terms and conditions of this chapter and a franchise agreement. No person shall operate a cable system or provide cable service or video service in the unincorporated areas of the county without a franchise issued under the provisions of this chapter or obtaining a franchise from the State of Georgia pursuant to O.C.G.A. § 36-76-1 et seq.~~

~~{Ord. of 9-8-87; Code 1977, § 3-8-2; Amd. of 2-25-14}~~

~~Sec. 22-3. Franchise term; renewal.~~

~~All franchises granted by the county pursuant to this chapter shall be for a term of ten years or less. Subject to and in addition to the renewal procedures available to the county and grantee under the Cable Act, the grantee may request a renewal of its franchise at any time during its then current term. The grantee's request shall contain any changes it proposes in the terms of its renewed franchise. The county shall consider the grantee's request, current community needs and interests, and may grant the grantee a renewal of its franchise at that time for a term of ten years or less and upon such other terms and conditions as are mutually agreed upon between the county and grantee and reflected in a written amendment to the grantee's franchise agreement. Any such grant of a renewal to a franchise shall be preceded by at least one public hearing.~~

~~{Ord. of 9-8-87; Code 1977, § 3-8-3; Ord. of 4-29-99; Amd. of 2-25-14}~~

~~Sec. 22-4. Application for franchise.~~

- ~~(a) To receive an initial county franchise, a cable service provider or video service provider shall file a written application for a franchise with the county communications office at least 45 days prior to offering cable service or video service to subscribers within a specified service area.~~
- ~~(b) The county may impose a fee not to exceed \$500.00 for a county franchise application and a fee not to exceed \$250.00 for an amendment to a county franchise.~~
- ~~(c) The application for a county franchise shall consist of an affidavit signed by an officer or general partner of the applicant that contains the following:
 - ~~(1) If the applicant is an individual, partnership or unincorporated association, it shall contain the names and addresses of all persons, including corporations, having a controlling interest in and to the prospective grantee's business and franchise in the county;~~
 - ~~(2) If the applicant is a corporation, it shall contain the names and addresses of the officers, directors and controlling shareholders of the applicant, together with the number of shares held by such shareholders; if the applicant is a corporation with more than ten shareholders, it shall also contain the state in which the applicant is incorporated;~~
 - ~~(3) A full disclosure of the ownership of the cable system facilities;~~
 - ~~(4) The source of funds for operation of the cable system and a demonstration of financial ability to provide and extend service to proposed subscribers;~~~~

- (5) ~~A schedule of the initial rates to be charged, and a general description of facilities to be employed, the general routes of the cables used, the service area or areas, the commencement and completion dates of construction of the cable system, and the proposed dates when service will be available to the areas named;~~
- (6) ~~An affirmative declaration that the applicant shall comply with all applicable federal, state and local laws and regulations, including county ordinances and regulations regarding the placement and maintenance of facilities in the public right of way that are generally applicable to all users of the public right of way and specifically including O.C.G.A. tit. 25, ch. 9, the "Georgia Utility Facility Protection Act" and chapter 106 of the Cobb County, Georgia Code of Ordinances;~~
- (7) ~~A description of the applicant's service area. For the purposes of this paragraph, an applicant may, in lieu of or as supplement to a written description, provide a map on 8½ by 11 inch paper that is clear and legible and that fairly depicts the service area;~~
- (8) ~~The location of the applicant's principal place of business, the name or names of the principal executive officer or officers of the applicant, information concerning payment locations or addresses, and general information concerning equipment returns;~~
- (9) ~~Certification that the applicant is authorized to conduct business in the State of Georgia and that the applicant possesses satisfactory financial and technical capability to provide cable service or video service and a description of such capabilities. Such certification shall not be required from an incumbent service provider or any cable service provider or video service provider that has wireline facilities located in the public right of way as of January 1, 2008; and~~
- (d) ~~If an application is incomplete, the county shall notify the applicant within ten business days of the receipt of such application and shall provide the applicant with a reasonable period of time in which to provide a complete application. If no such notification is made within ten business days of the receipt of the application, the application shall be deemed complete. Within 90 days of the receipt of a completed application, the county shall conduct a public hearing. The county thereafter shall, except as set forth in subsection (e) of this Code section, vote on the issuance a franchise that contains the following:~~
 - (1) ~~A nonexclusive grant of authority to provide cable service or video service as requested in the application;~~
 - (2) ~~A nonexclusive grant of authority to construct, maintain, and operate facilities along, across, or on the public right of way in the delivery of cable service or video service, subject to applicable federal, state and local laws and regulations, including county ordinances and regulations, regarding the placement and maintenance of facilities in the public right of way that are generally applicable to all users of the public right of way and specifically including O.C.G.A. tit. 25, ch. 9, the "Georgia Utility Facility Protection Act" and chapter 106 of the Cobb County, Georgia Code of Ordinances; and~~
 - (3) ~~The expiration date of the county franchise, which shall be not more than ten years from the date of issuance, subject to renewal.~~
- (e) ~~The county may deny an applicant that it reasonably believes has not yet accessed rights of way in the county and does not possess satisfactory financial and technical capability to provide cable service or video service or is not duly authorized to conduct business in the State of Georgia. Upon appeal by the applicant, the Board of Commissioners shall consider whether the objection is well founded and shall make a determination as to whether to grant the county franchise notwithstanding the objection or to deny or suspend the application pending the receipt of information sufficient to demonstrate the applicant has satisfactory financial and technical capability.~~
- (f) ~~All applications for a franchise shall be open to public inspection and shall be kept on file a reasonable length of time at the discretion of the board of commissioners. Any intentional misrepresentation in~~

~~an application shall be a material violation of this chapter giving rise to a revocation proceeding pursuant hereto. Before issuing a franchise, the county shall conduct at least one public hearing.~~

- ~~(g) All applications for a franchise shall be considered from firm offers to the county and shall be incorporated into the grantee's franchise agreement.~~

~~(Ord. of 9-8-87; Ord. of 3-10-88; Code 1977, § 3-8-4; Amd. of 2-25-14)~~

~~Sec. 22-5. Franchise fee payments.~~

- ~~(a) Each holder of a county franchise shall pay to the county, on or before the 30th day following the end of each quarter a sum of five percent of its gross revenues for the preceding quarter and, shall not exceed the maximum percentage rate permitted in 47 U.S.C. Section 542(b) of such franchise holder's gross revenues received from the provision of cable service or video service to subscribers located within such franchise holder's service area.~~
- ~~(b) Within 30 days after the expiration of a grantee's fiscal quarter, a grantee shall file with the county manager or his designee a financial statement or report showing the quarter's gross revenues. Payment of the current franchise fees shall be made to the county at the time of this statement.~~
- ~~(c) If a grantee's franchise is forfeited, revoked or terminated prior to the end of its then current term, a grantee shall immediately submit a financial statement or report showing all franchise fees then accrued but unpaid to the county, and the basis for such calculations. The grantee shall pay to the county all such franchise fees and other sums legally due to the county within 30 days following the termination of the franchise.~~
- ~~(d) The county may, no more than once annually, audit the business records of the county franchise holder to the extent necessary to ensure payment in accordance with this Code section. For purposes of this subsection, an audit shall be defined as a comprehensive review of the financial and jurisdictional coding records of the holder of a county franchise. Once any audited period of a county franchise holder has been the subject of a requested audit, such audited period of such county franchise holder shall not again be the subject of any audit. In the event of a dispute concerning the amount of the franchise fee due to the county under this Code section, an action may be brought in a court of competent jurisdiction by the county seeking to recover any additional amount alleged to be due or by a county franchise holder seeking a refund of an alleged overpayment; provided, however, that any such action shall be brought within three years following the end of the quarter to which the disputed amount relates. Such time period may be extended by written agreement between the franchise holder and the county. Each party shall bear the party's own costs incurred in connection with any such examination or dispute. In the event that the county files an action to recover alleged underpayments of franchise fees and a court of competent jurisdiction determines the cable service provider or video service provider has underpaid franchise fees due for any 12-month period by ten percent or more, the cable service provider or video service provider may be required to pay the county its reasonable costs associated with the audit and legal fees along with any franchise fee underpayments; provided, however, late payments shall not apply.~~
- ~~(e) If any franchise fee payment is not made on or before the date upon which it is due, interest on such payment shall accrue from such date at the rate of ten percent per annum.~~
- ~~(f) Franchise fee payments made by a grantee to the county pursuant to this section shall be in addition to any and all taxes which are required to be paid by law of the United States, the state or the county.~~
- ~~(g) No acceptance of any payment shall be construed as a release or as an accord and satisfaction of any claim the county may have for further or additional sums payable as a franchise fee.~~
- ~~(h) Any amounts overpaid by the holder of a county franchise shall be deducted from future franchise payments.~~
- ~~(i) The holder of a county franchise may designate that portion of a subscriber's bill attributable to any franchise fee imposed pursuant to this Code section as a separate item on the bill and recover such~~

amount from the subscriber; provided, however, that such separate listing shall be referred to as a "franchise" or a "franchise fee."

- (j) ~~The county shall not levy any additional tax, license, fee, surcharge or other assessment on a cable service provider or video service provider for with respect to the use of any public right of way other than the franchise fee authorized by this chapter. Additionally, the county will not levy any additional tax, license fee, surcharge or other assessment on a cable service provider or video service provider or subscriber that is not generally imposed to a majority of all businesses. The franchise fee shall be offset quarterly by proceeding amount of permit fees, encroachment fees, degradation fee or other fee that could otherwise be assessed on a franchise holder for the holder's occupation or work within the public right of way; provided, however that nothing in this section shall restrict the right of the county to impose ad-valorem taxes, sales taxes, or other taxes lawfully imposed on a majority of all other businesses within the county.~~

~~{Ord. of 9-8-87; Code 1977, § 3-8-5; Amd. of 2-25-14}~~

~~Sec. 22-6. Insurance.~~

- (a) ~~At all times during the term of a franchise, a grantee shall obtain, pay all premiums for, and file with the county certificates of insurance evidencing the following types and amounts of insurance:~~
- ~~(1) General, comprehensive public liability insurance covering claims by any person on account of injury to or death of a person occasioned by the grantee's operations, with minimum coverage amounts as follows:~~
- ~~Personal injury/death to one person \$ 500,000.00~~
- ~~Personal injury/death to two or more persons in any one occurrence 1,000,000.00~~
- ~~(2) Property damage insurance covering claims by any person for property damage occasioned by the grantee's operations with a minimum coverage amount of \$250,000.00.~~
- ~~(3) Such other insurance coverage as is required by the laws of the state.~~
- (b) ~~All of the insurance contracts required by this section shall be in a form reasonably satisfactory to the county and shall be issued and maintained by companies authorized to do business in the state and reasonably acceptable to the county. Each policy shall name the county as an additional insured such that the county is indemnified and held harmless, along with its officers, boards, agents and employees, from any and all claims covered by such policies. All such policies shall require 30 days' written notice to all insureds, including the county, prior to any cancellation.~~

~~{Ord. of 9-8-87; Code 1977, § 3-8-6}~~

~~Sec. 22-7. Surety bond or other security.~~

- (a) ~~Each grantee shall maintain throughout the term of its franchise a surety bond, letter of credit, or other equivalent form of security, running in favor of the county, in the penal sum of \$25,000.00. The bond, letter or credit or other form of equivalent security shall guarantee the faithful performance by the grantee of all provisions of this chapter and its franchise agreement. If the grantee is found to be in material violation of this chapter or its franchise agreement, pursuant to section 22-29, the amount of damages suffered by the county shall be recoverable from such bond, letter of credit, or other form of equivalent security, including obligations owed under any indemnity granted by the grantee in favor of the county.~~
- (b) ~~The bond, letter of credit or other form of equivalent security shall be in a form reasonably satisfactory to the county and shall contain a provision that it shall not be terminated or otherwise allowed to expire without at least 30 days' prior written notice to that effect to both the county and grantee. Such bond, letter of credit, or other form of equivalent security, along with evidence of payment of the required premiums, shall be filed with the county.~~

~~{Ord. of 9-8-87; Code 1977, § 3-8-7}~~

~~Sec. 22-8. Indemnity.~~

- ~~(a) The grantee shall, at its sole cost and expense, fully indemnify, defend and hold harmless the county, its officers, boards, commissions and employees against any and all claims, suits, actions, liability and judgments from third parties for damage arising out of the installation, operation or maintenance of the cable system, including copyright infringement, whether or not the act or omission complained of is authorized, allowed or prohibited by this chapter or a franchise agreement, unless such damage was caused by the negligence of the county or its officers, boards, commissions or employees.~~
- ~~(b) The grantee shall pay all expenses incurred by the county, including reasonable attorneys' fees and other costs of litigation, in defending itself with regard to all claims and actions mentioned in subsection (a) of this section.~~

~~{Ord. of 9-8-87; Code 1977, § 3-8-8}~~

~~Sec. 22-9. Grantee's books and records; operation reports; communications.~~

- ~~(a) The grantee shall file annually with the county, upon request, a reasonably accurate copy of all new maps, plats or similar documentation showing existing and proposed cable installations on county streets which the county has not received previously. These maps and plats shall conform to the reasonable requirements of the county manager and shall, upon request, be kept up-to-date annually.~~
- ~~(b) The grantee shall file annually with the county a current list of its owners (shareholders, partners, etc.) holding a controlling interest in the grantee and a list of its current officers or managing partners or officials, as the case may be, along with their current mailing addresses.~~
- ~~(c) Copies of the grantee's published rules and regulations relating to operation of its cable system shall be made available to the county upon reasonable notice and request.~~
- ~~(d) Within six months of accepting a new franchise, a grantee shall submit to the county manager or his designee a plan summarizing all proposed construction projects required as of that date under the terms of this chapter and the grantee's franchise agreement. The grantee shall continue to provide the county manager designee with progress reports regarding ongoing construction projects in the county every three months until such projects have been activated and subscribers are being serviced.~~
- ~~(e) Copies of all material petitions, applications and communications submitted by a grantee to the FCC, Securities and Exchange Commission, or other federal or state regulatory agencies having jurisdiction with respect to any matter affecting the grantee's cable system shall be made available to the county upon reasonable notice and request, provided that such documents relate to the grantee's cable system in the county.~~
- ~~(f) The holder's franchise agreement will govern the installation of video to the county.~~

~~{Ord. of 9-8-87; Code 1977, § 3-8-9; Amd. of 2-25-14}~~

~~Sec. 22-10. Rates.~~

- ~~(a) Upon receipt of a franchise pursuant to this chapter, a grantee shall give the county a written notice summarizing its rate schedule for the respective tiers of service and significant ancillary services or equipment it proposes to provide. Thereafter, the grantee shall give the county, not less than annually, a current schedule of its rates.~~
- ~~(b) The county shall not regulate any rates for cable, noncable or any ancillary services provided by a grantee in the county; provided, however, if, pursuant to applicable federal law or regulation, rate approval authority exists within the county in the future, the county and grantee shall negotiate, in good faith, a set of amendments to the grantee's franchise agreement and this chapter which shall~~

~~govern all future rate increase proposals of the grantee which are subject to the regulatory jurisdiction of the county.~~

~~(Ord. of 9-8-87; Code 1977, § 3-8-10)~~

~~Sec. 22-11. Conditions of right-of-way occupancy.~~

- ~~(a) All transmission and distribution structures, lines and equipment erected by a grantee within the county shall be located so as to cause minimum interference with the proper use of the rights-of-way and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of such rights-of-way. The cable system shall be constructed, operated and maintained in material compliance with all adopted county and applicable national construction and electrical codes.~~
- ~~(b) A grantee shall not erect any poles or facilities within the rights-of-way of the county if other such poles or facilities already exist and are available to the grantee under the terms of the grantee's pole use agreements with the relevant utility companies, unless the grantee can demonstrate a substantial economic or customer service justification for the construction of duplicative facilities. Prior to such construction, the grantee shall obtain the approval of the county department of transportation. The county shall cooperate with a grantee, upon request, in the grantee's negotiations with utilities to obtain or maintain use of the utilities' facilities.~~
- ~~(c) The grantee shall not construct or operate its cable system within the county unless it has complied with all current county regulations and procedures relating to the placement, location, specifications and manner of installation for such cable system facilities. In particular, a grantee shall not locate facilities within the county rights-of-way which are not on utility poles without first disclosing such activity to the county permitting manager and obtaining approval, which approval shall not be unreasonably withheld. Nothing in this subsection shall be interpreted to require a grantee to alter or rearrange its then-existing operations or facilities upon the county's adoption of new regulations affecting such operations or facilities unless a failure to do so seriously threatens the health, safety or welfare of county residents.~~
- ~~(d) If the county or state shall require the removal, relocation or reinstallation of any portion of the grantee's cable system within the county's right-of-way, upon written notice from the county, the grantee shall relocate or reinstall those facilities affected as soon as possible. Such relocation, removal or reinstallation shall only be requested if it is necessary for the public health, safety or welfare and in such cases the grantee shall bear all of its costs in completing the removal, relocation or reinstallation.~~
- ~~(e) Where electric or telephone utility facilities are located underground within the county, the grantee shall locate its facilities underground as well, regardless of when the utilities are placed underground. If facilities of a grantee are placed underground at the request of a property owner where other utility facilities are placed aerially, the additional cost of locating the cable facilities underground shall be borne by the property owner making the request. Except where facilities are on the county right-of-way the company shall not be liable for the cost of relocating facilities, aerial or underground, where such relocation is required to accommodate a streetscape, sidewalk, or private development.~~
- ~~(f) A grantee shall have the authority to trim trees overhanging the county right-of-way so as to prevent the branches of such trees from coming into contact with the grantee's facilities. All such trimming shall be done under the supervision and direction of the county and at the grantee's expense.~~
- ~~(g) If the grantee disturbs a county right-of-way, it shall, at its own expense and in a manner approved by the utility permitting manager, replace and restore such right-of-way to as good a condition as existed before the grantee's work was begun and in conformance with all county ordinances and department of transportation regulations.~~

- (h) ~~At the request of any person holding a valid building moving permit issued by the county, a grantee shall temporarily raise or lower its wires to permit the moving of such building. The grantee's costs in moving its facilities shall be paid by the person holding the permit and the grantee may require payment in advance for its work. Such person shall give the grantee at least 48 hours' notice of such request and any disputes between such person and the grantee shall be resolved by the county manager or his designate.~~
- (i) ~~If, in the case of public emergency, the board chairman or county fire department chief sees it necessary to cut or remove any of the grantee's facilities, they may do so. All necessary repairs shall be completed at the grantee's, or its insurance company's, expense. The grantee shall not be penalized under this chapter or its franchise agreement for any delays or problems incurred in its cable operation as a result of such action by the county. This section shall not be interpreted to indemnify the county in the case of gross negligence or willful misconduct.~~
- (j) ~~A grantee's work, while in progress, shall be properly executed at all times with suitable barricades, flags, lights, flares or other devices as are reasonably required to protect the public using the right-of-way or property involved and in conformance with all county ordinances and department of transportation regulations.~~

~~(Ord. of 9-8-87; Code 1977, § 3-8-11; Amd. of 2-25-14)~~

Editor's note—An amendment of February 25, 2014, changed the title of section 22-11 from "Conditions of street occupancy" to "Conditions of right of way occupancy." The historical notation has been preserved for reference purposes.

~~Sec. 22-12. Initial system installation schedule.~~

- (a) ~~Within 30 days of receiving an executed franchise agreement for a new cable service area, a grantee shall proceed with due diligence to obtain all necessary permits and authorizations which are required in the conduct of its business, including, without limitation, pole attachment agreements and microwave licenses; provided, however, that this requirement shall only apply to franchises granted to new operators within the county who have received a franchise to build in a new portion of the county.~~
- (b) ~~Unless otherwise set forth in a franchise agreement, a grantee shall extend energized trunk cable to 20 percent of its franchise area within one year from the date it is granted an initial franchise agreement by the county, and shall extend energized trunk cable to the remaining portions of its franchise area within four years thereafter. The board may extend the time period for extending energized trunk cable for good cause shown. A franchise agreement may set forth terms and conditions for the extensions of energized trunk cable in lieu of the provisions in this section 22-12(b) and 22-13.~~

~~(Ord. of 9-8-87; Code 1977, § 3-8-12; Ord. of 4-29-99; Amd. of 2-25-14)~~

~~Sec. 22-13. System extension to new subscribers.~~

~~The grantee shall provide cable service to any subscriber within its franchise area within six months of receiving a written request from the subscriber or the county on the subscriber's behalf. Notwithstanding the foregoing sentence, the grantee shall not be required to extend its plant and provide cable service to any subscriber within the county unless and until there are at least 30 occupied homes per strand mile as measured and computed from within 150 feet of the nearest distribution plant of the grantee to the residence requesting service.~~

~~(Ord. of 9-8-87; Code 1977, § 3-8-13; Amd. of 2-25-14)~~

~~Sec. 22-14. Operational standards.~~

The holder of a county franchise shall comply with the customer service standards as set forth in 47 C.F.R. 76.309(c) and as adopted as by the State of Georgia.

~~{Ord. of 9-8-87; Code 1977, § 3-8-14; Amd. of 2-25-14}~~

~~Sec. 22-15. Supervision by the county.~~

- ~~(a) Each grantee shall construct, operate and maintain its cable system subject to the supervision of all county authorities with jurisdiction in such matters and in compliance with all applicable county laws, ordinances and departmental rules and regulations.~~
- ~~(b) Each grantee's physical cable system shall be subject to periodic inspection by the county.~~
- ~~(c) If, at any time, the powers of the board of commissioners or any agency or official of the county are transferred by law to another board, authority, agency or official, the transferee shall have the powers, rights and duties previously vested under this chapter or by law in the board or such other agency or county official.~~
- ~~(d) In the event of an emergency or disaster, upon the request of the chairman of the board, a grantee shall make at least one channel and necessary other facilities and personnel available to the county at no cost for use during the period of the emergency. Each grantee shall have the capability for an emergency override alert whereby the county during such times of emergency can communicate with the grantee's subscribers on its access channel in accordance to FCC rules.~~

~~{Ord. of 9-8-87; Code 1977, § 3-8-15; Amd. of 2-25-14}~~

~~Sec. 22-16. Compliance with state and federal laws; severability.~~

- ~~(a) Each grantee shall, at all times, comply with the applicable provisions of state and federal laws and regulations, including, without limitation, those promulgated by the FCC.~~
- ~~(b) The provisions of this chapter and each grantee's franchise agreement are subject to the relevant provisions of state and federal law and regulation, including, without limitation, the Cable Act.~~
- ~~(c) If any section, subsection or other portion of this chapter or a franchise agreement granted pursuant to this chapter is held to be invalid by the decision of any court or federal or state authority of competent jurisdiction, such section, subsection, or other portion or provision shall be considered a separate, distinct and independent part of the franchise agreement, and such decision shall not affect the validity and enforceability of all other portions of this chapter or the franchise agreement.~~

~~{Ord. of 9-8-87; Code 1977, § 3-8-16}~~

~~Sec. 22-17. Restrictions against assignment.~~

- ~~(a) The grantee shall not sell, transfer or assign its rights under this chapter and its franchise agreement without the prior approval, by ordinance or resolution, of the county, acting through its board. The granting of such consent shall in no way constitute a waiver or release of the county's underlying ownership rights in and to its streets. By executing and accepting its franchise agreement, a grantee specifically agrees that any such transfer occurring without the county's prior approval shall constitute a material violation of this chapter and its franchise agreement and shall be null and void. For purposes of this subsection, the term "transfer" of franchise rights shall include a transfer of control of a grantee.~~
- ~~(b) Notwithstanding anything to the contrary contained in subsection (a) of this section:~~
 - ~~(1) A grantee may transfer its rights under this chapter and its franchise agreement to any person controlling, controlled by, or under common control with the grantee; and~~
 - ~~(2) The grantee may grant to any reputable lender security interest in any or all of the assets of the grantee, tangible or intangible, including its franchise agreement.~~

~~{Ord. of 9-8-87; Code 1977, § 3-8-17}~~

~~Sec. 22-18. Discriminatory practices.~~

- ~~(a) A holder of a county franchise shall not deny access to service to any group of potential residential subscribers because of the income of the residents in the local area in which such group resides.~~
- ~~(b) For purposes of determining whether a cable service provider or video service provider has violated subsection (a) of this Code section, cost, density, distance, and technological or commercial limitations shall be taken into account. An alleged violation of subsection (a) of this Code section shall only be considered within the description of the service area set forth in an application or amended application for a franchise. The inability to serve an end user because a holder is prohibited from placing its own facilities in a building or property shall not be found to be a violation of subsection (a) of this Code section. Use of an alternative technology or service arrangement that provides comparable content, service, and functionality shall not be considered a violation of subsection (a) of this Code section. This Code section shall not be construed as authorizing any build-out requirements on a cable service provider or video service provider.~~
- ~~(c) Any potential residential subscriber or group of residential subscribers who believes it is being denied access to services in violation of subsection (a) of this Code section may file a complaint with the county, along with a clear statement of the facts and the information upon which it is relying to support the complaint. Upon receipt of any such complaint, the county shall serve a copy of the complaint and supporting materials upon the subject cable service provider or video service provider, which shall have 60 days after receipt of such information to submit a written answer and any other relevant information the provider wishes to submit to the county in response to the complaint. If the county is not satisfied with the response, the county shall compel the cable service provider or video service provider to participate in nonbinding mediation. If the mediation does not resolve the matter to the satisfaction of the county, the county may file a complaint with a court of competent jurisdiction. The county shall not file an action in court without having participated in a mediation of the complaint. If such court finds that the holder of a county franchise is in material noncompliance with this Code section, the holder shall have a reasonable period of time, as specified by the court, to cure such noncompliance. The court may also award the county its reasonable costs and attorneys fees in seeking enforcement of subsection (a) of this Code section.~~

~~(Ord. of 9-8-87; Code 1977, § 3-8-18; Amd. of 2-25-14)~~

~~Sec. 22-19. Grantee's lack of recourse.~~

- ~~(a) Except as otherwise provided in this chapter or a grantee's franchise agreement, a grantee shall have no recourse against the county for any loss, cost, expense or damage arising out of the county's lawful enforcement of this chapter or a franchise agreement or from the lack of authority to grant such franchise rights.~~
- ~~(b) Each grantee acknowledges that upon executing and accepting its franchise agreement, it:~~
 - ~~(1) Has done so relying upon its own investigation and understanding of the power and authority of the county to grant such franchise rights; and~~
 - ~~(2) Has not been induced to enter into its franchise agreement by any promise or understanding of the county or any other person other than the terms of this chapter and the franchise agreement itself.~~

~~(Ord. of 9-8-87; Code 1977, § 3-8-19)~~

~~Sec. 22-20. Nonenforcement does not constitute waiver.~~

~~Subject to the provisions of state or federal law, a grantee shall not be excused from complying with any of the terms of this chapter and its franchise agreement due to the failure of the county, upon any one or more occasions, to insist upon or to seek compliance with any such terms and conditions.~~

~~{Ord. of 9-8-87; Code 1977, § 3-8-20}~~

~~Sec. 22-21. Time is of the essence.~~

~~Whenever this chapter or a franchise agreement shall set forth a time limit or period for an act to be performed by or on behalf of a grantee, such time shall be deemed of the essence, and any failure of a grantee to perform within the time allotted shall be sufficient grounds for the county to take the position that the particular provision in question has been violated and therefore is subject to the provisions of section 22-27.~~

~~{Ord. of 9-8-87; Code 1977, § 3-8-21}~~

~~Sec. 22-22. Rights reserved to the county.~~

~~Without limitation on the rights which the county might otherwise have, the county does hereby expressly reserve the following rights, powers, and authorities:~~

- ~~(1) To exercise its governmental powers to the full extent that such powers may be vested in or granted to the county.~~
- ~~(2) To grant additional franchises within the county to other persons for the conduct of a cable television business.~~

~~{Ord. of 9-8-87; Code 1977, § 3-8-22}~~

~~Sec. 22-23. Grantee not to engage in television set business.~~

~~No grantee shall engage directly in the business of selling, repairing or installing television sets within the county during the term of the grantee's franchise.~~

~~{Ord. of 9-8-87; Code 1977, § 3-8-23}~~

~~Sec. 22-24. Discrimination in employment.~~

~~No grantee shall refuse to hire or employ, nor bar or discharge from employment, nor discriminate against, any person in compensation or in terms, conditions or privileges of employment because of sex, race, creed, color, national origin, disability, religion or age. Each grantee shall take affirmative action to ensure that applicants are employed, and that employees are treated during their employment, in all respects, without regard to their sex, race, creed, color, national origin, disability, religion or age, as required by the Cable Act.~~

~~{Ord. of 9-8-87; Code 1977, § 3-8-24; Amd. of 2-25-14}~~

~~Sec. 22-25. Reimbursement for right-of-way cost.~~

~~If the county is required to pay to obtain right of way on private or public property for the benefit of the grantee at the grantee's request, the grantee shall reimburse the county for any payment made for the benefit of the grantee.~~

~~{Ord. of 9-8-87; Code 1977, § 3-8-25}~~

~~Sec. 22-26. Impossibility of performance.~~

~~Notwithstanding anything to the contrary in this chapter or the grantee's franchise agreement, if any failure of the grantee to carry out its obligations thereunder, or to meet time schedules set out therein, shall be due, in whole or in part, to any cause not within the grantee's reasonable control, the grantee shall notify the county in writing as soon as possible after the grantee learns of such factor, circumstance or condition, and such failure by the grantee shall be excused, and any time deadlines established shall be extended for a period of time equal to the period of delay which resulted from such factor, circumstance or condition. The grantee shall at all times use diligent efforts to carry out its obligations under this chapter in a timely manner.~~

(Ord. of 9-8-87; Code 1977, § 3-8-26)

Sec. 22-27. ~~Violations; penalties; termination and revocation.~~

- (a) ~~If a grantee fails to comply with, or violates, any material provision of this chapter or its franchise agreement, the county shall have the right to impose certain penalties upon the grantee or, under certain circumstances, to terminate the grantee's franchise and revoke the privileges granted thereunder; provided, however, that all of the following procedures and requirements must be met before any such actions may take place:~~
- ~~(1) The county shall notify the grantee in writing of any material violation in or failure to comply with a material term of this chapter or its franchise agreement which the county believes has occurred.~~
 - ~~(2) The grantee shall have 30 days following receipt of such written notice from the county to respond that it does not believe a material violation has occurred or to commence correction of the alleged violation or failure to comply and, within a reasonable amount of time thereafter, to correct such violation or failure to comply.~~
 - ~~(3) If, after such curative period, the grantee has failed to commence correction of the alleged violation, or failed to correct the violation, as the case may be, or if the grantee disputes the allegation that a material violation has taken place, the county shall schedule a hearing before the board of commissioners, at which time the grantee shall be provided an opportunity to be heard on the issue of noncompliance with full rights of due process. The grantee shall be afforded at least ten days' written notice of such hearing.~~
 - ~~(4) If, upon the conclusion of such hearing, the board, by majority vote, concludes that the grantee has violated a material provision of this chapter or its franchise agreement, the county manager shall provide the grantee with written notice of the decision and any monetary penalty the board has decided to impose consistent with subsection (b) of this section. The grantee's surety bond shall act as security for the payment of such penalty until the issue of whether a material violation has taken place has been finally resolved pursuant to this section.~~
 - ~~(5) The grantee shall have 30 days after receiving the board's written decision to pay the penalty then accrued or to appeal the decision of the board to a state or federal court of competent jurisdiction as set forth in this section.~~
- (b) ~~As contemplated in this section, the following monetary penalties, not to exceed those set forth in this subsection, may be chargeable to the grantee on a per day basis. Any penalties assessed by the board shall be due and payable, and being to accrue, as of the date of the board's decision that the grantee has violated a material provision of this chapter or its franchise agreement.~~
- ~~(1) For failure to commence operations; to provide access channel capacity or facilities; or to fail to meet service requirements defined in this chapter after receiving written notice from the county, per day \$200.00~~
 - ~~(2) For failure to provide material data or reports imposed by this chapter after receiving written notice from the county, per day \$50.00~~
 - ~~(3) For failure to maintain technical standards imposed by this chapter after receiving written notice from the county, per day \$100.00~~
 - ~~(4) For failure to extend service to qualifying subscribers imposed by this chapter after receiving written notice from the county, per day \$150.00~~
 - ~~(5) For failure to meet other material requirements, (other than failure to make franchise fee payments, which shall bear interest at a rate of ten percent) imposed by this chapter after receiving written notice from the county, per day \$75.00~~
- (c) ~~If the grantee appeals the decision of the board to a court of competent jurisdiction, the decision of the courts, including any decisions rendered on appeal, shall be final and binding upon the grantee and the county with respect to all issues involved. Any penalty previously assessed by the board shall~~

not continue to accrue during such court proceedings. All parties to such court proceedings shall bear their own costs unless the court orders otherwise.

- (d) ~~If the grantee fails to pay to the county franchise fees lawfully accrued, undisputed and payable to the county, or commits repeated violations of material provisions of this chapter or its franchise agreement, the county may formally terminate the franchise and revoke the privileges granted thereunder. In such an event, the county shall follow the same procedures as are set forth in subsection (a) of this section, and the grantee shall be afforded the same rights as are set forth in this section. If the county's termination and revocation of grantee's franchise are upheld, the grantee shall be afforded all rights set forth in the Cable Act with respect to disposition of its cable system in the county.~~

~~(Ord. of 9-8-87; Code 1977, § 3-8-27; Amd. of 2-25-14)~~

Sec. 22-28. ~~Access channels; service to public facilities.~~

- (a) ~~A cable service provider or video service provider shall, upon written request by the county, install, at no charge, one service outlet to a demarcation point located on the outside of any designated county building or multibuilding complex, provided such building demarcation point is within 125 feet from the cable service provider or video service provider's activated distribution point of connection. A cable service provider or video service provider shall not be required to extend its facilities beyond the appropriate demarcation point located outside the building or to perform any inside wiring. The cable service provider or video service provider shall provide complimentary basic cable service or video service to public schools and public libraries over that one service outlet free of charge, which service shall not be used for commercial purposes.~~
- (b) ~~Unless otherwise set forth in a franchise agreement, each grantee shall provide leased access channel capacity in accordance with federal law which may be used by local non-profit organizations, including religious organizations. The company may enter into a separate agreement outlining the terms for use of leased access channel capacity, at no cost to the public and on a nondiscriminatory, first come, first served basis, at least one channel for educational and governmental access use. If use of the channel is such that more than 24 hours of access programming per day is available, a grantee shall provide additional channel capacity of up to three access channels. As provided under the Cable Act, any unused time on access channels may be used by the grantee in its own discretion.~~
- (c) ~~Upon reasonable notice, the grantee shall make available a reasonable amount of space, lighting and a camera for use by members of the public for production of access programming. If technical personnel are needed to assist the access producers, the grantee shall make available, on a reasonable, limited basis, such personnel.~~
- (d) ~~The grantee's access channels and any studio, equipment or personnel provided pursuant to the requirements of this section shall be administered by the grantee pursuant to reasonable rules and regulations promulgated by the grantee. Such rules and regulations may include requirements relating to security deposits for equipment used, training prerequisites, charges for tape or other materials consumed by the access user, indemnification requirements, etc.~~

~~(Ord. of 9-8-87; Code 1977, § 3-8-28; Ord. of 4-29-99; Amd. of 2-25-14)~~

~~Sec. 22-29. Franchise agreement.~~

- ~~(a) Upon the grant of a franchise by the county to a grantee, the county and grantee shall execute a written franchise agreement reflecting the contractual nature of the grantee's franchise, the grantee's acceptance of the then current terms of this chapter, and any other specific terms applicable to that grantee's particular franchise. The franchise agreement shall incorporate any relevant commitments made in the grantee's application for a franchise or its renewal request. Subject to the county's necessary and lawful exercise of its police powers as evidenced by valid amendments to certain provisions of this chapter, a grantee's franchise rights and obligations may only be amended through a written amendment to the grantee's franchise agreement executed by both the county and grantee.~~
- ~~(b) Notwithstanding anything contained in this chapter to the contrary, with respect to grantees operating cable systems in the county on July 31, 1987, the county expressly waives those requirements of this chapter which are intended to apply to a new grantee not currently operating a cable system in the county on July 31, 1987, including, without limitation, certain parts of sections 22-4, 22-9 and 22-12.~~

~~(Ord. of 9-8-87; Code 1977, § 3-8-29)~~

~~Sec. 22-30. Public hearings.~~

~~Any public hearings required under the terms of this chapter shall be held in accordance with the county's existing requirements for public hearings, and such requirements shall be satisfied by the conduct of such hearing at a regularly scheduled and publicly announced meeting or work session of the board; provided, however, that there shall be no absolute requirement that members of the public be allowed to participate in such hearings. The extent of public participation at such hearings, if any, shall be decided by the board or, in the case of a hearing pursuant to section 22-27, by the board and grantee jointly.~~

~~(Ord. of 9-8-87; Code 1977, § 3-8-30)~~

~~Sec. 22-31. Judicial proceedings.~~

~~Notwithstanding anything to the contrary contained in this chapter or its franchise agreement, both the county and a grantee shall have all rights and remedies, in law or in equity, otherwise available to them in connection with the interpretation and enforcement of this chapter and the franchise agreement. The county's authority, actions or decisions shall not be accorded any more weight than those of a private party in any subsequent court proceedings involving the grantee's franchise.~~

~~(Ord. of 9-8-87; Code 1977, § 3-8-31)~~

Chapter 50 – ENVIRONMENT

ARTICLE III. – LAND DISTURBING ACTIVITIES

Section 50-71 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 50-71. – Definitions.

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

Applicant means a person submitting a land development application for approval.

Best Management Practices (BMPs) means both structural devices to store or treat stormwater runoff and non-structural programs and practices which are designed to prevent or reduce the pollution of the water of the State of Georgia a collection and wide range of structural practices and vegetative measures, in addition to stormwater management regulations, procedures, engineering designs, activities, prohibitions or practices, that when properly designed, installed and maintained, have been demonstrated to effectively control the quantity, quality and erosion and sedimentation associated with stormwater which are consistent with the requirements of the Manual for Erosion and Sediment Control in Georgia, specified in O.C.G.A. § 12-7-6(b), as amended, and the Georgia Stormwater Management Manual.

BMP Landscaping Plan means a design for vegetation and landscaping that is critical to the performance and function of the BMP including how the BMP will be stabilized and established with vegetation. It shall include a layout of plants and plant names (local and scientific).

Board means the Board of the Georgia State Department of Natural Resources.

Buffer means an area along the course of any streams as defined on the current county stream buffer map to be maintained in an undisturbed and natural condition to facilitate the protection of water quality and aquatic habitat and may include a restrictive covenant in favor of the county for conservation uses.

Certified Personnel means a person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.

Channel means a natural or artificial watercourse with a definite bed and banks that conveys conducts continuously or periodically flowing water.

CIP period means a capital improvement program year as determined by the Board of Commissioners.

Commission means the Georgia state Soil and Water Conservation Commission.

Conservation easement means an agreement between a land owner and the County or other government agency or land trust that permanently protects open space or greenspace on the owner's land by limiting the amount and type of development that can take place, but continues to leave the remainder of the fee interest in private ownership.

CPESC means a certified professional in erosion and sediment control with current certification by Certified Profession in Erosion and Sediment Control, Inc., a corporation registered in North Carolina, which is also referred to as CPESC or CPESC, Inc.

Cut means a portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface. Also known as excavation.

Department means the Cobb County Water System, or CCWS.

Design professional means a professional licensed by the State of Georgia in the field of engineering, architecture, landscape architecture, forestry, geology, or land surveying; or a person that is a certified professional in erosion and sediment control (CPESC) with a current certification by the Georgia Soil and Water Conservation Commission. ~~Certified Professional in Erosion and Sediment Control, Inc.~~

Detention means the temporary storage of stormwater runoff in a stormwater detention facility for the purpose of controlling the peak discharge.

Detention facility means a structure designed for the storage and gradual release of stormwater runoff at controlled rates. ~~permanent structure for the temporary storage of runoff which is designed so as not to create a permanent pool of water (or, designed for the detention of stormwater runoff and gradual release of stored water at controlled rates.)~~

Development or land development means, to the extent permitted by law, any of the following actions undertaken by a public or private individual or entity: The division of a lot, tract or parcel of land into two or more parcels or other divisions by plat or deed, or the combination or recombination of two or more lots, tracts or parcels of land into a lesser number of lots, plots, sites, tracts, parcels or other combinations by plat or deed. The term "development" shall also mean any land change, including, without limitation, clearing, grubbing, stripping, dredging, grading, excavating, transporting and filling of land.

Development agreement means a private, voluntary agreement between the county and the applicant as authorized by the Georgia Development Impact Fee Act (O.C.G.A. § 36-71-1 et seq.).

DNR means the State Department of Natural Resources.

Director means the director of the Cobb County Community Development Agency.

District means the County Soil and Water Conservation District.

Division means the Environmental Protection Division of the State Department of Natural Resources.

Drainage easement means an easement appurtenant or attached to a tract or parcel of land allowing the owner of adjacent tracts or other persons to discharge stormwater runoff onto the tract or parcel of land subject to the drainage easement

Drainage structure means a device composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point, or a structure for the retention or detention of stormwater runoff for stormwater management, drainage control or flood control purposes.

Easement means a grant or reservation by the owner of land for the use of such land by others for a specific purpose, and which must be included in the conveyance of land affected by such easement.

Ephemeral stream means a stream that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the groundwater table year-round; for which groundwater is not a source of water; and for which runoff from precipitation is the primary source of water flow.

Erosion means the process by which land surface is worn away by the action of wind, water, ice or gravity.

Erosion, Sedimentation and Pollution Control Plan means a plan required by the Erosion and Sedimentation Act, O.C.G.A. ch. 12-7, that includes, at a minimum, protections at least as stringent as the state general permit, best management practices, and requirements as stated in this chapter.

Extended detention means the storage detention of stormwater runoff for an extended period of time, typically 24 hours or greater.

Extreme flood protection means measures taken to prevent adverse impacts from large low-frequency storm events with a return frequency of 100 years or more.

Fill means a portion of land surface to which soil or other solid material has been added; the depth above the original grade.

Final Stabilization means all soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, 100 percent of the soil surface is uniformly covered in permanent vegetation with a density of 70 percent or greater, or equivalent permanent stabilization measures (such as the use of rip rap, gabions, permanent mulches or geotextiles) have been used. Permanent vegetation shall consist of: planted trees, shrubs, perennial vines; a crop of perennial vegetation appropriate for the time of year and region; or a crop of annual vegetation and a seeding of target crop perennials appropriate for the region. Final stabilization applies to each phase of construction.

Finished grade means the final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

Flooding means a volume of surface water that ~~exceeds is too great to be confined within~~ the banks or walls of a BMP, conveyance or stream channel; ~~and that overflows onto adjacent lands.~~

Georgia Stormwater Management Manual (GSMM) means the latest edition of the Georgia Stormwater Management Manual, Volume 2: Technical Handbook, and its Appendices. ~~or manual as amended from time to time, means the minimum guidelines of design, performance, and review criteria for stormwater management practices, as approved by the board of commissioners.~~

Grading means altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping, or any combination thereof, and shall include the land in its cut or filled condition.

Greenspace or "open space" means permanently protected areas of the site that are preserved in a natural state, except for necessary utility crossings.

Ground elevation means the original elevation of the ground surface prior to cutting or filling.

Hotspot means a land use or activity on a site that has the potential to produce higher than normally found levels of pollutants in stormwater runoff. As defined by the administrator, hotspot land use may include gasoline stations, vehicle service and maintenance areas, industrial facilities (both permitted under the Industrial Stormwater General Permit and others), material storage sites, garbage transfer facilities, and commercial parking lots with high-intensity use. an area where the use of the land has the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

Hydrologic soil group (HSG) means a natural resource conservation service classification system in which soils are categorized into four runoff potential groups. The groups range from group A soils, with high permeability and little runoff produced, to group D soils, which have low permeability rates and produce much more runoff.

Impervious Surface ~~cover or impervious area~~ means a surface composed of any material that significantly impedes or prevents the natural infiltration of water into the soil. Impervious surfaces include, but are not limited to, rooftops, buildings, streets and roads, and any concrete or asphalt surface.

Industrial ~~S~~stormwater General ~~P~~permit means thea Nnational Ppollutant Ddischarge Eelimination Ssystem (NPDES) permit issued by Georgia Environmental Protection Division to an industry or group of industries for stormwater discharges associated with industrial activity. The permit which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies based on Standard Industrial Classification (SIC) Code.

Infiltration means the process of percolating stormwater runoff into the subsoil. ~~passage or movement of water into the soil subsurface.~~

Inspection and maintenance agreement means a written agreement providing for the long-term inspection, operation, and maintenance of stormwater management systems facilities and its components practices on a site or with respect to a land development project, which when properly recorded in the deed records constitutes a restriction on the title to a site or other land involved in a land development project.

Issuing authority means the Cobb Ceounty Ceommunity Ddevelopment agency or its assigned or designated representative, which shall be responsible for administering this article and has been certified by the director of the Environmental ~~P~~rotection ~~D~~ivision of the ~~D~~epartment of ~~N~~atural ~~R~~esources as the issuing authority, pursuant to O.C.G.A. § 12-7-8(a).

Lake means a body of water one acre or more in surface area, created either by a manmade or natural dam or other means of water impoundment.

Land Development Application means the application for a land development permit on a form provided by the Cobb County along with supporting documentation as required.

Land Development Permit means the authorization necessary to begin construction related land disturbing activity.

Land Disturbing Activity means any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting and filling of land. Land disturbing activity does not include agricultural practices as described O.C.G.A. 12-7-17(5) or silvicultural land management activities as described in O.C.G.A 12-7-17(6) within areas zoned for these activities, but not including agricultural practices as described herein.

Larger common plan of development or sale means a contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this paragraph, "plan" means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.

Linear Feasibility Program means a feasibility program developed by Cobb County and submitted to the Georgia Environmental Protection Division, which sets reasonable criteria for determining when implementation of stormwater management standards for linear transportation projects being constructed by Cobb County is infeasible.

Linear Transportation Projects means construction projects on traveled ways including but not limited to roads, sidewalks, multi-use paths and trails, and airport runways and taxiways.

Local issuing authority means the governing authority of any county or municipality, which is certified pursuant to subsection (a) of O.C.G.A. § 12-7-8.

Local planning commission means the Cobb County Planning Commission.

Maintenance means any action necessary to preserve stormwater management facilities in proper working condition, in order to serve the intended purposes set forth in this article and to prevent structural failure of such facilities.

Manager is the Director of the Cobb County Water System or his/her designee.

Metropolitan North Georgia Water Planning District or MNGWPD means the organization created by the Georgia General Assembly in 2001 to develop comprehensive regional management plans for water, wastewater and watershed protection and to oversee the implementation of such plans.

Metropolitan River Protection Act (MRPA) means a state law referenced as O.C.G.A. § 12-5-440 et seq., which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.

MS4 Permit means the NPDES permit issued by Georgia Environmental Protection Division for discharges from the Cobb County municipal separate storm sewer system.

Natural ground surface means the ground surface in its original state before any grading, excavation or filling.

Nephelometric turbidity units (NTU) means numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed particles are present.

New development means land development activities, structural development (construction, installation or expansion of a building or structure), and/or creation of impervious surfaces on a previously undeveloped site.

NOI means a Notice of Intent form provided by EPD for coverage under the state general permit.

Nonpoint source pollution means a form of water pollution that does not originate from a discrete point such as a wastewater sewage treatment facility plant or industrial discharge, but involves the transport of pollutants such as sediment, fertilizers, pesticides, heavy metals, oil, grease, bacteria, organic materials and other contaminants from land to surface water and groundwater via mechanisms such as precipitation, stormwater runoff, and leaching. Nonpoint source pollution is a by-product of land use practices such as agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

Nonstructural stormwater management practice or nonstructural practice means any natural or planted vegetation or other nonstructural component of the stormwater management plan that provides for or enhances stormwater quantity and/or quality control or other stormwater management benefits, and includes, but is not limited to, riparian buffers, open and greenspace areas, overland flow filtration areas, natural depressions, and vegetated channels.

NOT means a Notice of Termination form provided by EPD to terminate coverage under the state general permit.

Off-site stormwater management facility means any facility outside the project boundary that is or will be used for transporting and management of stormwater runoff, including, but not limited to, culverts, detention ponds, storm drains, flumes and headwater pools. Easements for the purpose of transporting and management of stormwater runoff shall be obtained for any off-site facility with prior approval obtained from the Director manager of the Cobb County Wwater Ssystem.

On-site stormwater management means the design and construction of a facility necessary to control stormwater runoff within and for a single development.

On-site stormwater management facility means any facility within the project boundary used for the purpose of transporting or managing stormwater runoff, including, but not limited to, culverts, detention ponds, storm drains, flumes and headwater pools.

Operator means the party or parties that have:

- (1) Operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or
- (2) Day-to-day operational control of those activities that are necessary to ensure compliance with a stormwater pollution prevention plan/ erosion and sedimentation control plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the stormwater pollution prevention plan/ erosion and sedimentation control plan or to comply with other permit conditions.

Outfall means the location where stormwater in a discernible, confined and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into that receiving water.

Overbank flood protection means measures taken to prevent an increase in the frequency and magnitude of out-of-bank flooding (i.e. flow events that exceed the capacity of the channel and enter the floodplain), and that are intended to protect downstream properties from flooding for the two-year through 25-year frequency storm events.

Owner means the legal or beneficial owner of a site, including but not limited to, a mortgage or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation in control of the site.

Permanently protected means be protected from development in perpetuity (per O.C.G.A. § 44-5-60(c)) by the mandatory covenants or conservation easements in favor of the county for conservation uses.

Permit means the permit issued by the community development agency to the applicant which is required for undertaking any land development activity.

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the State, any interstate body or any other legal entity, agency, municipality or other political subdivision for the state, any interstate body or any other legal entity.

Phase or phased means sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.

Pond means a body of standing water less than one acre in surface area, created either by a natural dam, or other means of water impoundment.

Post-Construction Stormwater Management means stormwater best management practices that are used on a permanent basis to control and treat runoff once construction has been completed in accordance with a stormwater management plan.

Post-development means the conditions ~~refers to the time period, or the conditions that may reasonably be expected or anticipated to exist on site immediately, after completion of the proposed land development activity on a site as the context may require.~~

Practicability Policy means the latest edition of the Metropolitan North Georgia Water Planning District's Policy on Practicability Analysis for Runoff Reduction.

Pre-development means ~~refers to the time period, or the conditions that exist, on a site immediately before the implementation of the proposed development, prior to the commencement of a land development project and at the time that plans for the land development of a site are approved by the plan approving authority.~~ Where phased development or plan approval occurs (preliminary grading, roads

and utilities, etc.), the existing conditions at the time before ~~prior to~~ the first item being approved or permitted shall establish pre-development conditions.

Pre-development Hydrology means (a) for new development, the runoff curve number determined using natural conditions hydrologic analysis based on the natural, undisturbed condition of the site immediately before implementation of the proposed development, and (b) for redevelopment, the runoff curve number shall be determined by natural conditions for all disturbed areas and the existing conditions for those portions of the site that remain undisturbed, unless the existing development causes a negative impact on downstream property and/or County infrastructure.

Previously developed site means a site that has been altered by paving, construction, and/or land disturbing activity.

Preexisting stormwater management facility means any stormwater facility which may or may not have been physically installed but was required by this article or any prior ordinance.

Preliminary plat means the preliminary plat of subdivision submitted pursuant to the County's current subdivision regulations and such other development standards and as may be amended from time to time.

Project means the entire proposed development project regardless of the size of the area of land to be disturbed.

Properly designed means designed in accordance with the design requirements and specifications contained in the "Manual for Erosion and Sediment Control in Georgia" (manual) published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land disturbing activity was permitted and amendments to the manual as approved by the commission up until the date of NOI submittal.

Qualified personnel means any person who meets or exceeds the education and training requirements of O.C.G.A. § 12-7-19.

Roadway drainage structure means a bridge, culvert or flume composed of concrete, steel, plastic or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled way consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

Record survey means a final field survey which locates the visible surface features of a constructed stormwater facility on the ground but without locating nonvisible or subsurface features such as the actual route and elevation of buried pipe. Such nonvisible or subsurface features which are known to exist shall be located on the record survey in their reasonable respective locations.

Redevelopment means structural development (construction, installation, or expansion of a building or other structure), creation or addition of impervious surfaces, replacement of impervious surfaces not as part of routine maintenance, and land disturbing activities associated with structural or impervious development on a previously developed site. Redevelopment does not include such activities as exterior remodeling, a land development project on a previously developed site, but excludes ordinary maintenance activities, remodeling of existing buildings, resurfacing of paved areas, and exterior changes

~~or improvements which do not materially increase or concentrate stormwater runoff, or cause additional nonpoint source pollution.~~

Regional stormwater management means the design and construction of a facility necessary to control stormwater runoff within or without a development and for one or more developments.

Retention structure means a permanent structure that provides for the temporary storage of runoff and is designed to maintain a permanent pool of water.

Routine maintenance means activities to keep an impervious surface as near as possible to its constructed condition. This includes ordinary maintenance activities, resurfacing paved areas, and exterior building changes or improvements which do not materially increase or concentrate stormwater runoff, or cause additional nonpoint source pollution.

Runoff means stormwater runoff.

Sediment means solid material, both organic and inorganic, that is in suspension, is being transported or has been moved from its site of origin by air, water, ice or gravity as a product of erosion.

Sedimentation means the process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.

Site means an area of land where development is planned, which may include all or portions of one or more parcels of land. For subdivisions and other common plans of development, the site includes all areas of land covered under an applicable land development permit.

Slope means a degree of vertical deviation of surface from the horizontal, usually expressed in percent or degree.

Soil and water conservation district approved plan means an erosion and sedimentation control plan approved in writing by the county soil and water conservation district.

Stabilization means the process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent vegetative structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.

State ~~G~~eneral ~~P~~ermit means the ~~N~~ational ~~P~~ollution ~~D~~ischarge ~~E~~limination ~~S~~ystem (NPDES) general permit or permits for stormwater runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 USC Section 1251 et seq., and O.C.G.A. § 12-5-30(f).

State waters means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells and other bodies of surface or subsurface water, natural and artificial, lying within or forming a part of the boundaries of the state which are not entirely confined and retained completely upon the property of a single individual, partnership or corporation.

Stormwater better site design means nonstructural site design approaches and techniques that can reduce a site's impact on the watershed and can provide for nonstructural stormwater management. Stormwater better site design includes conserving and protecting natural areas and greenspace, reducing impervious cover and using natural features for stormwater management.

Stormwater concept plan means an initial plan for post-construction stormwater management at the site that provides the groundwork for the stormwater management plan including the natural resources inventory, site layout concept, initial runoff characterization, and first round stormwater management system design. ~~the overall proposal for a storm drainage system, including stormwater management structures, and supporting documentation as specified in the current county development standards and specifications for each proposed private or public development to the extent permitted by law.~~

Stormwater ~~design~~ management plan means the set of drawings and other documents that comprise all of the information and specifications for the systems, structures, concepts and techniques that will be used to control stormwater as required by the Georgia Stormwater Management Manual and the Cobb County Development Standards and Specifications and as part of the land development application.

Stormwater management means the collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner to prevent accelerated channel erosion, increased flood damage and/or degradation of water quality, and in a manner to enhance and ensure the public health, safety and general welfare.

Stormwater management assessment districts means any districts established by the ~~B~~oard of Commissioners where there are special assessments of property owners for the purpose of management and maintenance of stormwater.

Stormwater management facilities means those structures and facilities that are designed and constructed for the conveyance, collection, storage, transport, storage, treatment and disposal of stormwater runoff into and through the stormwater management system.

Stormwater Management Standards means those standards set forth in Section 50-106.

Stormwater management system means the entire set of non-structural site design features and structural BMPs for collection, conveyance, storage, infiltration, treatment, and disposal of stormwater runoff in a manner designed to prevent increased flood damage, streambank channel erosion, habitat degradation and water quality degradation, and to enhance and promote the public health, safety and general welfare. ~~structural and nonstructural stormwater management facilities and practices that are used to capture, convey and control the quantity and quality of the stormwater runoff from a site.~~

Stormwater Runoff means flow on the surface of the ground, resulting from precipitation.

Stormwater retrofit means a stormwater management practice designed for a currently developed site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

Stream means any stream, beginning at:

- (1) The location of a spring, seep, or groundwater outflow that sustains streamflow; or
- (2) A point in the stream channel with a drainage area of 25 acres or more; or

- (3) Where evidence indicated the presence of a stream in a drainage area of other than 25 acres, the county may require field studies to verify the existence or non existence of a stream.

Structural stormwater control means a structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow of such runoff.

Structural erosion and sedimentation control practices means practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss, including but not limited to riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps and land grading, etc. Such practices can be found in the publication Manual for Erosion and Sediment Control in Georgia.

Subdivider means a person providing or developing land so as to constitute subdivision.

Subdivision means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, legacy or building development, and includes all division of land involving a new street or a change in existing streets, and includes re-subdivision and, where appropriate to the context, relates to the process of subdividing or to the land or area subdivided. Provided, however, that the following are not included within this definition:

- (1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to the standards of the county.
- (2) Any subdivision of land for agricultural purposes, provided that no lots thereby produced contain less than ten acres each and have average widths of 400 feet or more. Also, where no new streets, roads or other rights-of-way are involved and where no residential, commercial or industrial development will follow.
- (3) A division or sale of land by judicial decree.
- (4) The sale or exchange of a parcel of land between owners of adjoining properties, provided that additional lots are not thereby created.
- (5) In those instances where the board of appeals grants a variance for a subdivision of property lacking the minimum public road frontage and an easement is necessary for ingress and egress to the property, there shall be a maximum of three lots permitted, a minimum of 80,000 square feet per lot, a minimum of 25 feet width easement, and the easement and the subdivided lots shall be platted and required to be recorded as restrictive covenants running with the land in the clerk's office, county superior court. The board of appeals shall not be authorized to grant a variance to this subsection.

Trout streams means all streams or portions of streams within the watershed as designated by the Game and Fish Division of the State Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. § 12-5-20 et seq. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but which are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

Undeveloped condition refers to the characteristics of the land surface prior to any development.

Vegetative erosion and sedimentation control measures means measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

- (1) Permanent seeding, sprigging or planting, producing long term vegetative cover;
- (2) Temporary seeding, producing short term vegetative cover; or
- (3) Sodding, covering areas with a turf of perennial sod-forming grass.

Such measures can be found in the publication Manual for Erosion and Sediment Control in Georgia.

Violation means any breach of the provisions of this article, including failure to obtain a land disturbance permit when required, failure to follow best management practices and violating NTU levels when BMPs were not followed.

Watercourse means any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

Wetlands means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, as determined by a qualified wetlands consultant or the U.S. Army Corps of Engineers. Wetlands generally include swamps, marshes, bogs, and similar areas.

Other Terms means terms used but not defined in this Article shall be interpreted based on how terms are defined and used in the Georgia Stormwater Management Manual (GSMM) and the Cobb County MS4 Permit.

Section 50-73 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 50-73. – Administration and enforcement.

The administration and enforcement of this article shall be by the Cobb County Community Development Agency in accordance with the Erosion and Sedimentation Control Act of 1975, O.C.G.A. § 12-7-1 et seq.

Section 50-74 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 50-74. – Exemptions.

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

- (1) Surface mining, as same is defined in O.C.G.A. § 12-4-72.
- (2) Granite and other quarrying in areas that do not generate runoff (i.e. the quarry pit area).
- (3) Such minor land disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences and other related activities, which result in minor soil erosion.
- (4) The construction of single-family residences that involve the creation of less than 5,000 square feet of impervious area, when such are not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and not otherwise exempted under this subsection; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in section 50-75 and this paragraph. For single-family residence construction covered by the provisions of this subsection, there shall be a buffer zone between the residence and any state waters classified as trout streams

pursuant to article 2 of chapter 5 of the Georgia Water Quality Control Act (O.C.G.A. § 12-5-20 et seq.). In any such buffer zone, no land disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the director of EPD may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of section 50-75 and the buffer zones provided by this section shall be enforced by the issuing authority.

- (5) Agricultural operations as defined in O.C.G.A. § 1-3-3, to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl or animals; the production of aquacultural, horticultural, dairy, livestock, poultry, eggs and apiarian products.
- (6) Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land disturbing or other activities otherwise prohibited in a buffer, as established in paragraphs (15) and (16) of section 50-75, no other land disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three years after completion of such forestry practices.
- (7) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture.
- (8) Any project involving the creation of less than 5,000 square feet of impervious ground cover; provided, however, that this exemption shall not apply to any land disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre or within 200 feet of the bank of any state waters, and for purposes of this subsection, "state waters" excludes channels and drainageways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year round; provided, however, that any person responsible for a project which involves, less than one acre, which involves land disturbing activity and which is within 200 feet of any such excluded channel or drainageway, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained in this subsection shall prevent the issuing authority from regulating any such project which is not specifically exempted by subsections (1), (2), (3), (4), (5), (6), (7), (9) or (10) of this section.
- (9) Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the ~~D~~epartment of ~~T~~ransportation, the state highway authority or the state tollway authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of ~~D~~epartment of ~~T~~ransportation or state tollway authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. § 12-7-7.1; and except where the ~~D~~epartment of ~~T~~ransportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the local issuing authority, the local issuing authority shall enforce

- compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violation by permit holders.
- (10) Any land disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission any utility under the regulatory jurisdiction of the federal energy regulatory commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, any utility under the regulatory jurisdiction of the federal energy regulatory commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violation by permit holders;
- (11) Any public water system reservoir.

Section 50-75 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 50-75. – Minimum requirements for erosion and sedimentation control using best management practices.

- (a) *General provisions.* Excessive soil erosion and resulting sedimentation can take place during land disturbing activities if requirements of this section and the NPDES general permit are not met. Therefore, plans for those land disturbing activities which are not excluded by this article shall contain provisions for application of soil erosion and sedimentation control measures and practices. The provisions shall be incorporated into the erosion and sedimentation control plans. Soil erosion and sedimentation control measures and practices shall conform to the minimum requirements of this section. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion and sedimentation pollution during all stages of any land disturbing activity and the NPDES general permit. Land disturbing activities that are exempted from obtaining a permit and preparing a plan (as listed in section 50-74) shall institute minimum soil erosion and sedimentation control measures.

With respect to development on properties with stream buffers (refer to subsections 50-75(b)15. and 16., below) any permit applications shall be required to include the following information:

- (1) A site plan showing:
- The location of all streams on the property;
 - Limits of required stream buffers and setbacks on the property;
 - Buffer zone topography with contour lines at no greater than five-foot contour intervals;
 - Delineation of forested and open areas in the buffer zone; and,
 - Detailed plans of all proposed land development in the buffer and of all proposed impervious cover within the setback;
- (2) A description of all proposed land development within the buffer and setback; and
- (3) Any other documentation that the Cobb County Community Development Agency may reasonably deem necessary for review of the application and to insure that the buffer zone ordinance is addressed in the approval process.
- (b) *Minimum requirements/BMPs.*

- (1) Best management practices as set forth in this article shall be required for all land disturbing activities. Proper design, installation and maintenance of best management practices shall constitute a complete defense to any action by the director or to any other allegation of noncompliance with subsection (b)(2) of this section or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to O.C.G.A. § 12-5-30(f), the Georgia Water Quality Control Act. As used in this subsection, the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. § 12-7-6(b).
- (2) A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed and maintained shall constitute a separate violation of any land disturbing permit issued by a local issuing authority or of any state general permit issued by the division pursuant to O.C.G.A. § 12-5-30(f), the Georgia Water Quality Control Act, for each day on which such discharge results in the turbidity of receiving waters being increased by more than 25 nephelometric turbidity units for waters supporting warm water fisheries or by more than ten nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the director. This paragraph shall not apply to any land disturbance associated with the construction of single family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five acres.
- (3) Failure to properly design, install or maintain best management practices shall constitute a violation of any land disturbing permit issued by a local issuing authority or of any state general permit issued by the division pursuant to O.C.G.A. § 12-5-30(f), the Georgia Water Quality Control Act, for each day on which such failure occurs.
- (4) The director of EPD may require, in accordance with regulations adopted by the board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur to verify that the minimum requirements in subsection (b)(2) are being met.
- (c) *General design principles.* The application of this section gives due consideration to the differences regarding requirements for development of commercial properties as opposed to those requirements for residential properties. The permittee and exempt persons who are required to comply with this article shall be required to provide protections at least as stringent as the state general permit and follow as a minimum best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resulting sedimentation which are consistent with and no less stringent than, those practices contained in the Manual for Erosion and Sediment Control in Georgia published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land disturbing activity was permitted, as well as the following:
 - (1) Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion.
 - (2) Cut-fill operations must be kept to a minimum.
 - (3) Development plans must conform to topography and soil type so as to create the lowest practical erosion potential.
 - (4) Whenever feasible, natural vegetation shall be retained, protected and supplemented.
 - (5) The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum. Development/construction shall be so scheduled and performed to allow for the required installation of temporary silt fence, construction of sediment basins, and other type best management practices prior to grading operations. Grading operations and best management practices must follow immediately thereafter.

- (6) Disturbed soil shall be stabilized as quickly as practicable, according to criteria set forth in the county development standards and specifications.
- (7) Temporary vegetation or mulching shall be employed to protect exposed critical areas during development.
- (8) Permanent vegetation and structural erosion control practices shall be installed as soon as practicable, according to criteria set forth in the county development standards and specifications.
- (9) To the extent necessary, sediment in runoff water must be trapped by the use of debris basins, sediment basins, silt traps or similar measures until the disturbed area is stabilized. As used in this subsection, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. § 12-7-1 et seq.
- (10) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping surface of fills.
- (11) Cuts and fills may not adversely impact adjoining property.
- (12) Fills shall not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners and in accordance with chapter 58 of this code.
- (13) Grading equipment must cross flowing streams by means of bridges or culverts, except when such methods are not feasible.
- (14) Land disturbing activity plans for erosion and sedimentation control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in this article.
- (15) Land disturbing activities in unincorporated Cobb County shall not be conducted within:
 - a. Twenty-five feet of the banks of any state waters not defined on the current county stream buffer map, and as measured from the point where vegetation has been wrested by normal stream flow or wave action, except where the director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director pursuant to O.C.G.A. § 12-2-8, or where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. Ephemeral streams do not require any type of undisturbed buffer.
 - b. Fifty feet of the banks of any stream in the county, as defined on the current county stream buffer map, and as measured from the point where vegetation has been wrested by normal stream flow or wave action where total watershed area (on site and off site area) intercepted is less than or equal to five square miles; except where the director determines to allow a variance that is at least as protective of natural resources and the environment. For the purposes of this section, at least as protective shall mean that there is no net decrease in the square footage of the county-mandated 50-foot buffer. Any request to allow a variance that would result in a net decrease in the square footage of the county-mandated 50-foot buffer must be approved by the Cobb County Board of Zoning Appeals in accordance with sections 134-34 and 134-94. An additional impervious setback shall be maintained for 25 feet, measured horizontally, beyond the undisturbed natural vegetative buffers, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback. Ephemeral streams do not require any type of undisturbed buffer.
 - c. Seventy-five feet of the banks of any stream in the county, as defined on the current county stream buffer map, and as measured from the point where vegetation has been wrested by normal stream flow or wave action where total watershed area (on site and off site area)

intercepted is equal to five square miles and less than or equal to ten square miles; except where the director determines to allow a variance that is at least as protective of natural resources and the environment. For the purposes of this section, at least as protective shall mean that there is no net decrease in the square footage of the county-mandated 75-foot buffer. Any request to allow a variance that would result in a net decrease in the square footage of the county-mandated 75-foot buffer must be approved by the Cobb County Board of Zoning Appeals in accordance with sections 134-34 and 134-94. Ephemeral streams do not require any type of undisturbed buffer.

- d. One hundred feet of the banks of any stream in the county, as defined on the current county stream buffer map, and as measured from the point where vegetation has been wrested by normal stream flow or wave action where total watershed area (on site and off site area) intercepted is greater than ten square miles; except where the director determines to allow a variance that is at least as protective of natural resources and the environment. For the purposes of this section, at least as protective shall mean that there is no net decrease in the square footage of the county-mandated 100-foot buffer. Any request to allow a variance that would result in a net decrease in the square footage of the county-mandated 100-foot buffer must be approved by the Cobb County Board of Zoning Appeals in accordance with sections 134-34 and 134-94. Ephemeral streams do not require any type of undisturbed buffer.
- e. Two hundred feet of the banks of Nickajack Creek, as defined on the current county stream buffer map, and as measured from the point where vegetation has been wrested by normal stream flow or wave action, from Church Road downstream to its confluence with Mill Creek No. 2 (Cross-Section AA according to effective Cobb County Flood Insurance Study dated August 18, 1992) and from Buckner Road downstream to its confluence with the Chattahoochee River except where the director determines to allow a variance that is at least as protective of natural resources and the environment. For the purposes of this section, at least as protective shall mean that there is no net decrease in the square footage of the county-mandated 200-foot buffer. Any request to allow a variance that would result in a net decrease in the square footage of the county-mandated 200-foot buffer must be approved by the Cobb County Board of Zoning Appeals in accordance with sections 134-34 and 134-94. Ephemeral streams do not require any type of undisturbed buffer.
- f. Per DNR Rule 391-3-16.01:
 1. For perennial streams tributary to Lake Allatoona and within a 7-mile radius of the Lake Allatoona reservoir boundary:
 - A buffer shall be maintained for a distance of 100 feet on both sides of the stream as measured from the stream banks.
 - No impervious surface shall be constructed within a 150-foot setback area on both sides of the stream as measured from the stream banks.
 - Septic tanks and septic tank drain fields are prohibited in the setback area of 2, above.
 2. For perennial streams tributary to the Chattahoochee River (including the Chattahoochee River upstream of the water supply intake at Johnson Ferry Road, or tributaries which enter the Chattahoochee River upstream of the water supply intake at Johnson Ferry Road) and which are within a seven-mile radius of the water supply intake at Johnson Ferry Road:
 - A buffer shall be maintained for a distance of 100 feet on both sides of the stream as measured from the stream banks.
 - No impervious surface shall be constructed within a 150-foot setback area on both sides of the stream as measured from the stream banks.
 - Septic tanks and septic tank drain fields are prohibited in the setback area of 2, above.

- g. Once established, a permanent natural undisturbed buffer, shall be recorded on all plats and revisions and/or property deeds which encumbers this property as undisturbed buffer area to all future property owners. Said buffer will also contain a restrictive covenant in favor of the county for conservation uses. The buffer shall be subject to exceptions set forth below and the county retains the right on a per case basis to grant variances.
- h. Exceptions to these buffers are as follows:
 - 1. Where a sewerline easement exists or must be constructed to serve the general public (this exception is not applicable to the state-mandated 25-foot buffer).
 - 2. Where the 100-year floodplain constricts within the buffer and "buffer averaging" is permitted such that the net buffer area is not reduced or the average buffer width conforms to the widths as outlined above (this exception is not applicable to the state-mandated 25-foot buffer).
 - 3. Where a roadway crossing occurs and the buffer must be constricted to allow construction of a bridge or a culvert. The state-mandated 25-foot buffer will apply in these areas for a distance of 50 feet upstream and downstream of the face of the bridge or culvert headwall.
 - 4. Where the director of ~~the Cobb County Community Development agency~~, or his assign(s) determine to allow a variance to the requirements greater than the state-mandated 25-foot buffer that is at least protective of natural resources and the environment, or where otherwise allowed pursuant to O.C.G.A. § 12-2-8. For the purposes of this section, at least as protective shall mean that there is no net decrease in the square footage of the required buffer that is greater than the state-mandated 25-foot buffer. Any request to allow a variance that would result in a net decrease in the square footage of the required buffer that is greater than the state-mandated 25-foot buffer must be approved by the Cobb County Board of Zoning Appeals in accordance with sections 134-34 and 134-94.
 - 5. Where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specification and are implemented; provided that buffers established pursuant to part 6 of article 5 of chapter 5 of the Metropolitan River Protection Act (O.C.G.A. § 12-5-440 et seq.) shall remain in force.
 - 6. The state-mandated 25-foot buffer shall not apply to the following land disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented:
 - (i) Stream crossings for water lines; or
 - (ii) Stream crossings for sewer lines.
 - i. The developer or property owner shall maintain ownership of the buffer areas. In instances of conflict between the buffers mandated by the Metropolitan River Protection Act and the buffers required by this article, the wider of the two required buffers shall apply.
 - j. The donation (or dedication) of land for stream buffers, outside any floodplain area, may be compensated for by allocating the density of the donated (or dedicated) land to the owner's remaining property, if so requested by the owner. The owner shall make the request to the director of ~~the Cobb County Community Development agency~~ and the request shall be processed in accordance with section 134-35.
- (16) Unless a larger buffer is specified on the current county stream buffer map, there is established a 50-foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to article 2 of chapter 5 of title 12, the "Georgia Water Quality Control

Act," except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25-foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the board of natural resources, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The director of EPD may grant a variance from such buffer to allow land disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. No land disturbing activities shall be conducted within a buffer described in paragraph (15) or (16) and a buffer shall remain in its natural, undisturbed, state of vegetation until all land disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation beyond the first 50 feet as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer beyond the first 50 feet at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; trimming and thinning of vegetation within the first 50 feet of a stream buffer is allowed with the approval of the director or the director's designee; this 50-foot buffer shall not apply to the following land disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented:

- a. Stream crossings for water lines; or
 - b. Stream crossings for sewer lines.
- (17) When a pond, either new or existing, is incorporated into a development, the developer shall note on his plans if the pond is to be used for sediment control and/or retention during construction. If the pond is to be used for sediment control, the developer or current title holder will be required to dredge, clean and grass the pond upon completion of construction of the project and prior to acceptance by the county. Further, sediment control devices shall be required to protect downstream property during construction.
- (18) Lakes, either new or existing, incorporated into a development shall not be used for sediment control and will be classified and used as adjacent property; hence, and therefore, siltation thereof will be treated as a violation of this article.
- (19) Hazardous conditions at sediment basins and floodwater retention structures shall be fenced and posted to avoid danger to life or property.
- (20) All erosion and sedimentation control measures, whether temporary or permanent, shall be maintained by the permittee or exempt person until the areas affected by such measures are permanently stabilized.

Section 50-76 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 50-76. – Application; plan requirements; permit process.

- (a) *General.* The landowner, developer and designated planner, architects and engineers shall review the general development plans and detailed plans of the unincorporated areas of the county that affect the tract to be developed and the area surrounding it. They shall review and comply with the

zoning regulations set forth in chapter 134, the subdivision regulations set forth in chapter 110, the flood damage prevention regulations set forth in chapter 58, the stormwater management concept and design requirements set forth in ~~division 2 of~~ article IV (stormwater management) of this chapter, the inspection and maintenance agreement requirements set forth in section 50-161, division 3 of article IV (stormwater management) of this chapter, and other county ordinances which regulate the development of land within the boundaries of the unincorporated areas of the county. All design related to stormwater management under this article and all subsequent articles set forth in chapter 50 shall conform with the technical guidelines and requirements set forth in the latest edition of the Georgia Stormwater Management Manual (Volumes 1, 2 and 3) and any relevant local addenda.

(b) *Application requirements.*

- (1) No person shall conduct any land disturbing activity within the confines of the unincorporated areas of the county without first obtaining a permit, where required, from the issuing authority of the unincorporated areas of the county to perform such activity and providing a copy of the notice of intent submitted to the Georgia E.P.D, if applicable. A land disturbance permit for clearing and grading projects may only be obtained if such projects are part of a complete site/project plan review and approval (allowing for clearing and grading only phases, including a time table for final completion). Any clearing and grading activities permitted under this section shall comply with the provisions found in article VI of this chapter. In no event shall any portion of this section be interpreted in any manner to reduce or diminish the use or density of any project where the county board of commissioners has approved such use or density.
- (2) The application for a permit shall be submitted to the local issuing authority. Applications for permits will not be accepted unless accompanied by nine copies of the applicant's soil erosion and sedimentation and pollution control plan. These plans shall include, as a minimum, the data specified in subsection (c) of this section. Soil erosion and sedimentation and pollution control plans shall conform to the provisions of section 50-75. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan in accordance with EPD Rule 391-3-7-10 or that such a visit was not required in accordance with rules and regulations established by the board.

(c) *Plan requirement.*

- (1) *Standards and specifications.* Plans for land disturbing activities shall contain soil erosion and sedimentation control measures and practices which conform to the publication entitled Manual for Erosion Control in Georgia or equivalent publication which is on file in the office of the issuing authority. The publication is hereby incorporated by reference in this article. The plan for the land disturbing activity shall consider the interrelationship of the soil types, geological, and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and stormwater management facilities, local ordinances, and state laws.
- (2) *Data required.* The applicant's erosion and sedimentation control plan shall include, as a minimum, the following information for the entire tract of land to be disturbed, whether or not the tract will be developed in stages:
 - a. Name, address, fax number, and phone number of applicants.
 - b. Name, phone number, and fax number of the 24-hour project manager and an alternate, who can be served with notice.
 - c. Name, phone number, and fax number of 24-hour erosion sediment control company or individual.
 - d. Certification number of company or individual responsible for design, installation, and maintenance of erosion sediment control devices. After December 31, 2006, all persons involved in land development design, review, permitting, construction, monitoring, or

inspection of any land disturbing activity shall meet the education and training certification requirements as developed by the commission pursuant to O.C.G.A. § 12-7-20.

- e. Certification must be renewed and an approved course taken every two years.
 - f. A narrative description of the overall project. This narrative shall include:
 - 1. Description of existing land use of project site and description of proposed project, including size of project, or phase under construction, in acres. An anticipated starting and completion date of each sequence and stage of land disturbing activities and the expected date the final stabilization will be completed.
 - 2. A description of the sediment control program and sediment control practices.
 - 3. An adequate description of the general topographic and soils conditions of the tract as available from the district conservationist or the county soil and water conservationist of the county soil and water conservation district.
 - 4. Activity schedule showing anticipated starting and completion dates for the project, including a statement in bold letters that "the installation of erosion and sedimentation control measures and practices shall occur prior to or concurrent with land disturbing activities."
 - 5. A description of the maintenance program for sedimentation control facilities, including inspection programs, vegetative establishment of exposed soils, etc.
 - 6. Engineer's erosion control certification in a form as prescribed by the director of the Cobb County Community Development agency.
 - 7. All information required from the appropriate Erosion, Sedimentation and Pollution Control Plan Review Checklist established by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land disturbance permit was issued.
- (3) *Visual materials and computations.* Maps, drawings and supportive computations shall bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying, or erosion and sedimentation control. After December 31, 2006, all persons involved in land development design, review, permitting, construction, monitoring, or inspection of any land disturbing activity shall meet the education and training certification requirements, as developed by the commission pursuant to O.C.G.A. § 12-7-20, showing the following:
- a. A site location drawing of the proposed project, indicating the location of the proposed project in relation to roadways, residential areas, jurisdictional boundaries, streams and rivers, limits of stream buffers and property setbacks, detailed plans of all proposed land development in the stream buffer, limits and square footage areas of all proposed impervious cover within the setback, description of all proposed land development within the stream buffer and setback, 100-year floodplains and designated trout streams, any other documentation that ~~the Cobb County Community Development department~~ may reasonably deem necessary for review of the application and to insure that the stream buffer ordinance is addressed in the approval process.
 - b. A boundary line survey of the site on which the work is to be performed including graphic scale and north point or arrow indicating magnetic north.
 - c. A topographic map containing contours at an interval and scale that will depict the existing and finished grades (in accordance with a one-foot contour interval for tracts with a zero to two percent ground slope, 1:100 or larger scale; a one-foot or two-foot contour interval for tracts with a two to eight percent ground slope, 1:100 or larger scale; a two-foot, five-foot, or ten-foot contour interval for tracts with an eight percent or greater ground slope, 1:100 or larger scale), existing and proposed watercourses, location and delineation of all buffers and proposed features of the development.

- d. Vegetative plans for all temporary and permanent vegetative measures, including species, planting date, seeding, fertilizer and mulching rates. The vegetative plan should show options for year-round seeding.
 - e. Detail drawings for all structural practices. Specifications may follow guidelines set forth in the Manual for Erosion and Sediment Control in Georgia.
 - f. Stormwater management ~~program if proposed, including the effect, if any, on downstream facilities and downstream properties~~ plan prepared in accordance with Section 50-130(d); a certification that the development will be performed in accordance with the stormwater management plan once approved; a Preliminary Determination of Infeasibility, as applicable, prepared in accordance with the practicability policy, and an acknowledgement that the applicant has reviewed Cobb County's form of inspection and maintenance agreement and that the applicant agrees to sign and record such inspection and maintenance agreement prior to the final inspection or issuance of a certificate of occupancy.
 - g. Major topographic features, streams, existing soil types and vegetation.
 - h. Delineation of disturbed areas within project boundary.
 - i. Location identified by appropriate coding symbols as shown in the Manual for Erosion and Sedimentation Control in Georgia or other appropriate publication.
 - j. Details should describe installation procedures.
 - k. Computations, timing schedules and other supportive data required for review of applicant's plan.
 - l. Sediment and stormwater, where applicable, management systems including storage capacity, hydrologic study and calculations, including off-site drainage areas.
 - m. Proposed structures or additions to existing structures and paved areas.
 - n. All plans must contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan in accordance with EPD Rule 391-3-7-10 or that such a visit was not required in accordance with rules and regulations established by the board.
- (4) *Maintenance.*
- a. Maintenance of all soil erosion and sedimentation control practices, whether temporary or permanent, shall be at all times the responsibility of the owner. It shall be the responsibility of the owner or his/her designee to post a maintenance log on site at all times. Said log will be posted on site with the land disturbance permit from the issuing authority. Said log must also be initialed on a weekly basis by the owner or his/her designee to indicate compliance with best management practices and the approved maintenance schedule.
 - b. All plans must contain the following maintenance statement: "Erosion control measures will be maintained at all times. If full implementation of the approved plan does not provide for effective erosion and sediment control, additional erosion and sedimentation control measures will be installed if deemed necessary by on-site inspection. On-site inspectors may add items to plans as necessary. On-site inspectors may delete items from plans subject to approval by the director of Cobb County Community Development or his/her designee".
- (d) *Permits.*
- (1) *Permits issuance or denial.* A permit is issued after the issuing authority has determined that the plan for erosion and sedimentation control complies with the requirements of section 50-75, the stormwater management plan complies with Article IV and after the issuing authority has affirmatively determined that the plan complies with all ordinances, rules and regulations in effect within the unincorporated areas of the county. Permits will be issued or denied as soon

as practical after the permit is filed with the issuing authority. If the permit is denied, the reasons for the denial shall be furnished to the applicant.

- (2) *Staged developments.* If the tract is to be developed in stages, then a separate permit shall be required for each phase.
- (3) *Suspensions, revocation or modification of permit.* The permit may be suspended, revoked or modified by the issuing authority, as to all or any portion of the land affected by the plan, upon a finding that the holder or his successor in title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this article or any ordinance, resolution, rule or regulation adopted or promulgated pursuant to this article. The holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.
- (4) *Responsibility.* Neither the issuance of the permit nor compliance with the conditions thereof, nor with the provisions of this article, shall relieve any person of any responsibility otherwise imposed by law for damage of persons or property; nor shall the issuance of any permit pursuant to this article serve to impose any liability upon the county, its officers, board members or employees, for injury or damage to persons or property. The permit issued pursuant to this article does not relieve the applicant of the responsibility of complying with any other county ordinance or state law.
- (5) *Special conditions.* A permit issued by the issuing authority shall specify any special conditions under which the land disturbing permit may be undertaken.
- (6) *Fees.* In addition to the local permitting fees, fees will also be assessed pursuant to O.C.G.A. § 12-5-23(a)(5), provided that such fees shall not exceed \$80.00 per acre of land disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to OCGA § 12-7-8(a), half of such fees levied shall be submitted to the division; except that any and all fees due from an entity which is required to give notice pursuant to O.C.G.A. § 12-7-17(9) and (10) shall be submitted in full to the division, regardless of the existence of a local issuing authority in the jurisdiction.

Section 50-78 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 50-78. – Penalties and incentives.

- (a) *Failure to obtain a permit for land disturbing activity.* If any person commences any land disturbing activity requiring a land disturbing permit as prescribed in this article without first obtaining the permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the local issuing authority.
- (b) *Stop work orders.* For the first and second violations of the provisions of this article, the director or the local issuing authority shall issue a written warning to the violator. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the director or the local issuing authority shall issue a stop work order requiring that land disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land disturbing activities are conducted without obtaining the necessary permit, the director or local issuing authority shall issue an immediate stop work order in lieu of a warning; for a third and each subsequent violation, the director or local issuing authority shall issue an immediate stop work order; and all stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary

corrective action or mitigation has occurred. When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the local issuing authority or by the director or his/her designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed and maintained, a stop work order shall be issued by the local issuing authority or by the director or his/her designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land disturbing activities on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.

- (c) *Notice of noncompliance.* If, through inspection, it is determined that the person engaged in land disturbing activities has failed to comply with the approved plan or failed to comply with the applicable general design principles of subsection 50-75(c), a written notice to comply shall be served upon that person. The notice shall set forth the measures to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land disturbing activity fails to comply within the time specified, he shall be deemed in violation of this article and deemed to have forfeited any required performance security if required to post one under the provisions of section 50-75. The issuing authority may call the performance security or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land disturbing activity and bring it into compliance.
- (d) *Withhold certificate of occupancy.* The Cobb County Community Development ~~department~~ may refuse to issue a certificate of occupancy for the build[ing] or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of noncompliance or has otherwise cured the aspects of noncompliance described therein.
- (e) *Suspension, revocation or modification of permit.* The Cobb County Community Development ~~department~~ may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of noncompliance or has otherwise cured the aspects of noncompliance described therein, provided such permit may be reinstated (upon such conditions as the Cobb County Community Development ~~department~~ may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such aspects of noncompliance.
- (f) *Civil monetary penalties.* Any person violating any provision of this article, permitting conditions or stop work order shall be liable for a civil penalty or fine not to exceed \$2,500.00 per day, but in no event less than \$300.00. There shall be a minimum penalty of \$300.00 per day for each violation involving the construction of a single-family dwelling by or under contract with the owner for his or her own occupancy; and there shall be a minimum penalty of \$1,000.00 per day for each day for each violation involving land disturbing activities other than as provided above. Each day the violation continues shall constitute a separate offense. Any civil penalties imposed pursuant to this article shall be payable to the county, shall commence on the date of issuance of any stop work order or other notice of noncompliance and shall not be affected by the filing of any appeal; however, an appellant may, upon filing an appeal, post an appeal bond with the issuing authority in an amount equal to double the cost of any and all corrective work to be determined by the issuing authority; further, any civil penalty imposed pursuant to this article may, at the discretion of the issuing authority, be waived or reduced if, in the discretion of the issuing authority, the violator has taken sufficient and timely curative and corrective action. No inspections, certificate of occupancies, building permits or soil erosion permits will be granted to any person who has an outstanding fine for violating this article. Any person who violates any provisions of this article, the rules and regulations adopted pursuant

hereto, or any permit condition or limitation established pursuant to this article or who negligently or intentionally fails or refuses to comply with any final or emergency order of the director issued as provided in this article shall be liable for a civil penalty not to exceed \$2,500.00 per day.

- (g) *Criminal penalties.* For intentional and flagrant violations of this ordinance, the Cobb County ~~Community Development department~~ may issue a citation or accusation returnable to the magistrate court of the county. Notwithstanding any limitation of law as to penalties, which can be assessed for violations of county ordinances, the magistrate court of the county shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation or imprisonment for up to 60 days or both. Each day the violation continues shall constitute a separate offense.

Chapter 50, Article IV of the Official Code of Cobb County, Georgia, is amended to read as follows:

ARTICLE IV. – POST-CONSTRUCTION STORMWATER MANAGEMENT FOR NEW DEVELOPMENT AND REDEVELOPMENT STORMWATER MANAGEMENT
DIVISION 1. – GENERALLY

Section 50-102 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 50-102. – Purpose and intent.

The purpose of this article is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects ~~results~~ of increased post-construction stormwater runoff and nonpoint source pollution associated with new development and redevelopment ~~both future land development and existing developed land within the county.~~ Proper management of post-construction stormwater runoff will minimize damage to public and private property, and infrastructure, safeguard the public health, safety, environment and general welfare of the public, and protect water and aquatic resources. Additionally, the County is required to comply with several State and Federal laws, regulations and permits and the requirements of the Metropolitan North Georgia Water Planning District's regional water plan related to managing the water quality, velocity, and quality of post-construction stormwater runoff. ~~reduce the effects of development on land and stream channel erosion, assist in the attainment and maintenance of water quality standards and reduce local flooding.~~ The application of this article and the provisions expressed in this article shall be the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other powers granted by State statute. The Cobb County ~~W~~water ~~S~~system shall be responsible for the coordination and enforcement of the provisions of this article.

Section 50-103 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 50-103. – Effective Date.

This article shall take effect upon adoption by the ~~B~~board of ~~C~~commissioners.

The Official Code of Cobb County, Georgia, is amended by adding Section 50-103.1, to read as follows:

Section 50-103.1. – Adoption and implementation of the GSMM; conflicts and inconsistencies.

- (a) In implementing this Article, Cobb County shall use and require compliance with all relevant design standards, calculations, formulas, methods, and other guidance from the GSMM as well as all related appendices.
- (b) This Article is not intended to modify or repeal any other Article, ordinance, rule, regulation or other provision of law, including but not limited to any applicable stream buffers under state and local laws,

and the Georgia Safe Dams Act and Rules for Dam Safety. In the event of any conflict or inconsistency between any provision in the County's MS4 permit and this Article, the provision from the MS4 permit shall control. In the event of any conflict or inconsistency between any provision of this Article and the GSMM, the provision of this Article shall control. In the event of any other conflict or inconsistency between any provision of this Article and any other ordinance, rule, regulation or other provision of law, the provision that is more restrictive or imposes higher protective standards for human health or the environment shall control.

- (c) If any provision of this Article is invalidated by a court of competent jurisdiction, such judgement shall not affect or invalidate the remainder of this Article.

The Official Code of Cobb County, Georgia, is amended by adding Section 50-103.2, to read as follows:

Section 50-103.2. – Designation of administrator.

The Director of the Cobb County Water System, or his / her designee, shall be the Administrator of this Article.

Section 50-105 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 50-105. – Applicability criteria for stormwater management standards~~Scope of article.~~

This Article applies to the following:

- (a) No person shall develop any land without having provided for appropriate stormwater management measures that control or manage runoff, in compliance with this article.
- (b) This Article shall be applicable to all land development, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to subsection (2) below. These standards apply to any new development or redevelopment site that meets one or more of the following criteria:
 - (1) ~~New development that creates or adds involves the creation of 5,000 square feet or greater more of new impervious surface area cover, or that involves other land disturbing development activities of one acre of land or greater, or more;~~
 - (2) ~~Redevelopment (excluding routine maintenance and exterior remodeling) that creates, adds, or replaces includes the creation, addition or replacement of 5,000 square feet or greater more of new impervious surface area cover, or that involves other land disturbing development activity of one acre or more;~~
 - (3) ~~New development and redevelopment if Any new development or redevelopment, regardless of size, that is defined by the manager to be a hotspot land use; or,~~
 - (a) Such new development or redevelopment is part of a subdivision or other common plan of development, and;
 - (b) The sum of all associated impervious surface area or land disturbing activities that are being developed as part of such subdivision or other common plan of development meets or exceeds the threshold in (1) and (2) above;
 - (4) Any commercial or industrial new development or redevelopment, regardless of size, that is a hotspot land use or activity as defined in this Article; and
 - (5) Linear transportation projects that exceed the threshold in (1) or (2) above.
 - (6) Land development activities that are smaller than the minimum applicability criteria set forth in items (a) and (b) above if such activities are part of a larger common plan of development, even though multiple, separate and distinct land development activities may take place at different times on different schedules.

Section 50-106 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 50-106. – Exemptions from ~~article~~ Stormwater Management Standards.

The following development activities are exempt from the provisions of this article and the requirements of providing stormwater management:

- (1) Land disturbing activity conducted by local, state, authority, or federal agencies, solely to respond to an emergency need to protect life, limb, or property or conduct emergency repairs; Agricultural land management activities.
- (2) Land disturbing activity that consist solely of cutting a trench for utility work and related pavement placement. Additions or modifications to existing detached single family dwellings.
- (3) Land disturbing activity conducted by local, state, authority, or federal agencies, whose sole purpose is to implement stormwater management or environmental restoration. Developments that do not create more than 5,000 square feet of impervious area.
- (4) Residential developments consisting of single-family dwellings, each on a lot of 80,000 square feet or more, so long as the total impervious area on each lot is less than 5,000 square feet.
- (5) Repairs to any stormwater management facility or practice deemed necessary by the County ~~M~~anager;
- (6) Agricultural practices as described O.C.G.A. 12-7-17(5) within areas zoned for these activities with the exception of buildings or permanent structures that exceed the threshold in Sec. 50-105(b)(1) or (2);
- (7) Silvicultural land management activities as described O.C.G.A. 12-7-17(6) within areas zoned for these activities with exception of buildings or permanent structures that exceed the threshold in Sec. 50-105(b)(1) or (2)
- (8) Installation or modifications to existing structures solely to implement Americans with Disabilities Act (ADA) requirements, including but not limited to elevator shafts, handicapped ramps and parking, and enlarged entrances or exits; and
- (9) Linear transportation projects being constructed by the County to the extent the administrator determines that the stormwater management standards may be infeasible to apply, all or in part, for any portion of the linear transportation project. For this exemption to apply, an infeasibility report that is compliant with the County linear feasibility program shall first be submitted to the administrator that contains adequate documentation to support the evaluation for the applicable portion(s) and any resulting infeasibility determination, if any, by the administrator.

The Official Code of Cobb County, Georgia, is amended by adding Section 50-106.1, to read as follows:

Section 50-106.1. – Stormwater management standards.

Subject to the applicability criteria in Section 50-105 and exemptions in Section 50-106, the following stormwater management standards apply. Additional details for each standard can be found in the GSMM Section 2.2.2.2:

- (a) Design of Stormwater Management System: The design of the stormwater management system shall be in accordance with the applicable sections of the GSMM and as well as the Cobb County Development Standards as directed by the administrator. Any design which proposes a dam shall comply with the Georgia Safe Dams Act and Rules for Dam Safety as applicable.
- (b) Natural Resources Inventory: Site reconnaissance and surveying techniques shall be

used to complete a thorough assessment of existing natural resources, both terrestrial and aquatic, found on the site. Resources to be identified, mapped, and shown on the Stormwater Management Plan, shall include, at a minimum (as applicable):

- (i) Topography (minimum of 2-foot contours) and Steep Slopes (i.e., Areas with Slopes Greater Than 15%),
- (ii) Natural Drainage Divides and Patterns,
- (iii) Natural Drainage Features (e.g., swales, basins, depressional areas),
- (iv) Natural feature protection and conservation areas such as wetlands, lakes, ponds, floodplains, stream buffers, drinking water wellhead protection areas and river corridors,
- (v) Predominant soils (including erodible soils and karst areas), and
- (vi) Existing predominant vegetation including trees, high quality habitat and other existing vegetation.

(c) Better Site Design Practices for Stormwater Management: Stormwater management plans shall preserve the natural drainage and natural treatment systems and reduce the generation of additional stormwater runoff and pollutants to the maximum extent practicable. Additional details can be found in the GSMM Section 2.3.

(d) Stormwater Runoff Quality/Reduction: Stormwater Runoff Quality/Reduction shall be provided by using the following:

(i) For development with a stormwater management plan submitted before December 31, 2020 the applicant may choose either (A) Runoff Reduction or (B) Water Quality.

(ii) For development with a stormwater management plan submitted on or after December 31, 2020, the applicant shall choose (A) Runoff Reduction and additional water quality shall not be required. To the extent (A) Runoff Reduction has been determined to be infeasible for all or a portion of the site using the Practicability Policy, then (B) Water Quality shall apply for the remaining runoff from a 1.2 inch rainfall event and must be treated to remove at least 80% of the calculated average annual post-development total suspended solids (TSS) load or equivalent as defined in the GSMM.

(A) Runoff Reduction - The stormwater management system shall be designed to retain the first 1.0 inch of rainfall on the site using runoff reduction methods, to the maximum extent practicable.

(B) Water Quality - The stormwater management system shall be designed to remove at least 80% of the calculated average annual post-development total suspended solids (TSS) load or equivalent as defined in the GSMM for runoff from a 1.2 inch rainfall event.

(iii) If a site is determined to be a hotspot as detailed in Section 50-71, the County may require the use of specific or additional components for the stormwater management system to address pollutants of concern generated by that site.

(e) Stream Channel Protection: Stream channel protection shall be provided by using all of

the following three approaches:

- (A) 24-hour extended detention storage of the 1-year, 24-hour return frequency storm event;
- (B) Erosion prevention measures, such as energy dissipation and velocity control; and
- (C) Preservation of any applicable stream buffer.

(f) Overbank Flood Protection: Downstream overbank flood protection shall be provided by controlling the post-development peak discharge rate to the pre-development rate for the 25-year, 24-hour storm event. This requirement may be adjusted or waived by the manager for sites where the post-development downstream analysis shows that uncontrolled post-development conditions will not increase downstream peak flows, or that meeting the requirement will cause greater peak flow downstream impacts than the uncontrolled post-development conditions.

(g) Extreme Flood Protection: Extreme flood protection shall be provided by controlling the 100-year, 24-hour storm event such that flooding is not exacerbated. This requirement may be adjusted or waived by the manager for sites where the post-development downstream analysis shows that uncontrolled post-development conditions will not increase downstream peak flows, or that meeting the requirement will cause greater peak flow downstream impacts than the uncontrolled post-development conditions.

(h) Downstream Analysis: Due to peak flow timing and runoff volume effects, some structural components of the stormwater management system may fail to reduce discharge peaks to pre-development levels downstream from the site. A downstream peak flow analysis shall be provided to the point in the watershed downstream of the site or the stormwater management system where the area of the site comprises 10% of the total drainage area in accordance with Section 3.1.9 of the GSMM. This is to help ensure that there are minimal downstream impacts from development on the site. The downstream analysis may result in the need to resize structural components of the stormwater management system.

(i) Stormwater Management System Inspection and Maintenance: The components of the stormwater management system that will not be dedicated to and accepted by the County, including all drainage facilities, best management practices, credited conservation spaces, and conveyance systems, shall have an inspection and maintenance agreement to ensure that they continue to function as designed. All new development and redevelopment sites are to prepare a comprehensive inspection and maintenance agreement for the on-site stormwater management system. This plan shall be written in accordance with the requirements in Section 50-141.1.

Section 50-107 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 50-107. – Variance and appeal procedures.

The County Manager shall sit in a quasi-judicial capacity to hear and decide all appeals and requests for variance from the requirements of this article upon written application filed with the county water system manager and with the County Manager. The following procedures shall apply to all applications:

- (1) Appeals.

- a. Any person aggrieved by a decision of the manager in the interpretation and administration of this article may appeal by filing a written application of appeal with the manager and Ceounty Mmanager within ten days of the issuance of such decision by the manager.
 - b. The Ceounty Mmanager shall hear and decide appeals only when it is alleged there is an error in any requirement, decision or determination made by the manager in the enforcement or administration of this article.
 - c. The application for appeal shall state the specific reasons why the decision of the manager is alleged to be in error.
 - d. Within ten days of receipt of the application of appeal, the manager shall prepare and serve upon the appellant a response to the application for appeal.
- (2) *Request for variance.* All requests for variance shall be in the form of a written application and shall state the specific variance sought and jurisdiction thereof. Such request shall include descriptions, drawings, calculations and any other information necessary in the opinion of the Ceounty Mmanager to evaluate the proposed variance. The Ceounty Mmanager may demand any and all information necessary for proper consideration of the application and the Ceounty Mmanager may deny the application when such information is not produced in a timely fashion.
- (3) *Hearings.* The Ceounty Mmanager shall hear any application filed pursuant to this section within 45 days from the date the written application is received by the manager, or at such other time as may be mutually agreed upon in writing by the appellant, manager and concurrence of the Ceounty Mmanager. Each party to the action, attorney or representative shall be entitled to participate in the hearing before the Ceounty Mmanager as informally as compatible with justice.
- (4) *Variance considerations.* In reviewing applications for variances, the Ceounty Mmanager shall consider, including but not limited to, all technical evaluations, all relevant factors, all standards specified in other sections of this article, and:
- a. The danger to life and property due to flooding or erosion damage.
 - b. The importance of the services provided by the proposed facility to the community.
 - c. The necessity of the facility to a waterfront location, in the case of a functionally dependent facility.
 - d. The availability of alternative locations for the proposed use.
 - e. The compatibility of the proposed use with existing and anticipated development.
 - f. The relationship of the proposed use to the comprehensive plan and floodplain management and stormwater management programs for that area.
 - g. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - h. The cost of providing governmental services during and after emergency conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) *Granting variances.*
- a. The Ceounty Mmanager, in specific cases, shall be authorized to grant a variance from the terms of this article as will not be contrary to public interest where, owing to special conditions, a literal enforcement of the provisions of this article will in an individual case result in unnecessary hardship, so that the spirit of this article shall be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in such individual case of unnecessary hardship upon a finding by the Ceounty Mmanager that:
 1. The variance is the minimum necessary, considering the impact on upstream and downstream properties.
 2. A finding by the Ceounty Mmanager of the following:

- i. A show of good and sufficient cause.
 - ii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense; create a nuisance; cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- b. Variances from the requirements of this article which are so great that they constitute a waiver of the stormwater management requirements for an individual development may be granted only if the applicant can conclusively demonstrate that:
1. The proposed development will not generate more than a ten percent increase in the predevelopment peak discharge rate of any storm with a statistical occurrence equal to or greater than one percent in any given year and will not cause an adverse impact on the receiving wetland, watercourse, downstream property or water body; or
 2. A site is completely surrounded by existing developed areas which are served by an existing network of public storm drainage systems of adequate capacity to accommodate the runoff from the additional development.
- (6) *County manager findings.* Within 45 days after hearing the appeal, the County Manager shall give written notice to the applicant specifying the findings thereof and any stipulations attached thereto.
- (7) *Maintenance of records.* The manager or his designee shall maintain the records of all appeal and variance actions.
- (8) *Appeals to superior court.* Any persons severally or jointly aggrieved by any decision of the County Manager may take an appeal to superior court. Such appeal to the superior court shall be the same as an appeal to the superior court from any decision made by the magistrate court, except, however, that such appeal shall be filed 30 days from the date of the decision of the County Manager, and upon failure to file such appeal within 30 days, the decision of the County Manager shall be final; provided, however, that, on appeal, such case shall be heard by the judge of superior court without a jury, unless one of the parties files a written demand for a jury trial within 30 days from the filing of the appeal.

Section 50-113 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 50-113. – Violations, enforcement and penalties.

- (a) *Inspections.* The manager, or his designee, may cause inspections of work under this article to be made periodically during the course thereof and shall make final inspection following completion of the work. The applicant shall assist the manager, or his designee, in making such inspections. Subject to constitutional limitations, the manager shall have the power to conduct such investigations as he may reasonably deem necessary to carry out his duties as prescribed in this article, and for that purpose to enter at reasonable times upon the property, public or private, for the purpose of investigating and inspecting the sites of any permittee. No person shall refuse entry or access to any authorized representative or agent who requests entry for purposes of inspection and who presents appropriate credentials; nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.
- (b) *Notice of noncompliance.* If, through inspection, it is determined that a permittee under this article has failed to comply with the terms and conditions of the permit, written notice to comply shall be served upon the permittee. Where a party is engaged in activity covered by this article without having first secured a permit therefor, all notices under the provisions of this article may be served upon the persons in charge on site. The notice shall set forth the measures necessary to achieve

compliance with the permit or with this article, and shall state the time within which such measures must be completed. If the person engaged in the activity fails to comply within the time specified, he shall be deemed in violation of this article.

The notice of noncompliance shall contain:

- The name and address of the owner or the applicant or the responsible person;
- The address or other description of the site upon which the violation is occurring;
- A statement specifying the nature of the violation;
- A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the stormwater management plan or this article and the date for the completion of such remedial action;
- A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and
- A statement that the determination of noncompliance may be appealed to the Cobb County Community Development ~~Department~~ by filing a written notice of appeal within 30 days after the notice of noncompliance (except, that in the event the noncompliance constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient).

- (c) *Stop work orders.* Upon notice from the manager, or his designee, work on any project that is being done contrary to the provisions of this article, or in a dangerous or unsafe manner, shall be immediately stopped. Such notice shall be in writing, shall state the specific violations, shall be given to the permittee, or property owner if no permit has been required, his authorized agent or the person in charge of the activity on the subject property, and shall state the conditions under which work may be resumed. Where an emergency exists, no written notice shall be required.
- (d) *Suspension, revocation or modification of permit.* The permit issued under this article may be suspended, revoked or modified by the manager, or his designee, upon finding that the holder is in violation of the terms of the permit or any portion of this article.
- (e) *Civil penalties.* Any person violating any provision of this article, permitting conditions or stop work order, shall be liable for a civil penalty of either ten percent of the cost of correction, or up to \$1,000.00 per day for each day the noncompliance remains unremedied, as determined by the manager, or his designee, but, in no event, less than \$300.00 per day the noncompliance remains unremedied. Each day the violation continues constitutes a separate offense. Any civil penalties imposed hereunder shall be payable to Cobb County, shall commence on the date of issuance of any stop work or other notice of noncompliance, and shall not be affected by the filing of any appeal; however, an appellate may, upon filing an appeal, post an appeal bond with the county in an amount equal to double the cost of any and all corrective work necessary to remedy the violation, the cost of such corrective work to be determined by the manager, or his designee; further, any civil penalty imposed hereunder may, in the best professional judgment of the manager, or his designee, be waived or reduced if it is determined that the violator has taken sufficient and timely curative and corrective action. In addition, the county attorney may institute injunctive, mandamus, or other appropriate action or proceedings at law or equity for the enforcement of this article or to correct violations of this article, and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.
- (f) *Criminal penalties.* For intentional and flagrant violations of this article, the Cobb County ~~Community Development department~~ and/or personnel from the stormwater management division of the water system may issue a citation to the applicant or other responsible person, requiring such person to appear in Cobb County Municipal or Magistrate Court, as deemed appropriate by the Cobb County Legal Department, to answer charges for such violation. Upon conviction, such person shall be

punished by a fine not to exceed \$1,000.00 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

DIVISION 2. – STORMWATER CONCEPT AND DESIGN PLANS

Section 50-126 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 50-126. – Submission of plans.

- (a) A stormwater concept plan for each development shall be submitted for approval to the department not less than five working days prior to submission of engineering drawings for the entire development, or any portion thereof. Such concept plans are optional at the applicant's discretion but shall be consistent with the appropriate county watershed plan.
- (b) All preliminary plats of development shall be consistent with the stormwater concept plan (if any) as stipulated in subsection (a) of this section, and with the appropriate county watershed plan.
- (c) Upon approval of the stormwater concept plan, (if any) the applicant shall submit a final stormwater design plan to the department for review and approval. Submittal of a stormwater design plan is mandatory.
- (d) If any plan involves any stormwater management facilities or land to be dedicated to public use, the same information shall also be submitted for review and approval to the agency having jurisdiction over the land or other appropriate agencies identified by the director of the Cobb County Geommunity Ddevelopment agency, for review and approval. This plan shall serve as the basis for all subsequent construction.
- (e) Evidence that the applicant has complied with requirements to obtain other state and federal permits which may be applicable, such as, but not limited to, wetlands (404) permit, NPDES permit, and MRPA, shall be provided to the department.

The Official Code of Cobb County, Georgia, is amended by adding Section 50-126.1, to read as follows:

Section 50-126.1. – Pre-submittal meeting.

Before a land development permit application is submitted, an applicant may request a pre-submittal meeting with the Cobb County Water System Stormwater Management Division. The pre-submittal meeting should take place based on an early step in the development process such as before site analysis and inventory (GSMM Section 2.4.2.4) or the stormwater concept plan (GSMM Section 2.4.2.5). The purpose of the pre-submittal meeting is to discuss opportunities, constraints, and ideas for the stormwater management system before formal site design engineering. To the extent applicable, local and regional watershed plans, greenspace plans, trails and greenway plans, and other resource protection plans should be consulted in the pre-submittal meeting. Applicants must request a pre-submittal meeting with the Cobb County Water System Stormwater Management Division when applying for a Determination of Infeasibility through the Practicability Policy.

Section 50-130 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 50-130. – Minimum requirements.

- (a) The minimum stormwater control requirements shall provide management measures necessary to maintain or reduce the predevelopment peak discharges.

- (b) Stormwater concept and design plans, where applicable, shall be consistent with adopted and approved watershed management plans as approved by the board of commissioners.
- (c) ~~Stormwater Concept Plan~~ (optional). The stormwater concept plan (optional) shall include the following ~~steps~~ items:
- (i) Develop the site layout using better site design techniques, as applicable (GSMM Section 2.3).
 - (ii) Calculate preliminary estimates of the unified stormwater sizing criteria requirements for stormwater runoff quality/reduction, channel protection, overbank flooding protection and extreme flood protection (GSMM Section 2.2).
 - (iii) Perform screening and preliminary selection of appropriate best management practices and identification of potential siting locations (GSMM Section 4.1).
 - (iv) The stormwater concept plan shall contain:
 - (1) Common address and legal description of the site.
 - (2) Vicinity map
 - ~~(3)(1)~~ Existing conditions/proposed site plans. Existing conditions and proposed site layout mapping and plans sketch plans (recommended scale of 1" = 50'), which illustrate at a minimum: existing and proposed topography (minimum of 2-foot contours); perennial and intermittent streams; mapping of predominant soils from USDA soil surveys (when available); boundaries of existing predominant vegetation and proposed limits of clearing and grading, and location of existing and proposed roads, buildings, parking areas and other impervious surfaces; existing and proposed utilities (e.g., water, sewer, gas electric) and easements.
 - ~~(4)(2)~~ Natural resources inventory. A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as wetlands, lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.
 - ~~(5)(3)~~ Stormwater management system ~~concept plan~~. A written or graphic concept plan of the proposed post-development stormwater management system including: preliminary estimates of unified stormwater sizing criteria requirements, preliminary selection and location, size, and limits of disturbance of proposed structural stormwater BMP controls; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of base flood floodplain/floodway and future conditions floodplain limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of proposed stream channel modifications, such as bridge or culvert crossings.
- (d) ~~Final stormwater design/management plan~~ (mandatory). The final stormwater ~~design/~~management plan shall detail how post-development stormwater runoff will be controlled or managed and how the proposed project will meet the requirements of this article. This plan shall be in accordance with the criteria established in this section and be prepared under the direct supervisory control of either

a registered Professional Engineer or a registered Landscape Architect licensed in the State of Georgia. Items (3), (4), (5) and (6) shall be sealed and signed by a registered and must be submitted with the stamp and signature of a Professional Engineer (PE) licensed in the State of Georgia who must verify that the design of all stormwater management facilities and practices meet the submittal requirements outlined in the submittal checklist(s) found in the stormwater design manual. The overall site plan must be stamped by a design professional licensed in the State of Georgia for such purposes. (GSMM Section 2.4.2.7) The plan shall include all of the information required in the stormwater management site plan review checklist maintained by the Stormwater Management Division. This includes:

- (1) Common address and legal description of site.
- (2) Vicinity map.
- (3) Existing conditions hydrologic analysis. The existing condition hydrologic analysis for stormwater runoff rates, volumes, and velocities, which shall include: a topographic map of existing site conditions with the drainage basin boundaries indicated; acreage, soil types and land cover of areas for each subbasin affected by the project; all perennial and intermittent streams and other surface water features; all existing stormwater conveyances and structural control facilities; direction of flow and exits from the site; analysis of runoff provided by off-site areas upstream of the project site; and methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology. For redevelopment sites, predevelopment conditions shall be modeled using the established guidelines for the portion of the site undergoing land development activities.
- (4) Post-development hydrologic analysis. The post-development hydrologic analysis for stormwater runoff rates, volumes, and velocities, which shall include: a topographic map of developed site conditions with the post-development drainage basin boundaries indicated; total area of post-development impervious surfaces and other land cover areas for each subbasin affected by the project; calculations for determining the runoff volumes that need to be addressed for each subbasin for the development project to meet the post-development stormwater management performance criteria in the Georgia Stormwater Management Manual; location and boundaries of proposed natural feature protection and conservation areas; documentation and calculations for any applicable site design credits that are being utilized; methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology. If the land development activity on a redevelopment site constitutes more than 50 percent of the site area for the entire site, then the performance criteria in the Georgia Stormwater Management Manual must be met for the stormwater runoff from the entire site.
- (5) Stormwater management system. The description, scaled drawings and design calculations for the proposed post-development stormwater management system, which shall include: A map and/or drawing or sketch of the stormwater management facilities, including the location of nonstructural site design features and the placement of existing and proposed structural stormwater controls, including design water surface elevations, storage volumes available from zero to maximum head, location of inlet and outlets, location of bypass and discharge systems, and all orifice restrictor sizes; a narrative describing how the selected structural stormwater controls will be appropriate and effective; cross-section and profile drawings and design details for each of the structural stormwater controls in the system, including supporting calculations to show that the facility is designed according to the applicable design criteria; a hydrologic and hydraulic analysis of the stormwater management system for all applicable design storms (including stage-storage or outlet rating curves, and inflow and outflow hydrographs); documentation and supporting calculations to show that the stormwater management system

adequately meets the post-development stormwater management performance criteria in the manual; drawings, design calculations, elevations and hydraulic grade lines for all existing and proposed stormwater conveyance elements including stormwater drains, pipes, culverts, catch basins, channels, swales and areas of overland flow; and where applicable, a narrative describing how the stormwater management system corresponds with any watershed protection plans and/or local greenspace protection plan.

- (6) Post-development downstream analysis. A downstream peak flow analysis which includes the assumptions, results and supporting calculations to show safe passage of post-development design flows downstream. The analysis of downstream conditions in the report shall address each and every point or area along the project site's boundaries at which runoff will exit the property. The analysis shall focus on the portion of the drainage channel or watercourse immediately downstream from the project. This area shall extend downstream from the project to a point in the drainage basin where the project area is ten percent of the total basin area. In calculating runoff volumes and discharge rates, consideration may need to be given to any planned future upstream land use changes. The analysis shall be in accordance with the manual.
- (7) Construction—Phase erosion and sedimentation control plan. An erosion and sedimentation control plan in accordance with the Georgia Erosion and Sedimentation Control Act (or reference to the local erosion and sedimentation control ordinance) or NPDES permit for construction activities. The plan shall also include information on the sequence / phasing of construction and temporary stabilization measures and temporary structures that will be converted into permanent stormwater controls.
- (8) Landscaping and open space plan. A detailed landscaping and vegetation plan describing the woody and herbaceous vegetation that will be used within and adjacent to stormwater management facilities and practices. The landscaping plan must also include: the arrangement of planted areas, natural and greenspace areas and other landscaped features on the site plan; information necessary to construct the landscaping elements shown on the plan drawings; descriptions and standards for the methods, materials and vegetation that are to be used in the construction; density of plantings; descriptions of the stabilization and management techniques used to establish vegetation; and a description of who will be responsible for ongoing maintenance of vegetation for the stormwater management facility and what practices will be employed to ensure that adequate vegetative cover is preserved.
- (9) Operations and maintenance plan. Detailed description of ongoing operations and maintenance procedures for privately owned stormwater management facilities and practices to ensure their continued function as designed and constructed or preserved. These plans will identify the parts or components of a stormwater management facility or practice that need to be regularly or periodically inspected and maintained, and the equipment and skills or training necessary. The plan shall include an inspection and maintenance schedule, maintenance tasks, responsible parties for maintenance, funding, access and safety issues. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.
- (10) Maintenance access easements. The applicant must ensure access from public right-of-way to stormwater management facilities and practices requiring regular maintenance at the site for the purpose of inspection and repair by securing all the maintenance access easements needed on a permanent basis. Such access shall be sufficient for all necessary equipment for maintenance activities. Upon final inspection and approval, a plat or document indicating that such easements exist shall be recorded and shall remain in effect even with the transfer of title of the property.

- (11) Inspection and maintenance agreements. Unless an on-site stormwater management facility or practice is dedicated to and accepted by the county as recorded on the final plat, the applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served by an on-site stormwater management facility or practice.
 - (12) Evidence of acquisition of applicable local and nonlocal permits. The applicant shall certify and provide documentation to the county community development agency that all other applicable environmental permits have been acquired or applied for the site prior to approval of the stormwater management plan.
 - (13) Natural Resources Inventory
 - (14) Stormwater Concept Plan
 - (15) Determination of Infeasibility (if applicable)
- (e) For redevelopment and to the extent existing stormwater management structures are being used to meet stormwater management standards the following must also be included in the stormwater management plan for existing stormwater management structures
- (1) As-built Drawings
 - (2) Hydrology Reports
 - (3) Current inspection of existing stormwater management structures with deficiencies noted
 - (4) BMP Landscaping Plans

Section 50-131 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 50-131. – Stormwater management measures (mandatory).

- (a) Stormwater management measures may include both structural and nonstructural elements. Natural swales and other natural runoff conduits shall be retained where practicable.
- (1) *Structural stormwater controls.* All structural stormwater management facilities shall be selected and designed using the appropriate criteria from the Georgia Stormwater Management Manual. All structural stormwater controls must be designed appropriately to meet their intended function. For other structural stormwater controls not included in the Georgia Stormwater Management Manual, or for which pollutant removal rates have not been provided, the effectiveness and pollutant removal of the structural control must be documented through prior studies, literature reviews, or other means and receive approval from the manager before being included in the design of a stormwater management system. In addition, if hydrologic or topographic conditions, or land use activities warrant greater control than that provided by the minimum control requirements, the manager may impose additional requirements deemed necessary to protect upstream and downstream properties and aquatic resources from damage due to increased volume, frequency, and rate of stormwater runoff or increased nonpoint source pollution loads created on the site in question.
Applicants shall consult the Georgia Stormwater Management Manual for guidance on the factors that determine site design feasibility when selecting and locating a structural stormwater control. All stormwater management measures shall be designed in accordance with the Georgia Stormwater Management Manual.
 - (2) *Stormwater credits for nonstructural measures.* The use of one or more site design measures by the applicant may allow for a reduction in the water quality treatment volume required under

subsection 50-106(d)132(a) and further specified in the Georgia Stormwater Management Manual. The applicant may, if approved by the manager, take credit for the use of stormwater better site design practices and reduce the water quality volume requirement. For each potential credit, there is a minimum set of criteria and requirements which identify the conditions or circumstances under which the credit may be applied. The site design practices that qualify for this credit and the criteria and procedures for applying and calculating the credits are included in the Georgia Stormwater Management Manual.

- (3) *Drainage system guidelines.* Stormwater conveyance facilities, which may include but are not limited to culverts, stormwater drainage pipes, catch basins, drop inlets, junction boxes, headwalls, gutter, swales, channels, ditches, and energy dissipaters shall be provided when necessary for the protection of public right-of-way and private properties adjoining project sites and/or public right-of-ways. Stormwater conveyance facilities that are designed to carry runoff from more than one parcel, existing or proposed, shall meet the following requirements:
 - a. Methods to calculate stormwater flows shall be in accordance with the GSMM manual;
 - b. All culverts, pipe systems and open channel flow systems shall be sized in accordance with the stormwater management plan using the methods included in the manual; and,
 - c. Design and construction of stormwater conveyance facilities shall be in accordance with the criteria and specifications found in the manual.
 - (4) *Dam design guidelines.* Any land disturbing activity that involves a site which proposes a dam shall comply with the Georgia Safe Dams Act and Rules for Dam Safety as applicable and with the county development standards and specifications as applicable. No residential lots shall be platted on a dam. No house or other habitable structure shall be permitted on a dam. If an existing house on a dam predating this ordinance becomes substantially damaged, it shall not be permitted for reconstruction on the dam.
 - (5) *Donation or dedication of property for water quantity and water quality purposes.* The donation or dedication of land (floodplain or non-floodplain) for stormwater quantity or quality requirements may be accommodated by administrative variance, if so requested by the owner. Any required setbacks or minimum lot sizes affected by the donation or dedication of land (floodplain or non-floodplain) for stormwater quantity or quality requirements may be administratively varied. The owner shall make the request to the director of the Cobb County Community Development agency and the request shall be processed in accordance with section 134-3435, except that the variance may equal up to 100 percent of the existing requirements. The use of administrative variances for the donation or dedication of property for water quantity and water quality purposes shall not allow for an increase development density above that permitted by the underlying zoning. Any administrative variance for the donation or dedication of property for water quantity and water quality purposes shall be reported to the district commissioner.
- (b) All stormwater management measures shall be designed in accordance with the GSMM manual.

Section 50-132 of the Official Code of Cobb County, Georgia, is amended by deleting the entire section to read as follows:

Section 50-132. – Post-development stormwater management performance criteria (mandatory).

~~The following performance criteria shall be applicable to all stormwater management plans, unless otherwise provided for in this ordinance.~~

- ~~(1) *Water quality.* All stormwater runoff generated from a site shall be adequately treated before discharge. It will be presumed that a stormwater management system complies with this requirement if:~~

- a. ~~It is sized to treat the prescribed water quality treatment volume from the site, as defined in the Georgia Stormwater Management Manual;~~
- b. ~~Appropriate structural stormwater controls or nonstructural practices are selected, designed, constructed or preserved, maintained according to the specific criteria in the Georgia Stormwater Management Manual; and,~~
- c. ~~Runoff from hotspot land uses and activities identified by the manager are adequately treated and addressed through the use of appropriate structural stormwater controls, nonstructural practices and pollution prevention practices.~~
- (2) ~~Stream channel protection. Protection of stream channels from bank and bed erosion and degradation shall be provided by using all of the following three approaches:~~
 - a. ~~Preservation, restoration and/or reforestation (with native vegetation) of the applicable stream buffer;~~
 - b. ~~24 hour extended detention storage of the one-year, 24 hour return frequency storm event. This requirement may be adjusted or waived by the manager for sites that discharge directly into larger streams, rivers, wetlands, or lakes, or to a man made channel or conveyance system where the reduction in these flows will not have an impact on upstream or downstream streambank or channel integrity.~~
 - c. ~~Erosion prevention measures such as energy dissipation and velocity control.~~
- (3) ~~Overbank flooding protection. Downstream overbank flood and property protection shall be provided by controlling (attenuating) the post-development peak discharge rate to the pre-development rate for the two year through 25 year, 24 hour return frequency storm event (type 2 or balanced storm distribution). This requirement may be adjusted or waived by the manager for sites where the post-development downstream analysis shows that uncontrolled post-development conditions will not increase downstream peak flows, or that meeting the requirement will cause greater peak flow downstream impacts than the uncontrolled post-development conditions.~~
- (4) ~~Extreme flooding protection. Extreme flood and public safety protection shall be provided by attenuating peak flow rates to undeveloped conditions and safely conveying the 100 year, 24-hour return frequency storm event (SCS type 2 or balanced storm distribution) such that flooding is not exacerbated. This requirement may be adjusted or waived by the manager for sites where the post-development downstream analysis shows that uncontrolled post-development conditions will not increase downstream peak flows, or that meeting the requirement will cause greater peak flow downstream impacts than the uncontrolled post-development conditions.~~

Secs. 50-132 – 50-140. - Reserved.

DIVISION 3. – INSPECTION AND MAINTENANCE

Subdivision I. – In General

Section 50-141 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 50-141. – Ownership and maintenance of stormwater management facilities.

- (a) Any stormwater management measure which serves a single lot or property shall be privately owned and maintained; provided, however, the owner thereof shall grant to the county a perpetual, nonexclusive easement which allows for public inspection and emergency repair, in accordance with the terms of the maintenance agreement set forth in section 50-161.

- (b) All stormwater management measures relying on designated vegetated areas or site features shall be privately owned and maintained as defined on the plans.
- (c) All regional stormwater management facilities shall be publicly owned and maintained and inspected at a minimum of once every two years.
- (d) All other stormwater management facilities shall be publicly owned and/or maintained only by written agreement with the county.
- (e) Maintenance by Owner of Stormwater Management Systems Predating Current GSMM. For any stormwater management systems approved and built based on requirements predating the current GSMM and that is not otherwise subject to an inspection and maintenance agreement, such stormwater management systems shall be maintained by the owner so that the stormwater management systems perform as they were originally designed.

Subdivision II. – On-Site Facilities.

Section 50-157 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 50-157. – Inspection schedule and reports.

- (a) Prior to approval of stormwater design plan, the applicant shall submit a proposed staged inspection and construction control schedule, which the department shall either approve, disapprove or modify. Inspections shall be conducted during construction of stormwater management systems in accordance with the protocols documented by the Cobb County Community Development agency.
- (b) No stage of work shall proceed until the next preceding work, according to the sequence specified in the approved staged inspection and construction control schedule, is inspected and approved.
- (c) Any portion of the work which does not comply with the stormwater design plan shall be promptly corrected by the permittee.
- (d) The permittee shall notify the department before commencing any work to implement the stormwater design plan and upon completion of the work.

Section 50-158 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 50-158. – Inspection requirements during construction.

After commencing initial site operations, in addition to any inspections by the department, the permittee shall provide for regular inspections to be certified to the manager by a registered professional engineer at construction stages. Periodic inspections of the stormwater management system construction shall be conducted by the staff of the Cobb County Community Development agency or conducted and certified by a professional engineer who has been approved by the Cobb County Community Development agency. Construction inspections shall utilize the approved stormwater management plan for establishing compliance.

All inspections shall be documented with written reports that contain the following information:

- (1) The date and location of the inspection;
- (2) Whether construction is in compliance with the approved stormwater management plan;
- (3) Variations from the approved construction specifications; and,
- (4) Any other variations or violations of the conditions of the approved stormwater management plan.

If any violations are found, the applicant shall be notified in writing of the nature of the violation and the required corrective actions.

Section 50-159 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 50-159. – Final inspection ~~reports~~; as-built drawings; delivery of inspection and maintenance.

- (a) Certifying that the stormwater management system is functioning properly and was constructed in conformance with the approved stormwater management plan and associated hydrologic analysis.
- (b) Submitting as-built drawings showing the final design specifications for all components of the stormwater management system as certified by a professional engineer.
- (c) Certifying that the landscaping is established and installed in conformance with the BMP landscaping plan, and
- (d) Delivering to the County a signed inspection and maintenance agreement that has been recorded by the owner in the property record for all parcel(s) that make up the site.
- (e) The required certification under part (a) shall include a certification of volume, or other performance test applicable to the type of stormwater management system component, to ensure each component is functioning as designed and built according to the design specifications in the approved stormwater management plan. This certification and the required performance tests shall be performed by a qualified person and submitted to the County with the request for a final inspection. The County shall perform a final inspection with applicant to confirm applicant has fulfilled these responsibilities.

Sec. 50-159. – Final inspection reports.

- (a) ~~The permittee shall provide a record survey certified by a registered professional engineer, to be submitted upon completion of a stormwater management facility.~~
- (b) ~~The registered professional engineer shall certify to the manager that:~~
 - (1) ~~The facility has been constructed as shown on the record survey plan; and~~
 - (2) ~~The facility:~~
 - a. ~~Meets the approved stormwater design plan and specifications; or~~
 - b. ~~Achieves the function for which it was designed.~~
- (c) ~~A final inspection may be conducted upon completion of the stormwater management facility to determine if the completed work is constructed in accordance with the approved stormwater design plan.~~
- (d) ~~The department shall maintain a permanent file of inspection reports.~~

The Official Code of Cobb County, Georgia, is amended by adding Section 50-159.1, to read as follows:

Section 50-159.1. – Violations and enforcement.

Any violation of the approved stormwater management plan during construction, failure to submit as-built drawings, failure to submit a final BMP landscaping plan, or failure of the final inspection shall constitute and be addressed as violations of, or failures to comply with, the underlying land disturbance permit pursuant to Chapter 50 Environment - Article III or the underlying building permit pursuant to the Official Code of Cobb County, Georgia Chapter 18. To address a violation of this Article, the County shall have all the powers and remedies that are available to it for other violations of building and land including without limitation the right to issue notices and orders to ensure compliance, stop work orders, and penalties as set forth in the applicable ordinances for such permits.

Section 50-160 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 50-160. – Final inspection and record drawing plans.

Upon completion of a project, and before acceptance for perpetual maintenance shall be granted, the applicant is responsible for certifying that the completed project is in accordance with the approved

stormwater management plan. All applicants are required to submit record drawing plans which reflect actual constructed conditions for any stormwater management facilities or practices after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and practices and must be certified by the professional engineer who designed the facility or who is employed by the same consultant firm responsible for the design. A final inspection by the Cobb County Community Development Department is required before the release of any performance securities can occur.

Section 50-161 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 50-161. – Inspection and maintenance agreements.

- (a) An inspection and maintenance agreement shall be executed for all private on-site stormwater management facilities prior to the issuance of a land ~~grading, ground~~ disturbance or building permit. ~~Such agreement shall be in form and content acceptable to the manager and shall provide that all maintenance and repair of such facilities shall be the responsibility of the private owner. The owner shall execute an inspection and maintenance agreement with the County obligating the owner to inspect, clean, maintain, and repair the stormwater management system; including vegetation in the final BMP landscaping plan. The form of the inspection and maintenance agreement shall be the form provided by the County.~~ Such agreement shall provide for access to the facility by virtue on a nonexclusive perpetual easement in favor of the county at reasonable times for regular inspection by the department. ~~Such agreement shall be binding on all heirs, successors, assigns, and lenders. After the inspection and maintenance agreement has been signed by the owner and the County, the owner shall promptly record such agreement at the owner's cost in the property record for all parcel(s) that make up the site.~~
- (b) The inspection and maintenance agreement shall provide that preventive maintenance inspections of infiltration systems, retention, or detention structures may be made by the department, at its option.
- (c) Inspection reports shall be maintained by the owner ~~department~~.
- (d) The inspection and maintenance agreement shall provide that if, after an inspection, the condition of a facility presents an immediate danger to the public health, safety or general welfare because of unsafe conditions or improper maintenance, the department shall have the right, but not the duty, to take such action as may be necessary to protect the public and make the facility safe. Any cost incurred by the county shall be paid by the owner as set forth in subsection (f) of this section.
- ~~(e) The inspection and maintenance agreement shall be recorded by the owner in the land records of the county prior to the issuance of a grading, ground disturbance or building permit.~~
- ~~(ef)~~ The inspection and maintenance agreement shall provide that the department shall notify the owner(s) of the facility of any violation, deficiency or failure to comply with this article. The agreement shall also provide that upon a failure to correct violations requiring maintenance work within ten days after notice thereof, the department may provide for all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the costs of the work performed by the department pursuant to this subsection and subsection (d) of this section; and there shall be a lien on all property of the owner which property utilizes or will utilize such facility in achieving stormwater management, which lien, when filed in the county real estate records, shall have the same status and priority as liens for ad valorem taxes.
- (f) The inspection and maintenance agreement shall identify by name or official title the person(s) serving as the point of contact for carrying out the owner's obligations under the inspection and maintenance agreement. The owner shall update the point of contact from time to time as needed and upon request by the County. Upon any sale or transfer of the site, the new owner shall notify the County in writing within 30 days of the name or official title of new person(s) serving as the point

of contact for the new owner. Any failure of an owner to keep the point of contact up to date shall, following 30 days' notice, constitute a failure to maintain the stormwater management system.

- (g) The inspection and maintenance agreement shall run with the land and bind all future successors-in-title of the site. If there is a future sale or transfer of only a portion of the site, then:
- (i) The parties to such sale or transfer may enter into and record an assignment agreement designating the owner responsible for each portion of the site and associated obligations under the inspection and maintenance agreement. The parties shall record and provide written notice and a copy of such assignment agreement to the County.
 - (ii) In the absence of a recorded assignment agreement, all owners of the site shall be jointly and severally liable for all obligations under the inspection and maintenance agreement regardless of what portion of the site they own.

The Official Code of Cobb County, Georgia, is amended by adding Section 50-162, to read as follows:

Section 50-162. – Right of entry for maintenance inspections.

The terms of the inspection and maintenance agreement shall provide for the County's right of entry for maintenance inspections and other specified purposes. If a site was developed before the requirement to have an inspection and maintenance agreement or an inspection and maintenance agreement was for any reason not entered into, recorded, or has otherwise been invalidated or deemed insufficient, then the County shall have the right to enter and make inspections.

Secs. 50-~~163~~2 – 50-180. - Reserved.

ARTICLE VII. – NOISE

Section 50-257 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 50-257. – Enumeration of prohibited noises.

The following acts are declared to be loud, disturbing and unnecessary noises in violation of this article; but this enumeration shall not be deemed to be exclusive:

- (1) *Horns, signaling devices.* The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place in the unincorporated areas of the county, except as a danger warning; the creation of any unreasonably loud or harsh sound by means of any signaling device and the sounding of any device for an unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust and the use of any signaling device when traffic is for any reason held up.
- (2) *Radios, phonographs, musical instruments.* The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with a volume louder than the convenient hearing of a person, not hearing impaired, who is within 40 feet of the device if outdoors, or in the room, vehicle or chamber in which the machine or device is operated, and who is a voluntary listener thereto. The operation of any set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in a manner as to be plainly audible at

a distance of 50 feet from the device if outdoors, or 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this article.

- (3) *Loudspeakers, amplifiers for advertising.* The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure. Announcements over loudspeakers can only be made by the announcer in person and without the aid of any mechanical device.
- (4) *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time or place, so as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel or other type of residence or of any persons in the vicinity.
- (5) *Animals, birds.* The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity. This section shall not apply to horses, livestock, poultry or other farm animals, provided they are maintained in accordance with county zoning regulations or ordinances.
- (6) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, internal-combustion engine or motorboat except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (7) *Defect in vehicle or load.* The use of any automobile, motorcycle or vehicle so out of repair, so loaded, or in such manner as to create loud grating, grinding, rattling or other noise.
- (8) *Construction or repair of buildings.* The erection (including excavation), demolition, alteration or repair of any building, as well as the operation of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, electric saws, drills or any other equipment attended by loud noise, other than between the hours of 7:00 a.m. and 9:00 p.m., Monday through Saturday.
- (9) *Streets adjacent to schools, courts, churches, hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while in use, or adjacent to any hospital, which interferes with the normal operation of that institution, or which disturbs patients in the hospitals, provided that conspicuous signs are displayed in those streets indicating a school, hospital or court street.
- (10) *Hawkers, peddlers, vendors.* The shouting and crying of peddlers, hawkers and vendors which disturb the peace and quiet of the neighborhood.
- (11) *Noises to attract attention.* The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.
- (12) *Landscaping Equipment.* The operation of any noise-creating equipment including but not limited to lawnmowers, weed eaters, chainsaws, and blowers either gas powered or electric which causes noise that would annoy or disturb the peace, quiet and comfort of the neighboring inhabitants shall not be used in residentially-zoned parcels between the hours of 9:00 pm and 7:00 am on any day of the week. *Blowers.* The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from the blower or fan is muffled and the engine is equipped with a muffler device sufficient to deaden the noise.
- (13) *Sound trucks.* The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles during hours and in places and with such volume as would constitute this use as a public nuisance; provided, that the provisions of this section shall not apply to or be enforced against:

- a. Any vehicle in the unincorporated areas of the county while engaged in necessary public business.
 - b. Excavations or repairs of streets by or on behalf of the city, county or state at night when public welfare and convenience renders it impossible to perform such work during the day.
 - c. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character.
- (14) *Motorcycles, go-carts and other motor vehicles.* The operation of a motorcycle, motorized scooter, go-cart or other motorized vehicle in a manner which creates excessive noise, including the continuous riding of any such vehicle past, around or near an inhabited dwelling place so as to disturb its inhabitants.
- (15) *Consumer fireworks.* The use or exploding of consumer fireworks between the hours of 9:00 p.m. and 10:00 a.m., except on the dates, and at the times, explicitly specified in chapter 10 of title 25 of the O.C.G.A. (O.C.G.A. § 25-10-1 et seq.).

(Ord. of 10-12-82, § 2(b); Code 1977, § 3-18.5-3; Ord. of 9-10-02; Ord. of 7-27-04; Amd. of 2-23-10; Amd. of 2-27-18)

State Law reference— Limits on volume of mechanical sound making devices located within motor vehicles, O.C.G.A. § 40-6-14; motor vehicle mufflers, O.C.G.A. § 40-8-71; boat mufflers, O.C.G.A. § 52-7-10.

Chapter 54 – FIRE PREVENTION AND PROTECTION

ARTICLE III. – FIRE SAFETY STANDARDS

Section 54-52 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 54-52. – International Fire Code adopted.

The edition of the International Fire Code is adopted under section 54-54; the county further adopts Sections 103, 105, 108, 109, 110, and 111 of Chapter 1 of such International Fire Code for administration of such code, unless in conflict with Georgia Law or rules promulgated in accordance with Georgia Law. In such case, Georgia Law or rules promulgated in accordance with Georgia Law shall govern.

The county further amends Section 111.4 of Chapter 1 of the International Fire Code to read as follows:

Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than 1,000 dollars per day.

Section 54-58 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 54-58. – Use of three-inch fire hydrant meter.

- (a) *Purpose of section.* The purpose of this section is to require the use of a three-inch fire hydrant meter when using water from a public hydrant.
- (b) *Meter required.* All fire hydrant water supplies must be metered with a proper fire hydrant meter, with the exception of emergency fire units.
- (c) *To be supplied by county; deposit; billing period.* The county shall have the authority to contract with commercial businesses and private citizens to supply such three-inch meters as are necessary for the

customers' use and to inspect and repair at the customer's expense meters that are damaged through negligence. The county shall also collect and account for a deposit on each meter maintained by the county. The customer will be billed for metered water on a six-month basis, or when the meter is returned for refund on deposit, whichever occurs first.

- (d) *Charges; return of meter.* The charges and deposits for three-inch meter usage are as established by the board of commissioners. The customer shall be required to return the meter every six months for issuance of another meter and billing for usage at that time.
- (e) *Unauthorized use of water; penalty.* No person shall make an unauthorized water connection nor obtain unauthorized or unmetered water service. Persons obtaining unauthorized water service shall be subject to a penalty fee ~~of \$250.00~~ as established in the county water system's current rate and fee schedule and/or shall be punished as provided in section 1-10.
- (f) *Enforcement.* Enforcement of this section shall be the responsibility of all employees of the community development department. The community development department shall be responsible for delivery and preparation of citations to persons violating this section.

Section 54-62 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 54-62. – Fire watch, special fire services.

(a) The fire department, fire marshal, fire official, fire chief or their designee, shall have the authority to require, assess and collect fees for special fire services, including, but not limited to fire watch, fire standby, the cleanup of hazardous materials, lift assist ~~standby fire personnel~~, and/or an approved fire watch when potentially hazardous conditions or a reduction in a life safety feature exist due to the type of performance, display, exhibit, occupancy, contest or activity; or an impairment to a fire protection feature; or the number of persons present.

(b) Where special fire services, standby fire personnel or an approved fire watch is required or requested:

(1) When required by the fire marshal, the business, owner, agent, or lessee shall identify and designate ~~employ~~ one or more qualified persons, as required and approved to be on duty;

(2) The cost of special fire services and/or standby fire personnel shall be at no cost to the fire department and shall be assessed as provided in this section;

(3) Such standby fire personnel or fire watch personnel shall be subject to the orders of the fire marshal, or his/her designee, at all times and shall be identifiable and remain on duty during the times such places are open to the public, when such activity is being conducted, or while such impairment or condition remains, as required by the fire marshal, or his/her designee;

(4) The fire watch and/or special fire services shall be documented using a fire watch log or other record to be maintained at the protected facility and available to fire department personnel at all times, ~~during the fire watch~~. The fire watch log or record shall contain, but not be limited to, the following information: date and time of the special fire service or fire watch duty, beginning and ending times of each patrol, any fire safety hazards found, record of communication with the fire department and alarm monitoring company, and a record of other information as required by the fire marshal, fire chief, or his ~~their~~ designee; and

(5) The fire department shall be authorized to establish and collect fees to recover costs for providing special fire services, including, but not limited to equipment, supplies, and/or personnel affiliated with special fire services, fire or medical services, fire standby, fire watch, fire inspections, lift assist, responding to a hazardous condition and/or similar special fire services requested by an entity doing business or providing services in Cobb County or where required by the authority having jurisdiction to protect public safety pursuant to fee schedule(s) established under this section, beyond the normal scope of emergency operations.

(6) Fee schedule(s). The fire department and/or fire marshal shall establish a separate or combined fee schedule for all special fire services under this section and present said fee schedule(s) to the Board of Commissioners for initial approval and for any amendment to the same. The assessment of such fees shall be made against the person, firm, partnership, corporation or organization requesting or responsible for the special fire service within six (6) months from the last date of service. Notice of assessment shall be in writing and sent to the responsible entity and/or individual via Certified U.S. Mail with a copy via First Class U.S. Mail. The fire marshal and/or fire department shall establish a process for assessing and tracking fees under this section.

(7) Payment of costs. Costs assessed pursuant to this article, including reasonable attorney fees, court costs and administrative costs shall be payable by the person, firm, partnership, corporation, insurance company or organization requesting or responsible for the Fire Service(s). These costs shall be paid within sixty (60) days of the date of the notice of assessment and shall bear interest at ten percent per annum from the date when same becomes due and payable. The county may pursue collections and/or proceed in a court of valid jurisdiction to collect any fees or monies remaining unpaid under this section from a responsible party and shall have any and all other remedies provided by and subject to law for the collection of said charges.

(8) Lien. In addition to any civil remedy allowed by law, the assessment under this section shall constitute a lien in favor of the county on any property, real or personal, owned by the person, firm, corporation, partnership or organization which shall be enforceable pursuant to O.C.G.A. § 48-4-78 for delinquent ad valorem taxes, which may include all amounts due under this article. Redemption of the property from the lien may be made in accordance with the provisions of O.C.G.A. §§ 48-4-80 and 48-4-81.

(9) Penalties. Any person who shall violate any of the provisions of this chapter or fail to comply herewith, or who shall violate or fail to comply with any order made hereunder may be subject to the penalties set forth in Code Section 54-3 and/or Section 54-87.

(10) Non-exclusive remedy. The penalties and remedies provided by this article shall be in addition to any other remedies or penalties provided by law.

(c) For the purposes of this section, the terms used herein are defined as follows:

(1) "Fee schedule" means the separate or combined fee schedule(s) prepared and presented by the fire chief, fire marshal and/or their designee to the Board of Commissioners for approval by resolution, which may be amended from time to time.

(2) "Fire watch" means a temporary measure intended to ensure continuous and systematic surveillance of a building or portion thereof by one or more qualified individuals for the purposes of identifying and

controlling fire hazards, detecting early signs of unwanted fire, raising an alarm of fire and notifying the fire department. Fire watch shall be approved and performed by a currently certified Georgia Fire Inspector working within the Cobb County Fire Marshal's Office.

(3) "Hazardous condition" means a response to any request for special fire services or emergency that involves the disposal, removal, storage, investigation, remediation or cleanup of:

a) Any substance or mixture of substances which is toxic, corrosive, an irritant, a strong sensitizer, flammable or which generates pressure through decomposition, heat or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during, or as a proximate result of, any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children; and/or

b) Any substances, elements, or compounds which are contained in the list of hazardous substances adopted by the United States Environmental Protection Agency (EPA) and the list of toxic pollutants defined by the United States Congress.

(4) "Lift assist" means a request for and response by fire department personnel to assist in physically moving a person who has fallen and who does not require emergency care or medical transportation and who is located in a hospital, group home, continuing care retirement community, assisted living facility, independent living facility, nursing home, adult family home and/or rest home, or as otherwise defined in Cobb County Code Sec. 134-1, as amended.

(5) "Special fire service" means those special fire services designated and listed in the fee schedule(s), as amended, including, but not limited to fire watch, fire standby, the cleanup of hazardous materials, lift assist, and the equipment, supplies, and/or personnel affiliated with such special fire services.

The Official Code of Cobb County, Georgia is amended by adding Section 54-63 to read as follows:

Section 54-63. – Addressing and occupant directions within multi-building developments

Additional directional signage conveying addressing and location of buildings and/or occupants shall be required for developments within the Cobb County Fire District to assist with responding to alarms and other emergencies. Failure to comply once notified shall be punishable in accordance with Section 54-3.

The Official Code of Cobb County, Georgia, is amended by adding Section 54-64 through Section 54-66, to read as follows:

ARTICLE IV. – ~~FIRE PROTECTION CONTRACTORS~~ AUTOMATIC EXTERNAL DEFIBRILLATOR DEVICES

Section 54-64. – Definitions.

(a) Automatic external defibrillator device (AED). For the purposes of this section, an AED is a defibrillator as defined by O.C.G.A. 31-11-53.1 and shall be commercially available.

(b) Occupancy. For the purposes of this section, a certificate of occupancy is defined as the joint Building and Fire Certificate of Occupancy issued by the County and based on rules promulgated by the fire marshal pursuant to Code section 54-82(e).

Section 54-65. – Installation and operation.

- (a) AEDs shall be required and installed by the property owner or occupant in all commercial businesses and buildings that are open to the public, located within unincorporated Cobb County, and have an occupancy load of 300 or more as defined and established by the Cobb County fire marshal pursuant to Code section 54-51 and based on rules promulgated by the fire marshal pursuant to Code section 54-82(e).
- (b) The installation and maintenance of the AED(s) shall be the responsibility of the owner and occupant prior to the issuance of each certificate of occupancy.
- (c) Owners and occupants shall comply with all applicable state laws, including, but not limited to O.C.G.A. 31-11-53.2, governing the installation and use of automated external defibrillators by lay rescuers. The owner and occupant shall be responsible for maintaining AED(s) in an approved location in accordance with manufacturer recommendations and applicable laws.
- (d) ~~CCFES~~ The fire department and/or the fire marshal shall verify the installation of required AED device(s) prior to the issuance of a certificate of occupancy as defined by the code section 54-51.
- (e) ~~CCFES~~ The fire department and/or the fire marshal may conduct regular inspections for the purpose of ascertaining the availability of the AED after the date of installation.
- (f) ~~CCFES~~ The fire department and/or the fire marshal may monitor and utilize information on the location of AEDs as a tool in the determination of County emergency response resources and to assess the overall status of public health and emergency medical response effectiveness.
- (g) ~~CCFES~~ The fire department and/or the fire marshal may establish the necessary rules, guidelines and requirements for the use and placement of AEDs as required by this section.
- (h) ~~CCFES~~ The fire department and/or the fire marshal shall serve as the official registrar of AEDs installed in buildings as defined by this section and in accordance with O.C.C.A. §31-11-53.2.
- (i) Sections 54-63 through 54-66 shall apply to commercial businesses that obtain a certificate of occupancy issued and dated on or after March 9th, 2021.

Section 54-66. – Penalties.

Any person who shall violate any of the provisions of this article or fail to comply herewith, or who shall violate or fail to comply with any order made hereunder shall be subject to the penalties set forth in Section 54-3 and/or Section 54-87.

Secs. 54-~~63~~67 – 54-80. – Reserved.

Chapter 54, Article IV of the Official Code of Cobb County, Georgia, is amended to read as follows:

ARTICLE IV. – FIRE PROTECTION CONTRACTORS [3]

Chapter 54, Article V of the Official Code of Cobb County, Georgia, is amended to read as follows:

ARTICLE VI. – FIRE PROTECTION SPRINKLER SYSTEM REQUIREMENTS

Chapter 54, Article VI of the Official Code of Cobb County, Georgia, is amended to read as follows:

ARTICLE VII. – ALARM SYSTEMS

Section 54-103 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 54-103. – Enforcement.

(a) Applicable to this section are the state minimum fire safety standards adopted in the rules and regulations promulgated pursuant to O.C.G.A. tit. 25, ch. 2 (O.C.G.A. § 25-2-1 et seq.), including all subsequent revisions thereof, hereby adopted by reference. The state minimum fire safety standards apply to all structures in unincorporated Cobb County except for one-family and two-family dwellings.

~~(b) (a) Fines Fees for silencing or resetting an alarm without prior approval.~~

- (1) For the first violation of section 54-102(a) at any premises in a consecutive 12-month period, there shall be a minimum ~~fee fine~~ of \$150.00 assessed against the business and/or property owner;
- (2) For the second violation of section 54-102(a) at any premises in a consecutive 12-month period, there shall be a minimum ~~fee fine~~ of \$250.00 assessed against the business and/or property owner;
- (3) For the third violation of section 54-102(a) at any premises in a consecutive 12-month period, there shall be a minimum ~~fee fine~~ of \$500.00. assessed against the business and/or property owner; and
- (4) For the fourth violation of section 54-102(a) at any premises in a consecutive 12-month period, there shall be a ~~fee fine~~ of not more than \$1,000.00 assessed against the business and/or property owner. or 60 days imprisonment or both.

~~(c) (b) Fines Fees for false alarms.~~

- (1) For the first two violations of section 54-102(b) at any premises in a consecutive 12-month period, there shall be no ~~fee fine~~.
- (2) For the third violation of section 54-102(b) at any premises in a consecutive 12-month period, there shall be a minimum ~~fee fine~~ of \$150.00 assessed against the business and/or property owner;
- (3) For the fourth violation of section 54-102(b) at any premises in a calendar year consecutive 12-month period, there shall be a minimum ~~fee fine~~ of \$250.00 assessed against the business and/or property owner; and
- (4) For the fifth and any subsequent violation of section 54-102(b) at any premises in a consecutive 12-month period, there shall be a ~~fee fine~~ of not less than \$500.00 nor more than \$1,000.00 assessed against the business and/or property owner. or 60 days imprisonment or both.

(d) Collection of fees.

- (1) The assessment of such fees shall be made by the fire marshal against the business and/or property owner within three (3) months from the date of the silenced, reset or false alarm. Notice of the fee assessment shall be in writing and sent via Certified U.S. Mail, with a copy via First Class U.S. Mail. The fire marshal and/or fire department shall establish a process for assessing and tracking fees under this article.
- (2) Payment of costs. Costs assessed pursuant to this article, including reasonable attorney fees, court costs and administrative costs shall be payable by the business and/or property owner.

These costs shall be paid within thirty (30) days of from the date of the notice of fees and shall bear interest at one and one-half percent (1.5%) per month from the date due and payable.

- (3) *Liens and enforcement.* In addition to any civil remedy allowed by law, the assessment of fee(s) under this article shall constitute a lien in favor of the county on any property, real or personal, owned by the person, firm, corporation, partnership or organization requesting or responsible for the special fire service, whether or not such lien is recorded in the land records, which lien shall be enforceable pursuant to O.C.G.A. § 48-4-78 for delinquent ad valorem taxes, and which lien may include all amounts due under this article. The county may proceed in a court of valid jurisdiction to collect any fees or monies remaining unpaid from a responsible party and shall have any and all other remedies provided by and subject to law for the collection of said charges. Redemption of the property from the lien may be made in accordance with the provisions of O.C.G.A. §§ 48-4-80 and 48-4-81.
- (4) *Additional penalties.* Any person who shall violate any of the provisions of this chapter or fail to comply herewith, or who shall violate or fail to comply with any order made hereunder may be subject to the penalties set forth in Code Section 54-3.

Chapter 54, Article VII of the Official Code of Cobb County, Georgia, is amended to read as follows:

ARTICLE VIII. – OUTDOOR BURNING

Chapter 66 – HISTORIC PRESERVATION [1]

ARTICLE I. - IN GENERAL

Section 66-1 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sec. 66-1. Definitions.

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

Building means a structure created to shelter any form of human activity, such as a house, barn, church, hotel or similar structure. The term "building" may refer to a historically related complex such as a courthouse and jail or a house and barn.

Certificate of appropriateness means a document evidencing approval by the historic preservation commission of an application to make a material change in the appearance of a designated historic property or of a property located within a designated historic district.

Commission means the county historic preservation commission created by this chapter.

Exterior architectural features means the architectural style, general design and general arrangement of the exterior of a building or other structure, including but not limited to the kind or texture of the building material and the type and style of all windows, doors, signs and other appurtenant architectural fixtures, features, details or elements relative to the foregoing.

Exterior environmental features means all those aspects of the landscape or the development of the site which affect the historical character of the property.

Historic district means a geographically definable area which contains structures, sites, works of art or a combination thereof which exhibit a special historical, architectural or environmental character as designated by the board of commissioners.

Material change in appearance means a change that will affect either the exterior architectural or environmental features of an historic property or any structure, site or work of art within an historic district, and may include any one or more of the following:

- (1) A reconstruction or alteration of the size, shape or facade of an historic property, including any of its architectural elements or details.
- (2) Demolition of an historic structure.
- (3) Commencement of excavation for construction purposes.
- (4) A change in the location of advertising visible from the public right-of-way.
- (5) The erection, alteration, restoration or removal of any building or other structure within an historic property or district, including walls, fences, steps and pavements, or other appurtenant features.

Site means the location of a significant event, a prehistoric or historical occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure.

Structure means a work made up of interdependent and interrelated parts in a definite pattern of organization. Constructed by man, it is often an engineering project large in scale.

(Ord. of 8-28-84, § 9; Code 1977, § 3-21-28)

ARTICLE III. HISTORIC DISTRICT AND LANDMARK DESIGNATION PROCEDURE [3]

Section 66-57 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sec. 66-57. Designation of an historic district.

- (a) Criteria for selection. An historic district is a geographically definable area which contains buildings, structures, sites, works of art, or a combination thereof, which:
 - (1) Have special character or special historic or aesthetic value or interest;
 - (2) Represent one or more periods or styles of architecture typical of one or more eras in the history of the county, state or region;
 - (3) Cause such area, by reason of such factors, to constitute a visibly perceptible section of the county.
- (b) Designation of boundaries. Boundaries of an historic district shall be specified on tax maps; these boundaries will be included in the separate ordinances designating local districts. Boundaries specified in legal notices shall coincide with the boundaries finally designated. Districts shall be shown on the official zoning map as a public record.
- (c) Evaluation of properties. Individual properties within historic districts shall be classified as:
 - (1) Historic, being more than 50 years old;

- (2) Nonhistoric, being less than 50 years old, yet possessing architectural character;
- (3) Intrusions, being structures less than 50 years old which do not contribute to the historical character of the district.

(d) Affirmation of existing zoning. This chapter is not a use ordinance, and local zoning laws remain in effect until modified by the board of commissioners.

(Ord. of 8-28-84, § 3; Code 1977, § 3-21-23(b))

Section 66-58 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sec. 66-58. Designation of a landmark.

(a) Criteria for selection. An historic landmark is a building, structure, site, work of art, including the adjacent area necessary for the proper appreciation or use thereof, deemed worthy of preservation by reason of value to the county, state or region for one or more of the following reasons:

- (1) It is an outstanding example of a structure representative of its era.
- (2) It is one of the few remaining examples of past architectural style.
- (3) It is a place or structure associated with an event or person of historic or cultural significance to the county, the state or the region.

(b) Boundary description. Boundaries of historic landmarks shall be clearly defined for individual properties on tax maps and located on the official zoning map.

(Ord. of 8-28-84, § 3; Code 1977, § 3-21-23(c))

Section 66-59 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sec. 66-59. Requirements for designation of historic districts and landmarks.

(a) Application. Application for designation of an historic district or landmark shall be made by the following:

- (1) Historic district: An historical society, neighborhood association, or group of property owners may apply for designation.
- (2) Landmark structure: An historical society or property owner may apply for designation.

(b) Public hearings. The commission and the board of commissioners shall hold a public hearing on the proposed ordinance for designation. Notice of the hearing shall be published in at least three ~~consecutive~~ issues in the legal organ of the county, and written notice of the hearing shall be mailed by the commission to all owners and occupants of such properties. All such notices shall be published or mailed not less than ten days nor more than ~~230~~ twenty days prior to the date set for public hearing. A letter sent via the United States mail to the last-known owner of the property shall constitute legal notification under this chapter.

(c) Notification of property owners of proposed designation. Any ordinance designating any property or district as historic shall describe each property to be designated, set forth the names of the owners of the designated property or properties, and require that a certificate of appropriateness be obtained from the historic preservation commission prior to any material change in appearance of the designated property.

- (d) Designation of district boundaries on zoning map. Any ordinance designating any property or district as historic shall require that the designated property or district be shown on the official zoning map and kept as a public record to provide notice of such designation.
- (e) Notification of historic preservation section. Prior to designating any property or district as historic, the commission must submit a report on the historic, cultural, architectural or aesthetic significance of each place, district, site, building or structure, or work of art to the historic preservation section of the department of natural resources; 30 days will be allowed to prepare written comments.
- (f) Ordinance for designation announcement. A decision to accept or deny the ordinance for designation shall be made within 15 days following the public hearing and shall be in the form of a resolution of the board of commissioners.
- (g) Notification of owners and occupants regarding designation. Within 30 days immediately following the adoption of the ordinance for designation, the owners and occupants of each designated historic property, and the owners and occupants of each structure, site or work of art located within a designated historic district, shall be given written notification of such historic district designation by the board of commissioners. The notice shall apprise such owners and occupants of the necessity of obtaining a certificate of appropriateness prior to undertaking any material change in appearance of the historic property designated or within the historic district designated.
- (h) Notification of other agencies regarding designation. The commission shall notify all necessary agencies within the county of the ordinance for designation, including the local historic organization.
- (i) Moratorium on applications for alteration or demolition while ordinance for designation is pending. If an ordinance for designation is being considered, the commission shall have the power to freeze the status of the involved property.
- (j) Authority to amend or rescind designation. The commission has the authority to amend and/or rescind a designation if necessary. Necessity shall include, but not be limited to, the use of a designated or historic landmark or historic district for public works projects such as right-of-way acquisitions for roads or sewer/water construction or other similar purposes. All requests to amend or rescind designation shall be made in writing to the historic preservation commission. Each request shall include documentation supporting the reason for requesting that a designation be amended or rescinded. A public hearing shall be held by the commission in accordance with the requirements of subsection (b) of this section. The recommendation of the historic preservation commission shall be forwarded to the board of commissioners, which shall approve or deny such request at one of its scheduled meetings. This procedure to amend or rescind designation shall not be subject to any other requirements set forth under this chapter.

(Ord. of 8-28-84, § 3; Ord. of 5-11-93; Code 1977, § 3-21-23(d))

Secs. 66-60—66-80. Reserved.

ARTICLE IV. CERTIFICATES OF APPROPRIATENESS [4]

Section 66-81 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sec. 66-81. Approval of alterations in historic districts or involving landmarks.

After the designation by ordinance of an historic property or of an historic district, no material change in the appearance of such historic property, or of a building, structure, site or work of art within such historic district, shall be made or permitted to be made by the owner or occupant thereof unless or until an application for a certificate of appropriateness has been submitted to and approved by the commission. (Ord. of 8-28-84, § 4; Code 1977, § 3-21-24(a))

Section 66-82 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sec. 66-82. Approval of reconstruction, alteration, new construction or renovation within designated districts or to individual landmarks.

The commission shall issue certificates of appropriateness for the above proposed actions within designated historic districts or a designated landmark if these actions conform in design, scale, building materials, setback, site features and landscaping and to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings and to any design guidelines and criteria adopted by the commission.

(Ord. of 8-28-84, § 4; Code 1977, § 3-21-24(b))

Section 66-83 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sec. 66-83. Design guidelines and criteria.

In addition to the criteria set forth in Sec. 66-82, when considering applications for certificates of appropriateness within a Cobb historic district, any design guidelines or other criteria adopted by the commission for that historic district shall apply.

(Ord. of 8-28-84, § 4; Code 1977, § 3-21-24(c))

Section 66-85 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sec. 66-85. Approval or denial.

- (a) The commission may approve the certificate of appropriateness as proposed or approve the certificate of appropriateness with any modifications or stipulations it deems necessary and issue a certificate of appropriateness if it finds that the proposed material change(s) in the appearance would not have a substantial adverse effect on the aesthetic, historic or architectural significance and value of the historic property or the historic district. In making this determination, the commission shall consider, in addition to any other pertinent factors, the criteria set in Sections 66-82 and 66-83.
- (b) The commission shall deny a certificate of appropriateness if it finds that the proposed material changes in appearance would have substantial adverse effects on the aesthetic, historic or architectural significance and value of the historic property or the historic district.

(Ord. of 8-28-84, § 4; Code 1977, § 3-21-24(e))

Chapter 78 – LICENSES, PERMITS AND BUSINESSES

ARTICLE III. – SPECIAL LICENSES AND REGULATORY FEES

DIVISION 2. – PEDDLERS, DOOR-TO-DOOR SALESPERSONS, AND MOBILE FOOD VENDORS

- overhead/underground utilities to produce an accurate picture of the existing overhead/underground utility infrastructure."
- o. Section 4.0.C.2 of the Manual is amended by deleting the first paragraph and adding the following in its place: "Implementation of SUE – The Department may require the use of SUE on design-build projects and may request its use on any project where inaccurate underground utility information would negatively impact the project in a significant way."
 - p. Section 4.1.A.1 of the Manual is amended by deleting the first paragraph and adding the following in its place: "In order to provide information on the Department's Construction Work Program and to discuss proposed projects with the utility companies on a regular basis, it is the department's policy to provide monthly reports to all utility companies. Printed information on the Construction Work Program will be provided to the Utilities to the extent possible without compromising any confidential or otherwise sensitive information. This information will be disseminated during the monthly meetings of the Cobb Utilities Coordinating Committee (Cobb-UCC) and posted on the Cobb-UCC web page of the Georgia Utilities Coordinating Council. Schedules may also be posted to the Cobb DOT Utilities web page and the CUPPS website. Regularly scheduled meetings may be held with utility companies involved on multiple projects. Utilities may request company-specific reports at any time. Particular items that need to be addressed as a minimum are as follows:"
 - q. Section 4.1.A.1 of the Manual is further amended by deleting the fourth bullet and adding the following in its place: "Utilities may be asked to identify candidate projects to employ Overhead/Subsurface Utility Engineering (SUE) investigations."
 - r. Section 4.1.A.1 of the Manual is further amended by deleting the last paragraph.
 - s. Section 4.1.A.2 of the Manual is amended by deleting the third bullet in the section entitled "Prior to Concept Team Meeting:" and also by deleting the second bullet in the same section and adding in its place the following: "Submit a Request for Information (RFI) to each Utility to ensure each is aware of the general scope and nature of the Department project. This RFI would request that each Utility submit a written response which includes a cost estimate and comments concerning potential impact to their facilities. The Utility would indicate if it has easements that could be impacted by the project improvements. Additionally, in this response the Utility should provide an indication of whether its facilities could be included in the department's project construction contract. The Utility would reimburse the contractor for performing the work, directly or through an approved subcontractor."
 - dt. Section 4.1.C.4 of the manual Manual is amended by deleting the paragraphs titled "Escalation Process Step 2" and "Escalation Process Step 3" in their entirety, and amending the remaining portions to read as follows:

"4.1.C.4 Work Plan Approval - It is the responsibility of the ~~County~~ department of transportation ~~operationsengineering~~ division manager or his/her designee to review all Work Plans submitted by the Utility found within a project's limits. If upon review, the County department of transportation ~~operationsengineering~~ division manager or his/her designee determines a Work Plan to be unreasonable based upon the required scope of utility adjustment and/or relocation required to accommodate a project; the ~~County~~ department of transportation ~~operationsengineering~~ division manager or his/her designee will initiate the following process to resolve such disputes involving the Work Plan whenever they may occur.

"After the County department of transportation ~~operationsengineering~~ division manager or his/her designee has reviewed and determined that the submitted Work Plan is

unreasonable for the proposed utility work in question, the ~~County~~ department of transportation ~~operationsengineering~~ division manager or his/her designee will notify the Utility of such opinion through written correspondence. Such written correspondence shall detail the items in question and request the Utility to justify or revise the Work Plan accordingly. The Utility will respond to this letter within 10 business days. The response shall include justification or proposed revisions to comply with the items in question identified by the ~~County~~ department of transportation ~~operationsengineering~~ division manager or his/her designee. If the Work Plan dispute cannot be resolved through the efforts described above after 20 business days from the date provided in the department of transportation's original written correspondence, said dispute may be escalated by the department of transportation's ~~operationsengineering~~ divisions manager or his/her designee or the Utility to the ~~Director~~director of the department of transportation and a designated representative of the Utility who has authority to settle the dispute and who is at a higher level of management than the person with direct responsibility for the management of the project. If the parties are unable to resolve the dispute, either may select relief from such other remedies as may be available at law or in equity."

u. Section 4.2.A.2 of the Manual is amended by deleting Case VII and Case VIII.

ev. Section 4.2.B.1 of the ~~manual~~Manual is amended to read as follows by deleting in its entirety and adding in its place the following:

"4.2.B.1 Determination of Eligibility. Whenever a claim for reimbursement is made by a Utility, a written application for such reimbursement shall be submitted by the Utility to the County department of transportation, along with such supporting documentation for such claim as may be required in the discretion of the department of transportation. Upon review and verification of the information provided by the Utility, the department of transportation shall make a determination of eligibility for reimbursement."

fw. Section 4.2.B.4 of the ~~manual~~Manual is amended by adding the following language to the end of the paragraph:

"For above-ground facilities, other factors may be considered by the County department of transportation in determining the allocation and proration of costs to be reimbursed to the Utility (including, but not limited to, the overhang of utility facilities into existing rights-of way)."

gx. Section 4.2.F.2 of the ~~manual~~Manual is amended by inserting before the last sentence of the first paragraph: "The Utility shall return the agreement, with proper signatures, and the department will forward to the Cobb County Board of Commissioners for final approval." deleted in its entirety and the following language inserted in lieu thereof:

"After review of such information, the County department of transportation will prepare the agreement and coordinate approval and execution. All agreements shall be in writing and executed by the County department of transportation and the Utility."

hy. Section 4.2.F.3 of the ~~manual~~Manual is amended to read as follows by deleting in its entirety and adding in its place the following:

"4.2.F.3 ~~Reviews and Approvals~~Reviews and Approval - - Agreements will be approved and executed by the Chairman of the Board of Commissioners. The prior concurrence of the Director, County department of transportation and County Attorney may also be required."

iz. Section 4.4.B of the ~~manual~~Manual is amended by deleting the paragraphs titled "Escalation Process Step 1", "Escalation Process Step 2" and "Escalation Process Step 3" in their entireties, and amending the remaining portions to read as follows:

"4.4.B Revised Work Plan Approval - If previously unforeseen utility removal, relocation, or adjustment work is found necessary by the County department of transportation, the

Utility or the department's Contractor after the letting of a project, the Utility shall provide a revised work plan within 30 calendar days after becoming aware of such additional work or upon receipt of the Department's written notification advising of such additional work. The incorporation of this revised work plan into the overall project schedule is not intended to correct errors and omissions with the originally approved Work Plan submitted to the department. If such errors or omissions occur, it will be the Utility's responsibility to adhere to the original work plan submitted and approved during the preconstruction phase of the project's development. However, when it is deemed appropriate for a revised Work Plan to be submitted the following procedure shall be followed for its approval:

"It is the responsibility of the ~~County~~ department of transportation ~~operations~~engineering division manager or his/her designee to review all revised Work Plans submitted by the Utility found within a project's limits. If upon review, the ~~County~~ department of transportation ~~operations~~engineering division manager or his/her designee determines a revised Work Plan to be unreasonable based upon the required scope of utility adjustment and/or relocation required to accommodate a project, the ~~County~~ department of transportation ~~operations~~engineering division manager or his/her designee will initiate the same process to resolve such disputes as set forth in Section 4.1.C.4."

jaa. Section 4.4.C of the ~~manual~~Manual is amended to read as follows by deleting in its entirety and adding in its place the following:

"4.4.C. Procedures for Utility Damages or Delay Costs - If the Utility fails to provide a Work Plan or fails to complete the removal, relocation, or adjustment of its facilities in accordance with the Work Plan or Revised Work Plan approved by the County department of transportation, then the Utility may be liable to the department or its Contractor for delay costs and damages incurred by the department or its Contractor which grow out of the failure of the Utility to carry out and complete its work accordingly. However, the following escalation process shall be utilized by the department, its Contractor, and the Utility to resolve such disputes regarding damages or delays prior to such claims being brought before a court of competent jurisdiction.

"Escalation Process Step 1 - It shall be the Contractor's responsibility to coordinate and track each Utilities progress in relation to the Work Plan or Revised Work Plan previously approved by the ~~County~~ department of transportation ~~operations~~engineering division manager or his/her designee. Once the Contractor has determined that the Utilities work progress is at least 20% behind the approved Work Plan, the Contractor will notify the Utility and the department of such apparent delay through written correspondence. Such written correspondence shall detail the delay in question and request the Utility to submit a proposal on how the Utility plans to rectify such delay and maintain the project's schedule prescribed by the previously approved Work Plan. The Utility will respond to this letter within 10 business days. The response shall include a proposal to cure the delay identified by the department's Contractor. In some cases, the complexity of the project may require that a utility coordination meeting be held to address the issues identified by the department's Contractor. If the Utility determines that this is the case, then the Utility's response letter shall include a request to hold a utility coordination meeting with the department's Contractor and the ~~County~~ department of transportation for utility delay resolution. If the utility delay dispute cannot be resolved through the coordination efforts described above after 20 business days from the date provided in the Contractor's original written correspondence, said dispute may be escalated for further consideration as provided in Escalation Process Step 2 below.

"Escalation Process Step 2 - After the ~~County~~ department of transportation ~~operationsengineering~~ division manager or his/her designee has reviewed and determined that the submitted Work Plan is unreasonable for the proposed utility work in question, the ~~County~~ department of transportation ~~operationsengineering~~ division manager or his/her designee will notify the Utility of such determination through written correspondence. Such written correspondence shall detail the items in question and request the Utility to justify or revise the Work Plan accordingly. The Utility will respond to this letter within 10 business days. The response shall include justification or proposed revisions to comply with the items in question identified by the ~~County~~ department of transportation ~~operationsengineering~~ division manager or his/her designee. If the Work Plan dispute cannot be resolved through the efforts described above after 20 business days from the date provided in the department of transportation's original written correspondence, said dispute may be escalated by the department of transportation ~~operationsengineering~~ division manager or his/her designee or the Utility to the ~~Director~~director of the department of transportation and a designated representative of the Utility who has authority to settle the dispute and who is at a higher level of management than the person with direct responsibility for the management of the project. If the parties are unable to resolve the dispute, either party may select relief from such other remedies as may be available at law or in equity. The Utility shall have a period of 45 days from the date of receipt of the department of transportation's original written correspondence to either pay the amount of the damages or delay costs to the department or its Contractor or seek relief from this determination by available legal or equitable remedy".

- bb. Section 4.7.A of the Manual is amended by revising the last sentence to read as follows:
"Contact the county department of transportation for a current copy of this form."
- cc. Section 4.7.B.1 of the Manual is amended by deleting the first sentence and adding its place the following: "It is desirable to use Overhead/Subsurface Utility Engineering (SUE) to determine existing utility owners/locations, POA and traffic signal communications information on projects that involve placement of new signal facilities or communications cables, or where existing facilities must be relocated to new joint-use poles."
- dd. Section 4.7.B.2 of the Manual is amended by deleting the first sentence and adding in its place the following: "**Non-SUE Projects/New Installations** – For projects that do not utilize the services of SUE, the responsible party for preliminary engineering will perform survey to include but not limited to the Edge of Pavement (EP) and curb/gutter, and property and R/W data."
- ee. Section 5.2.B.2 of the Manual is amended by deleting the last two bullets in subparagraph a.
- ff. Section 5.2.F.2 of the Manual is amended by adding at the end of subparagraph a. a new paragraph to be numbered 4 as follows:
"4. Milling and resurfacing shall be performed such that there isn't an increase in the pavement elevations in the after condition. Areas to be milled and resurfaced shall be measured from each trench edge on each side of the trench. For an example; If a trench is cut diagonal to an east west road, the milling and resurfacing would be measured 50' from a point the further west and 50' from the point further east for complete milling and resurfacing between those two external points."

For any roadway with no raised barriers separating the lanes, the entire roadway shall be milled and resurfaced as described above. For divided roadways (divided with a raised barrier or median), only the side being trenched needs to be resurfaced.

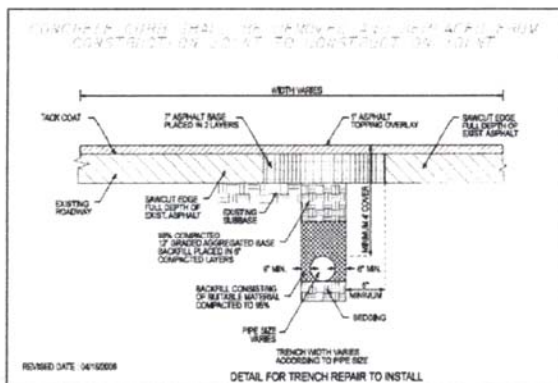
For any utility trenching within the stop bars or stop lines within a signalized intersection, the entire intersection shall be milled and replaced regardless of the length. Any and all pavement markings and raised pavement markers within the milled and resurfaced areas shall be replaced in kind according to the department standards for pavement markings and raised pavement markers. Any existing "in-pavement" traffic detection devices within the milled and resurfaced area shall be replaced to the satisfaction of the department of transportation traffic operations manager. Any utility related contractor working around signalized intersections must coordinate with the department of transportation traffic operations manager at least two weeks before the planned start of any saw cutting for utility trenching within a signalized intersection."

kgg. Section 5.2.F.2.b.4 of the Manual is amended to read as follows by deleting subparagraph 1 in its entirety and adding in its place the following:

"1. Asphaltic Concrete Pavements- a minimum depth of 48 inches from the top of the pipe to the finished asphalt grade shall be required.

"The bottom of the trench under the pipe shall be bedded up to the haunches of the pipe. Backfill shall be of a suitable material compacted to 98% compaction. The trench shall have a minimum clearance of 6 inches on either side of the pipe for the maximum amount of compaction effort. A minimum of 12 inches graded aggregated base backfill shall be placed in 6 inch compacted layers at 98% compaction. A 7 inch asphalt base shall be placed in 2 layers with an additional one inch (1") asphalt topping overlay. The existing asphalt will be saw cut along the edge for the full depth of existing asphalt. A tack coat will be required between the asphalt base course and the asphalt topping overlay coat. The asphalt topping shall match the existing roadway asphalt. When the concrete curbing is cut it shall be replaced from construction joint to construction joint (See ~~attached pavement trench~~ repair diagram below)."

hh. Section 5.2.F.2.c. of the ~~manual~~ Manual is amended by adding the following language to the end of the paragraph: "Milling and resurfacing ~~may~~shall be required by the County department of transportation engineering/utility permitting department".



ii. Section 5.8.A of the Manual is amended by deleting in its entirety, and adding in its place the following: "Irrigation Systems. Irrigation systems installed in the right of way, primarily for sprinkler systems, are installed at the risk of the property owner. The department does not issue

permits for irrigation systems, but may issue a landscape license at its discretion. If any irrigation system is damaged, including those licensed by the department, it will not be repaired or replaced by the county."

ii. Section 5.11 of the Manual is amended by deleting in its entirety and adding in its place the following: "Small Wireless Facilities. Small Wireless Facilities shall be governed by Article VII of Chapter 106 of the Official Code of Cobb County, as amended."

ARTICLE VII. – SMALL WIRELESS FACILITIES

Section 106-181 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sec. 106-181. – Definitions.

Antenna has the same meaning as in O.C.G.A. § 36-66C-2(2).

Applicable codes means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization to the extent such codes have been adopted by the state or an authority or are otherwise applicable in the jurisdiction in which the application is submitted.

Applicable laws means and includes any and all federal, state, or local laws, statutes, common laws, applicable codes, rules, regulations, orders, or ordinances and the Telecommunications Act of 1996 as codified in 47 U.S.C. § 151 et seq.

Applicant means any person who submits an application.

Application means a request submitted by an applicant (i) for a permit to install or collocate small wireless facilities; or (ii) to approve the installation or modification of a utility pole or wireless support structure.

Article means article VII of chapter 106 of the Official Code of Cobb County, Georgia (hereinafter "County Code").

Chapter means chapter 106 of the County Code of Cobb County.

Collocate has the same meaning as in O.C.G.A. § 36-66C-2(11).

Concealment element means any design feature, including but not limited to painting, landscaping, shielding requirements, and restrictions on location, proportions, or physical dimensions in relation to the surrounding area or the structure which supports a wireless facility, that is intended to make a wireless facility or any supporting structure less visible to the casual observer.

County-owned pole means a pole owned, managed, or operated by or on behalf of the county. Such term shall not include poles, support structures, electric transmission structures, or equipment of any type owned by an electric supplier. The term shall only include vertical portions of covered poles; horizontal extensions are not included.

Day means calendar day.

Fee means a one-time charge.

Historic district has the same meaning as in O.C.G.A. § 36-66C-2(20).

Micro wireless facility has the same meaning as in O.C.G.A. § 36-66C-2(23).

O.C.G.A. means the Official Code of Georgia Annotated.

Permit has the same meaning as in O.C.G.A. § 36-66C-2(24).

Permittee means an Applicant who holds an active Permit.

Person means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the county.

Pole has the same meaning as in O.C.G.A. § 36-66C-2(26).

Rate means a recurring charge.

Replace, replacement, or replacing has the same meaning as in O.C.G.A. § 36-66C-2(29).

Rights-of-way or *ROW* has the same meaning as in O.C.G.A. § 36-66C-2(31).

Small wireless facility has the same meaning as in O.C.G.A. § 36-66C-2(32).

Support structure has the same meaning as in O.C.G.A. § 36-66C-2(34).

Utility pole means a pole or similar structure that is used in whole or in part for the purpose of carrying electric distribution lines or cables or wires for telecommunications, cable or electric service, or for lighting, traffic control, signage, or a similar function regardless of ownership, including county-owned poles. Such term shall not include structures or poles supporting only wireless facilities on the date of the application.

Wireless facility means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term does not include the structure or improvements on, under, or within which the equipment is collocated.

Wireless infrastructure provider has the same meaning as in O.C.G.A. § 36-66C-2(35).

Wireless provider has the same meaning as in O.C.G.A. § 36-66C-2(36).

Wireless services has the same meaning as in O.C.G.A. § 36-66C-2(37).

Wireless services provider has the same meaning as in O.C.G.A. § 36-66C-2(38).

Section 106-186 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sec. 106-186. – Removal, relocation or modification of small wireless facilities in the ROW.

- (a) *Removal.* Removal of small wireless facilities shall be governed by O.C.G.A. § 36-66C-5(e).
- (b) *Relocation.* Relocation of poles, support structures, or small wireless facilities shall be governed by O.C.G.A. § 36-66C-7(l) and (o).
- (c) *Reconditioning work.* Reconditioning work shall be governed by O.C.G.A. § 36-66C-7(m).
- (d) *Abandonment of facilities.* Abandonment of facilities shall be governed by O.C.G.A. § 36-66C-7(p).
- (e) *Emergency removal or relocation of facilities.* If the county determines that a wireless provider's activity in a right-of-way creates an imminent risk to public safety, the county may provide written notice to the wireless provider and demand that the wireless provider address such risk within 24 hours of the written notice. If the wireless provider fails to reasonably address the risk within 24 hours of the written notice, the county may take or cause to be taken action to reasonably address such risk and charge the wireless provider the reasonable documented cost of such actions. Notwithstanding the foregoing, the county retains the right and privilege to cut power to or move any small wireless facility

located within the rights-of-way of the county, as the county may determine to be necessary, appropriate, or useful in response to any public health or safety emergency in circumstances where notice to the wireless provider is not reasonably practical, including without limitation removal of damaged or destroyed poles or decorative poles. In the event that a pole or decorative pole needs to be cleared from the public right-of-way, the County shall conduct this work. In the event that a county-owned replacement pole or replacement decorative pole needs to be repaired or replaced, the Permittee for such pole shall conduct this work at the Permittee's sole expense and within a reasonable time period. For all other poles that require repair or replacement, the Permittee shall repair or replace such pole(s) in its discretion and at no cost to the county. In all cases where repair or replacement is necessary, the Permittee shall provide the County with ten (10) days] prior written notice before beginning such work.

- (f) *Damages to rights-of-way.* The county is authorized to require a wireless provider to repair all damage to a right-of-way directly caused by the activities of the wireless provider, as provided in O.C.G.A. § 36-66C-7(r).
- (g) *Replacement pole ownership.* Pursuant to O.C.G.A. § § 36-66C-7(n), 36-66C-12, and 36-66C-16, absent an agreement to the contrary, ownership of any replacement pole or replacement decorative pole shall automatically transfer to the County upon the completion of installation. When requested, the Permittee shall cooperate with the County to transfer ownership and any associated warranties of any replacement pole or replacement decorative pole from the Permittee to the County without charge to the County.

Chapter 110 – SUBDIVISIONS

ARTICLE II. – PLATS AND PLAT APPROVAL PROCEDURE

Section 110-26 of the Official Code of Cobb County, Georgia, is amended to read as follows:
Sec. 110-26. - Procedure for plat approval for subdivisions.

Any owner of land lying within the area of jurisdiction of these subdivision regulations wishing to divide such land into two or more lots, sites or divisions for the purpose, either immediate or future, of sale or building development, or wishing to resubdivide for this purpose, shall submit a plan of such proposed subdivision to the subdivision administrator and, if using septic tanks, to the county health department for its consideration. The following requirements shall govern the procedure for plat approval for subdivisions:

- (1) ~~Submit preliminary plan (see section 110-27) and money for water pressure test to subdivision administrator for review of subdivision design. Approvals by subdivision administrator and by the zoning department are recommended before preparation of construction plans.~~
 - a. ~~Before any construction plans are accepted for review by the community development department the following shall be approved:~~
 - 1. ~~Preliminary plat optional, not required;~~
 - 2. ~~Water pressure test;~~
 - 3. ~~Method of sanitary sewage disposal.~~
 - b. ~~Approval of the preliminary plat or plats shall expire and have no force and effect unless actual construction work has been commenced within six months from the date of the approval of the plat or plats.~~
- (2) ~~Prepare supplementary data for health department (see section 110-27(d)) if subdivision is to be served by septic tanks.~~
- (3) ~~If development is to use septic tanks, submit the preliminary plat, supplementary material and two copies of the plat to the county health department. Allow seven days for study and report.~~

~~Note: If a final plat has not been submitted within two years of the conditional preliminary approval, a complete review and reapproval may be necessary before the consideration of a final plat.~~

- ~~(4) Approval of construction plats shall expire six months from the date of approval if construction is not actively underway to the satisfaction of the director or his appropriate representative.~~
- (5) Prepare a complete set of construction plans which shall include at a minimum:
 - a. Preliminary site plan ~~(see section 110-27).~~
 - b. ~~Plans and profiles for streets extend profile of all dead-end streets 500 feet into adjacent property.~~ Site grading plans.
 - c. ~~Typical road sections.~~ Roadway Development plans (see Cobb County Development Standards).
 - d. ~~Location, calculations and profiles for all drainage structures.~~ Stormwater Management Plan (see Cobb County Development Standards).
 - e. ~~Detail plans of all intersections showing drainage at intersection; scale one inch equal to 50 feet.~~ Fire Safety Standards (see Sec. 54, Article III).
 - f. Water and Sanitary Sewer plans (see Cobb County Development Standards).
 - g. ~~Site grading plan with soil sediment control structures.~~ Erosion and Sediment Control plans (see Sec. 50-75).
 - h. ~~Impact on flood hazard zone.~~ Tree Protection and Replacement Plan (see Cobb County Development Standards).
 - i. Additional site-specific information as may be necessary.
- ~~(6) Submit two sets of the construction plans, and the supplementary data (see section 110-27(c)) to the subdivision administrator for consideration by the Development Review Committee, department. Allow 30 days for study of the plans. The action and/or recommendations shall be noted on the plans and returned to the submitter. Upon resubmittal of revised plans, and verification that all staff comments have been properly addressed, the project will be made eligible for permitting Upon receiving construction plan approval as outlined in Section 102.03 of the Cobb County Development Standards, a Land Disturbance Permit shall be issued.~~
 - a. ~~Two sets of construction plans shall be required to be stamped and signed to approve the conditions set before any work begins. Additional sets of plans for the original drawings or the original drawings must be submitted to be stamped and signed for the developer's use.~~
 - b. ~~One copy of the approved construction plans must be at the job site whenever work is in progress.~~
 - c. ~~The following permits shall be taken out before each phase of work commences. These are available at no cost from the inspection section of the water and sewer department (see standard design specifications in article III of this chapter).~~
 1. ~~Grading permit, prior to any grading or clearing (see sediment control regulations).~~
 2. ~~Storm drainage if separate from grading.~~
 3. ~~Sanitary sewer.~~
 4. ~~Curbing.~~
 5. ~~Water, telephone, power, gas, etc.~~
 6. ~~Base and paving installation.~~
- (7) Upon completion of site grading, paving, utility and infrastructure installation, prepare a final plat (see section 110-30). No building permits shall be issued before approval of the final plat.
- (8) Submit final plat for health department approval if septic tanks are to be used for sewerage disposal.

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- (9) Submit final plat and the platting fee to the subdivision administrator for approval on the basis of the approved construction plans.

Note: Approval of the final plat does not constitute final acceptance of the improvements.

- (10) The applicant ~~subdivision administrator~~ shall have the final plat recorded after the necessary signatures have been placed upon it. ~~A mylar positive of the recorded plat is then placed on file in the department and the original returned to the developer, his engineer, surveyor or other authorized representative.~~

- (11) The subdivider may begin to sell lots.

- (12) Ensure that all inspections have been made at proper phases of road construction, so that the one-year maintenance period may begin promptly.

(Ord. of 9-24-74, art. VI; Ord. of 2-22-77; Ord. of 4-26-77; Ord. of 1-24-06)

State Law reference— Submittal of certain plats to state department of transportation for review, O.C.G.A. § 32-6-150 et seq.

The Official Code of Cobb County, Georgia is amended by deleting Section 110-27.

Sec. 110-27. ~~Preliminary plat requirements.~~ Reserved.

(a) ~~The preliminary plat shall be clearly and legibly drawn as a scale of one inch to 100 feet or one inch to 50 feet. Sheet size shall not exceed 48 inches by 36 inches. In no case shall sheet size be less than 8½ inches by 11 inches.~~

(b) ~~The preliminary or overall development plat shall be prepared by a registered landscape architect or land surveyor and shall show the following:~~

~~(1) Proposed name of subdivision.~~

~~(2) Name and address of the owner of record.~~

~~(3) Name, address and telephone number of the subdivider.~~

~~(4) Date of survey, north point and graphic scale, source of datum, date of plat drawing, and space for revision dates.~~

~~(5) Location (land, lot and district) and gross acreage of tract.~~

~~(6) Location sketch locating the subdivision in relation to the surrounding area with regard to well-known landmarks such as major thoroughfares, railroads and the like. Sketches may be drawn in freehand and at a scale sufficient to show clearly the information required, but not less than one inch to 2,000 feet.~~

~~(7) Name of former subdivision if the preliminary plat had been previously subdivided.~~

~~(8) Exact boundary lines of the tract indicated by a heavy line giving lengths and bearings. The boundary lines shall include the entire tract to be eventually subdivided and data as required herein shall apply to the entire tract.~~

~~(9) Ground elevations on the tract based on field surveys or photogrammetric methods from aerial photographs. The basis for the topographic information shall be shown. Contour lines shall be drawn at intervals of two feet.~~

~~(10) Natural features within the proposed subdivision, including drainage channels, bodies of water, wooded areas and other significant features. On all watercourses leaving the tract, the direction of flow and acreage of the drainage area above the point of entry shall be noted. Floodplains shall be outlined.~~

~~(11) Cultural features around and within the proposed subdivision including right of way and pavement widths, and names of existing and platted streets; all easements, city and county lines, and other significant information. Location and dimensions of bridges, utility lines and structures, street culverts and other features should also be indicated.~~

~~(12) Proposed layout including lot lines with rough dimensions, lot numbers, block letters, street and alley lines with proposed street names, right of way widths, sites reserved through covenants and easements dedicated or otherwise for public uses.~~

~~(13) Proposed unit division or stage development, if any, as proposed by the subdivider.~~

~~(14) Present zoning and zoning of abutting land.~~

~~(15) Proposed zoning and average size of lots.~~

~~(16) Number of lots.~~

~~(17) Each preliminary plat submitted shall carry the following certificates printed or stamped thereon substantially as follows:~~

~~a. Preliminary engineering certificate.~~

~~I hereby certify that this proposed preliminary plat correctly represents data compiled or verified through a survey completed by me on _____, 19____, of property shown and described hereon.~~

By _____

Registered Georgia Landscape

Architect No. _____

Approved 2-9-2021

or

By _____

Registered Georgia Land Surveyor

No. _____

b. ~~Preliminary plat approval certificate.~~

All requirements of the Cobb County subdivision regulations relative to the preparation and submission of a preliminary plat having been fulfilled, approval of this plat is hereby granted subject to further provisions of such regulations. This certificate shall expire _____.

Community Development
Department

Date

~~(c) Supplementary data to be submitted to the director with the preliminary plat shall be as follows:~~

- ~~(1) Draft of proposed protective covenants.~~
- ~~(2) Proposed size of houses.~~
- ~~(3) Price ranges of houses.~~
- ~~(4) Profile of existing county roads, left and right from proposed street intersections. Note standard design specifications for sight distance requirements.~~

~~(d) Supplementary data to be submitted to the county health department with preliminary plat if subdivision is to be served by septic tanks shall include the following:~~

- ~~(1) Name of subdivision:
 - a. Sponsor.
 - b. Address.~~
- ~~(2) Location of subdivision:
 - a. Land lot and district.
 - b. Gross acreage of subdivision.
 - c. Typical lot area.
 - d. Number of lots.
 - e. Approximate adjacent area available for expansion.~~
- ~~(3) Adjacent subdivisions.~~
- ~~(4) Typical home to be constructed:
 - a. Number of bedrooms.
 - b. Number of baths.
 - c. Dishwasher.
 - d. Garbage grinder.
 - e. Clothes washer.~~

~~(e) Specific information required by the county health department shall be as follows:~~

- ~~(1) Letter from the director stating the date public sewerage shall become available.~~
- ~~(2) Subdivision analysis record form; show high and low water pressure for a given 24-hour period.~~
- ~~(3) Present percolation test and soil boring test results, as required.~~
- ~~(4) Present a letter from the county sewer department affirming approval and acceptance of sewers, if sewers are to be installed initially. Also present a letter from the state water supply division that they approve this addition to the public water system.~~
- ~~(5) Publicly or privately owned water systems:
 - a. Name of water system.
 - b. Nearest available main with distance to project.~~

- ~~c. If a privately owned water system, provide owner's name and address. Attach a letter from the responsible official or owner stating their position on connection of subdivision to public or private water system.~~
- ~~d. Are individual water systems proposed for each lot?~~

(Ord. of 9-24-74, art. VII)

Section 110-30 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sec. 110-30. - Final plat specifications.

- (a) The final plat shall be clearly and legibly drawn on permanent reproducible material. The scale of the final plat shall be no more than 100 feet to one inch. Sheet size shall not exceed 48 inches by 36 inches. If the complete plat cannot be shown on one sheet, several sheets with an index map indicated on each sheet shall be used. In no case shall sheet size be less than 8½ inches by 11 inches.
- (b) The final plat shall conform to the approved construction plans ~~preliminary plat~~ and it may constitute only that portion of the approved construction plans ~~preliminary plat~~ which the subdivider proposes to record and develop at any time, provided that such portion conforms to the staging established in approved construction plans ~~preliminary plat procedure~~ and to the requirements of this chapter.
- (c) The final plat shall contain the following information:
 - (1) Name of the subdivision and street names.
 - (2) Property address numbers, as furnished by the community development department.
 - (3) Reference to record subdivision plats of adjoining land by record name.
 - (4) Date of plat drawing, graphic scale, and north arrow point.
 - (5) Location of tract, by land lot and district.
 - (6) Name of former subdivision if any or all of the final plat has been previously subdivided.
 - (7) Location sketch at a scale of one inch equals 2,000 feet.
 - (8) Index map on each sheet when more than one sheet is required.
 - (9) Courses and distances to the nearest existing street, intersections, or other recognized permanent monuments or benchmarks.
 - (10) Exact boundary lines of the tract, to be indicated by a heavy line, giving distances to the nearest one-tenth foot and angles to the nearest second minute, which shall be balanced and closed. The error of closure shall be stated, and further the error of closure shall exceed 1' in 10,000' ~~one to 10,000'~~. Tract boundaries shall be determined by accurate survey in the field.
 - (11) Reserved. ~~Land lot lines shall be accurately tied to boundary lines of the subdivision by angles and distances when such lines traverse the subdivision; when the subdivision does not intersect a land lot line, then the lines of a major controlling street shall be projected and tied to a land lot line by angles and distances. In both cases, the measured distance from land lot tie to a respective land lot corner shall be shown with the magnetic bearing of the land lot line. No approximate land lot lines shall be shown on the subdivision plat.~~
 - (12) Exact locations, width and names of all streets and alleys within and immediately adjoining the plat and the exact location and widths of all crosswalks.
 - (13) Street centerlines showing angles of deflection and standard curve data of intersection, radii, length of tangents and arcs, and degree of curvature with basis of curve data.
 - (14) Lot lines with dimensions to the nearest one-tenth foot, necessary internal angles, arcs and chords and tangents or radii of rounded corners.
 - (15) Building setback lines with dimension.
 - (16) Lots or sites numbered in numerical order and clockwise lettered alphabetically.

- (17) Location, dimensions, drainage area and purpose of all drainage structures and of any easements, including slope easements, flood hazard areas, public service utility right-of-way lines, and any areas to be reserved, donated or dedicated to public use or sites for other than residential use with notes, stating their purpose and limitations; and of any areas to be reserved by deed covenant for common uses of all property owners.
- (18) A statement of the private covenants, if they are brief enough to be put directly on the plat; otherwise a statement as follows: "This plat is subject to the covenants set forth in the separate document(s) attached hereto dated _____, which hereby becomes a part of this plat, recorded _____" and signed by the owner.
- (19) Accurate location, material and description of monuments and markers. Monuments to be placed after final street improvements shall be designated as future.
- (20) Seal of surveyor or engineer responsible for work.
- (21) Variances, if any, and date approved by the appeals board.
- (d) Certificates for the final plat shall be provided as follows:

(1) *Owner's acknowledgment:*

~~The owner of the land shown on this plat and who in person or through a duly authorized agent acknowledges that this plat was made from an actual survey and dedicates to the use of the public forever, all streets, alleys, parks, watercourses, drains, easements and public places hereon shown for the purpose and consideration herein expressed.~~

I hereby certify that I am the owner of the land shown on this plat (or a duly authorized agent thereof) whose name is subscribed hereto. I acknowledge that this plat was made from an actual survey, and for value received the sufficiency of which is hereby acknowledged, I do hereby convey all streets and rights-of-way, detention pond lots, water mains and sewer lines shown hereon in fee simple to Cobb County and further dedicate to the use of the public forever all alleys, parks, watercourses, drains, easements, and public places hereon shown for the purposes and considerations herein expressed. In consideration of the approval of this development plan and other valuable considerations, I further release and hold harmless Cobb County from any and all claims, damages, or demands arising: on account of the design, construction, and maintenance of the property shown hereon; on account of the roads, fills, embankments, ditches, cross drains, culverts, water mains, sewer lines, and bridges within the proposed rights-of-way and easements shown; and on account of backwater, the collection and discharge of surface water, or the changing of courses of streams.

And further, I warrant that I own fee simple title to the property shown hereon and agree that Cobb County shall not be liable to me, my heirs, successors, or assigns for any claims or damages resulting from the construction or maintenance of cross drain extensions, drives, structures, street, culverts, curbs, or sidewalk, the changing of courses of streams and rivers, flooding from natural creeks and rivers, surface waters, and any other matter whatsoever. I further warrant that I have the right to sell and convey the land according to this plat and do hereby bind owners and myself subsequent in title to defend by virtue of these presents.

<u>Signature</u>	<u>Printed Name</u>	<u>Date</u>
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(2) *Surveyor's acknowledgment:*

Approved 2-9-2021

I hereby certify that the plan shown and described hereon is a true and correct survey made on the ground under my supervision, that the monuments have been placed as shown hereon, and is to the accuracy and specifications required by the Cobb County Subdivision Regulations.

Registered Georgia Land Surveyor

I hereby certify that the plan shown and described hereon is a true and correct survey made on the ground under my supervision, that the monuments have been placed as shown hereon, and is to the accuracy and specifications required by the Cobb County Development Standards.

Signature Printed Name Date
Registered Ga. Land Surveyor

(3) County certification: Cobb County Development Certification:

This plat having been submitted to Cobb County and having been found to comply with the Master Plan, the Cobb County Subdivision Regulations and the Cobb County Zoning Regulations is approved subject to the installation and dedication of all streets, utilities, easements and other improvements in accordance with the Standard Design Specifications.

_____ Date	_____ Community Development Department
_____ Date	_____ Planning Commission
_____ Date	_____ Board of Commissioners

This plat, having been submitted to Cobb County and having been found to comply with the Cobb County Development Standards and the Cobb County Zoning Ordinance, is approved subject to the installation and dedication of all streets, utilities, easements and other improvements in accordance with the Standard Design Specifications and the posting of a one-year maintenance security.

Cobb County Water System Date

Zoning Division Date

Development & Inspections Division Date

Approved 2-9-2021

Cobb County Board of Commissioners _____ Date _____

- (4) Certification of ~~county health officers~~ Cobb County Public Health (only on plats to be served by septic tanks):

~~This plat has been approved for individual septic tank systems, and individual septic tank permits will be issued on receipt of individual plat plans, showing the septic tank system in a suitable place on the lot. (Not binding after three years.)~~

Dated this _____ day of _____, 19____.

County Health Officer

This plat or survey has been approved for development utilizing onsite sewage management systems except as noted. Unauthorized excavation or filling of lots may render their approval void.

Environmental Health District Director _____ Date _____
For Cobb County Public Health

Note on Individual Septic Systems

Out: Currently unsuitable for on-site sewage management systems.

SP: Approval of individual site plan required prior to issuance of on-site sewage management system permit.

SPA: Approval of individual site plan utilizing an alternative on-site sewage management system required prior to permit issuance.

(5) Surveyor' Certification:

(a) Provide the appropriate Surveyor's Certification as set forth in OCGA § 15-6-67.

(Ord. of 9-24-74, art. VIII; Ord. of 2-22-77; Ord. of 4-26-77)

Section 110-31 of the Official Code of Cobb County, Georgia is amended to read as follows:

Sec. 110-31. – Revisions:

- (a) Revisions to the record plat shall be approved by the director. All changes shall be noted on the record plat with a statement of what revisions were made.

Sample: "This plat supersedes the plat recorded in Plat Book _____, page _____. The revisions made are: _____"

Approved 2-9-2021

	Approved by: _____ Cobb County Community Development Director _____ Date
--	---

APPROVED BY: _____ / _____
Cobb County Zoning Division Date

Cobb County Development & Inspections Division Date

- (b) Revision of an approved plat shall be submitted to the subdivision administrator with a fee in the amount established by the board of commissioners per plat for approval and recording.

(Ord. of 9-24-74, art. XIII)

ARTICLE III. – SUBDIVISION DESIGN STANDARDS AND REQUIRED IMPROVEMENTS

DIVISION 1. – GENERALLY

Section 110-59 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 110-59. – Lots.

Lots in subdivisions shall comply with the following:

- (1) *Arrangement.* Side lot lines should be at right angles (90 degrees) to straight street lines or radial to curved street lines. Side lot lines should be radial to the radius points of all culs-de-sac. Each lot shall front upon a dedicated public street having a right-of-way of not less than 50 feet.
- (2) *Building lines.* Building lines shall conform with the county zoning regulations.
- (3) *Corner lots.* All corner lots, regardless of zoning, shall have no less than 100 feet of road frontage on each street and shall meet the requirements in the county zoning regulations. The street side yard shall not be less than 25 feet as measured from the street right-of-way. No driveway shall be located within 80 feet of the street intersection.
- (4) *Double frontage lots.* Access to double frontage lots shall be restricted to the interior street.
- (5) *Septic tanks and sewage disposal systems (see section 122-242).*
 - a. ~~No septic tanks shall be allowed if public sewer is available. All dwellings shall connect to the public sewer when such sewer is available.~~
 - b. ~~Lots with septic tanks and tile drainfield sewage disposal systems and public water supply: Such lots shall not contain less than 20,000 square feet in area.~~
 - c. ~~Lots with septic tanks and tile drainfield sewage disposal systems and individual water supply systems: No such lot shall contain less than one acre, regardless of zoning.~~

Section 110-61 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 110-61. – Easements.

- (a) Easements shall be cleared and opened at the time of development to control surface water runoffs. Runoffs slope and side slopes shall be specified by the developer's engineer, according to good engineering practices. Drainage ditches shall conform to standard swale ditch, as specified in the standard design specifications.
- (b) Permanent sanitary sewer easements of 20 feet in width shall be provided for necessary lines.
- (c) No permanent structures shall be constructed within ten feet of the edge of a permanent water or sanitary sewer easement on front and rear setbacks, or within two feet on side setbacks. The water system director may grant a variance to this requirement provided that it can be demonstrated to his or her reasonable satisfaction that such structure will not impede future installation or maintenance within said easement.
- (d) Easements for sanitary sewers and drainage purposes shall not overlap unless approved by the ~~community development department~~ county water system.
- (e) Drainage easements shall be provided where a subdivision is traversed by a watercourse, drainageway, natural stream or channel. It shall conform substantially to the limits of such watercourse plus any additional width as is necessary to accommodate future construction as recommended by the director.

ARTICLE IV. – CONDOMINIUMS

Section 110-119 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 110-119. – Easements.

- (a) Easements shall be cleaned and opened at the time of development to control surface water runoffs. Runoff slope and side slopes shall be specified by the developer's engineer, according to good engineering practice.
- (b) Permanent sanitary sewer easements of 20 feet in width shall be provided for necessary lines.
- (c) No permanent structures shall be constructed within ten feet of the edge of a permanent water or sanitary sewer easement on front and rear setbacks, or within two feet on side setbacks. The water system director may grant a variance to this requirement provided that it can be demonstrated to his or her reasonable satisfaction that such structure will not impede future installation or maintenance within said easement.
- (d) Easements for sanitary sewers and drainage purposes shall not overlap unless approved by the ~~community development department~~ the county water system.
- (e) Drainage easements shall be provided where the project is traversed by a watercourse, drainageway, natural stream or channel. It shall conform substantially to the limits of such watercourse plus any additional width as is necessary to accommodate future construction as recommended by the director.

Chapter 118 – TRAFFIC AND VEHICLES

ARTICLE IV. – STOPPING, STANDING AND PARKING

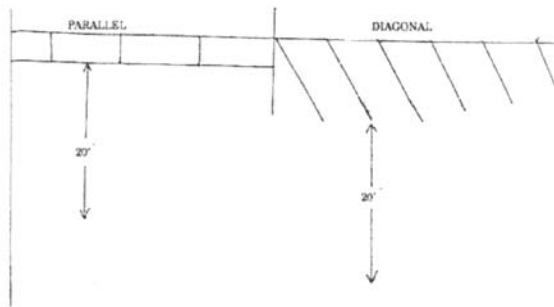
DIVISION 3. – FIRE LANES

Subdivision III. – Indemnification, Approval and Maintenance

Section 118-231 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sec. 118-231. - Required access for fire apparatus; identification.

- (a) Every existing building, built after the 1971 adoption of section 54-52, as amended, and all new buildings shall be accessible to fire department apparatus and other emergency vehicles by way of designated fire lanes with an all-weather driving surface of not less than 20 feet of unobstructed width. There shall be adequate roadway turning radius capable of supporting the imposed loads of fire apparatus and having a vertical clearance of 13 feet six inches. During construction, when combustibles are brought onto the site in such quantities as deemed hazardous by the fire official, access roads and a suitable temporary supply of water acceptable to the fire department shall be provided and maintained.



PARKING

- (1) The fire official shall have the authority to require an increase in the minimum access widths where they are inadequate for fire or rescue operations.
- (2) For all buildings, parking lots, driveways, private and public roads and right-of-ways, the fire official shall have the authority to require the designation, creation, deletion or modification of a fire lane and/or the installation of signs designating the same. shall be done solely at the discretion of the fire official.
- (b) The areas designated as fire lanes in all areas other than one-family and two-family dwelling complexes shall have signs posted meeting the following criteria:
- (1) Signs shall be a minimum of 12 inches wide by 18 inches high, have red letters on a white background. Signs shall read "No parking, fire lane". "No Parking" may be replaced by:
- 
- provided the "P" is a minimum of six inches in height.
- (2) Letters shall not be less than two inches in height.
- (3) One sign shall be posted at the beginning of the fire lane and one at the end of the fire lane. Intermittent signs shall be erected such that signs should not be more than approximately 100 feet apart.
- (4) Fire lanes less than 40 feet in length may have one sign posted in the middle of the fire lane.

- (5) For fire lanes 20 to 28 feet, signs and markings are required on both sides. For fire lanes 29 to 37 feet, signs and markings are required on one (either) side. For fire lanes in excess of 37 feet, no signs or markings are required.
- (6) Curbing or lineage delineating fire lanes shall be painted red. The top and face of the curb shall be painted. Every existing building shall conform to this subsection when repainting is necessary. New buildings shall conform prior to a certificate of occupancy being issued.
- (c) The areas designated as fire lanes in one-family and two-family dwelling complexes shall have signs posted meeting one of the following criteria:
 - (1) Curbing or lineage delineating fire lanes shall be painted red. The top and face of the curb shall be painted. "NO PARKING FIRE LANE" shall be stenciled on the curb every 100 feet. Letters shall not be less than three inches in height, and white in color. Not less than one "NO PARKING FIRE LANE" sign shall be posted within each complex; or
 - (2) Curbing shall not be required to be painted red. One sign shall be posted at the beginning of the fire lane and one at the end of the fire lane. Additional signs shall be erected such that signs are spaced not more than 100 feet apart. Signs shall be a minimum of 12 inches wide by 18 inches high, have red letters on a white reflective background, letters shall be not less than two inches in height. Signs shall be single-faced with directional arrow(s).
 - (3) Fire lanes shall be required as specified in section (b)(5) when parking on the road causes access problems for emergency vehicles.



FIRE LANE NO PARKING SIGNS

(Res. of 5-8-89; Code 1977, § 3-24-119; Ord. of 7-25-06; Ord. of 3-13-12)

Chapter 122 – UTILITIES

ARTICLE II. – WATER AND WASTEWATER SYSTEMS

DIVISION 1. – GENERALLY

Section 122-26 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 122-26. – Definitions.

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

...

Sewage means the spent water of a community. The equivalent term is "wastewater."

Sewer means a pipe or conduit that carries wastewater.

Sewer System development fee means a fee assessed to users of the county wastewater system to provide the funds necessary to renew, extend and/or improve the system where such renewals,

extensions and/or improvements are necessitated by the reduced available wastewater system capacity caused by the users' demands.

Significant industrial user means:

- (1) Any nondomestic user whose discharge meets any of the following, except as provided in subparagraphs (2) and (3):

...

Stormwater means any flow occurring during or following any form of natural precipitation and resulting therefrom.

Subdivision means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, legacy or building development.

Surcharge means a separate charge by the county for the handling and treatment of high strength wastewater.

DIVISION 2. – ENFORCEMENT

Section 122-48 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 122-48. – Civil liabilities and penalties.

- (a) Any person violating the provisions of this article, discharge permit, federal or state pretreatment requirements or any order of the county board of commissioners shall be liable to the county for a maximum civil penalty under O.C.G.A. § 36-1-20 of \$1,000.00 per violation per day. In the case of monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- (b) The department director may recover reasonable attorneys' fees, court costs and other expenses associated with enforcement activities, including sampling and monitoring expenses and the cost of actual damages incurred by the county.
- (c) In determining the amount of civil liability, the court shall take into account all relevant circumstances including, but not limited to, extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user and any other factor as justice requires.
- (d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

Section 122-50 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 122-50. – ~~Reserved Criminal Penalties.~~

- (a) A user who willfully or negligently violates, or continues to violate, any provision of this article, discharge permit or order issued pursuant to this article, or any other pretreatment standard or requirement shall upon conviction be guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00 per violation per day or imprisonment for not more than six months, or both.
- (b) A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall upon conviction be guilty of a misdemeanor and subject to a penalty of at least \$1,000.00, or be subject to imprisonment for not more than six months, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.
- (c) A user who knowingly makes any false statements, representations or certifications in any application, record, report, plan or other documentation filed, or required to be maintained, pursuant to this

article, wastewater discharge permit or order issued pursuant to this article or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this article shall upon conviction be punished by a fine of not more than \$1,000.00 per violation per day, or six months imprisonment or both.

- (d) In the event of a second conviction, a user shall be punished by a fine of not more than \$1,000.00 per violation per day, or imprisonment for six months or both.

DIVISION 3. – FEES AND CHARGES

Section 122-82 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 122-82. – Wastewater system fees.

- (a) *System development fee.*

- (1) *At the time of connection.* There is hereby levied and assessed a system development fee for the conveyance and treatment capacity required to accommodate the estimated sewage flow, as calculated by the water system, from a property connecting to the county wastewater system. All amounts charged to the property owner or user at the time of connection shall be calculated based on the estimated sewage flow from the proposed use of a property current rate and fee schedule approved at the time of connection, and such connection shall not be lawfully made prior to payment of such charges.
- (2) *Due to change in use or usage.* There shall be levied and assessed a system development fee for the conveyance and treatment capacity required to accommodate any increase in the estimated sewage flow, as calculated by the water system, from a property due to a change in use or usage of a property from the proposed use at the time of connection to the county wastewater system. The property owner or customer shall be responsible for paying the system development fee prior to the change in use or usage, and the change shall not be lawfully made prior to payment of such charges. A tenant or user on a property who is not the owner or a customer (e.g., master metered account with multiple users) may pay the charges associated with said tenant or user on behalf of the owner or customer. In the event that a tenant or user fails to pay such amounts as required by this section, the owner or customer shall be liable for the payment of such system development fees. The water system shall have the power and authority to enter upon the property of any owner or customer who fails to pay any additional fees or charges assessed in order to terminate the water and/or wastewater service in any manner deemed necessary and appropriate by the water system.

Section 122-85 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 122-85. – Charges for three-inch fire hydrant meter.

The following charges shall be levied for the use of a three-inch fire hydrant meter as provided in subsection 122-152(d):

- (1) A deposit payable at the time the meter is picked up.
- (2) A service charge for processing the meter rental.
- (3) A meter rental fee based on the number of days that the customer is in possession of the meter.
- (4) A charge for the water used, being the water service charge established for irrigation usage in subsection 122-83(b).
- (5) Cost for all damages to meters due to user's negligence.

The customer will be billed for metered water usage on a ~~12~~ 6-month basis, or when the meter is returned for refund on deposit, whichever occurs first.

DIVISION 4. – CONSTRUCTION STANDARDS

Section 122-119 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 122-119. – Water and wastewater connections.

- (a) *Construction procedures.*
 - (1) All water and wastewater connections that might impact public roadways shall be carefully evaluated to identify means available to minimize impacts to existing pavement;
 - (2) No pavement cut of a Cobb County road shall occur without permit from the Cobb County Department of Transportation.
 - (3) All road cuts and restorations shall be performed in compliance with applicable provisions of the Development Standards of Cobb County.
- (b) *Inspection of connections by county.* The applicant for a building sewer connection permit shall notify the department director or his representative when the building sewer is ready for inspection and connection to the county wastewater system. The connection and testing shall be made in the presence of the department director or his representative.
- (c) *Guarding excavations.* All excavations for building sewer installation shall be adequately guarded with barricades and lights in compliance with all OSHA and state department of transportation requirements so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored to substantially the same condition as prior to the disturbance in a manner satisfactory to the county.

Section 122-121 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 122-121. – Cross-connection control and backflow prevention.

- (a) *Purpose and intent.* The purpose of this section is to protect the county's public potable water supply from actual or possible contamination or pollution by isolating within the customer's internal distribution system or the customer's private water system such contaminants or pollutants which could backflow into the public water system. This section also provides for the maintenance of a continuing program of cross-connection control with the goal of systematically and effectively preventing contamination or pollution of the county's water system by containment.
- ...
- (d) *Requirements.* The following requirements are part of the department's policy for protection of the water supply:
 - (1) *Protection.* No water service connection to any premises shall be installed or maintained by the water purveyor unless the water supply is protected as required by state laws and regulation and this section. Service of water to any premises shall be discontinued by the water purveyor if a backflow prevention device required by this section is not installed, tested and maintained at the customer's expense, or if it is found that a backflow prevention device has been removed or bypassed. Service will not be restored until such conditions or defects are corrected.
 - ...
 - (3) *Emergency hazards.* When the county becomes aware of an actual emergency condition, the county water system and/or the department of public safety shall be authorized to isolate or contain the hazard or take any steps necessary to protect the public water supply. The

department taking action shall give notice to the customer as soon as is reasonably practical under the circumstances.

- (4) *Installation.* An approved backflow prevention device appropriate to the degree of hazard shall also be installed by the customer at the customer's expense on each service line to a customer's water system at or near the property line ~~or immediately inside the building being serviced but, in all cases,~~ before the first branch line leading off the service line whenever any the following conditions exist:
- a. When premises have an auxiliary water supply which does not or may not have a safe bacteriological or chemical quality and which is not acceptable as an additional source by the director.
 - b. When premises upon which any industrial fluids or any other objectionable substance is handled in such a fashion as to create an actual or potential hazard to the public water system. This shall include the handling of process waters and waters originating from the utility system which have been subject to deterioration in quality.
 - c. When premises have internal cross-connections that cannot be permanently corrected and controlled, or intricate plumbing and piping arrangements or where entry to all portions of the premises is not readily accessible for inspection purposes, making it impracticable or impossible to ascertain whether or not dangerous cross-connections exist.
 - d. When premises contain any service connection $\frac{3}{4}$ inches or larger in diameter.

Section 122-125 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 122-125. – Location of water meters.

All water meters shall be installed at an easily accessible location on or near the property line of the premises being served adjacent to the public right-of-way or public utility easement. Water meters shall not be installed behind enclosed fences, in paved driveways or in paved parking areas.

Section 122-126 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 122-126. – Wastewater lift station.

- (a) *Public lift stations.* For environmental, reliability and economic reasons, public wastewater lift stations are generally discouraged. The county shall eliminate existing public lift stations where deemed feasible and appropriate by the department director.
- (b) *Private lift stations.*
- (1) Private lift stations which serve a single property may be acceptable if owned by the property owner and the station pumps to a manhole on said property from which sewage can flow by gravity to public sewer. The department director may grant a variance to pump across one adjacent property for a limited distance provided it does not pose a public health risk.
 - (2) The pumping capacity of a private lift station which serves a single residential property shall not exceed 40 gallons per minute.
 - (3) Force mains from private lift stations are not allowed in the public right-of-way.
 - (4) Private lift stations serving more than one residential or nonresidential properties may be considered subject to the following conditions:
 - a. A single viable entity is responsible for ongoing costs associated with operation, maintenance, repair and replacement of the lift station and force main;
 - b. The station pumps to a manhole located on one of the properties served from which sewage can flow by gravity to public sewer;

- c. No feasible means of serving the properties without use of a lift station is available;
- d. Maintenance agreements are in place with a qualified firm to provide for no less than annual inspection and maintenance of the lift station with report provided to the county;
- e. Provisions are in place, perhaps through a bond or escrow account, to ensure that future station costs are provided for in the event that the responsible entity is unable to meet its obligations;
- f. No public wastewater facilities are tributary to the private lift station;
- g. Appropriate notifications are provided in property covenants and titles to the effect that Cobb County is not responsible for the private lift station, force main or tributary collection system, and does not guarantee continued wastewater service to the properties which were to have been served by the private system.
- h. The Environmental Protection Division of the Georgia Department of Natural Resources approves the plans for the onsite private sewer system.

DIVISION 5. – GENERAL USE OF PUBLIC WATER AND WASTEWATER FACILITIES

Section 122-152 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 122-152. – Water system.

- (a) *Conditions for use of private wells.* See section 122-221.
...
- (e) *Assured water pressure; pressure reducing valves, the user's responsibility.* The county will provide all users in the county located at or below the elevation of ~~1,150~~ 1,140 feet mean sea level with a minimum of 20 psi pressure.
 - (1) Excess water pressure above 20 pounds per square inch (psi) is the users' responsibility. Determining the need for and the installation and maintenance of pressure reducing valves shall be the sole responsibility of the user.
 - (2) Fire protection for developments above ~~1,150~~ 1,140 feet mean sea level will require adequate gravity flow from a properly designed elevated water storage tank for meeting fire flow requirements.
- (f) *Use of master meters.*
...

Chapter 134 – ZONING

ARTICLE III. – ZONING DISTRICTS; ZONING MAP

The Official Code of Cobb County, Georgia, is amended by adding a section numbered 134-168 to read as follows:...

Sec. 134-168. - Property zoned conservation subdivision (CS) accessory structures.

Property zoned CS does not need to have the Board of Commissioners approve accessory structures. Accessory structures in CS zoned districts shall follow the same accessory structure requirements as Planned Residential Development (PRD) Sec. 134-201.1(13).

Secs. ~~134-168~~ 169 - 134-190. - Reserved.

ARTICLE IV. – DISTRICT REGULATIONS

Section 134-221.2 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 134-221.2. – Redevelopment overlay district (ROD).

Commencing February 9, 2021, no new applications for ROD shall be accepted by the board of commissioners.

The regulations for the ROD are as follows:

- (1) *Purpose and intent.* The ROD is established to provide locations for redevelopment of commercial, office and residential uses which are pedestrian oriented and developed at a community or regional activity center scale and intensity, as identified for each specific site or corridor via the Cobb County Comprehensive Plan, as may be amended from time to time. This is intended to encourage compatible mixed uses within the boundaries of these properties. The district may be overlaid upon the LRO, LRC, NRC, O&I, CRC, RMR, OMR, RHR, OHR, NS, PSC, TS and GC zoning districts within these redevelopment corridors and specific redevelopment sites. The district may also be overlaid upon the RM-12 and RM-16 districts that are adjacent to commercially zoned properties within these redevelopment corridors and specific redevelopment sites. In the Austell Road and Six Flags Drive sites, as depicted in the Comprehensive Plan, LI and R-20 zoning districts that fall within a Community Activity Center Future Land Use category are also eligible to use the ROD. The Board of Commissioners has determined that any redevelopment project approved within a ROD shall not establish any type of precedent for land use recommendations or future rezoning proposals outside of the boundaries of the ROD project. Those properties outside of the boundaries of a ROD project must provide uses compatible with other surrounding properties that are outside of the ROD. This ROD may be applied to properties within the corporate limits of Marietta and Smyrna, at the discretion of the respective city councils.
- (2) *Transit/land use guidelines.*
 - a. Transit stations are not merely bus stops. A transit station would have considerable parking for vehicles, and perhaps other mechanisms for gathering riders at the location, other than just pedestrians in the immediate area. A transit station would be a major collector point for collecting and distributing riders primarily for regional commutes but would also serve as a connecting point for local commutes. It would have a building, as well as a large amount of parking, and might also be served by satellite parking and shuttles, circulators, and local bus routes. Transit stations would support intense residential and commercial land uses adjacent to the transit station. Transit stations would be unsuitable in locations where the result would be an increase in vehicular traffic through existing neighborhoods, or where it would intensify land uses within existing stable low-density neighborhoods. Transit stations should be located adjacent to, or very close to interstate highways, and only in locations where it will not increase vehicular traffic within nearby low-density neighborhoods, and where it will not intensify land uses within existing low-density neighborhoods.
 - b. Transit exchanges are significantly less intense than transit stations, but they are more than just bus stops. Transit exchanges may provide limited parking for vehicles. Transit exchanges would be collector points and provide opportunities for interconnection and transfer of various transit routes. When transit exchanges are located in relatively intense commercial or mixed-use areas, transit exchanges can support moderate intensification of

land uses. Transit exchanges should not be located in low-density residential areas, but may be located within high-density residential areas. When transit exchanges are located near areas that are primarily single-family homes, land uses near the transit exchange should be of a limited "neighborhood-intensity". In areas characterized by high-density residential, more intense future land uses can be supported. Transit exchanges should be located only along major arteries (at least four lanes), and only in locations where it will not increase vehicular traffic within nearby neighborhoods, and where it will not intensify land uses within existing neighborhoods. A transit exchange may share a tract of land with another land use or building and its parking. A transit exchange may utilize shared parking facilities.

- c. Transit stops are a designated place where a local transit vehicle would stop for passengers from the immediate area. There would be no parking in the vicinity designated for transit riders. There should be no increase in the intensity of land uses near a transit stop. Land uses would not be changed or intensified based on the existence of a transit stop.
 - d. Satellite parking facility would be similar in some ways to a transit exchange. Satellite parking facilities should only be located near major corridors, and if possible should have multiple access points. They should be designed for efficient ingress and egress. They could be located in areas near low-density single-family homes, but if located in such areas, adjacent land uses would have to be limited to low-or-medium density residential, and limited neighborhood-compatible retail. Land uses on all properties not adjacent to the satellite parking facility would remain consistent with any low-density single-family land uses in the area. Satellite parking would be served by shuttles that would take commuters to nearby employment centers and transit stations. In some cases, satellite parking facilities could be served by BRT transit that would proceed from satellite parking facilities and go directly into an established BRT route. A satellite parking facility can facilitate transit serving more than one transit route (destination). The difference between a satellite parking facility and a transit exchange is that a transit exchange has limited parking and facilitates transfers between transit vehicles, while a satellite parking facility facilitates community parking and an access point to access transit to get to other destinations. A satellite parking facility may share a tract of land with another land use or building and its parking. A satellite parking facility may utilize shared parking facilities.
- (3) *Permitted uses.* Permitted uses are as follows:
- Athletic and health clubs.
 - Automotive parking lots or garages.
 - Banks and financial institutions with automated transfer machines; however, no drive-in establishments are permitted.
 - Clinics, clubs or lodges.
 - Commercial indoor recreation uses.
 - Community fairs.
 - Commercial retail uses.
 - Condominiums.
 - Convenience food stores with self-service fuel sales, provided that the building shall not exceed 3,000 square feet in gross floor area and that no automotive repairs shall be done on site.
 - Corporate or administrative office for any permitted uses.
 - Cultural facilities.
 - Designated recycling collection locations.
 - Eating and drinking establishments.

Film developing and printing facilities.
Full service gasoline stations.
Group homes.
Hotels.
In-home day care.
Laundry and dry cleaning pickup establishments.
Livestock, nondomestic and wild animals, and poultry, on two or more acres.
Medical and dental laboratories provided no chemicals are manufactured on-site.
Multifamily dwelling units.
Neighborhood retail uses.
Non-automotive repair service establishments.
Nursery schools and child day care centers.
Office service and supply establishments.
Parking for vehicles.
Photograph studios.
Printing, publishing and lithography establishments.
Professional offices.
Rest homes, personal care homes and convalescent homes.
Single-family dwelling units (attached and detached).
Studios and supplies.
Self-service laundry facilities.

- (4) *Lot size and setback requirements.* See use limitations.
- (5) *Landscape buffer and screening requirements.* Unless otherwise noted within this district's requirements, any property within an ROD which abuts residentially zoned property shall have a minimum 25-foot landscaped screening buffer adjacent to all residentially zoned property, which will be subject to county staff approval. Required buffers may be included within required setbacks; however, in such case that the required buffer is greater than the required setback, the required buffer shall be adhered to. Additionally, necessary private utilities and access drives may be allowed through, over or across a landscaped buffer. Any such uses which are proposed through, over or across a designated undisturbed buffer must be approved pursuant to an original site plan or site plan modification as set forth under section 134-126.
 - a. *Objectives.* Maintained, natural buffers and berms shall be implemented in connection with a permitted project and shall address the following objectives:
 1. Screening to enhance aesthetic appeal;
 2. Control or direction of vehicular and pedestrian movement;
 3. Reduction of glare;
 4. Buffering of noise; and
 5. Establishment of privacy.
 - b. *Standards.* Buffers or berms shall be required when a ROD is located adjacent to a residential district; a minimum 25-foot buffer is required.
 1. *Buffers.* Landscape buffers are subject to review and approval by county staff in accordance with the following standards:
 - i. Plantings are to be a mix of evergreen trees and shrubs.
 - ii. Species are to be ecologically compatible to the site and appropriate for the design situation.
 - iii. Unless public safety concerns dictate otherwise, buffers should provide a minimum visual barrier to a height of six feet within two years of planting.

- iv. Minimum height of plant materials at installation is five feet for trees and two feet for shrubs.
 - v. Fencing or walls are to be a minimum of six feet in height as approved by county staff.
 - vi. Trees included in buffer plantings may be counted toward site density calculations as required by chapter 50, article VI, pertaining to tree preservation and replacement, subject to review and approval of county staff.
 - vii. Buffers shall be regularly maintained by the property owner to ensure that the objectives and standards set out in this subsection are met.
 - viii. When topography and existing conditions allow, the required 25-foot buffer should be an maintained, natural buffer.
 - ix. Any appeals from a determination by county staff shall be to the board of zoning appeals.
2. *Berms.* Berms are subject to review and approval by county staff in accordance with the following standards:
- i. Berms shall be utilized when consistent with surrounding property features.
 - ii. Berms shall be stabilized.
 - iii. Where possible, berms shall be constructed to be consistent with natural or proposed drainage patterns.
 - iv. Berms shall be regularly maintained by the property owner.
- (6) *Floodplain and wetlands preservation requirements.* Any development must meet state and federal requirements relating to areas subject to the provisions of section 134-283, regarding mountain and river corridor protection act areas, and section 134-284, regarding metropolitan river protection act areas. No floodplains and/or wetlands may be used in calculating the overall density of the development.
- (7) *Building and structure requirements.* See use limitations.
- (8) *Parking requirements.* See section 134-272 for paved parking specifications. Parking for nonresidential or multifamily uses may be granted a 20 percent reduction in required parking when parking is shared between adjacent uses within the project. An additional ten percent reduction may be administratively approved by the director of community development, or his/her designee. Final parking design plans shall be subject to review and approval of the director of community development, or his/her designee.
- (9) *Lighting requirements.* Any project permitted within the ROD district which proposes a lighted facility must have a county department of transportation approved lighting plan in accordance with the minimum conditions listed in section 134-269.
- (10) *Procedures for ROD overlay utilization.* As the ROD is overlaid upon an existing zoning district, the project will be reviewed and approved or denied in a streamlined manner. Staff will accept applications, then review and recommend approval or denial. A schedule of application submittal deadlines, concept plan review meetings, and projected planning commission and board of commissioners zoning dates will be made available to the public. Even though the underlying zoning will not change, staff recommendations will be taken to the planning commission and board of commissioners as a regular zoning item on the next available zoning agenda. ROD proposals are required to be posted for 30 days prior to the planning commission and board of commissioners meeting. In addition, public hearings will be held at the time the planning commission and board reviews and decides each proposal. If the project is denied by the board of commissioners, no prejudice period will apply. Further, upon gaining approval of

an ROD overlay plan, the applicant maintains the option to develop the property according to the requirements of the underlying zoning.

The following procedure will apply:

- a. *Application.* Applications for ROD overlay district utilization with an existing zoning will be accepted in the planning division of the county community development agency. The application fee is \$100.00.
- b. *Concept plan review.* There will be a regularly scheduled ROD review meeting of the county staff scheduled twice monthly. Conceptual approval must be obtained prior to placing the property on an agenda.

1. *Purposes.*

- i. Familiarize sponsors of projects with county regulations and the concerns of county agencies prior to expenditure for preparation of final development plans.
- ii. Familiarize agency representatives with proposed project and provide an opportunity for an exchange of views and ideas on project characteristics that are of concern to the goals of the ROD ordinance.

2. *Participants.* The county staff to be present include one representative from the following agencies and divisions:

- i. Cobb County community development, planning division and zoning division.
- ii. Cobb County water system.
- iii. Stormwater management.
- iv. Cobb County department of transportation.
- v. Site plan review/county arborist.
- vi. Cobb County fire marshal's office.

3. *Initiation of concept plan review.* Concept plan review shall be initiated by the filing of the following items with the appointed representative of the planning division:

- i. A completed application form stating that the applicant is the property owner or authorized agent.
- ii. A letter of intent that specifies the types of uses desired within the redevelopment proposal.

4. The following plans and materials shall be submitted to the planning division both in electronic and paper form:

- i. A current plot plan and boundary survey showing:
 - (a) The architect, engineer, or designer's name, address, and telephone number,
 - (b) Scale of plan and north arrow,
 - (c) Street address of site and vicinity map showing the relationship of the site to the surrounding area,
 - (d) Existing land lot, property lines, right-of-ways, dedications, and easements,
 - (e) Locations of existing and proposed structures, driveways, walks,
 - (f) Delineation of floodplain and wetland areas,
 - (g) Locations of any known cemeteries or historic sites,
 - (h) Conceptual architectural elevations,
 - (i) All ROD projects shall be governed by an approved Concept Plan. Upon approval of the Concept Plan, individual pods of the redevelopment project may be undertaken thru the county's normal plan and plat review process. ROD projects may be constructed as a single phase, or may be constructed in multiple phases, in accordance with the approved Concept Plan.

- (11) *Temporary land use permits and special land use permits.* See sections 134-36 and 134-37 for additional uses and requirements for all districts. Uses requiring land use permits or special land use permits for the ROD district are the designated uses listed in sections 134-36 and 134-37.
- (12) *Use limitations.*
- a. In order to encourage pedestrian oriented mixed use development, traditional lot by lot restrictions such as minimum lot sizes and setbacks shall not apply. Rather, all projects must be consistent with the concept plan, as approved by the board of commissioners.
 - b. Minimum acreage of five acres. Smaller tracts may be considered appropriate if within 200 feet of existing or proposed redevelopment project, within the designated redevelopment corridors.
 - c. Design of entire project must be consistent with section 427 of the Cobb County development standards (urban design standards) as may be amended from time to time.
 - d. Building height to be designed to provide compatibility with adjacent uses. Building orientation towards the public street with emphasis on pedestrian entrances and orientation.
 - e. Development/redevelopment proposals must demonstrate a mixture of residential and nonresidential land uses. At least 20 percent of the proposal's land uses must be nonresidential. Higher residential densities should be located adjacent to or within close proximity to interstate highways and interchanges.
 - f. Loading and service areas should be located within the interior of the project, or screened through the use of building elements, opaque walls or fences.
 - g. Proposed setbacks should create a contiguous and consistent building edge along a public sidewalk (which exists or is proposed).
 - h. Surface parking should be minimized by the use of a parking deck that is designed to resemble a building, or surface parking is located parallel to local streets to enhance pedestrian safety.
 - i. Public plazas should be integrally connected to the proposal by pedestrian zones including porches, covered awnings, sidewalk cafes, storefront shops and street furniture.
 - j. Public plazas should include a significant community gathering place such as a stage, garden, monument or educational feature.
 - k. If transit service is available, transit stop should be integrally connected to the proposal by pedestrian zones including porches, covered awnings, sidewalk cafes, storefront shops and street furniture.
 - l. If BRT service is available, BRT station should be integrally connected to the proposal by pedestrian zones including porches, covered awnings, sidewalk cafes, storefront shops and street furniture.
 - m. In a mixed-use scenario, ten percent of the proposed residential units must be designed as "workforce" housing. For the purpose of this section, "workforce" housing shall mean units intended for occupancy (rental or ownership) by household earnings no more than 80 percent of the Atlanta Metropolitan Statistical Area's (MSA) median household income, as may be adjusted from time to time.
 - n. Development/redevelopment proposals must comply with the administrative standards of the Cobb County tree preservation and replacement ordinance. These standards may be reduced up to ten percent (RDF-replacement density factor) if xeriscaping is implemented.
 - o. Development/redevelopment proposals must include a property owner's association with bylaws or covenants containing the following minimum provisions:

1. Governance of the association by the Georgia Property Owner's Association Act (O.C.G.A. § 44-3-220 et seq.) or a successor to that Act that grants lien right to the association for maintenance expenses and tax obligations.
 2. Responsibility for maintenance of common areas, buffers and recreation areas.
 3. Responsibility for insurance and taxes.
 4. Automatic compulsory membership of all property owner and subsequent lot purchasers and their successors; and compulsory assessments.
 5. Conditions and timing of transferring control of the association from the developer to the property owners.
 6. Guarantee that the association will not be dissolved without advance approval of the board of commissioners.
 7. Restriction of time of commercial deliveries and dumpster pickup.
- p. If there is a specific corridor plan, the provisions of the ROD cannot cause less restrictive criteria to apply to the corridor plan, if the corridor plan has criteria that are more restrictive.

ARTICLE V. – SUPPLEMENTAL REGULATIONS

Section 134-290 of the Official Code of Cobb County, Georgia, is amended by adding Section 134-291 to read as follows:

Section 134-291. – Austell Road design overlay district.

General Procedures

Intent

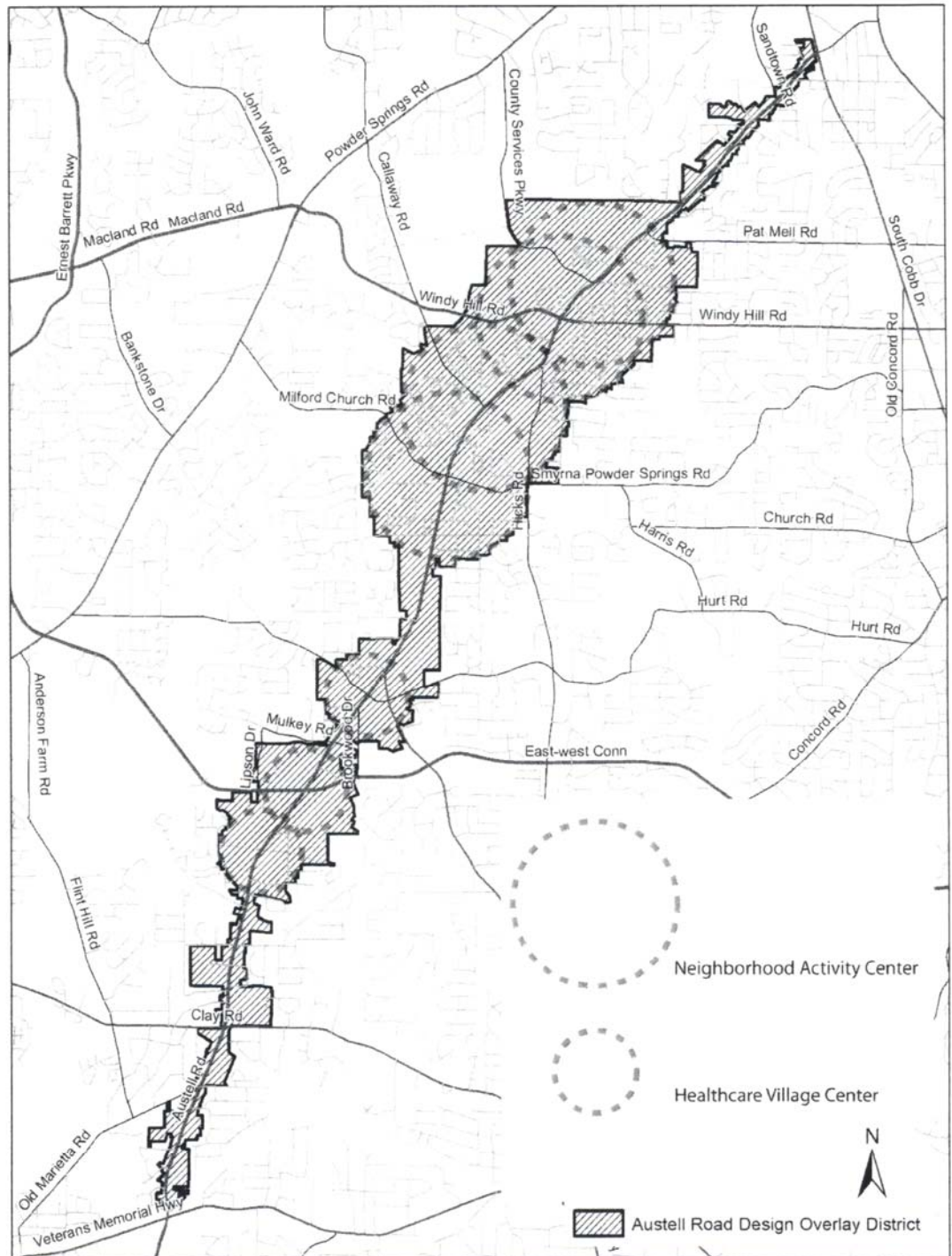
Austell Road is a key commercial corridor and serves as one of the gateways into the County for visitors and residents. The commercial corridor is home to medical services, shopping, dining, and cultural and entertainment opportunities for residents of the region, the County, and adjacent neighborhoods. Existing development patterns along Austell Road emphasize automobile uses and access, which are contrary to the goal of creating a multi-modal corridor that is safe for all users. The purpose and intent of this Section is to enable and encourage the implementation of the *Design Guidelines for Austell Road* (as adopted November 13, 2018) as depicted and expressly limited to the boundaries shown on Figure 1. The Austell Road Design Overlay District utilizes design standards that are supplemental to the zoning district classifications established in Article III, Sec. 134-161. All parcels that are within the affected areas as defined in Sec. 134-290.1 and are conducting building construction or site development as defined in Sec. 134-290.2 shall meet all of the requirements of the base zoning district in which it is located, all conditions of rezoning or special use permit approval and, in addition, shall meet the requirements of the Austell Road Design Overlay District Standards. Furthermore, let it be clarified that in instances in which the standards of the Overlay District conflict with those of the underlying zoning district, the standards of the Overlay District shall take precedence. . The following policies further clarify the intent for this Section:

1. Affected Areas – The Overlay District covers the following areas as depicted below and expressly limited to the boundaries shown on Figure 1:
 - a. Parcels with frontage along Austell Road from Veterans Memorial Highway/US 78 to South Cobb Drive/SR 280
 - b. Nodes – There are two types of development nodes along each of the two corridors
 - i. Neighborhood Activity Centers: focused development/redevelopment within a ½-mile radius around intersections as defined within the Austell Road Design Overlay District Standards

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- ii. Healthcare Village Center: focused development/redevelopment within a ¼-mile radius around intersections as defined within the Austell Road Design Overlay District Standards
- c. Austell Road Design Overlay District

Figure 1



2. Applicability – Design standards shall apply to each of the following aspects of building construction and site development:

- a. Exterior rehabilitation or modifications to existing buildings or structures that require building or land disturbance permits where the construction value exceeds 25% of Fair Market Value as reflected on the Tax Assessor's records.
 - b. All new construction, including additions to existing structures and buildings within the affected areas
 - c. Installation and/or modification of signs requiring a sign permit
 - d. Notes:
 - i. Parcels within the boundaries of an incorporated municipality are not subject to the standards herein
 - ii. Work performed on single-family residential units is specifically exempted from the standards herein
3. Austell Road Design Overlay District Standards- Specific development standards set forth in the implementation of the Design Guidelines for Austell Road are part of this Code (Sec. 134-290). The Austell Road Design Guidelines are available for viewing with the Community Development Agency, the Cobb County Clerk's Office, and online via the Cobb County website. Alterations to the standards shall be considered amendments to the Code and will be undertaken in the manner described below:
- a. There are two types of amendments available for this section, amendments to the Austell Road Design Guidelines and amendments to the General Procedures of this section.
 - i. Amendments to the Austell Road Design Guidelines shall be considered by the Community Development Agency or at the discretion of the Board of Commissioners. Modification to the guidelines include changes related to the most recently updated and adopted Austell Road Design Overlay District.
 - ii. The Community Development agency may prepare or have prepared on its behalf amendments to the Austell Road Design Guidelines, subject to review and recommendation by the Planning Commission and approval by the Board of Commissioners. Amendments shall adhere to specific criteria set forth in the implementation of the Austell Road Design Guidelines, which are hereby considered part of this code.
 - iii. Amendments to the General Procedures of this section shall be conducted in adherence to Chapter 1. General Provisions of the Official Code of Cobb County.

Secs. 134-292 – 134-310. – Reserved.

ARTICLE VI. – SIGNS

DIVISION 1. - GENERALLY

Section 134-312 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 134-312. – Definitions.

Banner means A piece of fabric or other flexible material that is attached to a temporary pole, enclosed in a frame, or mounted on a structure as a temporary sign device. Flags shall not be considered banners.

Blade sign means a sign that projects from a wall or surface that normally runs perpendicular to the wall or surface that it is attached.

Electronic sign means a sign the message of which may be changed by computer controller, microprocessor controller, or by remote control, and the message of which is displayed through the use of LED, LCD, plasma, or other similar type panels or screens, including devices known as commercial electronic message signs and similar devices.

Face means the portion of the sign that displays, or is capable of displaying, the message, copy, text, or image.

Flag means a piece of fabric or other flexible material attached to a permanent flag pole and utilized to convey or communicate a visual impression or message.

Freestanding sign means a self-contained sign which is physically independent of any building or other structure.

Ground based monument sign means a self-contained sign permanently attached to the ground which is wholly independent of any building or other structure. The sign must be a solid structure. No open spaces which allow a direct line of sight from one side of the sign to the other are permissible in the area located beneath the widest part of the sign face where the message is located in a direct vertical plane to the ground. By way of example and without limitation the sign cannot be attached to, resting upon, or supported by any pillars, columns, or pylons which allow for open spaces or direct line of sight from one side of the sign to the other beneath the widest area of the sign face in a direct vertical plane to the ground.

Major roads means only the following: Interstate 75, Interstate 20, Interstate 285, and Cobb Parkway/U.S. Highway 41.

Manager means the zoning division manager or the authorized designee of the zoning division manager.

Mitered corner means an area beginning at the intersection of any right-of-way lines of any streets, roads, highways, driveways, curb cuts, or railroads and extending 20 feet along each such right-of-way, and closed by a straight line connecting the end points of the 20-foot sections of the right-of-way lines.

Oversized sign means a permanent sign which exceeds 19 feet in sign height or 49 square feet of sign area on any one face of the sign.

Permanent sign means a sign attached to a structure or the ground which is made of materials intended for long-term use.

Portable sign means any sign posted on a cart, trailer, wheels, or other mobile device that is not permanently affixed, including but not limited to, signs mounted or painted on vehicles not used primarily for other purposes.

Sign means any device, image, structure, or other thing utilized in whole or in part to convey or communicate a visual impression or message. Such definition includes, but is not limited to, placards, posters, ~~flags~~, banners, pennants, pictures, projected images, balloons, streamers, window signs, and painted images.

Sign area means the area within a single, continuous rectangular perimeter measured from the extreme lowest point of the sign face to the extreme highest point of the sign face and from the extreme left edge to the extreme right edge of the sign face or faces enclosing the limits of each separate writing, representation, emblem, message, or any figure or similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate this sign from the background against which it is placed; provided, however, that any open space contained within the rectangular perimeter, such as between letters in a word, or between any component panel, strip, or figure of any kind comprising the sign shall be included in the computation of the sign area, whether this open space be enclosed or not by a frame or border.

Sign height means the height of the sign structure as measured from the base of the sign at ground level or from the grade of the nearest adjacent road, whichever is higher, to the highest point on the sign structure, to include the sign face and any borders, trim, or decorative elements.

Wall sign means a sign, including an awning sign, permanently attached to the exterior wall of a building. A wall sign shall also include blade signs, glass facades, or rows of windows which when viewed in conjunction with or collectively with the sign, may represent a name, logo, or other advertisement.

Section 134-314 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 134-314. – Signs prohibited.

The following signs are prohibited:

- (a) Oversized signs, as defined above based only on their size or height, except in accordance with sections 134-316, 134-321 or 134-322 of this article;
- (b) Signs on the public right-of-way, to include medians, sidewalks, curbs, and all other public land except in accordance with section 134-315(b) of this article;
- (c) Any sign larger than 12 square feet on property that is currently vacant or zoned as or in use for residential purposes;
- (d) Signs located within recorded and/or prescriptive ~~water, sewer, or~~ utility service easements unless a variance is granted by the board of zoning appeals, board of commissioners, or the easement holder provides a written waiver for the proposed sign;
- (e) Signs located within recorded and/or prescriptive water, sanitary sewer, drainage easements or their setbacks. A variance may be granted by the director of the county water system only within a setback and only if the owner of the sign provides a written waiver or hold harmless agreement to the county;
- (ef) Any sign, the erection of which would increase the total aggregate area of all sign faces on property that is currently vacant or zoned as or in use for residential purposes to more than 20 square feet;
- (fg) Any sign, the erection of which would increase the total aggregate area of all sign faces on a property that is currently primarily used for commercial or industrial purposes to more than 80 square feet, except in accordance with sections 134-316 or 134-321 of this article;
- (gh) Signs attached to the roof of a building or structure;
- (hi) Portable signs;
- (ij) Any sign that is taller than 19 feet in sign height, except in accordance with section 134-316 of this article;
- (jk) Wall signs projecting more than 24 inches from the building surface on which it is attached, except blade signs may project up to 48 inches from the building surface on which it is attached;
- (kl) Electronic signs used as canopy, wall, or awning signs;
- (lm) More than four freestanding signs on any platted, recorded, or deeded lot of record;
- (~~mn~~) Signs posted without the permission of the owner of the property or their authorized tenant or agent;
- (~~no~~) Permanent or temporary window signs which cover more than 50 percent of the window glass surface of each pane of glass.
- (p) Signs which are erected or maintained upon trees, utility poles, or painted or drawn upon rocks or other natural features;
- (q) Pennants and streamers;
- (r) Mechanical fan and wind activated devices;

(s) Signs not in good repair, specifically including any sign which is in a state of disassembly or any sign which has internal lighting exposed to view.

Section 134-319 of the Official Code of Cobb County, Georgia is amended to read as follows:

Section 134-319. – Nonconforming signs.

Any sign that was approved or in existence at the time this article was passed, August 27, 2019, and was legal pursuant to the county's previous sign regulations, variances, or agreements, will be exempt from the provisions of this article, this includes sign square footage that was legally permitted under the old sign code. The structure, dimensions, location, and/or other physical characteristics of any such sign shall not be changed without first complying with this article. Nothing in this section shall be deemed to prevent keeping in good repair a nonconforming sign. No repairs other than normal maintenance and upkeep of nonconforming signs shall be permitted except to make the sign comply with the requirements of this article. The purpose of this section is to mitigate detrimental impact of new ordinances on existing previously legally conforming signage. Over time, it is anticipated that nonconforming usages shall eventually be eliminated. As a consequence, when a nonconforming sign is damaged by nature or an act of God, such sign may be promptly repaired, rebuilt, or restored to the same dimensions, type, shape, location, and size and at the same height as the original nonconforming sign. The failure to repair, rebuild, or restore such a sign within six months of the date of damage shall be deemed to be abandonment of the sign and any re-erection of such sign shall conform in all respects to the provisions of this article.

Section 134-321 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 134-321. – Commercially and industrially-zoned properties.

All freestanding signs must be ground based monument signs except oversized signs authorized by section 134-316 of this article.

This chart applies to freestanding signs and canopy signs located outside the buildable area of the lot, unless otherwise provided.

Lot Size (acres)		Maximum Sign Area Allowed on Property (square feet)	Total Sign Area Allowed on Property	Maximum Structure Allowed Property* (square feet)	Sign Area on	Maximum Sign Area Allowed Per Sign (square feet)	Total Sign Area Allowed	Maximum Structure Allowed Per Sign (square feet)	Sign Area
Greater Than	or Equal To	But Less Than							
		½**	60		150		49		120
½		1**	65		162.50		49		140
1**		5	120		300		49		200
5		10	200		500		120		300
10		No limit	300		750		200		500

- * Sign structure area shall be computed as including the entire area of structure surrounding the actual advertising display area, including the advertising display.
- ** For the purpose of this section, one-half acre shall mean 20,000 square feet and one acre shall mean 40,000 square feet. Any lot size above 43,560 square feet shall be calculated on its actual square footage.

No single sign area (display area) may exceed 200 square feet on any size lot.

- (a) The sign area of a freestanding sign shall be the area within a single, continuous rectangular perimeter measured from the extreme lowest point of the sign to the extreme highest point of the sign and from the extreme left edge to the extreme right edge of the sign face or faces and shall not include the support structure. For double-faced signs, only one display face shall be measured in computing sign area when the sign faces are parallel, or where the interior angle formed by the faces is 60 degrees or less and attached to a common structure. If the two faces of a double-faced sign are of unequal area, the larger of the two faces shall be the area used for calculations.
- (b) Businesses and property owners are encouraged to promote better emergency response conditions by displaying the street address on the largest freestanding sign on each parcel. The maximum height of the number shall not exceed one foot in height or width. The numbers will not be counted against the maximum allowable sign area.
- (c) All signs must be located on private property except in accordance with section 134-315(b). No sign can be erected on or encroach on any public right-of-way. No sign shall be located within 62 feet of the center line of an arterial road right-of-way, within 52 feet of the center of a major collector road right-of-way, or within 42 feet of the center of any other road right-of-way, and no closer than one foot behind the public right-of-way. All signs shall conform to the side yard setback per zoning classification. In no event shall signs be placed in the mitered corner.
- (d) One sign is allowed for each complete 200 feet of public road frontage; provided that on any frontage of less than 200 feet, one sign shall be allowed on that public road frontage.
- (e) ~~The maximum sign area for a wall sign or awning sign for each occupant or tenant shall be calculated as follows: for each one linear foot of the wall or building along each face of the building devoted to each occupant or tenant, two square feet of sign area is allowed on that face, up to a maximum of 49 square feet of sign area per occupant or tenant.~~ The maximum sign area for a wall sign or awning sign for each occupant or tenant shall be calculated as follows: for each one linear foot of the wall or building along each face of the building devoted to each occupant or tenant, two square feet of sign area is allowed on that face, up to a maximum of 150 square feet for a building one to two stories in height or under 20 feet and a maximum of 200 square feet for a building over 2 stories or over 20 feet in height. In a multi-tenant center, wall signs shall be affixed to the walls (front, rear or side) of the tenant or sign applicant's actual tenant space.
- (f) Each freestanding sign must be at least 150 feet from any other freestanding sign on the same lot.
- (g) A blade sign may project up to 48 inches from the wall or surface on which it is attached.
- (h) Electronic signs may be utilized for and in conjunction with any freestanding sign permitted by this section, provided that each such electronic sign must be located on a property/lot with at least 200 feet of public road frontage on one road (if abutting more than one public road, sign may only be erected along a road with more than 200 feet of frontage) and cannot be within 200 feet of another electronic sign that has been permitted on the same property/lot. For the purposes of measurement, mitered corners will not be included in road frontage calculations.

Further, the electronic messaging portion of sign shall not exceed 32 square feet per allowable sign area and may not have more than two electronic sign areas per sign.

Section 134-322 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 134-322. – Nonresidential uses on residential properties and apartment and residential subdivision signs.

This section regulates signs for nonresidential uses on residentially zoned properties. Examples of such nonresidential uses include but are by no means limited to churches, country clubs, golf courses, schools, residential subdivision signs, apartment communities, and produce or product stands. However, such nonresidential uses shall not include a customary home occupation as defined in section 134-1.

- (a) The maximum sign area for a wall sign or awning sign shall be calculated as follows: for each one linear foot of the wall or building along each face of the building, two square feet of sign area is allowed on that face, up to a maximum of 32 square feet of sign area.
- (1) *Sign area.* This chart specifies the allowable sign area for freestanding signs and canopy signs located outside the buildable area of the lot for nonresidential uses on residentially zoned properties. Lot size shall be calculated using entire subdivision plat of size of lot for single use lots:

Lot Size (Acres)	Maximum Total Sign Area Allowed on Property (Square Feet)
Less than 5*	32
Greater than 5	64

- * For the purpose of this subsection one acre shall mean 40,000 square feet. Any lot size above 43,560 square feet shall be calculated on its actual square footage.
- (2) *Height.* Signs for use in residential zones shall not exceed a sign height of eight feet.
- (3) *Location.* Any permitted sign for use in residential zones shall be located at least 75 feet from any other such permitted sign on the same lot and at least one foot off the right of way.
- (4) *Type/design.* All freestanding signs must be ground based monument signs.
- (5) *Illumination.* Illuminated signs for use in residential zones located on arterials, or major or minor collectors, as determined by the county major thoroughfare plan, may use indirect or internal lighting. On all other road classifications, only indirect lighting shall be allowed.
- (b) Electronic signs may be utilized for and in conjunction with any freestanding sign permitted by this section, except apartment and residential subdivision signs, provided that each such electronic sign must be located on a property/lot with at least 200 feet of public road frontage on one road (if abutting more than one public road, sign may only be erected along a road with more than 200 feet of frontage) and cannot be within 200 feet of another electronic sign that may be permitted on the same property/lot. For the purposes of measurement, mitered corners will not be included in road frontage calculations. Further, the electronic messaging portion of sign shall not exceed 32 square feet per allowable sign area and may not have more than two electronic sign areas per sign.

(Amd. of 8-27-19)

Section 134-323 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 134-323. – Temporary signs for commercially and industrially-zoned properties.

- (a) The following types of signs or devices may be displayed on commercially or industrially zoned properties upon the issuance of a temporary permit so long as any such sign or device does not exceed ~~200-100~~ square feet:
 - (1) Searchlights.
 - (2) Banners.
 - (3) Inflatables (greater than three feet in width and/or height).
- (b) Each occupant or tenant of a multi-occupant building or multi-tenant lot may display one banner flush with a wall during the permit period without regard to the usage of other occupants or tenants and without regard to the prior usage of temporary signs by others on the lot.
- (c) Only one freestanding banner may be displayed on a lot at a time.
- (d) Search lights or banners shall require a permit on a semiannual basis which allows two 60-day periods to utilize a temporary sign or device, i.e., one 60-day period from January 1 through June 30, then a second 60-day period from July 1 through December 31. There must be at least a 30-day break between any two 60-day permitted periods. Temporary devices (inflatables) shall require a permit on a semiannual basis which allows two weekends per month, to utilize the inflatable, i.e., one permit from January 1 through June 30, and a second permit, July 1 through December 31.
- (e) Top of inflatable devices cannot be any higher than 20 feet from the roofline and 35 feet from ground level.
- (f) Display of the inflatable device shall be allowed from 3:00 p.m. on Friday to 8:00 a.m. on Monday.

DIVISION 2. – ADMINISTRATION AND ENFORCEMENT

Section 134-343 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Section 134-343. – Permits.

- (a) *Who may apply.* Permits shall be issued only to:
 - (1) The owner of the real property where the sign is to be located;
 - (2) A lessee who has the right to install or maintain a sign on the real property where the sign is to be located; or
 - (3) The erector of the sign who must be fully authorized to perform such work. An applicant who is a lessee shall produce a copy of the lease or a written statement from the owner of the real property that the applicant has the right to maintain a sign on the property. A sign erector shall produce a copy of a current business license. Application may be made by the owner, lessee, or agent of the owner or lessee.
- (b) *Notices.* All notices and communications shall be sufficiently given for all purposes of this article if delivered personally, mailed via U.S. mail, or sent by electronic communication (email) to the permit holder or applicant at the address given in the application or any subsequent notification of change of address. County staff may also call an applicant or sign owner and instruct them that an item is available for pick-up. Notice shall be deemed effective on the date first sent by county staff.
- (c) *Application.* An application for a sign permit shall be filed with the county on forms furnished by the county. The application for a permit shall contain the identification and address of the property on which the sign is to be erected; the names, addresses, and telephone numbers of the sign owner, sign erector, property owner, lessee, if applicable, and the agent making the application, if applicable;

the size, height, and other structural components of the sign; and such other information needed to show strict compliance with the provisions of this article and other applicable building and electrical ordinances of the county based on the type of sign requested. For all permanent freestanding signs, the application must be accompanied by ~~two copies~~ one copy of the following: site plans showing location of structures upon the property on which the sign is to be located and the location of the sign in relation to the structures, property lines, all easements of record, public rights-of-way and other signs; plans, specifications, and structural details showing the type and manner of construction, attachment to buildings, or in ground erection; and a visual representation of the completed sign. Such plans shall be to scale and bear the signature and seal of a registered land surveyor, professional engineer, architect, or land planner. All applications for sign permits shall include a signed statement from the landowner or possessor of the property giving consent to entry into the property for the purpose of inspection and enforcement of this article.

- (d) *Processing of application.* County staff shall examine and process the application. If the application is missing any of the materials specified in subsections (a) and (c) above, the application will be deemed incomplete and the applicant will be given written notice stating the reason for incompleteness in accordance with subsection (e) below within 45 calendar days after the application was submitted. If an applicant submits additional materials in an attempt to complete a sign application, the submission date of the entire application shall be deemed to be the last date on which any such material is submitted. If the application contains all materials specified in subsections (a) and (c) above, the application will be deemed complete and will be processed and approved or denied within 45 calendar days of it being submitted. Any sign permit application for which no decision has been made after 45 calendar days or more shall be deemed to be approved. A permit shall be denied if the applicant, landowner, or lessee is presently maintaining any sign in violation of this article.
- (e) *Procedure upon denial.* Upon denial of the application of a permit, the applicant shall be given written notice (which may include electronic communication such as email) stating the reason for the denial within 45 calendar days of the decision to deny the permit. Upon denial of the application for a permit, the applicant may appeal to the board of zoning appeals as provided by section 134-95 within 15 days of the communication of the final decision of the administrative officer. The hearing before the board of zoning appeals shall be governed by the board of zoning appeals' hearing procedures.
- (f) *Expiration.* If a sign has not been installed within six months of the issuance of any sign permit, the permit shall be deemed expired and the applicant will need to resubmit for a new sign permit.

Approved 2-9-2021

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RESOLUTION

Resolution authorizing the approval and submission of Title VI Program to Federal Transit Administration, an operating administration of the United States Department of Transportation, for Federal transportation assistance authorized by Title 49 U.S.C. chapter 53, 42 U.S.C. § 2000d et seq., 49 C.F.R. Part 21 and other Federal statutes administered by the Federal Transit Administration.

WHEREAS, the Federal Transit Administration (FTA) requires that all direct and primary recipients document their compliance with the United States Department of Transportation's Title VI regulations by submitting a Title VI Program Update to their FTA regional civil rights officer once every three years, or as otherwise directed by FTA; and

WHEREAS, the Title VI Program Update must be approved by the recipient's Board of Directors, or appropriate governing entity or official(s) responsible for policy decisions, prior to submission to the FTA; and

WHEREAS, Cobb County has provided or will provide a Title VI Program and all Annual Certifications and Assurances to the FTA.

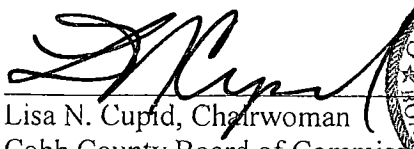
NOW, THEREFORE, BE IT RESOLVED by the Cobb County Board of Commissioners that:

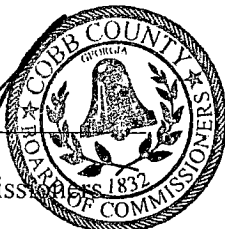
1. The Chairwoman of the Cobb County Board of Commissioners declares that the County is in compliance with the Federal Title VI regulations.
2. The Chairwoman of the Cobb County Board of Commissioners approves the Title VI Program Update.
3. The Chairwoman of the Cobb County Board of Commissioners confirms that the County has or will provide a Title VI Program and all Annual Certifications and Assurances to the Federal Transit Administration.

CERTIFICATION

The undersigned duly qualified Chairwoman of the Cobb County Board of Commissioners, acting on behalf of the Cobb County Board of Commissioners, certifies that the foregoing is a true and correct copy of a resolution adopted at a legally convened meeting of the Cobb County Board of Commissioners held on February 9, 2021.

This 22nd day of Feb., 2021


Lisa N. Cupid, Chairwoman
Cobb County Board of Commissioners



APPROVED
PER MINUTES OF
COBB COUNTY
BOARD OF COMMISSIONERS

2/9/21

Approved As To Form:



COBB COUNTY ATTORNEY'S OFFICE

REFERENCE ITEM 12

The Resolution for Deannexation of Cowan Rd was never routed for signature per Jason Gaines with Community Development due to the fact that Kennesaw denied the application for Deannexation.

Pamela L. Mabry, COUNTY CLERK

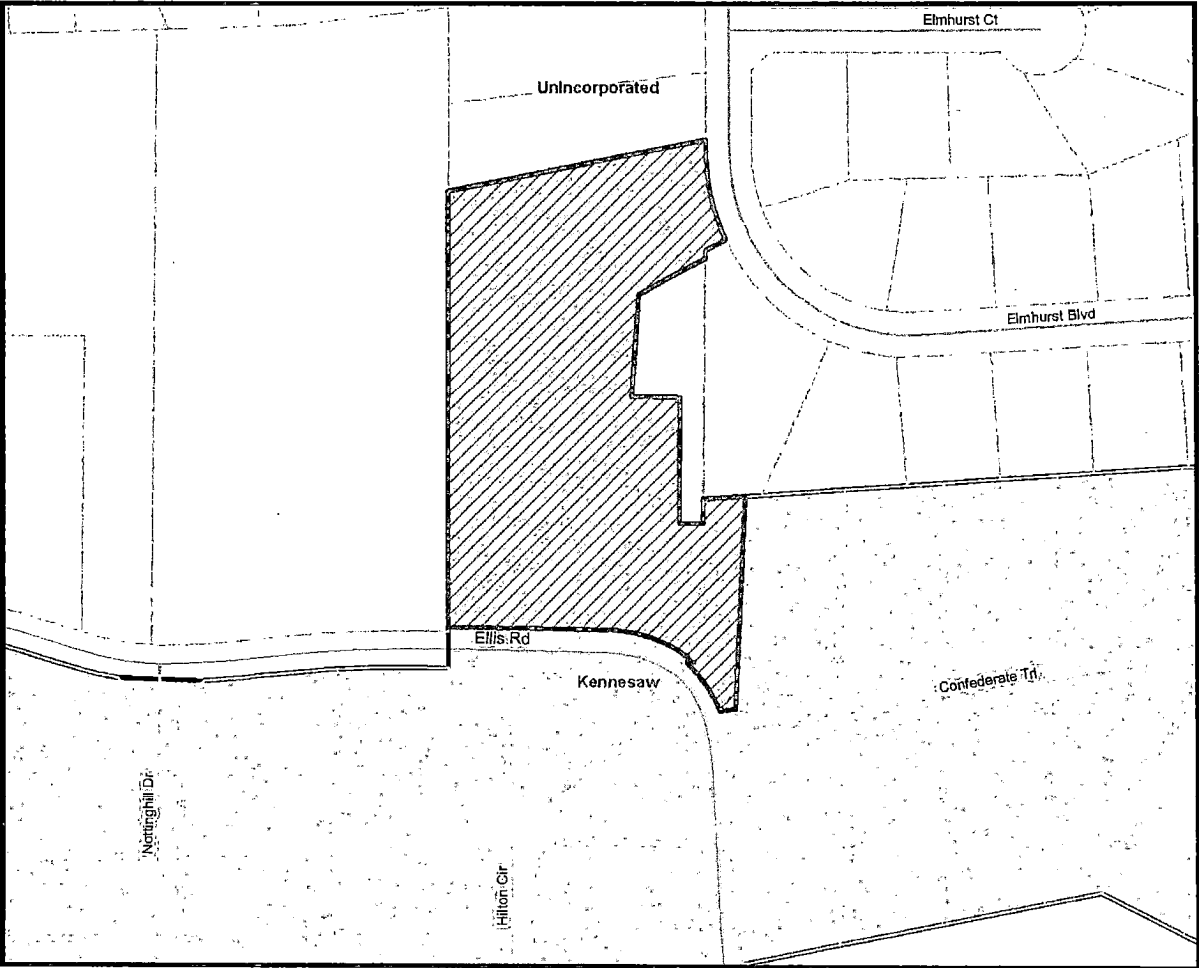
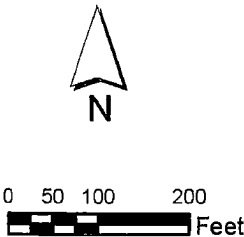
De/Annexation Location Map

January 2021

20th District
Land Lot 0164,
0178
Parcels 0030,
0282, 0244

Legend

-  De/Annexed Areas
-  Acworth
-  Austell
-  Kennesaw
-  Marietta
-  Powder Springs
-  Smyrna
-  Unincorporated





COBB COUNTY
BOARD OF COMMISSIONERS

100 Cherokee Street, Suite 300
Marietta, Georgia 30090-7000
770.528.3305 • fax: 770.528.2606

Lisa Cupid
Chairwoman

CERTIFIED MAIL
7014 1820 0000 0594 1044

February 3, 2021

The Honorable Tommy Allegood
Mayor
City of Acworth
4415 Senator Russell Avenue
Acworth, Georgia 30101

Re: Petition for Annexation— Land Lot 0010, 20th District, Parcels 0032, 0033, 0035, 0085, and 0096, 2nd Section, 4865 Cowan Road, Cobb County, Georgia; Notice of Intent to Object.

Dear Mayor Allegood:

We are in receipt of the above-referenced annexation and rezoning request. Please accept this response to the annexation proposal for 4865 Cowan Road. The subject property is currently zoned R-20 and is within an area identified as Low Density Residential (LDR) according to the Cobb County Future Land Use Map. Upon annexation, the applicant proposes to rezone the site to RM-8 (Multi-Family Residential) for the purpose of a residential development consisting of 50 townhome units. Based on our HB 489 Intergovernmental Agreement (IGA), this is a non-objectionable request; however, the parcels covered in this application are within an unincorporated island, which raises some concerns.

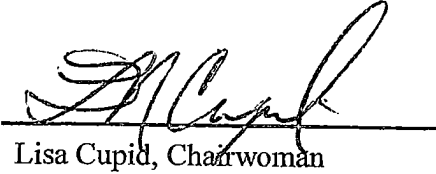
The proposed annexation request would leave *two* remnants of the original unincorporated island, one of which would be just a single 0.7-acre parcel that fronts Cowan Road located east of the subject site. O.C.G.A. § 36-36-4(a)(2) prohibits the creation of unincorporated islands by way of “annexation or deannexation which would result in the creation of an unincorporated area with its aggregate external boundaries abutting any combination of the annexing municipality and one or more other municipalities.” In September 2019, the City notified the County of an annexation/development proposal involving the same site for a development of a similar scope. The County rendered a response of “non-objection” regarding the proposal because at the time, Staff interpreted O.C.G.A. § 36-36-92 as superseding language that would allow the annexation of all or any portion of an unincorporated island as long as it is contiguous to the existing municipal boundary. Included in that 2019 response was the County’s concern regarding the aforementioned single parcel to the east of the subject site. That point of concern remains valid, and the County believes that leaving this parcel in the unincorporated area would be contrary to the spirit and intent of O.C.G.A. § 36-36-4(a).2). Not only it is an island, it is a distinctly second island, and it is just a single stand-alone parcel. Further, the County would suggest annexing this single parcel in addition to the other four parcels to the south to eliminate the unincorporated islands altogether in order to fulfil the intent of state law and to prevent the confusion of services for these islanded parcel owners. For these reasons, this letter serves as the County’s intent to object to the proposed annexation.

Re: Petition for Annexation— Land Lot 0010, 20th District, Parcels 0032, 0033, 0035, 0085, and 0096, 2nd Section, 4865 Cowan Road, Cobb County, Georgia; Notice of Intent to Object

In summary, please accept this letter as the County's formal **notice of intent to object** to the proposed annexation. We welcome the opportunity to negotiate the details of this matter in an informal setting. Please see the attached comments from the Cobb County Water System, Stormwater Management Division, and Department of Transportation. If you have questions or need any additional information, please contact Jason Gaines, Planning & Economic Development Division Manager, at (770) 528-2078.

Re: Petition for Annexation– Land Lot 0010, 20th District, Parcels 0032, 0033, 0035, 0085, and 0096, 2nd Section, 4865 Cowan Road, Cobb County, Georgia; Notice of Intent to Object

Sincerely,



Lisa Cupid, Chairwoman

cc: Jackie McMorris, County Manager – Via Email
Jimmy Gisi, Deputy County Manager – Via Email
H. William Rowling, Jr., County Attorney- Via Email
Brian Johnson, Senior Associate County Attorney, Via Email
Jessica Guinn, Community Development Director – Via Email
Pamela Mabry, County Clerk – Via E-Mail
Alex Almodovar, Assistant City Manager, City of Acworth
Christine M. Dobbs, Director Community Development, City of Acworth

Re: Petition for Annexation– Land Lot 0010, 20th District, Parcels 0032, 0033, 0035, 0085, and 0096, 2nd Section, 4865 Cowan Road, Cobb County, Georgia; Notice of Intent to Object

[signature page continued]

Sincerely,

Keli A. Gambrell

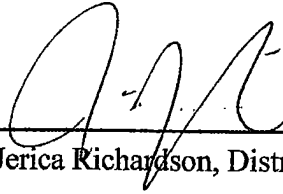
Keli Gambrell, District 1 Commissioner

cc: Jackie McMorris, County Manager – Via Email
Jimmy Gisi, Deputy County Manager – Via Email
H. William Rowling, Jr., County Attorney- Via Email
Brian Johnson, Senior Associate County Attorney, Via Email
Jessica Guinn, Community Development Director – Via Email
Pamela Mabry, County Clerk – Via E-Mail
Alex Almodovar, Assistant City Manager, City of Acworth
Christine M. Dobbs, Director Community Development, City of Acworth

Re: Petition for Annexation-- Land Lot 0010, 20th District, Parcels 0032, 0033, 0035, 0085, and 0096, 2nd Section, 4865 Cowan Road, Cobb County, Georgia; Notice of Intent to Object

[signature page continued]

Sincerely,



Jerica Richardson, District 2 Commissioner

cc: Jackie McMorris, County Manager – Via Email
Jimmy Gisi, Deputy County Manager – Via Email
H. William Rowling, Jr., County Attorney- Via Email
Brian Johnson, Senior Associate County Attorney, Via Email
Jessica Guinn, Community Development Director – Via Email
Pamela Mabry, County Clerk – Via E-Mail
Alex Almodovar, Assistant City Manager, City of Acworth
Christine M. Dobbs, Director Community Development, City of Acworth

Water & Sewer Comments

Water service for 4865 Cowan Road is provided by the existing CCWS water main in Cowan Road.

Wastewater for the parcels can be treated at the Northwest WRF where there currently is sufficient capacity. Permit issuances are subject to continued WRF compliance with EPD discharge requirements.

Because CCWS will continue to own and maintain water and sewer facilities in public rights-of-way and public easements, there would be no infrastructure loss.

Tim Davidson
Cobb County Water System
660 South Cobb Drive
Marietta, GA 30060
770-419-6312

Stormwater Management Comments

The existing site contains a stream and a lake/pond that may require undisturbed stream buffers. Any future development will need to consider these restrictions. There does not appear to be any County stormwater infrastructure within or adjacent to this property.

L. Carl Carver, PE
Engineer IV

Cobb County Water System
Stormwater Management Division
680 South Cobb Drive
Marietta, GA 30060-3113
Office: (770) 419-6453

REFERENCE ITEM

APPLICANT: Acworth

**ANNEXATION/REZONING
PETITION NO:**

PRESENT ZONING: R-20

PETITION FOR: RM-8

LL/LD: 10/20

**TRANSPORTATION COMMENTS &
RECOMMENDATIONS**

The following comments and recommendations are based on office review of the subject annexation/rezoning case:

Reviewed plans do not show detailed plans and/or specific uses. Additional concerns/comments will be provided after plans have been submitted to Cobb County via the formal Plan Review Process.

Cowan Rd is classified as an arterial roadway and falls under the City of Acworth's jurisdiction. The minimum right-of-way requirement is 50' measured from the centerline of the roadway. It appears Cowan Road does not meet the minimum right-of-way requirement.

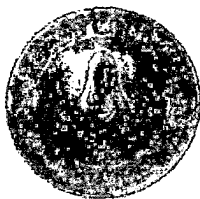
Recommend applicant consider entering into a development agreement pursuant to O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way along Cowan Road 50' from road centerline.

Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

Recommend applicant verify that minimum intersection sight distance is available and if it is not, implement remedial measures, subject to the Department's approval to achieve the minimum requirement.

Plans to be submitted for Cobb County Plan Review and approval.

REFERENCE ITEM



COBB COUNTY
BOARD OF COMMISSIONERS

100 Cherokee Street, Suite 300
Marietta, Georgia 30090-7000
770.528.3305 • fax: 770.528.2606

Lisa Cupid
Chairwoman

CERTIFIED MAIL
7014 1820 0000 0594 1037

February 2, 2021

The Honorable Derek Norton, Mayor
City of Smyrna
City Hall
P.O. Box 1226 / 2800 King Street
Smyrna, Georgia 30080

Re: Petition for Annexation – Land Lots 0774 and 0811, 17th District, Parcel 0120, 2nd Section, Ann Road, Cobb County, Georgia; Notice of Non-Objection.

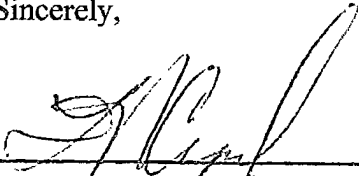
Dear Mayor Norton:

We are in receipt of the above-referenced annexation request. Please accept this response to the annexation proposal for the above-referenced parcel. The subject property has the required contiguity for annexation and annexing it would not result in the creation of an unincorporated island. Additionally, there are no Cobb County-owned facilities or infrastructure located on the subject property. Based on this information, Cobb County will not object to the pending request.

In summary, please accept this letter as the County's formal **notice of non-objection** to the proposed annexation. Please see the attached comments from the Cobb County Water System, Department of Transportation and Stormwater Management Division. If you have questions or need any additional information, please contact the office of Jason Gaines, Planning & Economic Development Manager, at (770) 528-2018.

Re: Petition for Annexation – Land Lots 0774 and 0811, 17th District, Parcel 0120, 2nd Section, Ann Rd, Cobb County, Georgia; Notice of Non-Objection.

Sincerely,



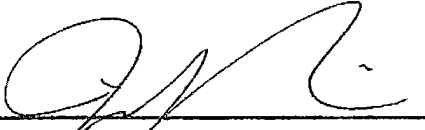
Lisa Cupid, Chairwoman

cc: Jackie McMorris, County Manager – Via Email
Jimmy Gisi, Deputy County Manager – Via Email
H. William Rowling, Jr., County Attorney- Via Email
Brian Johnson, Senior Associate County Attorney, Via Email
Jessica Guinn, Community Development Director – Via Email
Pamela Mabry, County Clerk – Via Email
Rusty Martin, Director of Community Development, City of Smyrna
Joey Staubes, Planner II, City of Smyrna

Re: Petition for Annexation – Land Lots 0774 and 0811, 17th District, Parcel 0120, 2nd Section, Ann Rd, Cobb County, Georgia; Notice of Non-Objection.

[signature page continued]

Sincerely,



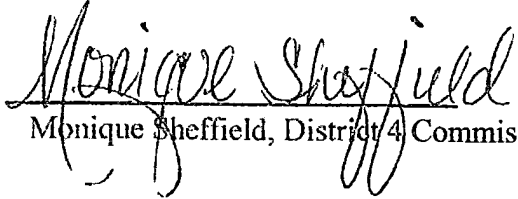
Jerica Richardson, District 2 Commissioner

cc: Jackie McMorris, County Manager – Via Email
Jimmy Gisi, Deputy County Manager – Via Email
H. William Rowling, Jr., County Attorney- Via Email
Brian Johnson, Senior Associate County Attorney, Via Email
Jessica Guinn, Community Development Director – Via Email
Pamela Mabry, County Clerk – Via Email
Rusty Martin, Director of Community Development, City of Smyrna
Joey Staubes, Planner II, City of Smyrna

Re: Petition for Annexation – Land Lots 0774 and 0811, 17th District, Parcel 0120, 2nd Section, Ann Rd, Cobb County, Georgia; Notice of Non-Objection.

[signature page continued]

Sincerely,


Monique Sheffield, District 4 Commissioner

cc: Jackie McMorris, County Manager – Via Email
Jimmy Gisi, Deputy County Manager – Via Email
H. William Rowling, Jr., County Attorney- Via Email
Brian Johnson, Senior Associate County Attorney, Via Email
Jessica Guinn, Community Development Director – Via Email
Pamela Mabry, County Clerk – Via Email
Rusty Martin, Director of Community Development, City of Smyrna
Joey Staubes, Planner II, City of Smyrna

Water & Sewer Comments

Water service for this property is currently provided and will continue to be provided by the City of Smyrna.

Records show this parcel to be within the Cobb County water and sewer service boundary.

It would be appropriate to review the service area boundary, given the infrastructure in the area. Wastewater flow from the site will be treated at the R. L. Sutton WRF where there currently is sufficient capacity. Permit issuances are subject to continued WRF compliance with EPD discharge requirements.

Tim Davidson
Cobb County Water System
660 South Cobb Drive
Marietta, GA 30060
770-419-6312

Stormwater Management Comments

This property contains stream buffers and downstream storm drain infrastructure that may belong to the County.

Any future development of the site will need to provide stormwater management including a downstream analysis which includes a capacity analysis of the downstream pipes. Additionally, there may be a little floodplain in the southwest corner of the parcel.

L. Carl Carver, PE
Engineer IV
Cobb County Water System
Stormwater Management Division
680 South Cobb Drive
Marietta, GA 30060-3113
Office: (770) 419-6453

REFERENCE ITEM

APPLICANT: Smyrna

ANNEXATION/REZONING

PETITION NO:

PRESENT ZONING: RM-8

PETITION FOR: RMC-8

LL/LD: 774 and 811/17

TRANSPORTATION COMMENTS & RECOMMENDATIONS

The following comments and recommendations are based on office review of the subject annexation/rezoning case:

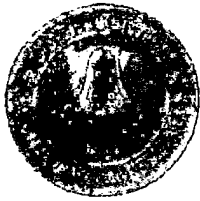
Reviewed plans do not show detailed plans and/or specific uses. Additional concerns/comments will be provided after plans have been submitted to Cobb County via the formal Plan Review Process.

The subject parcel does not have access on any County roads. Recommend any future development connect to Ann Road as the main access for the subject parcel.

Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

Any future development plans shall be submitted for Cobb County Plan Review and approval.

REFERENCE ITEM



COBB COUNTY
BOARD OF COMMISSIONERS

100 Cherokee Street, Suite 300
Marietta, Georgia 30090-7000
770.528.3305 • fax: 770.528.2606

Lisa Cupid
Chairwoman

CERTIFIED MAIL
7014 1820 0000 0594 1020

February 2, 2021

The Honorable Derek Norton, Mayor
City of Smyrna
City Hall
P.O. Box 1226 / 2800 King Street
Smyrna, Georgia 30080

Re: Petition for Annexation – Land Lot 0632, 17th District, Parcel 0850, 2nd Section, 2791 Madison Street, Cobb County, Georgia; Notice of Non-Objection.

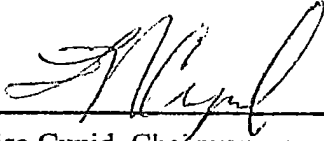
Dear Mayor Norton:

We are in receipt of the above-referenced annexation request. Please accept this response to the annexation proposal for 2791 Madison Street. The subject property is located within an unincorporated island and its annexation would conform to the provisions of O.C.G.A. § 36-36-4 as it relates to annexing land while avoiding the creation of new unincorporated islands. Based on this information, Cobb County will not object to the pending request.

In summary, please accept this letter as the County's formal **notice of non-objection** to the proposed annexation. Please see the attached comments from the Cobb County Water System and the Department of Transportation. If you have questions or need any additional information, please contact the office of Jason Gaines, Planning & Economic Development Manager, at (770) 528-2018.

**Re: Petition for Annexation – Land Lot 0632, 17th District, Parcel 0850, 2nd Section, 2791
Madison Street, Cobb County, Georgia; Notice of Non-Objection.**

Sincerely,



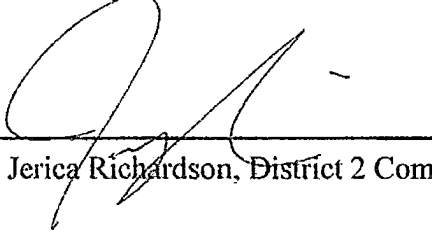
Lisa Cupid, Chairwoman

cc: Jackie McMorris, County Manager – Via Email
Jimmy Gisi, Deputy County Manager – Via Email
H. William Rowling, Jr., County Attorney- Via Email
Brian Johnson, Senior Associate County Attorney, Via Email
Jessica Guinn, Community Development Director – Via Email
Pamela Mabry, County Clerk – Via Email
Rusty Martin, Director of Community Development, City of Smyrna
Joey Staubes, Planner II, City of Smyrna

Re: Petition for Annexation – Land Lot 0632, 17th District, Parcel 0850, 2nd Section, 2791 Madison Street, Cobb County, Georgia; Notice of Non-Objection.

[signature page continued]

Sincerely,



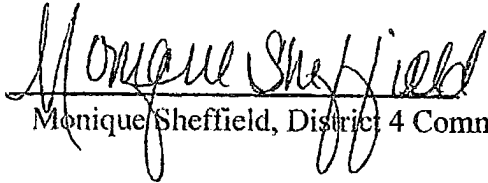
Handwritten signature of Jerica Richardson, District 2 Commissioner, written over a horizontal line.

cc: Jackie McMorris, County Manager – Via Email
Jimmy Gisi, Deputy County Manager – Via Email
H. William Rowling, Jr., County Attorney- Via Email
Brian Johnson, Senior Associate County Attorney, Via Email
Jessica Guinn, Community Development Director – Via Email
Pamela Mabry, County Clerk – Via Email
Rusty Martin, Director of Community Development, City of Smyrna
Joey Staubes, Planner II, City of Smyrna

Re: Petition for Annexation – Land Lot 0632, 17th District, Parcel 0850, 2nd Section, 2791 Madison Street, Cobb County, Georgia; Notice of Non-Objection.

[signature page continued]

Sincerely,


Monique Sheffield, District 4 Commissioner

cc: Jackie McMorris, County Manager – Via Email
Jimmy Gisi, Deputy County Manager – Via Email
H. William Rowling, Jr., County Attorney- Via Email
Brian Johnson, Senior Associate County Attorney, Via Email
Jessica Guinn, Community Development Director – Via Email
Pamela Mabry, County Clerk – Via Email
Rusty Martin, Director of Community Development, City of Smyrna
Joey Staubes, Planner II, City of Smyrna

REFERENCE ITEM

APPLICANT: Smyrna

ANNEXATION/REZONING

PETITION NO:

PRESENT ZONING: R-20

PETITION FOR: R-8

LL/LD: 632/17

TRANSPORTATION COMMENTS & RECOMMENDATIONS

The following comments and recommendations are based on office review of the subject annexation/rezoning case:

Reviewed plans do not show detailed plans and/or specific uses. Additional concerns/comments will be provided after plans have been submitted to Cobb County via the formal Plan Review Process.

Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

Recommend replacing broken curb and gutter along the property frontage.

Plans to be submitted for Cobb County Plan Review and approval.

REFERENCE ITEM

Water & Sewer Comments

Water service for this property is currently provided and will continue to be provided by the City of Smyrna.

Wastewater flow from the site will continue to be treated at the R. L. Sutton WRF where there currently is sufficient capacity. Permit issuances are subject to continued WRF compliance with EPD discharge requirements.

Because Smyrna will continue to own and maintain water and sewer facilities in public rights-of-way and public easements, there would be no infrastructure gain or loss.

Tim Davidson
Cobb County Water System
660 South Cobb Drive
Marietta, GA 30060
770-419-6312

REFERENCE ITEM

The Resolution for Deannexation of Ayers Dr. was never routed for signature per Jason Gaines with Community Development due to the fact that Kennesaw denied the application for Deannexation.

De/Annexation Location Map

January 2021

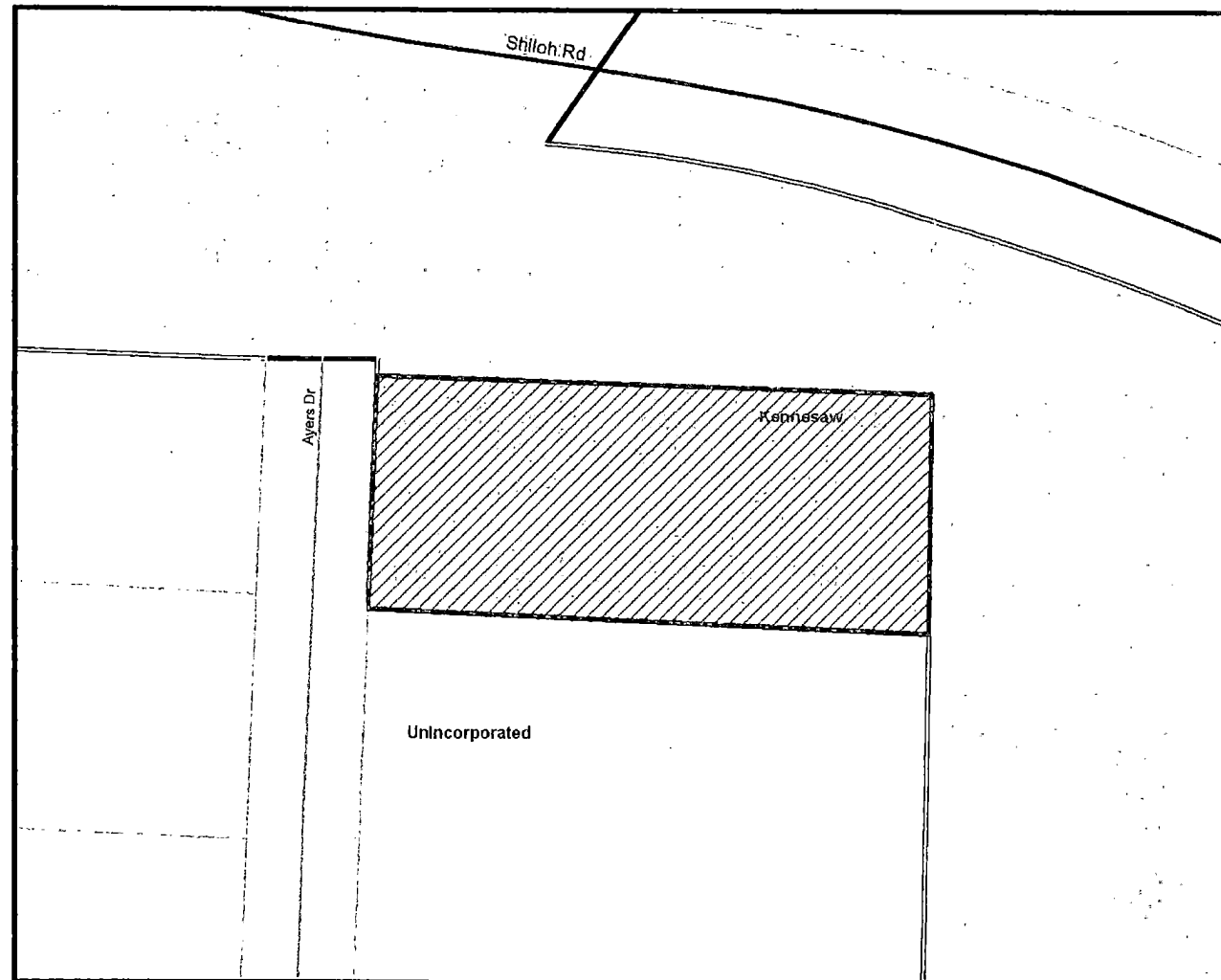
20th District
Land Lot 0060
Parcels 0027

Legend

-  De/Annexed Areas
-  Acworth
-  Austell
-  Kennesaw
-  Marietta
-  Powder Springs
-  Smyrna
-  Unincorporated



0 25 50 100
 Feet



COBB COUNTY BOARD OF COMMISSIONERS

RESOLUTION

ADOPTING ALL BUDGET AMENDMENTS
SET FORTH IN AGENDA ITEMS ON THIS DATE

WHEREAS, Georgia Law, O.C.G.A. § 36-81-3 (b), requires each unit of government to operate under an annual balanced budget adopted by ordinance or resolution; and

WHEREAS, Cobb County Code 2-49 provides for revisions to the adopted budget during the year only by formal action of the commission in a regular meeting; and

WHEREAS, in official opinion date February 24, 1999, the Attorney General of the State of Georgia concluded that all amendments to the budgets of local government must be adopted by ordinance or resolution;

NOW, THEREFORE, BE IT RESOLVED the Cobb County Board of Commissioners does hereby adopt all such budget amendments as are set forth in agenda items which are adopted by the Board of Commissioners without change this date, as well as other such budget amendments as shall be specifically detailed in motions adopted by the Board of Commissions this date.

This 9th of February 2021

Damaged Light Pole	DOT	Decrease Expenditure	710-055-8011-6605	\$ 3,916.82
		Increase Expenditure	710-055-8011-6594	\$ 3,916.82
		Increase Revenue	235-050-SLD1-4960	\$ 3,916.82
		Increase Expenditure	235-050-SLD1-SLD1-6500	\$ 3,916.82
800 MZH Damaged Microwave Dishes	Public Safety	Decrease Expenditure	710-055-8011-6605	\$ 5,741.66
		Increase Expenditure	710-055-8011-6594	\$ 5,741.66
		Increase Revenue	010-130-1900-4960	\$ 5,741.66
		Increase Expenditure	010-130-1900-6508	\$ 5,741.66
Total Loss - DOT Dump Truck	Fleet	Decrease Expenditure	710-055-8011-6441	\$ 124,231.00
		Increase Expenditure	710-055-8011-6594	\$ 124,231.00
		Increase Revenue	010-060-1650-4960	\$ 124,231.00
		Increase Expenditure	010-060-1650-8605	\$ 124,231.00

ATTACHMENT 1

PROJECT NAME:	I-75 at CR2025/Akers Mill Road New Express Lanes Access Ramps
PROJECT NUMBER:	X2410 GDOT PI No. 0015051
PARCEL NUMBER:	1
PROPERTY OWNER:	U.S. 41 & I-285 Company, LLC 5500 New Albany Road, Suite 200 New Albany, Ohio 43054
TAX PARCEL I.D. NUMBER:	17098000030
ACQUISITION: Fee Simple Right-of-Way: Permanent Easement:	385.59 square feet (0.0004% of total tract) 2,113.99 square feet (0.00205% of total tract)
APPROXIMATE REMAINING PROPERTY:	23.663 acres
LOCATION OF STRUCTURE:	More than 35 feet
CONTACTS: First: Last:	12/2/2021 2/2/2021
ACQUISITION AGENT:	Janis Killian
ZONING: HIGHEST & BEST USE:	Commercial Commercial
MISCELLANEOUS:	Condemnation is necessary to obtain clear title to the property rights being acquired.