

City of Norcross

*65 Lawrenceville Street
Norcross, GA 30071*



Meeting Agenda

Monday, August 1, 2022

6:30 PM

Council Chambers

Mayor and Council

Mayor Craig Newton

Mayor Pro Tem Matt Myers

Councilmember Andrew Hixson

Councilmember Josh Bare

Councilmember Bruce Gaynor

Councilmember Dr. Arlene Beckles

- A. **Call to Order by Mayor Craig Newton**
PLEASE TURN OFF ALL CELL PHONES AND ELECTRONIC DEVICES
- B. **Invocation**
- C. **Pledge of Allegiance to the Flag of the United States of America**
- D. **Roll Call (recorded)**
- E. **Presentation of previous meetings minutes for acceptance**
[22-6531](#) Approval of Previous Meeting Minutes

[Mayor and Council - Regular Meeting - Jul 5, 2022, 6:30 PM](#)

[Special Called Meeting - Special Meeting - Jul 18, 2022, 6:30 PM](#)

[Policy Work Session - Policy Work Session - Jul 18, 2022, 6:30 PM](#)

- F. **Set agenda as presented for scheduled meeting.**
[22-6532](#) Acceptance of the Agenda
- G. **Ceremonial Presentations, Recognitions, and Swearing in Ceremonies**
- H. **Floor Open to Citizens Desiring to Address the Governing Authority**
 - a. **Comments by Citizens**
 - b. **Comments by Council**
 - c. **Comments by City Manager**

PH. Public Hearings

- a. **[22-6527](#) Public Hearing on the Proposed Millage Rate Which Would Result in a Property Tax Increase**
[Five Year Tax History 07.13.2022](#)
[Millage Rate Legal Notice](#)
- b. **[22-6514](#) Public Hearing on the Proposed Fiscal 2023 Budget Discussion**
Provide staff direction as to desired changes in budgeted appropriations so that the final budget documents presented for adoption August 1 will reflect the priorities of the mayor and council.
[Agenda Report 8.1.2022 proposed FY23 budgets](#)
[FY2023 Budget Attachments for Discussion 8.1.22](#)

C. [22-6526](#) **Unified Development Ordinance Amendments**

Planning and Zoning Board:

Recommendation for approval as presented, with one edit to Sec 202-2h3b by a vote of 3-0 at the Planning and Zoning Board Meeting Wednesday, July 6, 2022.

Staff:

The Community Development and Planning Department in consultation with the the City Attorney's office as well as the Senior Planner recommend the attached changes to sections of the Unified Development Ordinance (UDO).

[Agenda Report - UDO Amendments](#)

[Ordinance TEXT2022-003](#)

J. **Reports of the Mayor and Councilmembers**

a. **General Announcements**

AUGUST CALENDAR OF EVENTS

Norcross Community Market

Every Wednesday through August | 4:00 p.m. - 7:00 p.m. | Thrasher Park

Summer Concert: The Breakfast Club

Friday, August 5 | 7:30 p.m. - 9:30 p.m. | Thrasher Park

Movie Monday: Run

Monday, August 8 | 1:30 & 6:30 p.m. | Norcross Cultural Arts and Community Center

Coffee With Council

Saturday, August 13 | 8:00 a.m. | 45 South Cafe

Jazz in the Alley: Cleveland P. Jones & Michael Cruse

Saturday, August 13 | 7:30 p.m. - 9:30 p.m. | Betty Mauldin Park

Policy Work Session

Monday, August 15 | 6:30 p.m. | City Hall 2nd Floor Conference Room

Summer Concert: Liverpool Legends

Friday, August 19 | 7:30 p.m. - 9:30 p.m. | Thrasher Park

The Great Georgia Pollinator Census

Saturday, August 20 | 11:00 a.m. - 12:00 p.m. | Discovery Garden Park

Movie Monday: Finding You

Monday, August 22 | 1:30 & 6:30 p.m. | Norcross Cultural Arts and Community Center

Robert West's Art Exhibition

Thursday, August 25 | 6:00 p.m. - 8:00 p.m. | The Rectory

Coming Up in September:

September 02 | Summer Concert: Voltage Brothers

September 05 | City Closed for Labor Day Observance

September 10 | Atlanta British Car Fayre

September 11 | 9/11 Remembrance Ceremony

September 17 | Hispanic Heritage Celebration

September 17 | Jazz in the Alley: FunkyardX

K. Board Appointments**a. [22-6534](#) Board Appointment - Discovery Garden Park Board**

The following applicants satisfied all the requirements to be considered for appointment to the Discovery Garden Park Board which currently has (2) vacancies:

Dana Boyle

Felita Williams

b. [22-6535](#) Board Appointment - Norcross Public Arts Commission

The following applicants satisfied all the requirements to be considered for appointment to the Norcross Public Arts Commission which currently has (1) vacancy:

Kathryn Ash

Elizabeth Simpson

David Rossignol

c. [22-6536](#) Board Appointment - Planning and Zoning Board

The following applicants satisfied all the requirements to be considered for appointment to the Planning and Zoning Board which currently has one vacancy:

Marlene Janos

d. [22-6537](#) Board Appointment - Zoning Board of Appeals

The following applicant satisfied all the requirements to be considered for appointment to the Zoning Board of Appeals which currently has (2) vacancies:

Michael Walsh

L. Approval of Consent Agenda**1. [22-6515](#) Alcohol Sales Clarification**

The Community Development and Planning Department in consultation with the Administrative Services Department, Economic Development Department and City Attorney's office recommends editing, as shown in the attached, Sec 4-29, Sec 4-41 and Sec 4-42 regarding definitions, retail sales, and consumption on the premises with respect to alcohol.

[Agenda Report - Alcohol Ordinance](#)

[Alcohol Ordinance DRAFT Modification v2](#)

2. [22-6516](#) Handbook Edits

A recommendation to adopt the revisions of the 2022 Employee Handbook.

[Agenda Report- Employee Handbook Revision](#)

[Employee Handbook Revision 7-18-2022](#)

3. [22-6517](#) **Services Agreement Between Flock Group Inc (Flock Safety) and Norcross PD**

The Norcross Police Department requests Council approval of an agreement with Flock Group Inc to provide NPD with 22 Flock Safety LPR cameras as part of our ongoing effort to solve crimes using the latest technology available.

[Agenda Report- Services Agreement - Flock Group Inc](#)

[Agreement - Flock Group Inc and Norcross PD](#)
4. [22-6518](#) **Amendment to View Point Health Contract for Services**

The Norcross Police Department requests that council approve an amendment to the existing contract for services with View Point Health to provide NPD with a second additional mental health co-responder clinician.

[Agenda Report- Amendment to Contract for Services - View Point Health](#)

[Contract for Services](#)

[First Amendment to Contract for Services](#)
5. [22-6519](#) **Beaver Ruin Greenway Annual Contract Extension**

A recommendation to approve the Beaver Ruin Greenway annual contract extension.

[Agenda Report- Annual Contract](#)

[First Amendment to Contract for Professional Services](#)

[Original Contract for professional services \(Design Engineering Services\)](#)
6. [22-6522](#) **Sanitation Services Fees**

A recommendation to approve sanitation services fees for FY 23 based on one of several alternatives/options.

[Agenda Report- Sanitation Service Fees](#)
7. [22-6525](#) **Plant Vogtle Ownership Participation Agreements**

Provide MEAG a response related to the City's participation in three separate ownership participation agreements.

[Agenda Report - Plant Vogtle Ownership Participation Agreements](#)

[MEAG Power Sharing Agreements](#)
8. [22-6521](#) **Electric Rates CY 2023**

Approve retention of existing electric rates in calendar year 2023, subject to potential future power cost adjustments (PCAs), or reconsideration based on a revised MEAG budget later in the year.

[Agenda Report- Electric Rates CY 2023](#)

9. [22-6528](#)**Employee Medical Benefits Proposed Rate Increase**

A recommendation to adopt new adjusted employee contributions for our 2022-2023 Open Enrollment.

[Agenda Report- Employee Medical Contributions](#)

[Rates Cost Share % 9-1-22 through 12-31-23](#)

M. Items for Discussion**N. Adjourn in memory of****O. Adjourn to Executive Session for Personnel, Real Estate or Legal****P. Signed by_____ Mayor Craig Newton****Q. Attest: _____ Monique Lang, City Clerk**



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
COUNCILMEMBER **ARLENE BECKLES** • COUNCILMEMBER **BRUCE GAYNOR** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

City of Norcross

Legislation Details (With Details)

File #:	22-6531	Version:	
Type #:	Agenda Item	Status:	Agenda Ready
On Agenda:	8/1/2022 6:30 PM	In Control:	Mayor and Council
Title:	Approval of Previous Meeting Minutes		

Sponsors:

Code Sections:

Title
Approval of Previous Meeting Minutes

Motion
A motion to Approve the July 5th Regular Council Meeting Minutes and Executive Session, the July 18th Special Called Meeting, Policy Work Session and Executive Session.

City of Norcross

65 Lawrenceville Street
Norcross, GA 30071



Meeting Minutes

Tuesday, July 5, 2022

6:30 PM

Council Chambers

Mayor and Council

Mayor Craig Newton

Mayor Pro Tem Matt Myers

Councilmember Andrew Hixson

Councilmember Josh Bare

Councilmember Bruce Gaynor

Councilmember Arlene Beckles

Minutes Acceptance: Minutes of Jul 5, 2022 6:30 PM (Presentation of previous meetings minutes for acceptance)

- A. Call to Order by Mayor Craig Newton
- B. Invocation
- C. Pledge of Allegiance to the Flag of the United States of America
- D. Roll Call (recorded)

Attendee Name	Title	Status	Arrived
Craig Newton	Mayor	Present	
Matt Myers	Mayor Pro Tem	Present	
Andrew Hixson	Councilmember	Present	
Josh Bare	Councilmember	Present	
Bruce Gaynor	Councilmember	Present	
Arlene Beckles	Councilmember	Present	

Regular Meeting was called to order at 6:30 PM by Mayor Craig Newton

- E. Presentation of previous meetings minutes for acceptance

22-6510: Approval of Previous Meeting Minutes

Motion

A motion to Approve the July 6th Regular Council Meeting Minutes and Executive Session and the June 21st Policy Work Session and Executive Session.

Mayor and Council - Regular Meeting - Jun 6, 2022 6:30 PM

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Josh Bare, Councilmember
SECONDER:	Arlene Beckles, Councilmember
AYES:	Myers, Hixson, Bare, Gaynor, Beckles

Policy Work Session - Policy Work Session - Jun 21, 2022 6:30 PM

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Josh Bare, Councilmember
SECONDER:	Arlene Beckles, Councilmember
AYES:	Myers, Hixson, Bare, Gaynor, Beckles

Minutes Acceptance: Minutes of Jul 5, 2022 6:30 PM (Presentation of previous meetings minutes for acceptance)

F. Set agenda as presented for scheduled meeting.**22-6511: Acceptance of the Agenda****Motion**

A motion to Accept the Agenda as Presented with the following items being moved to discussion:

22-6506 : Demolition of Former Norcross Library

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Arlene Beckles, Councilmember
SECONDER:	Josh Bare, Councilmember
AYES:	Myers, Hixson, Bare, Gaynor, Beckles

G. Ceremonial Presentations, Recognitions, and Swearing in Ceremonies**H. Floor Open to Citizens Desiring to Address the Governing Authority**

- a. Comments by Citizens
- b. Comments by Council
- c. Comments by City Manager

PH. Public Hearings**PH. 22-6508: Unified Development Ordinance Text Amendment****Motion**

A motion to Approve an amendment to the Code of Ordinances of Norcross by revising Sec. 104-7(0)(1)(d), Sec. 205-2(4), Sec. 205-5, Sec 403-9 and 403-10, and the addition of a new Section to be numbered 403-11 of the Unified Development Ordinance, Subpart B, with the following enacting clause:

The Mayor and City Council of the City of Norcross, Georgia hereby ordains that the adopted Code of Ordinance is hereby amended as more particularly set forth below. It is the intention of the Mayor and City Council, and it is hereby ordained that all following provisions shall become and be made part of the Code of the City of Norcross.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Josh Bare, Councilmember
SECONDER:	Matt Myers, Mayor Pro Tem
AYES:	Myers, Hixson, Bare, Gaynor, Beckles

PH. 22-6504: Amendment to FY22 Operating Budget**Motion**

A motion to Approve amendments to the FY22 budget appropriate to changes in macroeconomic conditions, council priorities, staffing levels and compensation plans, and other factors since the original FY22 budget was presented in July 2021, correcting an error in the Special Revenue Funds, moving \$67,000 to capital outlay.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Andrew Hixson, Councilmember
SECONDER:	Matt Myers, Mayor Pro Tem
AYES:	Myers, Hixson, Bare, Gaynor, Beckles

J. Reports of the Mayor and Councilmembers

a. General Announcements

JULY CALENDAR OF EVENTS

Norcross Community Market

Every Wednesday from Now to August | 4:00 p.m. - 7:00 p.m. | Thrasher Park

Summer Concert: Bee Gees Gold

Friday, July 8 | 7:30 p.m. - 9:30 p.m. | Thrasher Park

Movie Monday: Girl With A Pearl Earring (Sponsored by NPAC)

Monday, July 11 | 1:30 & 6:30 p.m. | Norcross Cultural Arts and Community Center

Coffee With Council

Saturday, July 16 | 8:00 a.m. | 45 South

Jazz in the Alley: Unknown Lyric & Dexter Tolson

Saturday, July 16 | 7:30 p.m. - 9:30 p.m. | Betty Mauldin Park

Policy Work Session

Monday, July 18th | 6:30 p.m. | City Hall 2nd Floor Conference Room

Special Called Meeting: Public Hearing Session 2

Monday, July 18 | 6:30 p.m. | City Hall 2nd Floor Community Room

Summer Concert: All In One

Friday, July 22 | 7:30 p.m. - 9:30 p.m. | Thrasher Park

Movie Monday: Encanto

Monday, July 25 | 1:30 & 6:30 p.m. | Norcross Cultural Arts and Community Center

Cookout With Council

Saturday, July 30 | 3:00 p.m. | Thrasher Park Pavilion

Coming Up in August:

Every Wednesday | Norcross Community Market

August 05 | Summer Concert: The Breakfast Club

August 13 | Jazz in the Alley: Cleveland P. Jones & Michael Cruse

August 15 | Movie Monday: Run

August 19 | Summer Concert: Liverpool Legends

August 20 | The Great Georgia Pollinator Census

August 25 | Norcross Public Arts Commission Art Exhibition

August 29 | Movie Monday: Finding You

K. Board Appointments

There are no Board, Commission, or Authority appointments to consider at this time.

Minutes Acceptance: Minutes of Jul 5, 2022 6:30 PM (Presentation of previous meetings minutes for acceptance)

L. Approval of Consent Agenda

RESULT:	ADOPTED ON CONSENT AGENDA [UNANIMOUS]
MOVER:	Matt Myers, Mayor Pro Tem
SECONDER:	Arlene Beckles, Councilmember
AYES:	Myers, Hixson, Bare, Gaynor, Beckles

1. 22-6499: Roll Off Ordinance Clarification

Motion

A motion to Approve an amendment to the Code of Ordinances of Norcross by revising Chapter 36, Utilities, Article VI, Solid Waste. Sec 36-207, with the following enacting clause:

The Mayor and City Council of the City of Norcross, Georgia hereby ordains that the adopted Code of Ordinance is hereby amended as more particularly set forth below. It is the intention of the Mayor and City Council, and it is hereby ordained that all following provisions shall become and be made part of the Code of the City of Norcross.

2. 22-6503: Bolton Circle Pavement Resurfacing Private Agreement with CarMax

Motion

A motion to Approve the Private Development Agreement between the City of Norcross and CarMax to improve the existing Bolton Circle simultaneously with the construction of the development of the CarMax parking expansion at the corner of Beaver Ruin Road and Bolton Circle in accordance with the City of Norcross adopted Unified Development Ordinance on June 3, 2019.

3. 22-6501: SureLock/Rubrik - Cloud Backup Solution

Motion

A motion to Approve the approval of the attached End User License Agreement, and installation of the Rubrik Backup Solution.

4. 22-6502: Noise Ordinance Text Amendment

Motion

A motion to Approve an amendment to the Code of Ordinances of Norcross by correcting two days of the week in subsection 26-21(b) of the recently revised and adopted noise ordinance, with the following enacting clause:

The Mayor and City Council of the City of Norcross, Georgia hereby ordains that the adopted Code of Ordinance is hereby amended as more particularly set forth below. It is the intention of the Mayor and City Council, and it is hereby ordained that all following provisions shall become and be made part of the Code of the City of Norcross.

5. 22-6505: Financial Advisor Contract

Motion

A motion to Approve the attached financial advisory services contract with Piper Sandler for the period ending June 30, 2023.

Minutes Acceptance: Minutes of Jul 5, 2022 6:30 PM (Presentation of previous meetings minutes for acceptance)

M. Items for Discussion**1. 22-6506: Demolition of Former Norcross Library****Motion**

A motion to Approve authorization for the demolition of the former Norcross Library building, located at 6025 Buford Highway, with authorization to fence the site to secure the building and going out for bids in anticipation of future safety development and the construction of the public safety building to house the Norcross Police Department and Municipal Court at this location.

RESULT:	4:1
MOVER:	Josh Bare, Councilmember
SECONDER:	Matt Myers, Mayor Pro Tem
AYES:	Myers, Hixson, Bare, Gaynor
NAYS:	Beckles

N. Adjourn in memory of**O. Adjourn to Executive Session for Personnel, Real Estate or Legal**

The meeting adjourned to Executive Session for Real Estate and Legal at 7:22 PM with a motion to adjourn by Councilmember Bare, seconded by Councilmember Gaynor.

P. Signed by _____ **Mayor Craig Newton**

Q. Attest: _____ **Monique Lang, City Clerk**

Minutes Acceptance: Minutes of Jul 5, 2022 6:30 PM (Presentation of previous meetings minutes for acceptance)

City of Norcross

65 Lawrenceville Street
Norcross, GA 30071



Meeting Minutes

Monday, July 18, 2022

6:30 PM

2nd Floor Conference Room

Special Called Meeting

Mayor Craig Newton

Mayor Pro Tem Matt Myers

Councilmember Andrew Hixson

Councilmember Josh Bare

Councilmember Bruce Gaynor

Councilmember Dr. Arlene Beckles

Minutes Acceptance: Minutes of Jul 18, 2022 6:30 PM (Presentation of previous meetings minutes for acceptance)

A. Call to Order by Craig Newton

Attendee Name	Title	Status	Arrived
Craig Newton	Mayor	Present	
Matt Myers	Mayor Pro Tem	Present	
Andrew Hixson	Councilmember	Present	
Josh Bare	Councilmember	Present	
Bruce Gaynor	Councilmember	Present	
Arlene Beckles	Councilmember	Remote	

Special Meeting was called to order at 6:30 PM by Mayor Craig Newton

B. Roll Call (recorded)**C. Comments by Citizens****PH. Public Hearings****PH. 22-6527: Public Hearing on the Proposed Millage Rate Which Would Result in a Property Tax Increase**

RESULT: THIS MATTER WAS REFERRED TO

Next: 8/1/2022 11:00 AM

TO: Special Called Meeting

E. Items for Discussion**1. 22-6514: Proposed Fiscal 2023 Budget Discussion**

RESULT: THIS MATTER WAS REFERRED TO

Next: 8/15/2022 6:30 PM

TO: Special Called Meeting

F. Adjourn to Executive Session Legal Personnel, and Real Estate

The meeting adjourned at 7:58 PM with a motion by Councilmember Gaynor, seconded by Councilmember Bare.

G. Signed by _____ Mayor Craig Newton

H. Attest _____ Monique Lang, City Clerk

Minutes Acceptance: Minutes of Jul 18, 2022 6:30 PM (Presentation of previous meetings minutes for acceptance)

City of Norcross

65 Lawrenceville Street
Norcross, GA 30071



Meeting Minutes

Monday, July 18, 2022

6:30 PM

2nd Floor Conference Room

Policy Work Session

Mayor Craig Newton

Mayor Pro Tem Matt Myers

Councilmember Andrew Hixson

Councilmember Josh Bare

Councilmember Bruce Gaynor

Councilmember Dr. Arlene Beckles

Minutes Acceptance: Minutes of Jul 18, 2022 6:30 PM (Presentation of previous meetings minutes for acceptance)

A. Roll Call (recorded)

Attendee Name	Title	Status	Arrived
Craig Newton	Mayor	Present	
Matt Myers	Mayor Pro Tem	Present	
Andrew Hixson	Councilmember	Present	
Josh Bare	Councilmember	Present	
Bruce Gaynor	Councilmember	Present	
Dr. Arlene Beckles	Councilmember	Remote	

Policy Work Session was called to order at 8:09 PM by Mayor Craig Newton

B. Citizen Input**C. Board Updates**

Historic Preservation Commission - Gene Ramsey

D. General Updates

*Rossie Brundage Basketball Court Update- Michael Jones

E. Council- General Discussion**F. Board Appointments**

Mayor and Council will consider appointments to the following board, authority, or commission:

Discovery Garden Park Board (2 Vacancy/ 2 Applicants)

Norcross Public Arts Commission (1 Vacancy/ 3 Applicants)

Planning & Zoning Board (1 Vacancy/ 1 Applicants)

Zoning Board of Appeals (2 Vacancies/1 Applicant)

G. City Manager's Report

Item #12 Added from Floor: 22-6528: Employee Medical Benefits Proposed Rate Increase

Motion

A motion to add item #12, Employee Medical Benefits Proposed Rate Increase , to the agenda for discussion.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Josh Bare, Councilmember
SECONDER	Matt Myers, Mayor Pro Tem
AYES:	Bare, Hixson, Myers, Gaynor, Beckles

Minutes Acceptance: Minutes of Jul 18, 2022 6:30 PM (Presentation of previous meetings minutes for acceptance)

H. Items for Discussion**1. 22-6526: Unified Development Ordinance Amendments****RESULT:** THIS MATTER WAS REFERRED TO**Next:** 8/1/2022 6:30 PM**TO:** Mayor and Council**2. 22-6515: Alcohol Sales Clarification****RESULT:** THIS MATTER WAS REFERRED TO**Next:** 8/1/2022 6:30 PM**TO:** Mayor and Council**3. 22-6516: Handbook Edits****RESULT:** THIS MATTER WAS REFERRED TO**Next:** 8/1/2022 6:30 PM**TO:** Mayor and Council**4. 22-6517: Services Agreement Between Flock Group Inc (Flock Safety) and Norcross PD****RESULT:** THIS MATTER WAS REFERRED TO**Next:** 8/1/2022 6:30 PM**TO:** Mayor and Council**5. 22-6518: Amendment to View Point Health Contract for Services****RESULT:** THIS MATTER WAS REFERRED TO**Next:** 8/1/2022 6:30 PM**TO:** Mayor and Council**6. 22-6519: Beaver Ruin Greenway Annual Contract Extension****RESULT:** THIS MATTER WAS REFERRED TO**Next:** 8/1/2022 6:30 PM**TO:** Mayor and Council**7. 22-6521: Electric Rates CY 2023****RESULT:** THIS MATTER WAS REFERRED TO**Next:** 8/1/2022 6:30 PM**TO:** Mayor and Council

Minutes Acceptance: Minutes of Jul 18, 2022 6:30 PM (Presentation of previous meetings minutes for acceptance)

8. **22-6522: Sanitation Services Fees**

RESULT:	THIS MATTER WAS REFERRED TO
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	Next: 8/1/2022 6:30 PM
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TO:	Mayor and Council
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9. **22-6525: Plant Vogtle Ownership Participation Agreements**

RESULT:	THIS MATTER WAS REFERRED TO
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	Next: 8/1/2022 6:30 PM
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TO:	Mayor and Council
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10. **22-6523: Street Art at Key Intersections**

RESULT:	THIS MATTER WAS REFERRED TO STAFF & NPAC
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11. **22-6524: Outside Dining Options/Pocket Parks**

RESULT:	THIS MATTER WAS REFERRED TO STAFF
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12. **22-6528: Employee Medical Benefits Proposed Rate Increase**

RESULT:	THIS MATTER WAS REFERRED TO
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	Next: 8/1/2022 6:30 PM
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TO:	Mayor and Council
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I. **Adjourn to Executive Session for Personnel, Real Estate or Legal**

The meeting adjourned at 10:27 PM with a motion by Mayor Pro Tem Myers, seconded by Councilmember Gaynor.

J. **Signed by:** _____ **Mayor Craig Newton**K. **Attest:** _____ **Monique Lang, City Clerk**

Minutes Acceptance: Minutes of Jul 18, 2022 6:30 PM (Presentation of previous meetings minutes for acceptance)



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
COUNCILMEMBER **ARLENE BECKLES** • COUNCILMEMBER **BRUCE GAYNOR** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

City of Norcross

Legislation Details (With Details)

File #:	22-6532	Version:	
Type #:	Agenda Item	Status:	Agenda Ready
On Agenda:	8/1/2022 6:30 PM	In Control:	Mayor and Council
Title:	Acceptance of the Agenda		

Sponsors:

Code Sections:

Title
Acceptance of the Agenda

Motion

A motion to Accept the Agenda as Presented with the following items being moved to discussion:



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
COUNCILMEMBER **ARLENE BECKLES** • COUNCILMEMBER **BRUCE GAYNOR** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

City of Norcross

Legislation Details (With Details)

File #:	22-6527	Version:	
Type #:	Agenda Item	Status:	Agenda Ready
On Agenda:	8/1/2022 6:30 PM	In Control:	Mayor and Council
Title:	Public Hearing on the Proposed Millage Rate Which Would Result in a Property Tax Increase		

Sponsors:

Code Sections:

Attachments:

1. [Five Year Tax History 07.13.2022](#)
2. [Millage Rate Legal Notice](#)

Title

Public Hearing on the Proposed Millage Rate Which Would Result in a Property Tax Increase

Drafter

Paul Hanebuth

Motion

A motion to set the 2022 Tax Millage Rate on property assessments for the City of Norcross at _____ for submission to the Gwinnett County Tax Assessor's Office.

NOTICE

The Mayor and Council of the City of Norcross does hereby announce that the millage rate will be set at a meeting to be held at City Hall, 65 Lawrenceville Street, Norcross, GA on August 1, 2022 at 6:30pm and pursuant to the requirements of O.C.G.A. Section 48-5-32 does hereby publish the following presentation of the current year's tax digest and levy, along with the history of the tax digest and levy for the past five years.

CURRENT 2022 TAX DIGEST AND 5 YEAR HISTORY OF LEVY

INCORPORATED	2017	2018	2019	2020	2021	2022
Real & Personal	810,549,200	849,452,910	915,927,101	1,029,419,740	1,092,865,132	1,346,930,430
Motor Vehicles	9,929,980	7,496,520	6,138,140	5,063,720	3,965,160	3,414,580
Mobile Homes	3,240	3,000	2,880	2,880	2,880	2,880
Utility	42,530,680	46,306,440	46,699,800	46,699,800	43,012,240	43,793,000
Timber - 100%						
Heavy Duty Equipment	31,650	5,153	29,960	109,700	16,360	60,580
Gross Digest	863,044,750	903,264,023	968,797,881	1,081,295,840	1,139,861,772	1,394,201,470
Less M & O Exemptions	27,259,723	57,279,180	72,171,960	48,752,314	50,398,666	80,754,794
Net M & O Digest	835,785,027	845,984,843	896,625,921	1,032,543,526	1,089,463,106	1,313,446,676
State Forest Land Assistance Grant Value						
Adjusted Net M&O Digest	835,785,027	845,984,843	896,625,921	1,032,543,526	1,089,463,106	1,313,446,676
Gross M&O Millage	5.749	5.749	6.749	6.749	6.749	6.749
Less Rollbacks						
Net M&O Millage	5.749	5.749	6.749	6.749	6.749	6.749
Net Taxes Levied	\$4,804,928.12	\$4,863,566.86	\$6,051,328.34	\$6,968,636.26	\$7,352,786.50	\$8,864,451.62
\$ Increase (Decrease)	430,812.74	58,638.74	1,187,761.48	917,307.92	384,150.25	1,511,665.11
% Increase/Decrease	9.85%	1.22%	24.42%	15.16%	5.51%	20.56%

NOTICE OF PROPERTY TAX INCREASE

The Mayor and City Council of the City of Norcross has tentatively adopted a millage rate which will require an increase in property taxes by 21.49 percent. All concerned citizens are invited to the public hearing on this tax increase to be held at Norcross City Hall on July 18, 2022, at 6:30 PM. Times and places of additional public hearings on this tax increase are at Norcross City Hall on August 1, 2022, at 11:00 AM and August 1, 2022, at 6:30 PM. This tentative increase will result in a millage rate of 6.749 mills, an increase of 1.194 mills. Without this tentative tax increase, the millage rate will be no more than 5.555 mills. The proposed tax increase for a home with a fair market value of \$350,000 is approximately \$167 and the proposed tax increase for non-homestead property with a fair market value of \$700,000 is approximately \$334.



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
COUNCILMEMBER **ARLENE BECKLES** • COUNCILMEMBER **BRUCE GAYNOR** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

City of Norcross

Legislation Details (With Details)

File #:	22-6514	Version:	
Type #:	Agenda Item	Status:	Agenda Ready
On Agenda:	8/1/2022 6:30 PM	In Control:	Mayor and Council
Title:	Proposed Fiscal 2023 Budget Discussion		

Sponsors:

Code Sections:

Attachments:

1. [Agenda Report - 8.1.22 Proposed FY23 Budgets](#)
2. [2023 Budgets as proposed 080122](#)

Title
Proposed Fiscal 2023 Budget Discussion

Drafter
Eric Johnson

Motion
A motion to move this item to the August 15th Special Called Meeting.



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
COUNCILMEMBER **BRUCE GAYNOR** • COUNCILMEMBER **ARLENE BECKLES** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

Agenda Report

To: Mayor and Council

From: Paul Hanebuth

Meeting Date: August 1, 2022 – Mayor and Council

Item No.: 22-6514

Title: Proposed Fiscal Year 2023 budgets

CC: Eric Johnson

Recommendation: Provide final changes to the proposed FY2023 budget so that a final budget document will be ready for approval at the Special Called Meeting on August 15.

Background: City staff has completed a comprehensive analysis of the existing budget structure as well as conducting trend analysis, historical analysis, and interviews with budget managers. From this three-month process, staff has developed recommendations for structural changes to the budget while producing estimated revenues and expenditures for the coming year. The purpose of this agenda item is to incorporate changes desired by the Mayor and Council into the final draft which will be presented for adoption at the August 15 special called meeting.

Financial Impact: The budget plan represents how the strategic priorities of the governing body are implemented on a daily, monthly, and annual basis. While the budget is a living document that must be managed and monitored continually, the initial budget for each year is a financial description of the city's goals and priorities for the coming year. The decisions of the mayor and council will determine, for example, what proportion of city taxes and other revenues will be dedicated to capital investment, expansion (or contraction) of services provided, and the relative competitiveness of compensation packages offered by the city to prospective employees and vendors.

Consistent with Comprehensive Plan? Yes, Consistent with Goal 6: Further the City's Tradition of Strong Leadership and High Level of Quality Services. Budget documents encapsulate the city's financial plan to prioritize and fund all of the goals enumerated in the comprehensive plan.

Next Steps: The attached budget summaries will be edited according to direction provided by the council, and a final draft will be presented for adoption on August 15.

Attachments: Budget summaries by fund
Budget detail by department and character

Update: Changes from the proposed budget presented on July 18:

1. Line items from the approved amended FY2022 budget have been updated for comparison purposes .
2. An alternate presentation of the FY2023 General Fund budget has been added to show department-level expenditures
3. Expenditure for a PD vehicle has been added to the Rental Motor Vehicle Tax Fund budget as discussed July 18.

General Fund

	2021 actual	2022 adopted	2022 amended	2023 proposed
REVENUES				
Taxes	10,736,051	11,172,276	11,255,500	12,183,200
Licenses and Permits	623,545	562,250	817,900	809,800
Fines, fees, and forfeitures	1,219,616	1,321,900	1,476,300	1,417,200
Charges for services	75,805	115,990	99,100	80,100
Intergovernmental	3,088,275	674,307	476,800	624,300
Interest	10,920	9,600	3,700	5,100
Other	146,906	141,062	441,000	218,500
Total Revenues	15,901,118	13,997,385	14,570,300	15,338,200
EXPENDITURES				
General Government	2,901,130	4,703,495	3,733,600	4,477,200
Judicial	395,341	574,550	488,500	539,800
Public Safety	6,313,873	6,243,059	6,756,200	6,826,200
Public Works	2,147,960	2,414,787	2,446,300	2,068,200
Culture and Recreation	804,951	875,242	1,000,800	1,455,411
Housing and Development	915,137	1,269,689	1,060,000	1,205,100
Total Expenditures	13,478,392	16,080,822	15,485,400	16,571,911
Excess (deficiency)	2,422,726	(2,083,437)	(915,100)	(1,233,711)
Other financing sources (uses)				
Transfers in	538,840	923,065	1,235,200	1,727,200
Transfers out	-		(2,320,100)	(1,000)
CY unassigned				(230,689)
Designated Fund Balance		500,000		
3% city employee COLA				(261,800)
Sale of capital assets	41,767			
Total other financing	580,607	1,423,065	(1,084,900)	1,233,711
Net change in fund balance	3,003,333	(660,372)	(2,000,000)	-
Fund balance beginning	8,269,453	11,272,786	11,272,786	9,272,786
Fund balance ending	11,272,786	10,612,414	9,272,786	9,272,786

General Fund

I.b.b

	2021 actual	2022 adopted	2022 amended	2023 proposed
REVENUES				
Taxes	10,736,051	11,172,276	11,255,500	12,183,200
Licenses and Permits	623,545	562,250	817,900	809,800
Fines, fees, and forfeitures	1,219,616	1,321,900	1,476,300	1,417,200
Charges for services	75,805	115,990	99,100	80,100
Intergovernmental	3,088,275	674,307	476,800	624,300
Interest	10,920	9,600	3,700	5,100
Other	146,906	141,062	441,000	218,500
Total Revenues	15,901,118	13,997,385	14,570,300	15,338,200
EXPENDITURES				
NPAC	-	1,500	1,500	1,600
Non-departmental	-	637,095	57,000	495,600
City Clerk	214,162	252,155	239,600	216,000
Mayor & Council	499,992	814,338	493,300	669,700
City Manager	282,037	892,885	597,700	915,900
Administrative Services	641,887	577,785	618,100	592,800
Information Technologies	1,073,773	1,289,381	1,443,600	1,293,600
Human Resources	189,279	238,356	282,800	292,000
Municipal Court	395,341	574,550	488,500	539,800
Police Department	5,640,911	5,522,499	6,015,300	6,143,300
Public Works	2,147,960	2,414,787	2,446,300	2,068,200
Cultural Administration	261,230	186,275	176,900	375,300
Parks Administration	543,721	688,967	823,900	1,080,111
Community Development	742,242	858,693	746,100	885,100
Economic Development	172,895	410,996	313,900	320,000
E911 Communications	672,962	720,560	740,900	682,900
Total Expenditures	13,478,392	16,080,822	15,485,400	16,571,911
Excess (deficiency)	2,422,726	(2,083,437)	(915,100)	(1,233,711)
Other financing sources (uses)				
Transfers in	538,840	923,065	1,235,200	1,727,200
Transfers out	-		(2,320,100)	(1,000)
CY unassigned				(492,489)
Designated Fund Balance		500,000		
3% city employee COLA				-
Sale of capital assets	41,767			
Total other financing	580,607	1,423,065	(1,084,900)	1,233,711
Net change in fund balance	3,003,333	(660,372)	(2,000,000)	-
Fund balance beginning	8,269,453	11,272,786	11,272,786	9,272,786
Fund balance ending	11,272,786	10,612,414	9,272,786	9,272,786

Attachment: 2023 Budgets as proposed 080122 (22-6514 : Proposed Fiscal 2023 Budget Discussion)

Enterprise Funds

Electric Fund	2021 actual	2022 adopted	2022 amended	2023 proposed
Operating Revenues				
Charges for sales and services	13,824,737	14,068,958	13,052,400	13,492,100
Other	34,798	30,000	61,200	35,900
Total operating revenues	13,859,535	14,098,958	13,113,600	13,528,000
Operating Expenses				
Cost of sales and services	10,735,384	9,313,700	9,361,900	9,313,700
Personal Services	1,391,071	1,545,179	1,390,600	1,435,300
Depreciation	249,511	-	275,000	275,000
Total operating expenses	12,375,966	10,858,879	11,027,500	11,024,000
Operating Income (loss) before other financing sources/uses	1,483,569	3,240,079	2,086,100	2,504,000
Other financing sources (uses)				
Capital Outlay		(708,786)		(265,000)
Transfers in (out)	(538,840)	(1,053,700)	(802,700)	(1,053,700)
Gain (loss) on investment	11,155	250,000	(1,061,400)	-
Total other financing	(527,685)	(1,512,486)	(1,864,100)	(1,318,700)
Change in net position	955,884	1,727,593	222,000	1,185,300
Beginning net position	26,138,297	27,094,181	27,094,181	27,316,181
Ending net position	27,094,181	28,821,774	27,316,181	28,501,481

Enterprise Funds

Stormwater Fund	2021 actual	2022 adopted	2022 amended	2023 proposed
Operating Revenues				
Charges for sales and services	823,045	1,130,000	1,102,600	1,042,300
Miscellaneous		1,146,071		
Total operating revenues	1,118,146	2,276,071	1,102,600	1,042,300
Operating Expenses				
Cost of sales and services	314,408	302,127	204,700	187,900
Personal Services	306,551	539,045	357,500	539,100
Depreciation	38,427	40,000	40,000	40,000
Total operating expenses	659,386	881,172	602,200	767,000
Operating Income (loss)	458,760	1,394,899	500,400	275,300
Other financing sources (uses)				
Capital Outlay		(1,354,871)	(1,200,000)	(407,000)
Transfers in (out)				
Beginning net position	2,616,855	3,075,615	3,075,615	2,376,015
Ending net position	3,075,615	3,115,643	2,376,015	2,244,315
Solid Waste Fund	2021 actual	2022 adopted	2022 amended	2023 proposed
Operating Revenues				
Charges for sales and services	3,602,693	3,206,388	3,494,400	4,930,200
Other	301			
Total operating revenues	3,602,994	3,206,388	3,494,400	4,930,200
Operating Expenses				
Costs of sales and services	3,627,124	2,869,428	3,860,600	4,800,100
Personal services	73,281	129,798	124,000	127,600
Depreciation	2,388	2,500	2,500	2,500
Total operating expenses	3,702,793	3,001,726	3,987,100	4,930,200
Operating income (loss)	(99,800)	204,662	(492,700)	-
Beginning net position	1,031,099	923,051	923,051	430,351
Ending net position	923,051	1,127,713	430,351	430,351

Special Revenue Funds

	Confiscated Assets			American Rescue Plan Act			Hotel/Motel Tax		
	2021 actual	2022 amended	2023 proposed	2021 actual	2022 amended	2023 proposed	2021 actual	2022 amended	2023 proposed
REVENUES									
Taxes							736,699	1,020,700	880,200
Fines, fees, and forfeitures	5,229,472	3,032,800	3,073,100						
Intergovernmental					4,200,000	1,996,100			
Interest	118	300	200						
Total revenues	5,229,590	3,033,100	3,073,300	0	4,200,000	1,996,100	736,699	1,020,700	880,200
EXPENDITURES									
General Government									
Public Safety	1,952,030	81,900	675,400		0	0			
Housing and Development					1,200,000		530,978	583,300	503,000
Capital Outlay		404,208	412,300		3,000,000	1,996,100			
Total expenditures	1,952,030	486,108	1,087,700	0	4,200,000	1,996,100	530,978	583,300	503,000
Excess (deficiency) of revenues over (under) expenditures	3,277,560	2,546,992	1,985,600		0	0	205,721	437,400	377,200
Transfers in (out)	(5,000)	0	0	0	0	0	(437,400)	(701,200)	
Excess (deficiency) of revenues over (under) expenditures after transfers	3,272,560	2,546,992	1,985,600		0	0	205,721	0	(324,000)
Fund balance beginning	21,535	3,294,095	5,841,087		0	0	418,389	624,110	624,110
Fund balance ending	3,294,095	5,841,087	7,826,687		0	0	624,110	624,110	300,110

Attachment: 2023 Budgets as proposed 080122 (22-6514 : Proposed Fiscal 2023 Budget Discussion)

Special Revenue Funds (NM)

I.b.b

	Federal Seized Drug			Technology Surcharges			Rental Motor Vehicle Excise Tax		
	2021 actual	2022 amended	2023 proposed	2021 actual	2022 amended	2023 proposed	2021 actual	2022 amended	2023 proposed
REVENUES									
Taxes							155,506	107,200	118,600
Fines, fees, and forfeitures	3,244			71,060	71,000	73,800			
Intergovernmental Interest	1								
Total revenues	3,245	0	0	71,060	71,000	73,800	155,506	107,200	118,600
EXPENDITURES									
General Government				72,218	104,600	73,800			
Public Safety	500	40,264	40,264						
Housing and Development							250,219		
Capital Outlay								67,000	283,000
Total expenditures	500	40,264	40,264	72,218	104,600	73,800	250,219	67,000	283,000
Excess (deficiency) of revenues over (under) expenditures	2,745	(40,264)	(40,264)	(1,158)	(33,600)	0	(94,713)	40,200	(164,400)
Other financing sources									
Sale of property		32,500							
Transfers in (out)	5,000								
Total other	5,000	32,500	0	0	0	0	0	0	0
Excess (deficiency) of revenues over (under) expenditures after transfers	7,745	(7,764)	(40,264)	(1,158)	(33,600)	0	(94,713)	40,200	(164,400)
Fund balance beginning	19	7,764	0	160,348	159,190	125,590	537,001	442,288	442,288
Fund balance ending	7,764	0	(40,264)	159,190	125,590	125,590	442,288	482,488	277,888

Attachment: 2023 Budgets as proposed 080122 (22-6514 : Proposed Fiscal 2023 Budget Discussion)

Capital Funds

	2017 SPLOST			2017 REVENUE BONDS			CAPITAL PROJECTS FUND		
	2021 actual	2022 amended	2023 proposed	2021 actual	2022 amended	2023 proposed	2021 actual	2022 amended	2023 proposed
REVENUES									
Taxes									
Fines, fees, and forfeitures									
Intergovernmental	3,231,555	3,367,000	3,367,000	43,999					160,000
Interest	159	100	100	1,500		200	0	14	14
Total revenues	3,231,714	3,367,100	3,367,100	45,499	0	200	0	14	160,014
EXPENDITURES									
Capital Outlay	546,038			2,236,750					
Beaver Ruin Greenway		900,000			1,301,000				
JD Park Design		40,000							
County-managed F-1234		100,000							
LWP Sod Replacement								84,700	
Library Landscaping								77,000	
Public Works Equipment								101,300	
Document Digitization								83,900	
Pergola Swings		68,000							
Ped. RR crossing const.		140,600							
Facility Upgrades									
Buford/JCB intersection		489,580							
Cochran Dr. connection		40,000							
Vehicles								56,000	78,100
LCI/Comp Plan									275,000
Tree inventory									16,800
Culture/Rec projects									227,400
Public Works projects									167,500
Housing/Dev projects									106,500
Digital Sign									25,600
Debt Service	1,562,916	1,562,400	1,562,400						
Total expenditures	2,108,954	3,340,580	1,562,400	2,236,750	1,301,000	0	0	402,900	896,900
Excess (deficiency) of revenues over (under) expenditures	1,122,760	26,520	1,804,700	(2,191,251)	(1,301,000)	200	0	(402,886)	(736,886)
Transfers in (out)	(950,406)		1,089,652	950,406		(1,089,652)		1,320,100	1,000
Excess (deficiency) of revenues over (under) expenditures after transfers	172,354	26,520	2,894,352	(1,240,845)	(1,301,000)	(1,089,452)	0	917,214	(735,886)
Fund balance beginning	2,179,521	2,351,875	2,351,875	3,631,297	2,390,452	1,089,452	0	0	917,214
Fund balance ending	2,351,875	2,378,395	5,246,227	2,390,452	1,089,452	0	0	917,214	181,328

Attachment: 2023 Budgets as proposed 080122 (22-6514 : Proposed Fiscal 2023 Budget Discussion)

Capital Funds (NM)

I.b.b

	2009 SPLOST			2014 SPLOST		
	2021 actual	2022 amended	2023 proposed	2021 actual	2022 amended	2023 proposed
REVENUES						
Taxes						
Fines, fees, and forfeitures						
Interest	1	14	0	77	16	16
Total revenues	1	14	0	77	16	16
EXPENDITURES						
Capital Outlay				28,900		
Facility Upgrades					215,700	
LMIG 20-21 match		10,550			200,000	
RR crossing design					40,600	
Buford/JCB intersection					510,420	
Ped. RR crossing const.					259,400	
Total expenditures	0	10,550	0	28,900	1,226,120	0
Excess (deficiency) of revenues over (under) expenditures	1	(10,536)	0	(28,823)	(1,226,104)	16
Transfers in (out)	0	0	0	0	0	0
Excess (deficiency) of revenues over (under) expenditures after transfers	1	(10,536)	0	(28,823)	(1,226,104)	16
Fund balance beginning	10,535	10,536	0	1,744,507	1,715,684	489,580
Fund balance ending	10,536	0	0	1,715,684	489,580	489,596

2014 SPLOST ending fund balance restricted to Admin Facilities

Attachment: 2023 Budgets as proposed 080122 (22-6514 : Proposed Fiscal 2023 Budget Discussion)



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
COUNCILMEMBER **ARLENE BECKLES** • COUNCILMEMBER **BRUCE GAYNOR** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

City of Norcross

Legislation Details (With Details)

File #:	22-6526	Version:	
Type #:	Agenda Item	Status:	Agenda Ready
On Agenda:	8/1/2022 6:30 PM	In Control:	Mayor and Council
Title:	Unified Development Ordinance Amendments		

Sponsors:

Code Sections:

Attachments:

1. [Agenda Report - UDO Amendments](#)
2. [Ordinance TEXT2022-003](#)

Title
Unified Development Ordinance Amendments

Drafter
Tracy Rye

Motion
A motion to Approve/Deny the attached recommended changes to the Unified Development Ordinance, Section 103 various, Section 104 various, Section 201-23 various, Section 202-2(h), Section 206-3, and Section 206-8 with the following enacting clause:

The Mayor and City Council of the City of Norcross, Georgia hereby ordains that the adopted Code of Ordinance is hereby amended as more particularly set forth below. It is the intention of the Mayor and City Council, and it is hereby ordained that all following provisions shall become and be made part of the Code of the City of Norcross.



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
COUNCILMEMBER **BRUCE GAYNOR** • COUNCILMEMBER **ARLENE BECKLES** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

Agenda Report

To: Mayor and Council
From: Tracy Rye, AICP
Agenda: August 1, 2022 - Mayor & Council Meeting
Agenda #: 22-6526
Item: UDO Amendments- TEXT2022-003
CC: Eric Johnson

Recommendation

Planning and Zoning Board:

Recommendation for approval as presented, with one edit to Sec 202-2h3b by a vote of 3-0 at the Planning and Zoning Board Meeting Wednesday, July 6, 2022.

Staff:

The Community Development and Planning Department in consultation with the the City Attorney's office as well as the Senior Planner recommend the attached changes to sections of the Unified Development Ordinance (UDO).

Background

1. The Community Development and Planning Department has worked with the City Attorney's office to address recent adoptions by the Georgia General Assembly that address Review Authority and Procedures under the State's Zoning Procedures Act as well as to clear up inconsistent language between the UDO and other City Ordinances and establishes one section of ordinance that addresses appeals for all possible actions undertaken in the UDO. Additional clarification of the changes to the State's Zoning Procedures Act are listed below:

House Bill 1405 was signed into law on Friday May 13, 2022. The bill provides a substantial overhaul to the Zoning Procedures Law—particularly as it relates to the appeals process. A background, there has been some disagreement and

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<http://www.norcrossga.net>

confusion in the law regarding the proper procedural mechanism for challenging a zoning decision. HB 1405 clarifies the confusion (somewhat), providing that a challenge to quasi-judicial decision such as a variance request or a special use permit must be raised by writ of certiorari. On the other hand, a challenge to the zoning district's application to the property or existing conditions (i.e., a rezoning), can be raised by a direct constitutional challenge.

This procedural change is important because the deference to which the City is entitled changes depending on the posture in which the case is presented to the Superior Court. In a constitutional (direct) challenge, the court is to evaluate the impact the zoning has on the property owner's right to use the property versus the health and safety impact of the development. The evidence is considered anew and discovery processes are implemented to assess the veracity of the factual allegations. In a writ of certiorari action, the court is acting as an appellate court reviewing the existing record. The court must then determine whether the City made an error in applying the facts to the law.

To facilitate many of the procedural issues that arise in zoning litigation, the bill requires that the City express its standards for reviewing applications and the factors by which the local government directs the evaluation of a quasi-judicial matter. Furthermore, the City must identify persons for service of process for zoning challenges. This bill modifies procedures for enacting zoning changes at the municipal level, and contains a provision on the notice procedure (for a zoning officer or board with authority delegated by a local government) related to votes on modifications of single-family zones. It requires two public hearings (held at 6 months and 9 months before the planned vote, and at least one of which would be held in the evening), as well as notices to be posted in the impacted community and for a copy of the notice to be published in a locally circulated newspaper. The legislation stipulates that while this provision applies to votes on the wholesale abolition of single-family zoning in a locality, it does not apply to rezoning decisions related to a particular property when the rezoning is initiated either by the property owner or an authorized agent.

2. Regarding the BH district, changes to be implemented include reiterating that the BH district is intended to be a mixed use, multimodal district as defined in the UDO and as outlined in the Buford Highway Master Plan and that multi-family projects within the district shall be established as mixed use developments where feasible, with the mix of uses administratively approved by the Mayor and Council at an appropriate meeting. Also, changes reiterate that automotive related retail uses are not supported in the BH district. In addition, it is proposed that architectural review of all projects within the BH district revert back to the authority of the City's Architectural Review Board as opposed to the current administrative review which was previously authorized as a development incentive in 2018.

3. With respect to fences, Staff propose that gateposts that are allowed to be 6' in height is clarified to include the term "vehicular", that fences in front yards, where allowed, be a minimum of 3' outside of the right of way to allow for vehicle visibility concerns to be addressed, and that freestanding walls in excess of 4' in height be added to the list of walls that require building permits and that masonry piers greater than 4' in height utilized in fencing be required to have building permits as well, and established that masonry piers are finished in brick, stone or stucco.
4. With respect to nonconformities, staff proposes to simplify language that addresses nonconforming uses to language that is more easily understood by the general public. The changes outline that nonconformities must continue on in the same building, structure or area of land where initiated; must be reinstated within six months of discontinuance in order to retain nonconforming status or maintain an occupational tax renewal according to the City's occupational tax renewal schedule, and that a change in ownership does not constitute a change in nonconformity provided the use itself does not change.
5. With respect to exceptions, staff clarifies that unenclosed decks and patios are permitted encroachments.

Financial Impact

No applicable direct financial impact.

Consistent with Comprehensive Plan?

These changes are consistent with **GOAL 6** *Further the City's Tradition of Strong Leadership and High Level of Quality Services*. Leadership includes clarifying code language when and where necessary to be clear and concise but to also respond appropriately to changes in State regulations that directly affect local policy and procedure.

Attachments

Proposed ordinance changes, in draft ordinance form

Update

We were asked to consider adding that hedge rows, when adjacent to the roadway, be required to be setback 3' from the ROW, commensurate with the fence setback requirement in this ordinance.

Ordinance TEXT2022-003

An Amendment to the City Code or Ordinances

Chapter and Purpose: Subpart B Unified Development Ordinance, Section as noted.

Enacting Clause; The Mayor and City Council of the City of Norcross, Georgia hereby ordains that the adopted Code of Ordinances is hereby amended as more particularly set forth below. It is the intention of the Mayor and City Council, and it is hereby ordained that all following provisions shall become and be made part of the Code of the City of Norcross.

- I. Amendment to edit the language as noted below, to add those items shown as underlined and to delete those items as shown by strikethrough, any items completely deleted are reserved:

ARTICLE III. REVIEW AUTHORITY

Sec. 103-1. Purpose.

This article establishes and describes the various review bodies and officials that implement and administer the UDO. This article defines the powers, membership and terms, and rules and standards, for ~~and means of appeals for~~ decisions of each board, committee, task force or commission (each a review authority) that has review authority in interpreting and administering the UDO.

(Ord. No. 08-2019 , § I, 6-3-2019)

Sec. 103-2. General membership standards.

- (a) *Application.*
 - (1) Persons interested in serving on a board, commission or committee must fill out the form: "application for board or commission appointment".
 - (2) Applications for appointment and orientation packets specific to the board or commission of choice are made available at the office of the City Clerk. Applicants are required to review the orientation packet prior to submission of their application and return a signed application and supporting information to the City Clerk by the required deadline, if applicable.
 - (3) The City Clerk retains applications for up to two years. The City Clerk also maintains a list of all individuals who have volunteered for a position. The City Clerk will maintain the applications of appointed volunteers on file for the duration of their service.
- (b) *Ad-hoc committees and task forces.* The Mayor or Council may from time to time wish to set up an ad hoc committee or task force to study a specific topic and make recommendations for action. These are typically short duration efforts, and as such these appointments may not follow the notification and selection process described below.
- (c) *Notification.*
 - (1) Prior to the expiration of a volunteer's term or upon notice of a resignation, the City Clerk prepares and distributes a notice to the city website and social media at least two weeks prior to the Council policy

meeting before the appointment for all vacancies on city boards and commissions, including partial terms.

- (2) If there is little or no response to the notice, the City Clerk will re-advertise the position and extend the application deadline.

(d) *Objectives.*

- (1) Applicants may apply for more than one board or commission by indicating preferences on the application form. Individuals currently serving on a city board or commission are not prevented from applying for a different board or commission.
- (2) The City Council desires to give as many citizens as possible an opportunity to serve on the various boards and commissions, so a citizen will not typically serve on more than one board or commission at a time. However, a citizen may serve on any number of committees or task forces, provided the multiple appointments do not create a conflict of interest.
- (3) The City Council will, whenever possible, assign a council member as an ex-officio member of each board and commission, both to provide a direct liaison to council and to keep board and commission members informed of council issues and concerns.

(Ord. No. 08-2019 , § I, 6-3-2019)

Sec. 103-3. General rules of procedure; meetings; minutes and records.

All review authorities, boards, committees, task forces and commissions, except UDO Administrators, will utilize the following policies and rules of procedure to govern the calling and conducting of their meetings.

- (1) The presiding official of the meeting or hearing shall be the chairperson of the review authority, board, committee, task force or commission, or in his or her absence the Vice-Chair. In the case of a meeting and hearing of the Mayor and City Council, the Mayor will serve as the presiding official, or in the Mayor's absence, the Mayor-Pro Tempore.
- (2) Unless otherwise provided by ordinance, rules of procedure for meetings of all city review authorities, board, committees, task forces and commissions shall follow Rosenberg's Rules of Order.
- (3) Meetings and hearings shall be at the call of the presiding official and at such other times as the members of the review authority, board, committee, task force or commission may determine.
- (4) The review authority, board, committee, task force or commission shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. Records of its examinations and other official actions will be immediately filed in the office of the City Clerk and shall be a public record.
- (5) All individuals present at a public hearing shall be allowed to voice their opinions at a hearing unless there is a spokesperson representing a particular individual. The review authority shall allow a maximum time period for presentation of data, evidence, and opinion by proponents of each decision and an equal maximum time period for presentation by opponents of each proposed decision, such time period shall be no less than ten minutes per side. The presiding official shall have the right to increase the maximum time limit for the presentation of data, evidence, and opinion by proponents and opponents of each decision, provided the maximum time for such presentations is the same for proponents and opponents.
- (6) Applications shall be considered in the order of filing. However, if such order of consideration would exhibit a hardship on the applicant, the review authority, board, committee, task force or commission, or the opponents, the presiding official has the authority to alter the order of consideration.

(Ord. No. 08-2019 , § I, 6-3-2019)

Sec. 103-4. UDO Administrators.

(a) *UDO Administrators and their powers.*

- (1) *Community Development Director.* The Community Development Director position is established as the head of the Community Development Department, as authorized in chapter 2, administration, article IV, departments, section 2-122 of this Code. The Community Development Director has those powers and duties as expressly identified in this UDO and this Code. Though the Community Development Director may designate UDO review and approval authority to other responsible persons in the Community Development Department, he or she remains responsible for the actions taken by the designee.
- (2) *Zoning Administrator.* The Zoning Administrator serves as the primary administrator of chapter 200 of this UDO and has primary review authority over the articles in that chapter.
- (3) *Building Official.* The Building Official serves as the primary administrator of chapter 300 of the UDO and has primary review authority over the articles in that chapter.
- (4) *City Engineer.* The City Engineer serves as the primary administrator of chapter 400 of the UDO and has primary review authority over the articles in that chapter.

(b) *UDO Administrator membership and terms.* All UDO Administrators are city employees and serve at the direction of the City Manager. Policies concerning the terms of their employment and code of conduct are administered by the city Human Resources Director.

(c) *UDO Administrator rules and standards.* Article IV of this chapter lays out the procedures by which UDO Administrators process and review requests related to the administration of this UDO.

(d) *Appeals of decisions made by UDO Administrators.* Appeals of administrative review decisions made by a UDO Administrator can made to an appellate board, as specified herein and in article IV. Procedures of this chapter:

- (1) Appeals of administrative decisions concerning tree removal permits can be made to the Tree Preservation Board.
- (2) Appeals of all other administrative decisions (those not dealing with tree removal permits), can be made to the Zoning Board of Appeals.

(Ord. No. 08-2019 , § I, 6-3-2019)

Sec. 103-5. Architectural Review Board (ARB).

(a) *ARB powers.*

- (1) The Architectural Review Board (ARB) is hereby created.
- (2) The ARB shall be the review authority of permit applications related to the following:
 - a. New construction residential facades, including paint color;
 - b. New construction commercial facades;
 - c. Modifications to existing commercial facades;
 - d. Public building facades;
 - e. Public monuments and pavilions;

- f. Solar panel landscape screening and any other applicable landscape regulations in this UDO.
- (3) The authority of the ARB shall encompass all areas within the city limits except where the property in question fall under the authority of the Historic Preservation Commission.
- (b) *ARB membership and terms.*
- (1) The ARB shall consist of five members appointed by the Mayor and City Council. A minimum of three members must be citizens of the city.
 - (2) The ARB membership shall include at least one architect or engineer, and one citizen at large.
 - (3) The ARB shall elect its chairperson and vice-chairperson from among its members. The chairperson and vice-chairperson shall serve for one year or until they are re-elected, or their successors are elected.
 - (4) The term of office of each member of the ARB shall be three years with staggered terms, as determined by the Council upon initial appointment. Members shall serve at the pleasure of the City Council.
 - (5) Any member of the ARB shall be disqualified to act upon a matter in which the member has an interest.
- (c) *ARB rules and standards.*
- (1) The ARB shall set a meeting date which will recur each month for the purposes of reviewing applications for certificate of appropriateness.
 - (2) The standards that the ARB shall use as the basis of its approvals are the architectural design guidelines of the city, and the policies of the adopted comprehensive plan. Current copies of such standards shall be printed and maintained at the Community Development Department and shall be made available to the public for distribution, inspection and copying to the general public during normal business hours.
 - (3) The rules governing the calling and conducting of ARB meetings are set forth in section 103-3, general rules of procedure; meetings; minutes, and records.
- (d) *Appeal of ARB decision.* Appeals of decisions of the ARB shall be taken to the City Council in the following manner.
- (1) Any person, jointly or severally, aggrieved or adversely affected by any decision of the ARB may within 30 calendar days of the decision request in writing an appeal to the City Council.
 - (2) The city shall fix a reasonable time for the hearing of the appeal by the City Council and give at least 15 calendar days public notice thereof and due notice to the parties in interest.
 - (3) City Council shall decide within 30 calendar days from the date of the hearing unless such time is extended with the approval of the appealing party.

(Ord. No. 08-2019 , § I, 6-3-2019)

Sec. 103-6. Historic Preservation Commission (HPC).

- (a) *HPC powers.* The Historic Preservation Commission (HPC) is hereby established and created, and is authorized to:
- (1) Prepare and maintain an inventory of all property within the city of Norcross having the potential for designation as historic property;
 - (2) Recommend to the City Council specific districts, sites, buildings, structures, or objects to be designated by ordinance as historic properties or historic districts;

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- (3) Review application for certificates of appropriateness, and grant or deny same in accordance with the provisions of this UDO;
 - (4) Recommend to the City Council that the designation of any district, site, building, structure or object as a historic property or as a historic district be revoked or removed;
 - (5) Restore or preserve any historic properties acquired by the city;
 - (6) Promote the use of facade easements and conservation easements, as appropriate, in accordance with the provisions of the Georgia Uniform Conservation Easement Act (O.C.G.A., § 44-10-1 et seq.)
 - (7) Conduct educational programs on historic properties located within the city and on general historic preservation activities;
 - (8) Make such investigation and studies of matters relating to historic preservation, including consultation with historic preservation experts, the City Council or the HPC itself may, from time to time, deem necessary or appropriate for the purposes of preserving historic resources;
 - (9) Seek out local, state, federal or private funds for historic preservation and seek pre-approval from City Council for any grant request and make recommendations on the findings to the City Council concerning the most appropriate uses of any funds acquired;
 - (10) Consult with historic preservation experts in the Division of Historic Preservation of the Department of Natural Resources or its successor and the Georgia Trust for Historic Preservation, Inc.;
 - (11) Submit to the Historic Preservation Division of the Department of Natural Resources (or its successor) a list of historic properties of historic districts designated;
 - (12) Perform historic preservation activities as the official agency of the city historic preservation program;
 - (13) Employ persons, if necessary, to carry out the responsibilities of the HPC;
 - (14) Receive donations, grants, funds, or gifts of historic property and acquire and sell historic properties. The HPC shall not obligate the city without prior consent;
 - (15) Review and make comments to the Historic Preservation Division of the Department of Natural Resources concerning the nomination of properties within its jurisdiction to the National Register of Historic Places; and
 - (16) Participate in private, state and federal historic preservation programs and with the consent of the City Council, enter into agreements to do the same.
- (b) *HPC Membership and terms.*
- (1) The HPC shall consist of five members appointed by the City Council. All members shall be residents of the city, or the owner of a property in the historic district, and a majority of the members shall be persons who have demonstrated special interest, experience or education in history, architecture or the preservation of historic resources.
 - (2) To the extent available in the city, at least three members shall be appointed from among professionals in the disciplines of architecture, history, architectural history, planning, archaeology or related professions.
 - (3) Members shall serve three-year terms.
- (c) *HPC rules and standards.*
- (1) The HPC shall adopt rules and standards for the transaction of its business and for consideration of application for designation of certificates of appropriateness, such as by-laws, removal of membership provision, and design guidelines and criteria. The HPC shall have the flexibility to adopt rules and standards without amendment to this chapter.
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- (2) The HPC shall provide for the time and place of regular meetings and a method for the calling of special meetings.
 - (3) The HPC shall select such officers as it deems appropriate from among its members.
 - (4) A quorum shall consist of a majority of the members.
 - (5) The HPC shall be subject to all conflict of interest laws set forth in the state statutes and in the City Charter.
 - (6) The HPC shall have the authority to accept donations and to augment existing commission budgets.
 - (7) A public record shall be kept of the HPC proceedings and actions.
- (d) *Appeals of HPC decisions.* Appeals of decisions of the HPC shall be taken to the City Council in the following manner.
- (1) Any person, jointly or severally, aggrieved or adversely affected by any decision of the HPC may, within 30 calendar days of the decision, or, in the case of a failure of the HPC to act, within 15 days of the expiration of the 45 day period allowed for the HPC action, request in writing an appeal to the City Council.
 - (2) The city shall fix a reasonable time for the hearing of the appeal by the City Council and give at least 15 calendar days public notice thereof and due notice to the parties in interest.
 - (3) City Council shall decide within 30 calendar days from the date of the hearing unless such time is extended with the approval of the appealing party.
 - (4) City Council may approve, modify and approve, or reject the determination made by the HPC, if the City Council finds that the HPC abused its discretion in reaching its decision.
 - (5) In reviewing a decision of the HPC, the City Council may remand the matter to the HPC for further action. When a decision is made by the City Council on appeal to approve a plan, said approval shall constitute final plan approval for purposes of this article.
 - (6) Decisions shall be made based on the record presented to the HPC and the substantial evidence standard shall apply.
 - (7) All decisions of the City Council regarding appeals of decisions of the HPC shall be final and shall in all instances be subject to judicial review in the manner prescribed by law.

(Ord. No. 08-2019 , § I, 6-3-2019; Ord. No. 09-2021 , § II, 9-7-2021)

Sec. 103-7. Planning and Zoning Board (P&Z).

- (a) *P&Z powers.* The Planning and Zoning Board shall have all the powers, duties and responsibilities set forth by state law, City Charter and this UDO. The Planning and Zoning Board shall be advisory in nature and will review all matters before them in full recognition of the criteria set forth in the city comprehensive plan. The Planning and Zoning Board shall make appropriate recommendations for approval, approval with conditions, or denial to the Mayor and City Council for their consideration and final action.
- (b) *P&Z membership and terms.*
 - (1) The Planning and Zoning Board shall consist of five members, who shall be residents of the city, recommended by the Mayor and appointed by the City Council.
 - (2) Any vacancy in membership shall be filled for the unexpired term in the same manner as the initial appointment.
 - (3) The terms of the members shall be for four years. Members are eligible for reappointment.

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- (4) Chairperson. The Planning and Zoning Board shall elect its chairperson and vice-chairperson from among its members. The chairperson and vice-chairperson shall serve for one year or until they are re-elected, or their successors are elected.
 - (5) Secretary of the board. The Planning and Zoning Board shall appoint a secretary, who may be an officer or an employee of the city.
 - (6) All members shall serve without compensation.
- (c) *P&Z rules and standards.*
- (1) The Planning and Zoning Board shall determine its time of meeting.
 - (2) All meetings of the Planning and Zoning Board at which official action is taken shall be open to the public.
 - (3) All records of the Planning and Zoning Board shall be a public record.
 - (4) In reviewing text and map amendments to the UDO, P&Z will make recommendations based on the zoning standards prescribed in subsection 103-11(a), standards governing the exercise of zoning power.
 - (5) In reviewing requests to amend the comprehensive plan, P&Z will make recommendations based on the standards prescribed in subsection 103-11(b), standards and factors governing review of proposed amendments to the Comprehensive Plan.
 - (6) In reviewing requests for special use permits, P&Z will make recommendations based on the standards and factors governing review of special use permit request, subsection 103-11(c).
- (d) *Appeals of P&Z recommendations.* There are no appeals from this group's decisions as they are only a recommending body to the Mayor and City Council.
- (Ord. No. 08-2019 , § I, 6-3-2019)

Sec. 103-8. Tree Preservation Board (TPB).

- (a) *TPB powers.*
- (1) A Tree Preservation Board is hereby established to assist the Community Development Department in interpreting and enforcing the provisions of this UDO and to advise the Mayor and City Council on matters pertaining to the preservation of trees and the conservation of tree units within the city.
 - (2) The Tree Preservation Board shall have the power to grant variances to this chapter 200, article V based on a hardship not created by the applicant.
 - (3) The Tree Preservation Board shall have the power to hear appeals of any person aggrieved or adversely affected by an administrative decision made by the Community Development Director in the course of administering the provisions of this UDO pertaining to the preservation of trees and the conservation of tree-canopy cover within the city.
- (b) *TPB membership and terms.*
- (1) The Tree Preservation Board shall consist of five members appointed by the Mayor and City Council.
 - (2) The members shall be residents or property owners of the city, except that up to two members may be nonresidents or non-property owners with professional expertise in arboriculture or horticulture or the land development/construction field.
 - (3) Each member of the Tree Preservation Board shall serve for three years.
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(c) *TPB rules and standards.*

- (1) Meetings. The Tree Preservation Board shall meet not less frequently than quarterly and shall establish rules and regulations for its operations consistent with the provisions of this UDO and chapter 200.
- (2) The Tree Preservation Board shall have the power to adopt and promulgate such further administrative guidelines and standards as may be necessary or desirable to carry out the provisions of this UDO and chapter 200. The maintenance of the city's community tree species list shall be the responsibility of the Tree Preservation Board.
- (3) Current copies of the community tree species list and other such administrative guidelines, standards, or regulations shall be maintained at the Community Development Department and shall be made available to the public for inspection and copying during normal business hours.

(d) *Appeals of TPB decisions.* Appeals of decisions of the TPB shall be taken to the City Council in the following manner.

- (1) Any person, jointly or severally, aggrieved or adversely affected by any decision of the TPB may within 30 calendar days of the decision request in writing an appeal to the City Council.
- (2) The city shall fix a reasonable time for the hearing of the appeal by the City Council and give at least 15 calendar days public notice thereof and due notice to the parties in interest.
- (3) City Council shall decide within 30 calendar days from the date of the hearing unless such time is extended with the approval of the appealing party.
- (4) In reviewing a decision of the TPB, the City Council may remand the matter to the TPB for further action. When a decision is made by the City Council on appeal to approve a plan, said approval shall constitute final plan approval for purposes of this article.
- (5) Decisions shall be made based on the record presented to the TPB and the substantial evidence standard shall apply.
- (6) All decisions of the City Council regarding appeals of decisions of the TPB shall be final and shall in all instances be subject to judicial review in the manner prescribed by law.

(Ord. No. 08-2019 , § I, 6-3-2019)

Sec. 103-9. Zoning Board of Appeals (ZBA).

(a) *ZBA powers.*

- (1) The ZBA shall have the following powers as it relates to the zoning portions of this UDO to:
 - a. Hear and decide appeals when it is alleged there is error in any order, requirement, decision or determination made by the Community Development Director in the enforcement, administration and interpretation of this UDO;
 - b. Hear and decide appeals of the decisions made by the Building Official in a quasi-judicial role;
 - c. Hear and decide requests for variances to this UDO upon which the ZBA is required to pass; and
 - d. Authorize, upon appeal in specific cases, such variances from the terms of this UDO as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this UDO will, in an individual case, result in unnecessary hardship, so that the spirit of this UDO shall be observed, public safety and welfare secured, and substantial justice done.
- (2) The following limitations shall apply to the exercise of the powers granted to the ZBA:

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- a. Economic considerations may be taken into consideration as a hardship but shall not, of themselves, be the sole criteria upon which the ZBA may grant a variance.
 - b. No relief may be granted or action taken under the terms of this section unless such relief can be granted without substantial detriment to the public. No relief that substantially changes the intent and purpose of the current City Comprehensive Plan, the official zoning map, or the UDO may be granted.
 - c. For purposes of this section, the term "hardship" means the proposed use of the property and associated structures are not allowed by this UDO or its amendments and no other reasonable alternate use exists for the property. The request for a variance must be based upon the criteria that a physical condition, unique to the particular land, structure or building demands such a variance. If such unique condition exists, a variance may be granted.
 - d. The ZBA has no authority to waive requirements of the building code.
- (b) *ZBA membership and terms.*
- (1) The ZBA shall consist of five members who reside within the corporate limits of the city, one of which shall be qualified by experience and training to pass judgment on matters pertaining to building construction.
 - (2) The members shall be recommended by the Mayor and appointed by the City Council.
 - (3) No member of the ZBA shall hold any other employment with or public office in the city.
 - (4) The term of office of each member of the ZBA shall be for four years, or thereafter until his/her successor is appointed and qualified. Members may be reappointed. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment.
 - (5) Members shall serve at the pleasure of the Mayor and City Council and may be removed for cause.
 - (6) Any member of the ZBA shall be disqualified to act upon a matter in which the member has an interest.
 - (7) Officers. The ZBA shall elect one of its members as chairperson and a second one as vice-chairperson. The chairperson and vice-chairperson shall serve for one year or until reelected or until successors are elected. The ZBA shall appoint a secretary who may be an employee of the city or of the ZBA.
- (c) *ZBA rules and standards.*
- (1) Before the ZBA acts upon an application for a variance, it shall hold a public hearing under the rules governing the calling and conducting of meeting are described in section 103-3, general rules of procedure; meetings; minutes, and records.
 - (2) The notice of the time and place of such hearing shall be published at least 15 days prior to the hearing in a newspaper of general circulation within the territorial boundaries of the city. At the hearing any party may appear in person or by agent or attorney.
 - (3) In addition, the Community Development Department shall at least 15 days prior to the hearing erect in a conspicuous place on the property involved a sign which shall contain information as to the variance applied for and the time and place of hearing.
 - (4) In reviewing request for variance applications, the ZBA will make decisions based on the standards and factors governing review of proposed variance applications, section 103-11(d).
 - (5) In reviewing appeals from decisions made by the Community Development Director or Building Official, the ZBA will be interpreting the provisions of the UDO and the International Building Code (IBC) to determine:
 - a. Whether the decisions made by the Director was based on the true intent of the UDO or IBC; and
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- b. Whether proper procedures for application review were followed.
- (6) All ZBA decisions shall be in writing. Decisions shall be mailed to the applicant and any interested parties who make a written request for a copy of the written decision without unreasonable delay after the close of the hearing.
- ~~(d) Appeals of ZBA decisions. Any person or persons severally or jointly aggrieved or adversely affected by any decision the ZBA may present an appeal to the Superior Court. Such an appeal to the Superior Court shall be via writ of certiorari as specified in the Official Code of Georgia, except, however, that the appeal shall be filed within 30 days from the date of the decision of the ZBA. Upon failure to file the appeal within 30 days, the decision of the ZBA shall be final.~~

(Ord. No. 08-2019 , § I, 6-3-2019)

Sec. 103-10. Mayor and City Council.

- (a) *Power.* As the governing body for the city, the Mayor and City Council is the final authority on all policy matters related to the comprehensive plan and UDO. In particular, they are responsible for making final decisions on requests for amendments to the comprehensive plan, and to the UDO, as well as requests for special exceptions, and special use permits. A complete description of governing powers of the Mayor and City Council can be found in this Code, part I. Charter and related laws, subpart A, Charter, article II, governing body.
- (b) *Membership and terms.* The provisions regarding the membership and terms of the Mayor and each position on City Council can be found in this Code, part I, Charter and related laws, subpart A, Charter, article II, governing body.
- (c) *Meeting rules and standards.*
- (1) The rules governing the calling and conducting of meeting are described in section 103-3, general rules of procedure; meetings; minutes, and records.
 - (2) In reviewing requests for text or map amendments to the UDO, the mayor and city council will make decisions based on the zoning standards prescribed in subsection 103-11(a), standards governing the exercise of zoning power.
 - (3) In reviewing requests to amend the comprehensive plan, the Mayor and City Council will make decisions based on the standards prescribed in subsection 103-11(b), standards and factors governing review of proposed amendments to the comprehensive plan.
 - (4) In reviewing requests for special use permits, the Mayor and City Council will make decisions based on the standards and factors governing review of special use permit request, subsection 103-11(c).
 - (5) In reviewing request for special exception applications, the Mayor and City Council will make decisions based on the standards and factors governing review of proposed or special exceptions, subsection 103-11(d).
 - (6) Standards and factors governing an appeal of an ARB decision.
 - a. Appellate decisions made by the Mayor and City Council shall be made based on the record presented to, and reviewed by, the ARB and the minutes and proceedings of the ARB hearing. The substantial evidence standard shall apply.
 - b. All decisions of the City Council regarding appeals of decisions of the ARB shall be final and shall in all instances be subject to judicial review in the manner prescribed by law.

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- c. In reviewing a decision of the ARB, the City Council may remand the matter to the ARB for further action. When a decision is made by the City Council on appeal to approve a plan, said approval shall constitute final plan approval for purposes of this article.
- (7) Conditional approvals. In adopting an amendment to the official zoning map, or approving a special use permit or special exception, the Mayor and City Council may impose special conditions which they deem necessary to make the requested action acceptable and consistent with the purposes of the district(s) involved and to further the goals and objectives of the comprehensive plan. Such conditions may consist of (but are not limited to):
- a. Restrictions as to what land uses or activities shall be permitted;
 - b. Permitted hours of operation;
 - c. Setback requirements from any lot line;
 - d. Specified or prohibited locations for buildings, parking, loading or storage areas or other land uses;
 - e. Maximum building heights or other dimensions;
 - f. Architectural style, or exterior treatments;
 - g. Driveway curb cut restrictions, or inter-parcel access requirements;
 - h. Landscaping or planted areas which may include the location, type and maintenance of plant materials;
 - i. Preservation of existing trees or other vegetation;
 - j. Fences, walls, berms, or other buffering provisions or protective measures;
 - k. Special measures to alleviate undesirable views, light, glare, noise, dust or odor;
 - l. A requirement that the existing building(s) be removed or retained, or a limitation on exterior modifications of existing buildings;
 - m. Special drainage or erosion provisions;
 - n. A requirement that developers must build according to the site plans as adopted;
 - o. Any other requirement that the Mayor and City Council may deem appropriate and necessary as a condition of rezoning or issuance of a special use permit.
- (8) Conditions requirements. Such conditions shall:
- a. Only be valid if they are included in the motion approving the amendment, special use permit or special exception for adoption;
 - b. Be recorded in the ordinance or resolution of the Mayor and City Council if enacted pursuant to an amendment of the text of the UDO or the official zoning map.
 - c. Be continually in effect, or for the period of time specified in the amendment, special use permit, or special exception.
 - d. Be required of the property owner and all subsequent owners as a condition of their use of the property.
 - e. Be interpreted and continually enforced by the Community Development Director in the same manner as any other provision of this UDO.
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- (9) Violations of conditions. Notwithstanding any other remedies available in this UDO and under local and state law, violations of conditions imposed pursuant to this section shall be handled in accordance with the enforcement and penalties provisions stated in chapter 100, article VI, enforcement.
- (10) Action by Mayor and City Council. Following its public hearing the Mayor and City Council may:
- Approve, by ordinance, as presented;
 - Approve, by ordinance, with conditions;
 - Approve, by ordinance, a similar or less intense use (including special uses), with or without conditions, in the case of a rezoning of property;
 - Deny the request in whole or in part;
 - Refer, by motion and majority vote, the matter back to lesser review board, committee, task force or commission for reconsideration;
 - By motion, table final action to a future regularly scheduled business session or public hearing.
- ~~(d) Appeals of Mayor and City Council decisions. Decisions of the Mayor and City Council are final. Any person, persons or entities jointly or severally aggrieved or adversely affected by any decision of the Mayor and City Council may make an appeal to the Superior Court of Gwinnett County. The appeal shall be limited to the proceedings and record of the Mayor and City Council. Any appeal must be filed within 30 days of the decision of the Mayor and City Council, and upon failure of such appeal, the decision of the Mayor and City Council shall be final.~~

(Ord. No. 08-2019 , § I, 6-3-2019)

Sec. 103-11. Standards governing review.

- (a) *Standards governing the exercise of zoning power.*
- It is declared the intention of the Mayor and Council that this section shall constitute the standards required under O.C.G.A. § 36-66-5, and such standards shall be printed, and copies thereof shall be available for distribution to the general public by the Community Development Director.
 - The Mayor and City Council find that the following standards are relevant and shall be used in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to the unrestricted use of property and shall govern the exercise of zoning power:
 - Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;
 - Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;
 - Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;
 - Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools;
 - Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan; and
 - Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

- (b) *Standards and factors governing review of proposed amendments to the comprehensive plan.* The following standards and factors are found to be relevant and shall be used for evaluating applications for amendments to the comprehensive plan and shall govern the review of all proposed amendments to the comprehensive plan:
- (1) Whether the proposed land use change will permit uses that are suitable in consideration of the use and development of adjacent and nearby property or properties.
 - (2) Whether the proposed land use change will adversely affect the existing use or usability of adjacent or nearby property or properties.
 - (3) Whether the proposed land use change will result in uses which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
 - (4) Whether the amendment is consistent with the written policies in the comprehensive plan text and any applicable small areas studies.
 - (5) Whether there are potential impacts on property or properties in an adjoining governmental jurisdiction, in cases of proposed changes near municipal boundary lines.
 - (6) Whether there are other existing or changing conditions affecting the use and development of the affected land areas which support either approval or denial of the proposed land use change.
 - (7) Whether there will be an impact on historic buildings, sites, districts or archaeological resources resulting from the proposed change.
- (c) *Standards and factors governing review of special use permit requests.* The purpose of a special use permit is to provide a process for a use that is generally compatible with the use characteristics of a zoning district, but requires individual review of its location, design, height, intensity, configuration and public facility impact to determine the appropriateness of the use for any particular site and its compatibility with adjacent uses. A special use permit allows the Mayor and City Council to approve a special use on a particular parcel without changing the general zoning district. When considering a special use permit application, and in addition to standards governing the exercise of zoning power in section 103-11(a), the Planning and Zoning Board and Mayor and City Council shall consider:
- (1) Whether the policies and objectives of the comprehensive plan, particularly in relationship to the proposed site and surrounding area align and support the proposal, and
 - (2) Whether the proposal has the potential for adverse impacts on the surrounding area, regarding but not limited to traffic, storm drainage, land values and compatibility of land use activities.
 - (3) In the case of a telecommunications antenna's and towers, the proposal will need to meet the standards listed in subsection 202-2(z)(5), special use permits.
- (d) *Standards and factors governing review of proposed variance applications or special exceptions.*
- (1) The purpose of a variance or special exception is to provide a mechanism when, owing to special conditions, the strict application of the UDO would impose on a landowner exceptional and undue hardship that can be mitigated without conferring on the applicant special privilege. A special exception differs from a variance in that it involves a request for a land use, site configuration, or construction method that is not currently covered by the provisions of the UDO and cannot be remedied by the granting of a special use permit or variance. Typically, a special exception is the result of new emerging technologies resulting in circumstances not foreseen at the time of the UDO's preparation. Whereas variances can be approved by the ZBA, special exceptions are a matter of policy and can only be approved by the Mayor and City Council.
 - (2) The following standards and factors are found to be relevant and shall be used for evaluating applications for variances or special exceptions to the standards of the UDO:

- a. Whether there are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape, or topography;
 - b. Whether the application of UDO to this particular piece of property would create an unnecessary hardship;
 - c. Whether such conditions are peculiar to the particular piece of property involved;
 - d. Whether such conditions are the result of any actions of the property owner; and
 - e. Whether the requested relief, if granted, would cause substantial detriment to the public good or impair the purposes or intent of the UDO.
- (3) No variance or special exception may be granted for a use of land, building or structure that is explicitly prohibited by the UDO or which would result in a greater intensity of development on a property than would otherwise be allowed if no variance or special exception were involved.

(Ord. No. 08-2019 , § I, 6-3-2019)

Sec. 103-12. Appeals of Legislative, Quasi-Judicial, and Administrative Actions

- (a) **Requirement that Litigant Exhaust its Remedies Before Seeking Appeal Under Title 5 of the Official Code of Georgia Annotated or by Other Relief.** The following provisions concern appeals of final Legislative, Quasi-Judicial, and Administrative actions. For the purposes of this section, an action is final when the applicant or interested party has exhausted those appellate mechanisms provided in this UDO and a decision has been rendered by the final decision-making body. An aggrieved party must exhaust such inter-City administrative, judicial, and legislative avenues for review before seeking an adjudication by a court of competent jurisdiction in accordance with applicable law.
- (b) **Appeals of Legislative Actions.**
- (1) **Except as provided herein, Legislative Actions, as defined Sec. 104-3(a)(1) and elsewhere in the UDO, shall be appealed in the manner provided by O.C.G.A. § 36-66-5.1(a)(1).**
 - (2) **Appeals shall be brought by a party in interest within thirty (30) days of the written decision of the challenged or appealed action.**
 - (3) **Service shall be effectuated upon the party against whom declaratory or equitable relief is sought and the party defendant shall be named and sued in accordance with applicable Georgia law.**
- (b) **Appeals of Quasi-Judicial Actions.**
- (1) **Quasi-Judicial actions, as defined in Section 104-3(a)(2) and elsewhere in the UDO, and all actions concerning the grant or denial of a permit relating to a special use of property within the jurisdiction of the City shall be appealed in the manner provided by O.C.G.A. § 36-66-5.1(a)(1).**
 - (2) **Appeals shall be brought by a party in interest within thirty (30) days of the written decision of the challenged or appealed action.**
 - (3) **Service of an appeal or petition under Title 5 of the Official Code of Georgia Annotated concerning any Quasi-Judicial action made by any individual or quasi-judicial board or agency may be effectuated upon the City Manager as a designee for the City in the manner provided by Georgia law. Service may be effectuated at City Hall during normal business hours.**
 - (4) **Community Development Director shall have the authority, without additional board or agency action, to approve or issue any form or certificate necessary to perfect a petition and/or appeal under Title 5 of the Official Code of Georgia Annotated.**

(c) Appeals of Administrative Actions.

- (1) Except where Georgia law directs a litigant to seek alternative procedural mechanisms for relief, Administrative actions, as defined in Section 104-3(a)(3) and elsewhere in the UDO, shall be appealed in the manner provided by O.C.G.A. § 36-66-5.1(a)(1).**
 - (2) Appeals shall be brought by a party in interest within thirty (30) days of the written decision of the challenged or appealed action.**
 - (3) Service of an appeal or petition under Title 5 of the Official Code of Georgia Annotated concerning any Administrative action made by any individual or quasi-judicial board or agency may be effectuated upon the City Manager as a designee for the City in the manner provided by Georgia law. Service may be effectuated at City Hall during normal business hours.**
 - (4) Community Development Director shall have the authority, without additional board or agency action, to approve or issue any form or certificate necessary to perfect a petition and/or appeal under Title 5 of the Official Code of Georgia Annotated.**
- (d) Effect of an Appeal. An appeal shall stay all legal proceedings in furtherance of the action appealed as provided in O.C.G.A. § 36-66-5.1(d). The City may seek relief from such a stay where the circumstances indicate that a stay would cause imminent peril to life or property.**

ARTICLE IV. PROCEDURES**Sec. 104-1. Purpose.**

- (a) This article describes the process through which a rezoning or special use may be approved on a property, the procedures for amendments to the comprehensive plan's future development map, the approval process for construction of subdivisions and other land development projects, and steps required for filing and processing applications for permits and certificates required under this UDO.
- (b) The provisions of this chapter are designed to implement the policies of the comprehensive plan, and to balance the city's interest in promoting the public health, safety, morality, aesthetics, and general welfare against the right to the unrestricted use of property.

(Ord. No. 08-2019 , § I, 6-3-2019)

Sec. 104-2. Generally.

- (a) No development or development activity is permitted unless all development approvals applicable to the proposed development are issued in accordance with this article. Unless otherwise stated, development approval is required for all development.
- (b) Whenever in this UDO a permit or certificate is required an application shall be made to the Community Development Department. Obtaining approvals required by such application shall be the responsibility of the applicant. Issuance of permits or certificates and the collection of fees shall be the responsibility of the General Government Administration (GGA).
- (c) The Zoning Procedures Law of Georgia.
 - (1) This article is intended to comply with the provisions of The Zoning Procedures Law, O.C.G.A. § 36-66-1 et seq., which Act is incorporated by reference in its entirety into this UDO.

- (2) Where any provision of this article conflicts with any provision of state law, the state law controls. Where this article is incomplete in having failed to incorporate a provision necessarily required for the implementation of state law, the provision of state law must be fully complied with.

(Ord. No. 08-2019 , § I, 6-3-2019)

Sec. 104-3. Decision making responsibilities.

- (a) There are three basic categories of development reviews and actions associated with such reviews pursuant to this UDO:
- (1) Legislative Reviews Actions - involve a change in land use policy or any final legislative action detailed in O.C.G.A. § 36-66-3(4). A public hearing is required, and final approval must be made by the Mayor and City Council. Examples include, but are not limited to, rezoning decisions, special use permits and comprehensive plan amendments.
 - (2) Quasi-judicial Reviews Actions - involves the application of discretionary standards required by this UDO to an application other than a zoning decision as defined in O.C.G.A. § 36-66-3(4). It requires a public hearing, and procedural due process. Examples include variances, special use permits and appeals of administrative decisions, as well as design reviews that require interpretation of a set of design guidelines.
 - (3) Administrative Reviews Actions - involve the application of the standards of the UDO to an application by a UDO Administrator (Sec 103-4, UDO Administrators). A public hearing is not required. An Administrative approval typically occurs late in the development process. Examples include building permits, sign permits, and certificates of occupancy.
- (b) The following table summarizes the review and approval authority of various review bodies involved in Legislative reviews, for each associated approval processes.

Figure 104-3(b) Legislative Review Action Approval Processes

Approval Process	Cross-reference	Review and Approval Authority				
		UDO Administrator	Architectural Review Board	Historic Preservation Commission	Planning and Zoning Board	Mayor and City Council
Annexations	Sec. 104-5. K.	R			R-PH	D-PH
Concept Plan Approval <u>Submitted with a Rezoning Application</u> ¹	Sec. 403-4.	R/ D			R-PH	D-PH
Concurrent Variance <u>Request</u>	Sec. 104-5.	R			R-PH	D-PH
<u>Planned Development Approval Submitted with a Rezoning to a PRD district</u> ² Demolition Permit in the National Historic District	Sec. 104-5.	R	R		R-PH	D-PH

Special Exceptions Demolition Permit in Local Historic District	Sec. 104-5.	<u>R</u>		R		D-PH
Special Use Permit Final Major Subdivision Plat Approval	Sec 403-8. Sec. 104-6. G	R			R-PH	D-PH
Telecommunicatons Permit Planned Development Approval ²	Sec. 104-5.	R	R		R-PH	D-PH
Text Amendment (Comprehensive Plan or UDO) Special Exceptions	Sec. 104-5.	R			R-PH	D-PH
Zoning Map Amendment (Rezoning) Stream Buffer Variance	Sec. 104-5.	R			R-PH	D-PH
Telecommunications Permit	Sec. 104-5.	R			R-PH	D-PH
Text Amendment (Comprehensive Plan or UDO)	Sec. 104-5.	R			R-PH	D-PH
Zoning Map Amendment (Rezoning)	Sec. 104-5.	R			R-PH	D-PH

Note:

- Sketch plans not requiring rezoning or special use permit approval can be approved by the Community Development Director as part of the preliminary plat review process. Whereas sketch plans submitted as part of a required rezoning will be reviewed as part of that rezoning.
 - Rezoning to or within the PRD district require an approved concept plan and architectural renderings of proposed buildings reviewed first by the Architectural Review Board, before the application is submitted to the Planning and Zoning Board.
- (c) The following table summarizes the review and approval authority of various review bodies involved in Quasi-Judicial reviews, for each associated approval processes.

Figure 104-3(c) Quasi-Judicial **Review Action** Approval Processes

Approval Process	Cross-reference	Review and Approval Authority						
		UDO Administrator	Architectural Review Board	Historic Preservation	Tree Preservation Board	Zoning Board of Appeals	Planning and Zoning Board	Mayor and City Council
KEY: R = Review & Recommendation D = Final Decision A = Appeal PH = Public Hearing PM = Public Meeting								
Design Review								
Minor Design Plan *	Sec. 104-6. D.	D						
Major Design Plan *	Sec. 104-6. D.	R	D					
Final Major Subdivision Plat Approval	Sec 403-8.	R						D-PH

Major Design Plan in Local Historic District	Sec. 104-6. E.	R		D				
Historic Review—Cert. of Appropriateness in National Historic District	Sec. 104-6. F.	R	D					
Historic Review—Cert. of Appropriateness in Local Historic District	Sec. 104-6. E.	R		D				
<u>Demolition Permit in National Historic District</u>	<u>Sec. 104-5.</u>	<u>R</u>	<u>R</u>					<u>D-PH</u>
<u>Demolition Permit in Local Historic District</u>	<u>Sec. 104-5.</u>	<u>R</u>		<u>R</u>				<u>D-PH</u>
<i>Variances, Exceptions, and Appeals</i>								
Variance	Sec. 104-6. K.	R				D-PH		
Special Use Permit	Sec. 104-6. G.	R					R-PH	D-PH
Appeals of Administrative Decision other than Tree Removal	Sec. 104-6. C.	R				A		
Appeal of Administrative Decision regarding Tree Removal	Sec. 104-6. C.	R			A			
Appeals of decisions by the ARB, HPC, or TPB	Sec. 104-6. C.	R						A
<u>Stream Buffer Variance</u>	<u>Sec. 104-5.</u>	<u>R</u>						<u>D-PH</u>

Note: Design review for any development within the BH Zoning district is considered minor and reviewed administratively as an incentive for redevelopment. The Director can refer a design plan to the ARB at their discretion if the plan does not meet the intent of the city's Architectural Design Guidelines.

- (d) Permits that may be approved by a UDO Administrator through the administrative review process fall under three different review sub-categories: building review by the city Building Official, engineering review by the City Engineer, and zoning review by the Zoning Administrator. The following table summarizes the different administrative permits that may be granted under this UDO and which UDO Administrator review them.

Figure 104-3(d) Administrative ~~Review~~ **Action**-Processes

Approval Process	Cross-reference	Review and Approval Authority		
		Building	City Engineer	Zoning
Administrative Variance	Sec. 104-7.A.		■	■
Building Permit ¹	Sec. 104-7.B.	■	■	
Certificate of Appropriateness	Sec. 104-7.C.			■
Certificate of Completion	Sec. 104-7.D.	■		

Certificate of Occupancy	Sec. 104-7.E.	■		
Change of Occupancy certificate	Sec. 104-7.F.	■		
Commercial Filming Permit	Sec. 104-7.G.		■	
Demolition Permit ²	Sec. 104-7.H.	■		■
Development Permit	Sec. 104-7.I.	■	■	■
Exemption Plat	Sec. 403-10	■	■	■
Land Disturbance Permit	Sec. 104-7. J.	■	■	
Plat Amendments		■	■	■
Preliminary Plat	Sec. 403-5		■	■
Parking Waiver	Sec. 104-7. K.			■
Sign Permits ⁴	Sec. 104-7. L.	■		■
Temporary Outdoor Activities Permit	Sec. 104-7. M.	■	■	■
Temporary Outdoor Retail Display Permit	Sec. 104-7. N.	■	■	■
Trade Permits, both commercial and residential ⁵	Sec. 104.7. P.	■		
Tree Removal, both commercial and residential	Sec. 104-7. O.		■	■
Utility Permits	Sec. 104-7. Q.		■	
Zoning verification letter	Sec. 104-7. R.			■

Notes:

- 1 Building Permits fall under the following categories: Single- family townhome; Single-family Detached Home; Duplex; Residential 4-plex; Condominium; New commercial construction; Residential remodel; and Residential Storage
 - 2 Demolition Permits fall under the following categories: Residential demolition outside of the historic district; Residential demolition inside the historic district; Residential interior or limited demolition; Commercial interior or limited demolition; and Commercial demolition removal of entire building or section
 - 3 Zoning Administrator reviews demolition permits inside the historic district only
 - 4 Sign Permits fall under the following categories: Temporary sign; New monument sign; Building sign
 - 5 Trade permits are first classified as being either residential or commercial, and then may be for electrical repairs and upgrades, gas line repairs and upgrades, HVAC repairs and upgrades, low voltage repairs and upgrades, plumbing repairs and upgrades, or re-roof
- (Ord. No. 08-2019 , § I, 6-3-2019)

Sec. 104-4. Common review provisions.

- (a) *Applicability.* The following requirements are common to the procedures in this article and apply to all-most applications submitted under its provisions. Applications seeking amendments to the zoning ordinance

governed by O.C.G.A § 36-66-4(h) et seq shall be sought and noticed according to the provisions set forth therein. Generally, **Notwithstanding the requirements under O.C.G.A. § 36-66-4(h)**, the **general** procedures for all applications have six common elements: the procedures for all applications have six common elements:

- (1) Pre-application inquiry or conference.
 - (2) Submittal of a complete application, including fee payments and appropriate information and studies;
 - (3) Review of the submittal by appropriate staff, commissions, and boards after proper public notice has been made, if necessary;
 - (4) A decision is made to approve, approve with conditions, or deny together with a description of the actions authorized and the time period for exercising those development rights;
 - (5) If necessary, amending or appealing the decision; and
 - (6) Recording the decision.
- (b) *Common application requirements.*
- (1) Pre-application inquiry or conference.
 - a. When an applicant desires to undertake a development project or make improvement to their property, they make inquiries to the Community Development Department about the approval process. Based on the nature of the proposal, staff either schedules a pre-application conference or provides the applicant with the proper forms for the appropriate review. Most application requests are handled under administrative review, and the applicant will likely just work with city staff during the review process.
 - b. Any application requiring a legislative or quasi-judicial review process or that involves site or building plan approval will require a pre-application conference before submittal, and presentation of a sketch plan or concept plan illustrating the basic site layout and building configuration for the proposal. See concept plans standards in article V of this chapter.
 - c. At the pre-application conference, the applicant will be informed of a preliminary determination of which review authorities will examine the application. Each application is unique and special circumstances may come to light later over the course of processing the application that will require the involvement of additional review authorities, see figure 104-3(d) for an overview of roles each review authority has in the application review process. Following are some basic rules as to how applications are routed to the appropriate authorities.
 1. If the property owner desires to undertake a development proposal involving a rezoning that is not consistent with the comprehensive plan future development map, a comprehensive plan amendment must first be approved through legislative review.
 2. If the application is for a project that qualifies as a development of regional impact (DRI) and is the first request for city action or is a revision to a previous DRI the proposal must be transmitted to the Atlanta Regional Commission for review, refer to subsection 104-4(d), developments of regional impact for details and procedures.
 3. If the subject property in the application is not appropriately zoned, improvements to uses on the property are limited by the grandfathered use provisions of the UDO (see section 206-1) or a request for rezoning or approval of a special use must be approved prior to development or construction through legislative review.
 4. If the applicant is seeking a certificate of appropriateness for a subject property within the historic district, or the possible removal or demolition of an historic structure, then the Architectural Review Board or Historic Preservation Commission will review the

application, depending on the location of the property and the designated historic district is it located.

5. If the applicant is seeking a variance from the tree preservation provisions of this UDO or wishes to appeal an administrative decision concerning the removal of trees, then the Tree Preservation Board will review the application.
6. If the approval of the application will result in an alteration to an existing building façade, the installation of solar panels, or involves the construction of new buildings, then the Architectural Review Board will review the application.
7. If the application is for an appeal of an administrative decision, then the application will need to be routed for quasi-judicial review.

(2) Application submittal.

- a. All applications must be filed with the Community Development Department and must be submitted on forms and in such numbers as required by the Community Development Director.
- b. Application forms can be obtained from the Community Development Department offices and on the city website, and each form lists the information that must be submitted with the application.
- c. Fees
 1. Application fees have been established by the Mayor and City Council and are listed on an official fee schedule kept on file by the Community Development Department and available on the city website.
 2. Before review of an application, all application fees must be paid in full.
- d. Completeness determination.
 1. All applications must be complete before they can be filed and processed by the city.
 2. An application is considered complete when it contains all of the information necessary to decide whether or not the application will comply with all of the applicable requirements of the UDO.
 3. The presumption is that all the information listed as required on the city's application forms is necessary to satisfy the requirements of this UDO. However, it is recognized that each application is unique, and more or revised information may be required according to the specifics of an application. The applicant may rely on the Community Development Director to determine whether more or revised information must be submitted after application intake.
 4. No application will be considered complete if it fails to meet the requirements of subsection 104-5(d), lapse of time requirement for reapplication and will not be accepted.

(3) Application intake and initial administrative review.

- a. Complete applications must be submitted in accordance with the published application schedule. Application schedules indicating submittal dates are developed each year and made available on-line on the city's website and to the public at the Community Development offices.
- b. In reviewing an application, the UDO Administrator may determine that some of the application materials need to be revised or additional information is needed to determine if the application is in compliance with city land use policies and the provisions of the UDO and will inform the applicant of these additional application requirements.

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- c. Once an application has been filed, the UDO Administrator will assign a case number and review the application and attached information and determine what review authorities will initially examine it. The UDO Administrator will confirm with the applicant the proposed schedule for related upcoming meetings and hearings. Refer to the appropriate sections of this article for procedures pertinent to each type of application.
 - (4) Revised application materials.
 - a. All revised application materials must be submitted to the Community Development Department which will route the materials to the appropriate review bodies.
 - b. No revised plans may be sent directly to any of the boards or commission described in article III of this chapter, or the Mayor or City Council by an applicant.
 - c. No revised application materials, either hard copy or electronic, may be submitted to the Community Development Department less than 12 days prior to a scheduled public meeting or public hearing.
 - (5) Withdrawal of an application.
 - a. Any application may be withdrawn at any time at the discretion of the applicant by providing written notice to the Community Development Director.
 - b. No portion of a required application fee will be refunded on any application withdrawn.
 - c. For applications for legislative review, if a public hearing has been held by the Mayor and City Council, the withdrawn application will be announced at the hearing, and the application is subject to a refiling delay, as required in subsection 104-6(d), lapse of time requirement for reapplication.
 - d. For applications for legislative review, if a public hearing has not been held by the Mayor and City Council, the withdrawn application is not subject to the refiling delay in subsection 104-5(d) Lapse of Time Requirement for Reapplication. But an application for Legislative Review affecting the same or any portion of property may not be refiled, except upon initiation of Mayor and City Council, for a period of at least 180 calendar days.
 - (6) Notice.
 - a. Within five business days after a decision is made, a copy of the decision must be sent to the applicant by the Community Development Director. In the case of permit issuance, the permit constitutes written notice of the decision.
 - b. A record of the action taken on each application will be kept on file in the offices of the Community Development Department and each record of action is a matter of public record.
 - (c) *Public notice requirements.*
 - (1) The notice requirements for each type of application are prescribed in the individual subsections of this article.
 - (2) When a public notice of a hearing is required, the fact that the notice is not received due to an error that was not the fault of the city does not prevent the public hearing from happening, change any decision made at the public hearing, or prevent the application from continuing to move forward through the review process.
 - (3) There are three basic types of public notice:
 - a. *Published notice.* Where published notice is required, notice of the public hearing must be published by the Community Development Director at least once in a newspaper of general
-

circulation within the city at least 15 calendar days, but not more than 45 calendar days, prior to the date of the public hearing, or meeting.

- b. *Mailed notice.* Where a mailed notice is required, the city will notify by United States mail all owners of property included in the proposed application and all owners of abutting properties unless otherwise required elsewhere in the UDO, as shown on the county tax records. Notice must be mailed at least 15 calendar days, but not more than 45 calendar days, prior to the date of the public hearing or meeting.
 - c. *Posted notice (signage).* Where posted notice is required, a sign must be placed in a conspicuous location on the property. In the case of multiple parcels, sufficient signs must be posted to provide reasonable notice to interested persons. Signs must be posted by the Community Development Department as per specifications approved by the City Council at least 15 calendar days prior to the date of the public hearing, or meeting, and will be removed by the Community Development Department within three days of the date of final action by the City Council. By filing an application for a review process that requires placement of a sign, the property owner and applicant are deemed to have given the Community Development Department license to enter onto the subject properties for the placement, replacement, maintenance and removal of all necessary signs.
- (4) Content of Notice. Required notice of a public hearing must provide at least the following:
- a. A case number;
 - b. The address of the subject property (if available);
 - c. The general location of the land that is subject of the application, which may include a location map;
 - d. A description of the action requested and the purpose of the hearing or meeting;
 - e. In the case of a proposed zoning map amendment (rezoning), the present zoning classification of the subject property and the proposed zoning classification of the subject property;
 - f. The time, date and place of the public hearing or meeting; and
 - g. A phone number to contact the Community Development Department.
- (5) The notice requirements for certain types of public hearings are established in the table 104-4(c).

Table 104-4(c)

Type of Public Hearing	Published	Mail	Posted (Sign)
Amendments to the Comprehensive Plan or the text of the UDO	Yes	No	No
Appeals of an to Administrative Decision ¹	Yes	No	No
Building Permit or Land Disturbance Permit	No	No	No
Commercial Filming Permit ²	No	No	Yes
Final Plat, Major	No	No	No
Rezoning < 25 Parcels	Yes	No	Yes

Rezoning 25 or More Parcels	Yes	No	Yes
Special Use Permit	Yes	No	Yes
Stream Buffer Variance	Yes	No	Yes
Historic Structure Removal or Demolition ³	Yes	Yes	Yes
Zoning Variance	Yes	No	Yes

Notes:

1. Includes Board of Appeals hearings.

2. Commercial filming permit - A minimum notice of three days must be delivered to all businesses and residences in the within 300 feet of the subject property boundary of the proposed filming site. The notice may be given by mobile illuminated signs, leaflets, mailed notice, by temporary signage in the public right-of-way or any other means designed to effectuate the notice requirements of this subsection. The method of giving such notice shall be subject to the approval of the Community Development Director.

3. Includes Architectural Review Board and/or Historic Preservation Commission hearings, if appropriate.

(d) *Developments of regional impact.*

- (1) *Types of approvals covered.* The provisions of this section apply to any type of governmental action requested by a private party related to a development project, such as a rezoning or special use approval, special exception or variance approval, and issuance of a permit.
- (2) *Thresholds for regional review.* Any development project for which any governmental action is requested that meets or exceeds any of the thresholds established by the Atlanta Regional Commission (ARC), as determined by the Community Development Director, shall be considered a Development of Regional Impact (DRI).
- (3) *Process for DRI review.*
 - a. First request for project approval.
 1. Upon receipt by any City department of the first application for governmental action that meets or exceeds the thresholds for a development of regional impact (DRI), no further processing of the application shall proceed until the DRI process is completed. Such applicant is to be referred to the Community Development Director.
 2. The applicant will be notified by the Community Development Director that the project meets or exceeds the DRI thresholds and will be required to submit additional information about the project using forms available from the Georgia Department of Community Affairs (DCA).
 3. The Community Development Director, on behalf of the applicant, will submit an "initial DRI information" form simultaneously to the Atlanta Regional Commission (ARC), DCA and the State Road and Toll Authority (SRTA) or its successors responsible for regional transportation.
 4. Upon notification from ARC that the project is in fact a DRI, a pre-application conference will be scheduled by ARC. Attendance at the conference by the applicant or the applicant's representative is mandatory.

5. The applicant shall submit to the Community Development Director such additional information as determined at the pre-review meeting. The Community Development will then submit such additional information along with the "DRI review initiation request" to ARC and GRTA, along with a "GRTA DRI review package" in accordance with the technical guidelines adopted by GRTA, to begin the formal review process. Additional information may be required of the applicant if ARC or GRTA determine that the DRI review request is incomplete.
6. Coordination and resolution.
 - i. If ARC determines that adverse interjurisdictional impacts, conflicts or other impacts on a Regionally Important Resource (as identified by DCA) will result from the project, the applicant shall participate in discussions with ARC to resolve such issues. Actions or conflicts related to DRIs are subject to mediation under the Georgia Planning Act (O.C.G.A. § 50-8-7.1(d)).
 - ii. If GRTA determines that the project does not comply with GRTA's criteria for DRI review, the applicant shall cooperate with GRTA in the resolution of such determination, which may include GRTA's formal process for appeals.
7. All DRIs shall proceed through review in accordance with the rules and regulations for developments of regional impact adopted by the Georgia Department of Community Affairs, and the procedures and principles for DRI review adopted by the Georgia Regional Transportation Authority. Nothing in this Code shall be deemed to have modified such rules and procedures in any way.
- b. Subsequent requests for project approval. Once the development project has been reviewed by ARC and GRTA and the first governmental action has been granted, no further reviews by ARC or GRTA of subsequent governmental actions need to be reviewed by ARC and GRTA unless the project is significantly or materially revised.
- c. Final action by the city.
 1. Approval of the first request for governmental action by the city shall not be made on a Development of Regional Impact until final determinations by ARC and GRTA have been received by the city.
 2. Upon completion of the DRI process and receipt by the city of final determinations by ARC and GRTA, processing of the application for governmental action may proceed. Such findings by ARC and GRTA shall accompany the application and action shall be required by the City Council following the adopted procedural provisions of DCA and GRTA regarding DRI reviews prior to approval of such application.

(Ord. No. 08-2019 , § I, 6-3-2019; Ord. No. 14-2019 , 11-4-2019)

Sec. 104-5. Legislative review.

- (a) *Applicability.* The following requirements apply to processing of all applications that are subject to legislative review and action by the Mayor and City Council. These applications include, **but are not limited to,** requests for the following:

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- (1) *Text amendment.* A request to amend the text of this UDO or to amend the text or maps of the comprehensive plan.

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- (2) *Zoning map amendments (rezonings).* A request to amend the official zoning map from one zoning district to another, or to change the boundaries of an existing zoning district.
- (3) *Concurrent variance.* A concurrent request for a variance with a zoning map amendment **as defined in O.C.G.A. § 36-66-3(4)(F).**
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- ~~(4) *Final major subdivision plat.* A request to approve a major subdivision final plat and acceptance of related public improvements.~~
- ~~(45) *Special exceptions and Special Use Permits.* A request to approve a use, site configuration, or construction method that is not currently covered by the provisions of the UDO and cannot be remedied by the granting of a special use permit or variance.~~
- ~~(56) *Annexations.* A request by a property owner to the City Council to have the property annexed into the city limits and rezoned to a zoning classification comparable to the zoning district of the property in unincorporated county.~~
- ~~(67) *Concept plan approval.* A **concurrent** request for the review and approval of the concept plan as a part of the subdivision process **when submitted with a rezoning application.**~~
- ~~(8) *Demolition permit in national historic district.* A request to approve a permit for demolition of a nationally designated historic structure by the Architectural Review Board.~~
- ~~(9) *Demolition permit in local historic district.* A request to approve a permit for demolition of a locally designated historic structure by the Historic Preservation Board.~~
- ~~(710) *Planned development approval.* A request for review and approval by the Architectural Review Board, Planning and Zoning Board and Mayor and City Council for a development utilizing the planned development process **through a concurrent request for rezoning to the PRD district.**~~
- ~~(11) *Stream buffer variance.* A request for review and approval by the Mayor and City Council for a variance to the stream buffer regulations.~~
- ~~(812) *Telecommunications permit.* A request for review and approval by the Mayor and City Council for a telecommunications permit.~~
- (b) *Initiation of a legislative review.* Legislative review applications may be initiated (1) by resolution of the Mayor and City Council; (2) by motion of the Planning and Zoning Board; or (3) by petition of any property owner addressed to the Mayor and City Council by means of application. In the case of a petition of any property owner, such petition shall be submitted by the owner of record of said property, the owner's agent or by a contract purchaser with the owner's written consent.
- (c) *Legislative review application requirements.*
- (1) Before submitting a legislative review application, the applicant must schedule a pre-application conference with the Zoning Administrator to discuss the procedures, standards and regulations required for approval.
 - (2) The Zoning Administrator will maintain a record of the pre-application conference to document the time and date of the conference, contact information of the applicant, a list of those in attendance, a summary of the request, and any information provided to the applicant.
 - (3) Following the pre-application conference, the applicant may submit a complete application form and proposed site plan, along with the required fees to the Community Development Department.
 - (4) General submittal requirements for all applications are listed in section 104-4.
 - (5) Plans and Other Documents Showing Proposed Use and Impact Required.
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- a. Concept plan. An application for an amendment to the official zoning map shall be accompanied by a concept plan at scale and such other surveys, plans, elevations or additional information as the Community Development Director and this UDO may require, showing the proposed development and its impact on natural and built systems. Additional information deemed necessary by the Community Development Director to evaluate a proposed use and its relationship to the surrounding area shall be submitted on the plans, including but not limited to square footage of the structure, number of parking spaces, days of operation, and number of employees. The information required to be shown on a concept plan is described in article V, section 105-2.
 - b. Additional studies may also be required by the Community Development Director if it is determined that the proposed development may have significant impact on the surrounding community, such studies may include without limitation traffic studies, lighting plans, environmental analyses, utility studies, and drainage studies.
 - c. Other required information. The following information must be included:
 - 1. A description of the extent to which the property value of the subject property is diminished by the existing zoning district classification;
 - 2. The existing value of the property contained in the application for rezoning under the existing zoning classification;
 - 3. The value of the property contained in the application for rezoning under the proposed zoning classification;
 - 4. A description of any existing use of the property, including a description of all structures presently occupying the property;
 - 5. The length of time the property has been vacant or unused as currently zoned; and
 - 6. A detailed description of all efforts taken by the property owners to use the property or sell the property under the existing zoning classification.
- (6) Standards analysis: If a proposed amendment is for the rezoning of property or is for a comprehensive plan amendment, then a standards analysis must be conducted in which:
- a. The applicant is required to file, with its application for amendment, a written, documented analysis of the impact of the proposed amendment with respect to each of the standards enumerated in section 103-11. Such a proposal and analysis shall be a public record.
 - b. The Community Development Department shall, with respect to each such proposal, investigate and make a recommendation with respect to each of the standards enumerated in section 103-11. The Community Development Department shall make a written record of its investigation and recommendations, and this record shall be a public record.
- (7) Additional information required of concurrent variance applications:
- a. An applicant of a Concurrent Variance must prove to the Mayor and City Council that the proposed development will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the UDO will, in an individual case, result in unnecessary hardship, so that the spirit of the UDO shall be observed, public safety and welfare secured, and substantial justice done. The applicant is required to file, with its application for amendment, a written, documented analysis of the impact of the proposed variance with respect to each of the standards enumerated in subsection 103-11(d) as applicable. Such a proposal and analysis shall be a public record.
- (8) Withdrawal of application.
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- a. Once a legislative review application has been made, the applicant may withdraw such application without prejudice only within ten days of the first public hearing ("official withdrawal deadline").
 - b. An application may not be withdrawn by an applicant or property owner under any circumstance after the official withdrawal deadline. Once past the official withdrawal deadline, all applications shall be considered by the Mayor and City Council or Zoning Board of Appeals, as appropriate, and shall receive final action.
 - (d) *Lapse of time requirement for reapplication.* No application or reapplication for any zoning map amendment affecting the same land or any portion thereof shall be acted upon or otherwise considered by the city within 12 months from the date of last action by the Mayor and City Council that defeated a previous rezoning application unless such 12-month period is waived by the Mayor and City Council, and in no case may such an application or reapplication be considered in less than six months from the date of last action by the Mayor and City Council that defeated a previous rezoning application.
 - (e) *Legislative review public hearing requirements.*
 - (1) Legislative review first requires a public hearing in front of the Planning and Zoning Board, then a public hearing before the Mayor and City Council. Notice requirements for public hearings are specified in section 104-4.
 - (2) Each public hearing will be conducted in accordance with the Georgia Open Meetings Law (O.C.G.A. § 50-14-1 et seq.) and O.C.G.A. § 36-66-1 et seq. At all hearings on proposed zoning decisions, the presiding officer shall allow a minimum of 10 minutes for the presentation of data, evidence, and opinion by proponents of each zoning decision, and a minimum of 10 minutes for the presentation of data, evidence, and opinion by opponents of each proposed zoning decision.
 - (3) In cases involving extraordinary economic development opportunities for the community, the Mayor and City Council may pass a motion to hold a joint public hearing with the Planning and Zoning Board and any other required review boards or committees to expedite the review process.
 - (4) Applications for amendments to the zoning ordinance governed by O.C.G.A. § 36-66-4(h) et seq. shall be noticed and public hearings held as required by applicable law.**
 - (f) *Required planning and zoning board review.*
 - (1) No amendment to the UDO (including the official zoning map) or to the comprehensive plan text or map shall become effective unless it has been proposed by or first been submitted to the Planning and Zoning Board for review and recommendation.
 - (2) If the Planning and Zoning Board fails to submit a report to the City Council within 30 days of its first meeting after it has received an amendment request complete in all respects, it shall be deemed to have given a recommendation of "no comment" on the proposed amendment. However, the Planning and Zoning Board and the applicant for an amendment may jointly agree to an extension of the 30-day period.
 - (3) The Planning and Zoning Board shall, with respect to each request for a text amendment or rezoning, will investigate and make a recommendation with respect to each of the standards enumerated in subsection 103-11 (a), (b) or (c), as applicable. The Planning and Zoning Board shall make a written record of its investigation and recommendations, and this record shall be a public record.
 - (g) *Rules of procedure; meetings; minutes, records for public hearings.* The Planning and Zoning Board and the Mayor and City Council will utilize the policies and rules of procedure to govern the calling and conducting their hearings as described in article III, section 103-3.
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- (h) *Limitation on permits related to zoning map amendments.* Once a zoning map amendment is initiated by the Mayor and City Council, no application for a clearing, grubbing, grading, septic tank, building, development or other similar permit, and no application for a variance or special use permit for the affected property shall be accepted for processing or acted upon until final action is taken by the Mayor and City Council on the proposed map amendment. Provided, however, that if the Mayor and City Council do not take final action on the proposed map amendment within six months from the date of initiation, such other additional applications shall again be accepted and reviewed pursuant to existing zoning. And, further provided that such other additional applications shall be accepted during the map amendment process if the use or activity in the other additional application is authorized under the same conditions in both the existing and proposed zoning district.
- (i) *Consistency with comprehensive plan character areas.* Any applicant seeking to rezone property to a classification that is inconsistent with the adopted comprehensive plan must first obtain approval of an amendment to the comprehensive plan from the Mayor and City Council. The comprehensive plan shall be routinely reviewed and possibly amended according to a set schedule approved by the Mayor and City Council. However, exceptions may be granted by the Mayor and City Council in between the regular review cycle in cases of demonstrated hardship, or in cases of developments that may provide extraordinary benefits to the community. Requests for exceptions shall be subject to approval by Mayor and City Council during a Mayor and City Council meeting.
- (j) *Standards governing legislative review.* See article III, section 103-11 for the standards governing legislative review.
- (k) *Annexations initiated by petition of the property owner.*
- (1) Pursuant to O.C.G.A. § 36-66-4(d), the city will process an annexation request in conjunction with a rezoning request and will complete all rezoning procedures before taking action on the annexation except for the final vote, including zoning hearing prior to adoption of the annexation.
 - (2) The rezoning request will not begin until after the city has given notice to the county of the proposed annexation and all other notices as required by state law.
 - (3) The rezoning request will be for a use consistent or less intense than that granted to the property by the county.
 - (4) The rezoning of an annexed parcel will remain in effect for at least one year after the effective date of the annexation. No rezoning request for the annexed property will be accepted during this period.
- (l) *Change in conditions of an approved rezoning.* Requests to change the conditions of an approved rezoning shall be subject to the same application, review and approval process as a new application, including the payment of relevant fees.
- (m) *Actions to be taken if plans are not implemented within specified time limits.*
- (1) For any zoning map amendment for which the Mayor and City Council or the Planning and Zoning Board is not the applicant, and upon which property no development permit, building permit, or certificate of occupancy has been issued within 12 months of the date of approval of said amendment, the Mayor and City Council may review the zoning district classification of the property or special use permit and determine whether it shall be continued or initiated for rezoning.
 - (2) Such properties shall first be reviewed by the Planning and Zoning Board, which shall make such findings and recommendations to the Mayor and City Council as it deems appropriate, and the final decision on a rezoning shall be made by Mayor and City Council.
 - (3) The procedure to be followed for the rezoning of such properties described in this subsection shall be the same as other rezoning initiated by the Planning and Zoning Board or the Mayor and City Council,
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and notice of such application, shall be given to the property owner of record and to the applicant of the original rezoning.

- (n) *Limitation on accepting applications after a denied decision.* Except as otherwise provided in the UDO, no application for legislative review affecting the same or any portion of property that was denied by the City Council will be accepted for filing within 12 months of the date the application was denied.
- (o) *Planned development approval.* Proposed developments in the PRD district go through a three-fold review process with architectural renderings to be presented first to the ARB, then on to P&Z, and finally to the M&CC for approval. Sketch plans must meet the requirements of section 105-2.
- (p) *Special exceptions requiring UDO amendment.* The approval of a special exception application by the Mayor and City Council will require a text amendment to the UDO that may be heard at the same time as the special exception hearing or within six months of the approval, after study and consideration by city officials.

(Ord. No. 08-2019 , § I, 6-3-2019)

Sec. 104-6. Quasi-judicial review.

- (a) *Applicability.* The following requirements apply to all applications that are subject to a quasi-judicial review, including appeals of decisions made by the Community Development Director, decisions on special use permits, or the seeking of variances from the provisions of the UDO. These include appeals and variance requests made to the Zoning Board of Appeals, and the Tree Preservation Board, referred to in this section as Appellate Boards, requests for special use permits made to the City Council, and certificates of appropriateness made to the HPC and ARB.
- (b) *Burden of proof in appeals and variances.*
 - (1) *Requirements.* It shall be the responsibility of an applicant seeking an appeal or a variance to present facts and evidence to explain how the proposed appeal or variance is consistent with the general spirit and intent of the applicable code, and how the request conforms to the standards of review in the UDO.
 - (2) *Review.* It is the duty of the appellate board to review such facts and evidence in light of the general spirit and intent of pertinent code to balance the public health, safety, morality, aesthetics, and general welfare against the injury to a specific applicant that would result from the strict application of the provisions of the code on the applicant's property, and to determine whether the request conforms to the standards of the review in the UDO.
- (c) *Appeals to an Appellate Board.*
 - (1) Appeals to an appellate board may be taken by any person aggrieved or adversely affected, or by any official of the city affected by any decision of the Community Development Director.
 - a. Such appeal shall be taken within 30 days after the decision appealed from by filing with the Community Development Director and with the City Clerk a notice of appeal specifying the grounds thereof.
 - b. The Director shall forthwith transmit to the appropriate appellate board all the papers constituting the record upon which the action appealed from was taken.
 - (2) An appeal shall stay all proceedings in furtherance of the action appealed from unless the Community Development Director certifies to the appellate board that, by reason of facts stated in the certificate, a stay would, in their opinion, cause imminent peril to life or property. In such a case, proceedings shall not be stayed other than by the appellate board or by a restraining order granted by a court of record on application and notice to the Community Development Director for good cause shown.

- (3) The appellate board shall meet upon notice from the chairperson, within ten business days of the filing of an appeal. Failure to hold a hearing related to any appeal within ten days of filing of the appeal shall result in a de facto approval of the applicant's appeal request at the next regularly scheduled appellate board meeting.
- (d) *Standards for design review and certificates of appropriateness.*
- (1) The City of Norcross Architectural and Site Design Standards, or as amended, incorporates the standards used by the Community Development Department, the ARB and the HPC in reviewing site or construction plans for issuance of a certificate of appropriateness.
- ~~(2) Design review for any development within the BH zoning district is considered minor and reviewed administratively as an incentive for redevelopment. The Director can refer a design plan to the ARB at their discretion if the plan does not meet the intent of the city's architectural design guidelines.~~
- (e) *Process for obtaining a certificate of appropriateness in the local historic district.*
- (1) *Approval of material change in appearance in historic districts or involving historic properties.* After the designation by ordinance of a historic property of a historic district, no material change in the appearance of such historic property, or of a contributing or non-contributing building, structure, site or object within such historic district, shall be made or be permitted to be made by the owner or occupant thereof, unless or until the application for a certificate of appropriateness has been submitted to and approved by the HPC. A building permit shall not be issued without a certificate of appropriateness. The HPC shall not approve applications for demolition without reviewing at the same time post-demolition plans. The HPC shall have exclusive jurisdiction to issue or to deny an application for a certificate of appropriateness within the historic district and over any designated historic property. The ARB shall not have any jurisdiction within the local historic district.
- (2) *Submission of plans to HPC.* An application for a certificate of appropriateness shall be accompanied by such drawings, photographs, plans and documentation as may be required by the HPC. The Historic Preservation HPC shall not require that the plans and specifications be prepared by professionals, but only that such documentation be prepared in such a way as to be easily understood by the HPC members.
- (3) *Interior alterations.* In its review of applications for certificates of appropriateness, the HPC shall not consider interior arrangement or use having no effect on exterior architectural features.
- (4) *Technical advice.* The HPC shall have the power to seek technical advice from outside its members on any application.
- (5) *Public hearings on applications for certificates of appropriateness, notices, and right to be heard.* The HPC shall hold a public hearing at which each proposed certificate of appropriateness is discussed. Notice of the hearing shall be published in the principal newspaper of local circulation in the city and written notice of the hearing shall be mailed by the HPC to all owners and occupants of the subject property. The written and published notice shall be provided in the same manner and time frame as notices are provided before a public hearing for rezoning.
- The HPC shall give the property owner and/or applicant an opportunity to be heard at the certificate of appropriateness hearing.
- (6) *Acceptable HPC reaction to applications for certificate of appropriateness. HPC action.* The HPC may approve the certificate of appropriateness as proposed, approve the certificate of appropriateness with any modifications it deems necessary, or reject it.
- a. The HPC shall approve the application 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 HPC shall consider, in addition to any other pertinent factors, the following criteria for each of the following acts:

1. *Reconstruction, alteration, new construction or renovation.* The HPC shall issue certificates of appropriateness for the above proposed actions if those actions conform in design, scale, building materials, setback and site features, and to the Secretary of Interior's standards for rehabilitation and guidelines for rehabilitating historic buildings.
 2. *Relocation.* A decision by the HPC approving or denying a certificate of appropriateness for the relocation of a building, structure, or object shall be guided by:
 - i. The historic character and aesthetic interest the building, structure or object contributes to its present setting.
 - ii. Whether there are definite plans for the area to be vacated and what the effect of those plans on the character of the surrounding area will be.
 - iii. Whether the building, structure or object can be moved without significant damage to its physical integrity.
 - iv. Whether the proposed relocation area is compatible with the historical and architectural character of the building, structure, site or object.
 3. *Demolition.* A decision by the HPC approving or denying a certificate of appropriateness for the demolition of buildings, structures, sites, judged to be 50 years old or older, or objects shall be guided by:
 - i. The historic, scenic or architectural significance of the building, structure, site, or object.
 - ii. The importance of the building, structure, site, or object to the ambiance of a district.
 - iii. The difficulty or the impossibility of reproducing such a building, structure, site, object because of its design, texture, material, detail, or unique location.
 - iv. Whether the building, structure, site, object is one of the last remaining examples of its kind in the neighborhood or the city.
 - v. Whether there are definite plans for use of the property if the proposed demolition is carried out, and what the effect of those plans on the character of the surrounding area would be.
 - vi. Whether reasonable measures can be taken to save the building, structure, site, or object from collapse.
 - vii. Whether the building, structure, site, or object is capable of earning reasonable economic return on its value.
- (7) *Undue hardship.* When, by reason of unusual circumstances, the strict application of any provision of this chapter would result in the exceptional practical difficulty or undue economic hardship upon any owner of a specific property, the HPC, in passing upon applications, shall have the power to vary or modify strict provisions, so as to relieve such difficulty or hardship; provided such variances, modifications interpretations shall remain in harmony with the general purpose and intent of said provisions, so that the architectural or historical integrity, or character of the property, shall be conserved and substantial justice done. In granting variances, the HPC may impose such reasonable and additional stipulations and conditions as will, in its judgment, best fulfill the purpose of this chapter. An undue hardship shall not be a situation of the person's own making.
- (8) *Deadline for approval or rejection of application for certificate of appropriateness.*
- a. The HPC shall approve or reject an application for a certificate of appropriateness within 45 days after the filing thereof by the owner or occupant of a historic property, or of a building structure, site, or object located within a historic district. Evidence of approval shall be by a certificate of

- appropriateness issued by the HPC. Notice of the issuance or denial of a certificate of appropriateness shall be sent by United States mail to the applicant and all other persons who have requested such notice in writing filed with the HPC.
- b. Failure of the HPC to act within said 45 days shall constitute approval, and no other evidence of approval shall be needed.
- (9) *Necessary action to be taken by HPC upon rejection of application for certificate of appropriateness.*
- a. In the event the HPC rejects an application, it shall state its reasons for doing so, and shall transmit a record of such actions and reasons, in writing, to the applicant. The HPC may suggest alternative courses of action it thinks proper if it disapproves of the application submitted. The applicant, if he or she so desires, may make modifications to the plans and may resubmit the application at any time after doing so.
 - b. In cases where the application covers a material change in the appearance of a structure which would require the issuance of a building permit, the rejection of the application for a certificate of appropriateness by the HPC shall be binding upon the building inspector or other administrative officer charged with issuing building permits and, in such a case, no building permit shall be issued.
- (10) *Requirement of conformance with certificate of appropriateness.*
- a. All work performed pursuant to an issued certificate of appropriateness shall conform to the requirements of such certificate. In the event work is performed not in accordance with such certificate, the HPC shall issue a cease and desist order and all work shall cease.
 - b. The HPC and the Norcross City Council shall be authorized to institute any appropriate action or proceeding in a court of competent jurisdiction to prevent any material change in appearance of a designated historic property or historic district, except those changes made in compliance with the provisions of this chapter or to prevent any illegal act or conduct with respect to such historic property or historic district.
- (11) *Certificate of appropriateness void if construction not commenced.* A certificate of appropriateness shall become void unless construction is commenced, or progress is made toward construction, within six months of date of issuance. A certificate of appropriateness shall be issued for a period of 12 months and is renewable.
- (12) *Recording an application for certificate of appropriateness.* The HPC shall keep a public record of all applications for certificates of appropriateness, and or all the HPC's proceedings in connection with said application.
- (13) *Acquisition of property.* The HPC may, where such action is authorized by the City Council and is reasonably necessary or appropriate for the preservation of a unique historic property, enter into negotiations with the owner for the acquisition by gift, purchase, exchange, or otherwise, to the property or any interest therein.
- ~~(14) *Appeals.* Any person adversely affected by any determination made by the HPC relative to the issuance or denial of a certificate of appropriateness may appeal such determination to the City Council. Any such appeal must be filed with the City Council within 15 days after the issuance of the determination pursuant to subsection 104-6(e)(8)a. or, in the case of a failure of the HPC to act, within 15 days of the expiration of the 45-day period allowed for the HPC action, subsection 104-6(e)(8)b. Appeals for properties within the city shall be made to the City Council. The City Council may approve, modify, or reject the determination made by the HPC, if the governing body finds that the HPC abused its discretion in reaching its decision. Appeals from decisions of the City Council may be taken to the Superior Court of Gwinnett County in the manner provided by law for appeals from conviction for the city ordinance violations.~~

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- (f) *Process for obtaining a certificate of appropriateness outside the local historic district.* The process for obtaining a certificate of appropriateness from the ARB is provided in the City of Norcross Architectural and Site Design Standards, or as amended.
- (g) *Rules of procedure; meetings; minutes, records for a special use permit.* The Planning and Zoning Board and the Mayor and City Council will utilize the policies and rules of procedure to govern the calling and conducting their hearings as described in article III, section 103-3.
- (h) *Development of an approved special use permit.*
 - (1) The issuance of a special use permit shall only constitute approval of the proposed use, and development of the use shall not be carried out until the applicant has secured all other permits and approvals required. The Community Development Department shall not issue a certificate of occupancy for the specific use unless all requirements and conditions of the special use permit have been fulfilled by the owner of the property.
 - (2) If an application is approved and a special use permit is granted, all conditions which may have been attached to the approval are binding on the property. All subsequent development and use of the property shall be in accordance with the approved plan and conditions. Once established, the special use shall be in continuous operation. Upon discovery that the operation of the special use has or had ceased for a period of 90 days or more and the owner of the property has not requested voluntary termination of the special use permit, the Community Development Director may forward a report to the Mayor and City Council through the Planning and Zoning Board which may recommend that action be taken to terminate the special use permit from the property.
- (i) *Compliance with special use permit requirements.*
 - (1) The Community Development Director shall have the right to periodically examine the operation of the specific use to determine compliance with the requirements and any conditions of a special use permit.
 - (2) If the Community Development Director determines that the requirements and conditions are being violated, a written notice shall be issued by hand-delivery, by electronic mail with delivery and read receipts requested to the owner's e-mail address of record, or by certified mail return receipt requested to the owner of the property outlining the nature of the violation and giving the owner of the property a maximum of ten days to come into compliance. If such notice is e-mailed or mailed to the owner, the notice shall be deemed to have been given upon the date of sending. The notice shall also state that the owner has the right to appeal the determination of the Community Development Director to the Zoning Board of Appeals.
 - (3) If after ten days the violations continue to exist, the Community Development Director shall forward a report to the Mayor and City Council through the Planning and Zoning Board, which report may recommend that action be taken to remove or terminate the special use permit from the property, or to exercise all other rights of enforcement permitted by law. The Mayor and City Council may stay their proceedings on such a report from the Director pending resolution of any timely appeal to the Zoning Board of Appeals.
- (j) *Special use permits in residential districts.* An approved special use permit in a residential zoning district where the proposed special use is proposed to operate in a dwelling or as an accessory use to a dwelling is subject to the following additional requirements:
 - (1) The special use permit shall be valid for no more than an initial two-year period. Upon or before the expiration of the special use permit, the owner shall make application to renew the special use permit if continuance is desired. As part of a special use permit renewal, the Mayor and City Council may waive any subsequent time limitation.
 - (2) The special use shall operate within the dwelling on the property or, if approved by the Mayor and City Council, in an accessory structure.

- (3) The exterior character of the dwelling shall be preserved in its residential state and there shall be no outside evidence of the operation of the special use to the neighborhood, except for any accessory structure approved by the Mayor and City Council.
- (4) The owner of the property or business shall occupy the property and shall operate any business associated with the special use.
- (k) *Variances to the Zoning Board of Appeals.*
 - (1) *Authority.* Unless otherwise provided for in the UDO, the ZBA shall have authority to grant variances from the requirements of the UDO, in accordance with the standards and procedures as set forth in this section.
 - (2) *Purpose.* The purpose of a variance is to provide a mechanism when, owing to special conditions, the strict application of the UDO would impose on a landowner exceptional and undue hardship that can be mitigated without conferring on the applicant special privilege.
 - (3) *Initiation.* A written petition for a variance is to be initiated by the owner(s) of the subject property or the authorized agent(s) of the owner(s) of the property for which relief is sought. Applications shall be filed on forms provided by the Community Development Department and shall not be considered accepted unless complete in every respect. Application fees shall be as established by the Mayor and City Council.
 - (4) *Application procedures.* An application for a variance shall be filed with the Community Development Department, accompanied by a non-refundable fee, as established from time to time by the Mayor and City Council, to defray the actual cost of processing the application. The application shall be in such form and shall contain at a minimum the following information and documentation:
 - a. Name, address, telephone number, fax number and email address of owner(s) and applicant, if not owner.
 - b. Legal description, street address, lot number and subdivision name, if any, of the property that is the subject of the application.
 - c. A survey, as completed by a surveyor registered in the state, accurately depicting the boundaries of the site.
 - d. The size of the subject property.
 - e. The purpose for the requested variance, and a statement of the intended development of the property if the variance is granted.
 - f. The specific provision of the UDO from which a variance is requested.
 - g. A statement explaining how the proposed variance is consistent with the general spirit and intent of the zoning ordinance and comprehensive plan.
 - h. A statement addressing the applicable standards for a variance from subsection 103-11(d)
 - (5) *Staff report.* The staff of the Community Development Department shall conduct a site inspection and shall prepare an analysis of each application for variance. The staff report shall be presented in written form to the Zoning Board prior to the scheduled hearing date.
 - (6) *Public hearing procedures and standards.*
 - a. Before the Zoning Board of Appeals acts upon an application for a Variance, it shall hold a public hearing under the procedures and standards of chapter 100, article III, review authority.
 - b. The notice of the time and place of such hearing shall be published at least 15 days, but not more than 45 calendar days, prior to the hearing in a newspaper of general circulation within the territorial boundaries of the city. At the hearing any party may appear in person or by agent or attorney.

- c. In addition, the Community Development Department shall at least 15 days prior to the hearing erect in a conspicuous place on the property involved a sign which shall contain information as to the variance applied for and the time and place of hearing and all other information required by this UDO.
- (l) *Decisions of an appellate board.*
 - (1) All appeal hearings and decisions shall be made in a public meeting, as mandated under state law, and following the procedures, standards and provisions of chapter 100, article III, review authorities.
 - (2) All decisions of an appellate board shall be furnished in writing to the applicant and to the Community Development Director within three days of a final action.
 - (3) The Community Development Director shall take immediate action in accordance with the decision of the appellate board.

(Ord. No. 08-2019 , § I, 6-3-2019)

Sec. 104-7. Administrative review.

The following requirements apply to all applications that can be approved by a UDO administrator. Unless specified elsewhere in this section, the procedures for initiation, application, and review of an administrative review are included in the provisions of subsection 104-4(b), common application requirements.

(a) Administrative variances.

- (1) *Power to grant administrative variances.* The Director shall have the power to grant administrative variances (except for density and use variances) from the development standards as established in the UDO where, in his/her opinion, the intent of the UDO can be achieved, and equal performance obtained by granting an administrative variance.
- (2) *Limitations on administrative variances.* The authority to grant administrative variances shall be limited to variances from the following requirements:
 - a. Front yard or yard adjacent to public street—variance not to exceed ten feet.
 - b. Side yard—variance not to exceed five feet.
 - c. Rear yard—variance not to exceed ten feet.
 - d. Accessory structure placement for lots without a rear yard.
 - e. Height—variance up to but not exceeding ten feet, provided that no increase in the height for a sign or fence may be granted nor may the variance result in an increase in the number of stories than would otherwise be allowed under the applicable zoning district.
 - f. Buffers—the dimensions or screening treatment of a buffer as required by the UDO may be reduced by no more than 50 percent where the comprehensive plan recommends a more compatible land use on the neighboring property than that for which said property is actually zoned, or in other situations where the intent of the required buffer can be equally or otherwise achieved; provided, however, that no buffer required as a condition of a rezoning or of a grant of a special use permit shall be modified.
 - g. Reduction in parking spaces—as per the provisions of section 203-10, off-street automobile parking and loading.
 - h. Demarcation of parking spaces—parking spaces may be left unmarked, provided all of the following conditions are present:
 1. The parking lot must be designated to serve only a multi-family residential project which is designed and intended for rental occupancy.
 2. The parking lots must be designed in relation to the internal circulation system such that the areas reserved for parking are easily identified and clearly distinct from the interior driveways because of their location, design, orientation, or configuration, such as in parking areas with a single interior driveway having parking spaces located perpendicular to and along the sides of the access driveway, allowing the curbing to delineate the exterior dimension of the single parking bay.
 3. Approval for the elimination of the striping has been obtained by the applicant in writing from the City Engineer.

(3) Application procedures.

- a. *Application form and documentation.* The application for an administrative variance shall be in such a form and contain such information and documentation as shall be prescribed by the Community Development Department, but shall contain at least the following:
 1. Name and address of the applicant.

2. Legal description of the subject property.
 3. Size of the subject property.
 4. A statement of the hardship imposed on the applicant by the zoning ordinance and a statement of why the administrative variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located.
 5. A notarized letter of consent for proposed administrative variance from adjoining property owners.
 6. A non-refundable application fee shall accompany the application, as established from time to time by the Mayor and City Council, to defray the actual cost of processing the application.
 7. A site plan drawn to the requirements of chapter 100, article V, plan submittal requirements.
- b. *Standards for issuance of administrative variances.* In deciding whether to grant an application for an administrative variance, the Director of the Community Development Department shall consider all of the applicable standards provided in the UDO. **It is the duty of the Director to review such facts and evidence in light of the general spirit and intent of the UDO to balance the public health, safety, morality, aesthetics, and general welfare of the City and its citizens against the injury to a specific applicant that would result from the strict application of the provisions of the code on the applicant's property, and to determine whether the request conforms to the standards of the review in the UDO.**
- (b) *Building permits.*
- (1) *Authority.* The Building Official shall have the authority to issue a building permit. See chapter 300 for application review standards, building and construction regulations and related procedures.
 - (2) *Permit application.* Any owner, authorized agent, or contractor who desires to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any utility (electrical, gas, mechanical, or plumbing) system, the installation of which is regulated by the technical codes, or to cause any such work to be done, shall first make application to the Building Official and obtain the required permit for the work.
 - (3) *Exceptions.* Permits shall not be required for the following mechanical work:
 - a. Any portable heating appliance;
 - b. Any portable ventilation equipment;
 - c. Any portable cooling unit;
 - d. Any steam, hot or chilled water piping within any heating or cooling equipment regulated by this Code;
 - e. Replacements of any part which does not alter its approval or make it unsafe;
 - f. Any portable evaporative cooler; and
 - g. Any self-contained refrigeration system containing ten lbs. (4.45 kg) or less of refrigerant and actuated by motors of one horsepower (746W) or less.
 - (4) *Work authorized.* A building or utility permit shall carry with it the right to construct or install the work, provided the same is described or depicted as required on the drawings and set forth in the specifications filed with the application for the permit. Where such work is not shown on the drawings

- and covered by the specifications submitted with the application, separate permits shall be required for each subsequent submission.
- (5) *Fees.* Permit and inspection fees and any other charges imposed or due under the various construction codes adopted by the city shall be as provided in a fee schedule, approved by the City Council, on file in the Community Development Department office.
 - (6) *Minor repairs and routine maintenance.* Ordinary minor repairs and routine maintenance may be made with the approval of the Building Official without a permit, provided that such repairs or maintenance shall not violate any of the provisions of the technical codes.
 - (7) *Application information required.* Each application for a permit, with the required fee, shall be filed with the Building Official on a form furnished for that purpose, and shall contain a general description of the proposed work and its location. The owner, or their authorized agent shall sign the application. The building permit application shall indicate the proposed occupancy of all parts of the building and of that portion of the site or lot, if any, not covered by the building or structure, and shall contain such other information as may be required by the Building Official and the provisions of chapter 300, including but not limited to construction drawings, as the requirements of chapter 100, article V, plan submittal requirements.
 - (8) *Time limitations on applications.* An application for a permit for any proposed work shall be deemed to have been abandoned six months after the date of the filing for the permit, unless before then a permit has been issued. One or more extensions of time for periods of not more than 90 days each may be allowed by the Building Official for the application, provided the extension is requested in writing and justifiable cause is demonstrated.
 - (9) *Subcontractors affidavits.* The city accepts electrical, plumbing, mechanical and low voltage affidavits from state licensed contractors subordinate to a building permit. The Building Official may require additional information as deemed necessary when accepting an affidavit.
- (c) *Certificate of appropriateness decisions for minor architectural modifications.*
- (1) The Community Development Director shall have the authority to grant administrative certificate of appropriateness approval for minor architectural modifications. The following types of changes and activities shall be considered minor and shall require administrative approval from the Director:
 - a. Repainting of an existing building to a similar color;
 - b. Revisions of window or door placement;
 - c. The replacement of awnings or installation of new awnings when utilizing two colors or less;
 - d. New construction of a new deck or modifications to an existing deck; and
 - e. Paint colors for existing and infill residential properties in the Norcross Architectural and Site Design Standards Manual.
 - (2) ~~The basis for Community Development Director's approval or denial of a request for the granting of an administrative certificate of appropriateness approval for minor architectural modifications shall be whether the requested changes weigh the following factors:~~
 - a. The proposed development of construction m~~Meets~~, or fails to meet, the requirements of the UDO;
 - b. The proposed development or construction is ~~Are~~ consistent, or inconsistent, with applicable design guidelines;
 - c. The proposed development or construction is ~~Are~~ consistent, or inconsistent, with the intents or purposes of this UDO; ~~or~~

d. The proposed development or construction would result in a development that is architecturally appropriate; and

e. The proposed development or construction is consistent with the City's goals and policies concerning the health, safety, morality, aesthetics, and general welfare.

In deciding to approve or deny such an application, the Community Development Director shall consult the minutes of the ARB or HPC at which prior approval took place, if applicable. If the application is denied, the reasons for denial shall be provided in writing to the applicant along with a notice that the applicant may file an application for a certificate of appropriateness to the ARB or HPC, as appropriate, to accomplish the requested action if found otherwise to be in compliance with the UDO.

- (d) *Certificate of completion.* Upon satisfactory completion of a building, structure, electrical, gas, mechanical or plumbing system, a certificate of completion may be issued by the Building Official. This certificate is proof that a structure or system is complete and, for certain types of permits, is released for use and may be connected to a utility system. This certificate does not grant authority to occupy or connect a building, such as a shell building, prior to the issuance of a certificate of occupancy.
- (e) *Certificate of occupancy (CO).*
- (1) *Building occupancy.* A new building shall not be occupied, or a change made in the occupancy, nature or use of a building or part of a building until after the Building Official has issued a certificate of occupancy. Said certificate shall not be issued until all required electrical, gas, mechanical, plumbing and fire protection systems have been inspected for compliance with the technical codes and other applicable laws and ordinances and released by the Building Official; refer to chapter 300 for details.
 - (2) *Issuance.* A CO is issued at the completion of a building permit, and a separate application for a CO is not required in these situations. However, an application for a CO may be required for an existing building in some circumstances, see subsection 104-7(f) change of occupancy certificate, or may be requested by an applicant. A certificate of occupancy for any existing building may be obtained by applying to the Building Official and supplying the information and data necessary to determine compliance with the technical codes for the occupancy intended. Where necessary, in the opinion of the Building Official, two sets of detailed drawings, or a general inspection, or both, may be required. When, upon examination and inspection, it is found that the building conforms to the provisions of the technical codes and other applicable laws and ordinances for such occupancy, a certificate of occupancy shall be issued.
 - (3) *Issuing certificate of occupancy.* Upon satisfactory completion of construction of a building or structure and installation of electrical, gas, mechanical and plumbing systems in accordance with the technical codes, reviewed plans and specifications, and after the final inspection, the Building Official shall issue a CO stating the nature of the occupancy permitted.
 - (4) *Occupancy limits.* Occupancy limits in other than residential buildings shall be determined by the county Fire Marshal.
 - (5) *Temporary/partial occupancy.* A temporary/partial certificate of occupancy may be issued for a portion of a building, which may safely be occupied prior to final completion of the building. In most cases the county Fire Marshal's temporary certificate of occupancy will be honored.
- (f) *Change of occupancy certificate.*
- (1) A change of occupancy certificate is required for new businesses, business change of name, business change of location, as per the requirements of the International Building Code, section 3408.1.
 - (2) A change of occupancy certificate for any existing building may be obtained by applying to the Building Official and supplying the information and data necessary to determine compliance with the technical codes for the occupancy intended. Where necessary, in the opinion of the Building Official, two sets of detailed drawings, or a general inspection, or both, may be required. When, upon examination and

inspection, it is found that the building conforms to the provisions of the technical codes and other applicable laws and ordinances for such occupancy, a certificate of occupancy shall be issued.

(g) *Commercial filming permit.*

- (1) The Community Development Director is the commercial filming permit administrator, and all applications for commercial filming permits shall be submitted to the Community Development Office.
- (2) The City Manager may appoint one or more city employees to form a committee to review the applications and make recommendations to the Community Development Director.
- (3) The Community Development Director has authority to suspend or revoke any commercial filming permit for failure to strictly follow the requirements of chapter 8, article V, commercial filming activity, in this Code.
- (4) All application requirements and standards for review of commercial filming permits can be found in chapter 8, article V, commercial filming activity in this Code.

(h) *Demolition permit.*

- (1) It is unlawful to demolish any house, dwelling or similar structure formerly used for human habitation or any commercial, industrial or other structure formerly used in the conduct of any trade or business without a proper demolition permit.
- (2) Any violation of this section shall be a continuing violation and each day of the violation shall constitute a new offense.
- (3) The Building Official is the UDO administrator responsible for issuing demolition permits, except for recognized historic buildings within the city historic districts, and all applications shall be submitted to the Community Development office, following the provisions of chapter 300.
- (4) Demolition permits for recognized historic buildings within the city historic district, must first be reviewed by the HPC or the ARB, and then final decision is made by Mayor and City Council.

(i) *Development permit.*

- (1) *Development activities authorized.* A development permit shall be required to authorize all activities associated with development activity regulated by this UDO, including, but not limited to, clearing and grubbing, grading and the construction of such improvements as streets, surface parking areas and drives, storm water drainage facilities, sidewalks, or other structures permanently placed on or in the property except for buildings, signs, or other structures requiring the issuance of a building permit.
- (2) *Responsibility for development actions.*
 - a. No person shall conduct any of the land-disturbing activities identified in this subsection, including grading, clearing and grubbing, tree clearance, land development or project construction (as used in this subsection, "development") without first obtaining a development permit from the Community Development Department to perform such activity.
 - b. Any person proposing development shall first submit to the Community Development Department an application for a development permit, including all construction plans required by this UDO. The application must be authorized by the property owner.
 - c. The Community Development Department is responsible for administering the review and approval process for issuance of development permits. The Community Development Department shall forward a copy of the development permit application, including the construction plans for the project, to other city and county departments, the Soil and Water Conservation Commission District, the Georgia Department of Transportation or others as appropriate, for their review and comment. The Community Development Department shall provide all comments to the applicant for resolution and shall issue the development permit when all requirements of this UDO are met.

- d. Approval of development plans by the appropriate department or agency shall not imply or transfer acceptance of responsibility for the application of the principles of engineering, architecture, landscape architecture or any other profession, from the professional, corporation or individual under whose hand or supervision the development plans were prepared.
 - e. The completion of inspections of a development and authorization for work continuation shall not transfer responsibility for the quality of the work performed or materials used from the owner, nor imply or transfer acceptance of responsibility for project design or engineering from the professional, corporation or individual under whose hand or supervision the development plans were prepared.
 - f. No development permit shall be interpreted to relieve any owner of the responsibility of maintaining full compliance with all applicable codes, ordinances and other regulations. Any development permit issued in error or in contradiction to the provisions of this UDO shall be considered to have been null and void upon its issuance.
 - g. Liability.
 - 1. The approval of an erosion and sedimentation control plan or other plans under the provisions of this UDO, the issuance of a development permit, or the compliance with any other provisions of this UDO shall not relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the City Council for damage to any person or property.
 - 2. The fact that any activity for which a development permit has been issued results in injury to the property of another shall neither constitute proof of, nor create a presumption of, a violation of the standards provided for in this UDO or the terms of the development permit.
- (3) *Development permit application requirements.*
- a. The application for a development permit shall be submitted to the Community Development Department in a digital format (unless otherwise required by the city) and must include the following:
 - 1. Application on the form furnished by the Community Development Department, requesting review for issuance of a development permit.
 - 2. Three copies of:
 - i. The preliminary plat or site plan requesting or reflecting project approval by the Community Development Department.
 - ii. The construction plans prepared in conformance with the specifications and standards in this UDO, section 105-4.
 - 3. Two copies of the hydrology study.
 - 4. One copy of the soil tests (if applicable).
 - 5. Payment of any development permit fee.
 - b. The application will be checked for completeness within five business days of its submission. Incomplete applications will be returned to the applicant.
 - c. Upon acceptance of a development permit application, the UDO administrator shall:
 - 1. Refer the soil erosion and sedimentation control plan to the county Department of Water Resources and the Soil and Water Conservation District for their review and approval or disapproval concerning the adequacy of the erosion and sedimentation control plan. No development permit will be issued unless the plan has been approved by the District and

- the county Department of Water Resources, and any variances and bonding, if required, have been obtained.
2. Refer the stormwater management plan and the floodplain management/flood damage prevention plan (if any) to the county Department of Water Resources for its review and approval or disapproval. No development permit will be issued unless the plans have been approved by the county Department of Water Resources.
- d. The applicant may be required by the UDO administrator to secure development approval from other agencies if they are affected by the development. Development approval may be required from but not limited to:
 1. Fire Marshal.
 2. County Health Department.
 3. Georgia Department of Transportation.
 4. Georgia Department of Natural Resources.
 5. U.S. Army Corps of Engineers.
 6. U.S. Environmental Protection Agency.
 - e. The applicant will be responsible for compliance with all codes, regulations and zoning requirements and for the satisfaction of all the comments received. The owner will also be responsible for obtaining approval from all other agencies affected by the project.
 - f. No development permit will be issued unless the applicant provides a statement by the county Tax Commissioner's office certifying that all ad valorem taxes levied against the property and due and owing have been paid.
- (4) *Issuance of development permit.*
- a. Following satisfaction of all comments, receipt of approvals from all affected agencies and receipt of all required bonds, the Community Development Department shall obtain signatures from all involved agencies on three sets of plans and return the signed sets of plans to the engineer/surveyor. The engineer/surveyor shall then provide the Community Development Department with a digital copy of the plans including a scanned image of the cover sheet with all signatures. The image files shall be in a .TIF format unless otherwise specified by the Community Development Director. After obtaining the digital copy, the Community Development Department shall issue a development permit authorizing development activity to begin based on the approved construction plans.
 - b. Permits shall be issued or denied as soon as practicable, but in any event not later than 60 days after receipt by the city of a complete application, providing variances and bonding are obtained, where necessary.
 - c. If the tract is to be developed in phases, then a separate permit shall be required for each phase.
- (5) *Expiration of development permit.*
- a. A development permit shall expire if the development activity described in the permit is not begun within six months from the date of issuance. Any such expired permit may be renewed by the Community Development Department within six months of development expiration, subject to permit renewal approval by the county Department of Water Resources. If a development permit has expired for more than 6 months, the applicant shall be required to apply for a new development permit under the development permit approval process of this UDO.
 - b. Every permit or renewal thereof shall be valid for a period of one year, if not sooner renewed, terminated, revoked, or surrendered. Permits shall be eligible for renewal within 60 days prior to

expiration. The city may refuse renewal based on materially changed land conditions or based on any ground that would be the basis for revocation of the active permit.

- c. Any change or amendment of design and construction plans for the project that may materially impact or negate the permit based on original approval of the plan shall require a permit amendment. All amendments shall be applied for in writing and follow the same procedure for approval as original applications for a development permit.
- (j) *Clearing permit, clearing and grubbing permit and grading permit.* The following permits covering portions of the land development process may be issued in accordance with the requirements of this UDO and the provisions of any Metropolitan River Protection Act Certificate, if applicable:

(1) *Clearing permit.*

- a. A permit limited to clearing only with no grubbing or other land disturbance except for such activities necessary to install and maintain erosion and sediment control practices (as defined in the Georgia Soil Erosion and Sedimentation Act) may be authorized upon identification of the property, a specimen tree survey, the limits of the area to be cleared, the type of activities to be undertaken and the following items may be required:
 - 1. Soil Erosion, Sedimentation and Pollution Control Plan (unless exempt under chapter 400 of this UDO).
 - 2. Hydrology Study if a Soil Erosion, Sedimentation and Pollution Control Plan is required.
 - 3. Specimen Tree Concept Plan (if specimen trees are present on the property).
 - 4. Tree Preservation and/or Replacement Plan as may be required under chapter 630 of this UDO.
 - 5. All clearing activities are to be consistent with the provisions of this UDO, chapter 400 of this UDO, and any conditions of zoning approval. If clearing of the required tree density units is proposed, a performance bond and a development performance agreement may be required prior to issuance of permit to guarantee tree replacement will occur in future phases.
- b. A clearing permit shall expire unless activities are commenced within 60 consecutive calendar days of issuance of the permit or if activities lapse and are abandoned for a period exceeding 30 consecutive calendar days.
- c. A clearing permit shall not be construed as approval of or authorization to construct any improvements, buildings, or other structures on the property.
- d. If landscape improvements are required by the land disturbance permit, then all plantings must be completed, or a performance bond shall be filed for the incomplete work prior to the closing of such permit.

(2) *Clearing and grubbing permit.*

- a. A permit limited to clearing and grubbing only may be authorized upon identification of the property, a specimen tree survey, the limits of the area to be cleared and grubbed, the type of activities to be undertaken, and the following items may be required:
 - 1. Soil Erosion, Sedimentation and Pollution Control Plan.
 - 2. Hydrology Study.
 - 3. Specimen Tree Concept Plan (if specimen trees are present on the property).
 - 4. Tree Preservation and/or Replacement Plan as may be required under chapter 630 of this UDO.

Appropriate soil erosion, sedimentation and pollution control and tree protection measures shall be placed and maintained as required. If clearing of the required tree density units is proposed, a performance bond and a development performance agreement may be required prior to issuance of permit to guarantee tree replacement will occur in future phases.

- b. A permit for clearing and grubbing shall expire unless activities are commenced within 60 consecutive calendar days of issuance of the permit or if activities lapse and the project is abandoned for a period exceeding 30 consecutive calendar days.
 - c. A clearing and grubbing permit shall be limited to the removal of vegetation and stumps and the placement of required tree protection measures and soil erosion and sedimentation facilities and may authorize the removal of existing stormwater facilities and infrastructure on the property at the option of the developer. A demolition permit is required to remove all other existing structures. No grading or construction activities may be started under a clearing and grubbing permit except for such activities necessary to install and maintain erosion and sediment control practices. The approval of a clearing and grubbing permit shall not imply the approval of or authorization to construct any improvements, buildings, or other structures on the property.
 - d. If landscape improvements are required by the land disturbance permit, then all plantings must be completed, or a performance bond shall be filed for the incomplete work prior to the closing of such permit.
- (3) *Grading permit.*
- a. A grading permit, which may include clearing and grubbing, may be issued prior to approval of a development permit, as provided under chapter 330-20 of this UDO. A grading permit may also be issued for earth borrow or storage, where no development or construction is proposed or imminent, based on approval of a grading plan, Soil erosion, sedimentation and pollution control plan, and hydrology study, consistent with the requirements of chapter 400, the zoning category of the site, and the provisions of the Gwinnett County 2030 Unified Plan (as applicable). A specimen tree survey, a specimen tree concept plan, and a tree preservation and/or replacement plan may be required as specified under chapter 630 of this UDO. If clearing of the required tree density units is proposed, a performance bond and a development performance agreement may be required prior to issuance of permit to guarantee tree replacement will occur in future phases.
 - b. A permit authorizing but limited to grading (and clearing and grubbing) shall expire unless activities are commenced within 60 consecutive calendar days of issuance of the permit or if activities lapse and the project is abandoned for a period exceeding 30 consecutive calendar days. Any site for which the grading permit expires shall immediately be stabilized to prevent erosion.
 - c. A grading permit shall be limited in its authorization to land grading activities along with associated tree protection, clearing and grubbing, and demolition activities, and may authorize the construction of storm drainage improvements and soil erosion and sedimentation facilities as allowed by the permit itself.
 - d. If landscape improvements are required by the land disturbance permit, then all plantings must be completed, or a performance bond shall be filed for the incomplete work prior to the closing of such permit.
- (k) *Parking waiver (for 5 or more vehicles).* The standard requirements related to the issuance of a parking permit can be found in chapter 200, article III, section 203-12.
- (l) *Sign permit.* The standard requirements related to the issuance of a sign permit can be found in chapter 200, article IV.
- (m) *Temporary outdoor activities permit.* The standard requirements related to the issuance of an temporary outdoor activities permit can be found in chapter 8, article IX, of this Code.

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- (n) *Temporary outdoor retail display permit.* The standard requirements related to the issuance of an outdoor display permit can be found in section 8-319 of this Code.
- (o) *Tree removal permit.* No person, corporation, association or other entity shall remove or destroy any tree either on public or private property with a DBH of six inches or greater without having first obtained a tree removal permit from the Community Development Department. A tree plan approved as a part of an approved development permit shall constitute a tree removal permit.
 - (1) *Application.*
 - a. An application for a tree removal permit when land disturbing activity is involved shall include three copies of a tree conservation and landscape plan which shall be completed and signed by a registered forester, a certified or degreed arborist, or a registered landscape architect whose credentials shall be made available to the Community Development Director.
 - b. The information that must be included on a tree conservation and landscape plan is described in article V, section 105-6.
 - c. An application to remove or destroy a specimen tree not associated with land disturbing activity shall be accompanied by photographs, a site drawing and a written statement of the condition of the tree including the threat that it poses, submitted by the owner of the property and a registered forester, a certified or degreed arborist or a registered landscape architect whose credentials shall be made available to the Community Development Director. If in the determination of the Community Development Director, the specimen tree is obviously dead or immediately hazardous then the requirements in this subsection may be waived by the Community Development Director.
 - d. An application to remove trees with a DBH of six inches or greater that are not specimen trees and are not associated with land disturbing activity shall be accompanied by a site drawing and a statement from the property owner of the condition of the tree and the threat it poses. Photographs and other supporting information may be required by the Director. In cases where such permit is requested on R100, R75, R60, or RD property, said request shall be exempt from chapter 200, article V, buffers, landscaping, and tree conservation.
 - (2) *Time for consideration of a tree removal permit application.* All applications for tree removal permits shall be acted on within 60 days of the receipt of a complete application and permit fee, if any. The tree removal permit fee shall be established by the Mayor and City Council. If the city fails to act on the application within 60 days, the application shall be deemed approved.
 - (3) *Standards for review of tree removal permit.* The standards requirements and penalties related to the issuance of a tree removal permit can be found in chapter 200, article V.
- (p) *Trade permits.* A trade permit is required to erect, install, enlarge, alter, repair, remove, convert or replace any utility (electrical, gas, mechanical, or plumbing) system. The provisions for issuance of a utility permit can be found under provisions for issuance of a building permit, subsection 104-7(b).
- (q) *Utility permits.* A utility permit is required to install, enlarge, alter, remove, convert or replace any utility system within city-owned right of way. All utility construction plans within city right-of-way shall be reviewed and approved by the Department before construction begins. Street cuts shall not be allowed unless deemed absolutely necessary due to the presence of rock, the need to tap into an existing line beneath the road surface, or other circumstance which makes boring impossible or infeasible.
- (r) *Zoning verification letter.*
 - (1) A zoning verification letter can be issued by the zoning administrator upon request for a fee established by the Mayor and City Council.
 - (2) The letter will convey the current zoning of the subject parcel, and associated conditions of zoning, and known approve variances.

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- (3) The applicant must submit the request by means of a department approved application, along with a survey of the property.
- (4) The zoning verification letter is only valid for 30 days after issuance.

(Ord. No. 08-2019 , § I, 6-3-2019; Ord. No. 14-2019 , 11-4-2019)

Sec. 201-23. BH Buford Highway.

- (a) *BH purpose.* The Buford Highway district is intended to encourage the redevelopment of Buford Highway in conformance with the vision for the corridor in the city's comprehensive plan and the Buford Highway Master Plan as a mixed-use and multimodal corridor. The district utilizes design standards and land use controls that will provide the necessary transition from the industrial and commercial character into the historic areas of the city, while maintaining opportunity for growth and economic vibrancy. To this end, in order to promote the vision of the City, any multifamily project within the district shall present, for administrative approval by the Mayor and Council at a regularly scheduled meeting, a plan for the mix of uses proposed for any site before moving beyond preliminary design review and approval of staff and the Architectural Review Board.
- (b) *BH lot development standards.*

Lot dimensions	
Minimum lot area	None
Minimum lot width	None
Minimum lot frontage	None (subject to DOT approval)
Maximum residential density	
Townhouse	15 dua
Multi-family residence	35 dua
Minimum setbacks	
Principal building	
Front (from right-of-way)	No minimum, with 20' maximum
Side	20' if abutting residential
Rear	40' if abutting residential
Accessory building	
From principal structure	Per Fire Marshall's office
Front	NA
Side	NA
Rear	40' if abutting residential
Maximum Height	
Principal	See the appropriate comprehensive plan character area narrative

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Accessory	12'
Maximum impervious surface coverage	90%

Note: Maximum multi-family density as allowed in the comprehensive plan character area.

(c) *BH supplemental regulations.*

- (1) Accessory use standards—see chapter 200, article II, supplemental and accessory use standards.
- (2) Landscape and buffering—see chapter 200, article V, tree conservation, buffers, and landscaping.
- (3) Parking and loading—see chapter 200, article III, parking and loading requirements.
- (4) Signs—see chapter 200, article IV, sign regulations.

(d) *BH permitted uses.* The following uses shall be permitted as of right in this district. Supplemental regulations for uses are in chapter 200, article II, supplemental use standards, as applicable.

(1) *Residential—household residences.*

- a. Townhouse.
- b. Multi-family residential—south of Buford Highway,
- c. Multi-family residential—not to exceed 350 feet north of the centerline of Buford Highway between Lively Avenue, Magnolia Street, and Holcomb Bridge Road.

d. Where practical, any project including multi-family residential uses need to be part of an overall mixed use development within the scope of the City's mixed use definition in Chapter 100, with the mix of use types approved as enumerated above in Sec. 201-23(a) above. Amendments to previously approved mix of use types also require Mayor and Council approval

(2) *Sales and rental of goods, merchandise and equipment.*

- a. Art gallery.
- b. Retail sales, **except automotive related retail sales are not allowed.**
- c. Studio or meeting facility.

(3) *Services—office, clerical, repair, research and personal not primarily related to the sale of goods or merchandise.*

- a. Banks and financial institutions.
- b. Business college or business school operated as a business enterprise.
- c. Day care center.
- d. Medical or dental office or clinic.
- e. Personal service.
- f. Professional service.
- g. Professional and business office.

(4) *Recreation, amusement, entertainment.*

- a. Activity conducted entirely within building or substantial structure—theater, bowling alley, skating rink, shooting range, movie theatre, game room, etc.

(5) *Food and drink.*

DRAFT ORDINANCE LANGUAGE

- a. Restaurant.
 - b. Brew pubs.
 - c. Microbreweries/microdistilleries—with or without food.
 - d. Catering facilities.
- (6) *Educational, cultural, religious, philanthropic, social or fraternal.*
 - a. Places of public assembly.
 - b. Library.
 - c. Museum.
 - d. Art galleries, art centers and similar uses.
 - e. College, university, community college—including associated facilities such as dorms, offices, athletic fields, etc.
- (7) *Mixed-use.*
 - a. Mixed-use as defined in chapter 100, article II.
- (e) *BH special permit uses.* The following uses shall be considered special permit uses in this district. Supplemental regulations for uses are in article II, supplemental use standards, as applicable.
 - (1) *Residential—miscellaneous, lodging, rooms for rent.*
 - a. Hotel.
 - (2) *Sales and rental of goods, merchandise and equipment.*
 - a. Fuel sales.
 - b. Any retail establishment not specifically permitted, but which is similar to the listed uses, compatible with uses on adjoining property and which meets the intent and purpose of the district.
 - (3) *Services—office, clerical, repair, research and personal—not primarily related to the sale of goods or merchandise.*
 - a. Any service establishment not specifically permitted, but which is similar to the listed uses, compatible with uses on adjoining property and which meets the intent and purpose of the district.
 - (4) *Storage and parking.*
 - a. Automobile parking garage.
 - b. Standalone parking.
 - c. Landscaping services.
 - (5) *Miscellaneous semi-public facilities and utilities.*
 - a. Telecommunications antenna.
 - b. Telecommunications tower.
- (f) *BH accessory uses.* Supplemental regulations for accessory uses are in chapter 200, article II, supplemental use standards, as applicable.
- (g) *BH residential density bonus incentive.*

- (1) *Structured parking.* A density bonus of 40 percent may be applied to the overall residential component if the applicant submits a structured parking plan (garage) that is approved by the Community Development Department, plus and additional 10 percent density bonus if providing Electric Vehicle charging stations for 5% of the parking spaces are provided, with a minimum of 5 charging stations.
- (2) *Green building materials.* A density bonus of 25 percent may be applied to the overall residential component if the applicant utilizes a minimum of three green building methods as identified by the Green Building Alliance or LEED, or site components that promote energy efficiency, and which reduce surface water run-off. This would include, but not be limited to:
 - a. Green roof components.
 - b. Roof mounted solar panels.
 - c. Cool roofing materials.
 - d. Energy efficient windows.
 - e. Rain gardens or bio-swales.
 - f. Geothermal.
 - g. Permeable pavement.
 - h. Native planting.
 - i. Stormwater planters.
 - j. Parking lot run-off landscaping.
- (3) *Calculation of density bonuses.*
 - a. Density bonuses are applied to the maximum residential density.
 - b. A density bonus is rounded up on the half, 0.5, unit or above.
 - c. A structured parking bonus and a green building materials bonus may be combined for a maximum 75 percent increase to the maximum residential density.

Sec 202-2(h)

Fences and walls. Fences and walls shall be permitted in any zoning district and are not subject to setback requirements, except as provided for in this section.

- (1) In a residential zoning district, the following provisions shall apply:
 - a. No wall or fence shall exceed eight feet in height within a side yard or rear yard.
 - b. No wall or fence that extends into the front yard shall exceed four feet in height, except that any **vehicular** gate or gatepost within the wall or fence shall not exceed six feet in height. However, no fence shall extend into or across the front yard of any residence in the national historic district or local historic district, except that parcels located on the corner of two streets may have a fence in the front yard adjacent to the secondary roadway upon authorization of the Community Development Department.
 - c. No wall or fence constructed of woven wire or metal fabric (e.g. chain link, hog wire or barbed wire) shall extend into a front yard, except that woven wire or metal fabric fences may extend into a front yard when the property contains a minimum of three acres, and only where allowed under this UDO.

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d. Any wall or fence which extends into the front yard, where allowed, on property containing less than three acres shall be ornamental or decorative and may be constructed of brick, stone, wood, stucco, wrought iron or split rail; provided that no wall or fence shall be constructed of exposed concrete block, tires, junk or other discarded materials. **Any front yard fence or hedge row, where allowed, shall be setback a minimum of 3' from the edge of the right of way.**

(3) In all districts, the following provisions shall apply:

a. A building permit is required for retaining or **freestanding** walls that are greater than four feet in height from the top of the footing. A building permit is also required for retaining walls less than four feet in height when the slope of backfill materials exceeds a one-foot rise in three feet length or when the wall will be required to support a surcharge load. For tiered walls, the wall height is measured from top of lowest wall footing to top of highest wall unless the tier is set back far enough to allow each tier to act independently.

b. A building permit is required for the installation of decorative masonry piers that exceed 4' in height. Masonry piers must have brick, stone, or stucco finish.

Sec. 206-3. - Nonconforming uses.

(a) The lawful use of any building or structure or land existing at the time of the enactment or amendment of this article may be continued, even though such use does not conform with the provisions of this article, except that the nonconforming use shall not be:

(1) Extended to occupy a greater area of land.

~~(2) Extended to occupy a greater area of a building or structure unless such additional area of the building or structure existed at the time of the passage or amendment of this article and was clearly designed to house the same use as the nonconforming use occupying the other portion of the building or structure.~~ **The nonconforming use must continue in the original building, structure or on land area that was originally occupied by the nonconforming use.**

(3) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption of this UDO.

(4) Reestablished after discontinuance for six months as based on available city records.

(5) Changed to another nonconforming use.

(6) Reinstated if it fails to obtain a new occupational tax certificate within six months of the closure of the previous non conforming use or renew an existing occupational tax certificate per the City's prescribed renewal schedule for existing occupational tax certificates.

(7) A change in tenancy or ownership is not considered a change to another nonconforming use, provided that the use itself remains unchanged

Sec. 206-8. - Exceptions.

(a) *Front yard requirements.*

(1) The front yard requirements of this chapter shall not apply on any lot where the average depth of the front yards of existing buildings on adjoining lots located wholly or in part within 100 feet on each side of such lot

DRAFT ORDINANCE LANGUAGE

within the same block and zoning district and fronting on the same side of the street is either greater or less than the minimum required front yard depth.

(2) If the average depth of the front yards is greater than the required minimum front yard depth, the depth of the front yard of such lot shall be the average of the front yards of such buildings but need not be greater than 150 percent of the required front yard depth.

(3) If the average depth of the front yards is less than the required minimum front yard depth, the depth of the front yard of such lot may be less than the required front yard depth but shall not be less than the average of the front yards of such buildings.

(b) *Permitted encroachments upon required setbacks.* Cornices, eaves, chimneys, landings, porches, bay windows or other similar architectural features may extend into the required front, side or rear yard setbacks, provided such extensions do not exceed three feet into the setback. **Unenclosed** decks and patios may extend into the side or rear yard setbacks but no closer than five feet from any property line. Steps and landings may extend into the required setbacks, provided such extensions do not exceed ten feet into the front yard setback. Steps and landings may extend into the rear yard setback, but no closer than five feet from the property line.

- II. Severability: If the provisions of any section, subsection, paragraph, subdivision or clause of his ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgement shall not affect or invalidate the remainder of any ordinance, section, subsection, paragraph, subdivision or clause of this ordinance.
- III. Repealer: All ordinances or parts thereof which are in conflict with any provision or any section, subsection, paragraph, subdivision or clause of this ordinance are hereby repealed to the extent of the conflict.

IN WITNESS WHEREOF, I have hereunto set my hand and cause this seal to be affixed this ____ day of _____, 2022

Craig Newton, Mayor

ATTEST:

Monique Lang, City Clerk



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
COUNCILMEMBER **ARLENE BECKLES** • COUNCILMEMBER **BRUCE GAYNOR** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

City of Norcross

Legislation Details (With Details)

File #:	22-6534	Version:	
Type #:	Agenda Item	Status:	Agenda Ready
On Agenda:	8/1/2022 6:30 PM	In Control:	Mayor and Council
Title:	Board Appointment - Discovery Garden Park Board		

Sponsors:

Code Sections:

Title
Board Appointment - Discovery Garden Park Board

Motion
A motion to Approve/Deny the appointment of the following board members and terms as presented:

Discovery Garden Park Board

_____	6/1/2024
_____	6/1/2024



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
COUNCILMEMBER **ARLENE BECKLES** • COUNCILMEMBER **BRUCE GAYNOR** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

City of Norcross

Legislation Details (With Details)

File #:	22-6535	Version:	
Type #:	Agenda Item	Status:	Agenda Ready
On Agenda:	8/1/2022 6:30 PM	In Control:	Mayor and Council
Title:	Board Appointment - Norcross Public Arts Commission		

Sponsors:

Code Sections:

Title
Board Appointment - Norcross Public Arts Commission

Motion
A motion to Approve/Deny the appointment of the following board member and term as presented:

Norcross Public Arts Commission

12/1/2025



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
COUNCILMEMBER **ARLENE BECKLES** • COUNCILMEMBER **BRUCE GAYNOR** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

City of Norcross

Legislation Details (With Details)

File #:	22-6536	Version:	
Type #:	Agenda Item	Status:	Agenda Ready
On Agenda:	8/1/2022 6:30 PM	In Control:	Mayor and Council
Title:	Board Appointment - Planning and Zoning Board		

Sponsors:

Code Sections:

Title
Board Appointment - Planning and Zoning Board

Motion

A motion to Approve/Deny the appointment of the following board members and terms as presented:

Planning and Zoning Board

6/1/2026



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
COUNCILMEMBER **ARLENE BECKLES** • COUNCILMEMBER **BRUCE GAYNOR** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

City of Norcross

Legislation Details (With Details)

File #:	22-6537	Version:	
Type #:	Agenda Item	Status:	Agenda Ready
On Agenda:	8/1/2022 6:30 PM	In Control:	Mayor and Council
Title:	Board Appointment - Zoning Board of Appeals		

Sponsors:

Code Sections:

Title
Board Appointment - Zoning Board of Appeals

Motion
A motion to Approve/Deny the appointment of the following board member and term as presented:

Zoning Board of Appeals

6/1/2026



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
COUNCILMEMBER **ARLENE BECKLES** • COUNCILMEMBER **BRUCE GAYNOR** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

City of Norcross

Legislation Details (With Details)

File #:	22-6515	Version:	
Type #:	Agenda Item	Status:	Agenda Ready
On Agenda:	8/1/2022 6:30 PM	In Control:	Mayor and Council
Title:	Alcohol Sales Clarification		

Sponsors:

Code Sections:

Attachments:

1. [Agenda Report - Alcohol Ordinance](#)
2. [Alcohol Ordinance DRAFT Modification v2](#)

Title
Alcohol Sales Clarification

Drafter
Tracy Rye

Motion

A motion to Approve/Deny an amendment to Code of Ordinances of Norcross by revising Chapter 4, Alcoholic Beverages, Article II, Malt Beverages, Wine, and Distilled Spirits, Sec 4-29, Sec 4-41 and Sec 4-42 of the alcohol ordinance with the following enacting clause:

The Mayor and City Council of the City of Norcross, Georgia hereby ordains that the adopted Code of Ordinance is hereby amended as more particularly set forth below. It is the intention of the Mayor and City Council, and it is hereby ordained that all following provisions shall become and be made part of the Code of the City of Norcross.



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE** •
COUNCILMEMBER **BRUCE GAYNOR** • COUNCILMEMBER **ARLENE BECKLES** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

Agenda Report

To: Mayor and Council

From: William Corbin, Economic Development Director
Paul Hanebuth, Administrative Services Director
Tracy Rye, AICP, Community Development and Planning Director
City Attorney's Office

Agenda: August 1, 2022 - Mayor and Council Meeting

Item #: 22-6515

Item: Alcohol Sales Clarification

CC: Eric Johnson

Recommendation

Staff:

The Community Development and Planning Department in consultation with the Administrative Services Department, Economic Development Department and City Attorney's office recommends editing, as shown in the attached, Sec 4-29, Sec 4-41 and Sec 4-42 regarding definitions, retail sales, and consumption on the premises with respect to alcohol.

Background

The City has been working with a proposed downtown tenant who, by definition, would be a wine specialty shop under the existing City ordinance. While checking all sections of the alcohol ordinance, it was determined that certain uses such as wine specialty shops, microbreweries and growler shops were allowed in the ordinance, but due to their nature of selling only alcohol products, were not necessarily exempted from the 50% other sales requirements for the sale of retail packages or on premise consumption situations. Other sections of the ordinance are clear that the uses are allowed as there are similarly situated and licensed businesses in Norcross, however Sec. 4-29, Sec 4-41 and Sec 4-42 need edits and/or clarifying language added such that existing

businesses can continue as defined elsewhere in the ordinance and new businesses can commence with the licensing process.

Financial Impact

None.

Consistent with Comprehensive Plan?

This project is considered to be consistent with the City's adopted 2040 Comprehensive Plan in that managing noise addresses **Goal 4** of the Plan to "*Maintain a Vibrant Economy and Continue to Facilitate Job Growth.*" and **Policy 4-2** "*Encourage the development of downtown as a vibrant center for culture, government, dining, residential, and retail diversity.*"

Attachments

Draft Ordinance Language

Update

Sec. 4-29, definitions, was edited to remove craft breweries, microbreweries, wine specialty shops, brewpubs and distilleries from the definition of "bar". All of these types of businesses are fully defined elsewhere in this ordinance and having them re-defined in the bar definition is repetitious and confusing.

Sec 4-41 is updated with respect to delineating how packaged sales of alcohol are addressed: packaged sales of malt beverages, beer, or wine are allowed in establishments where 50% of annual sales come from groceries and related products (not including gasoline and beer/wine); micro and craft breweries, wine specialty shops and growler shops.

Sec 4-42 is updated to reflect that consumption on the premises is allowed in eating establishments and restaurants; brewpubs; bars, micro or craft breweries; distilleries; and wine specialty shops.

For clarification, neither the City's alcohol ordinance nor the Unified Development Ordinance allows retail package stores for the purpose of selling only packaged alcohol, therefore, conceptually allowing a retail merchant to derive 75% of their sales from alcohol limits the type of retailer they are and is otherwise contrary to existing City ordinances.

Ordinance _____

An Amendment to the City Code or Ordinances

Chapter and Purpose: Chapter 4, Alcoholic Beverages, Article II, Malt Beverages, Wine, And Distilled Spirits, Sec 4-29, Sec 4-41 and Sec 4-42

Enacting Clause; The Mayor and City Council of the City of Norcross, Georgia hereby ordains that the adopted Code of Ordinances is hereby amended as more particularly set forth below. It is the intention of the Mayor and City Council, and it is hereby ordained that all following provisions shall become and be made part of the Code of the City of Norcross.

- I. Amendment to edit the language as noted below, to add those items shown as underlined and to delete those items as shown by strikethrough, any items completely deleted are reserved:

Sec. 4-29. –Definitions.

Bar means a licensed retail consumption dealer that derives 75 percent or more total annual gross revenue from the sale of alcoholic beverages on premises, as defined in O.C.G.A. § 3-1-2(2.1).

~~The term "bar" specifically includes craft breweries, microbreweries, wine specialty shops, brewpubs and distillers that derive 75 percent or more total annual gross revenue from the sale of alcoholic beverages on premises as set forth above.~~

Sec. 4-41. - Retail sales.

- (a) No sale of distilled spirits are permitted. Except as provided below, ~~no~~ No malt beverage, beer, or wine shall be sold as a retail package, ~~except in retail establishments which derive 50 percent of their total annual sales from groceries and related products and microbreweries and craft breweries. For purposes of this section the term "related products" shall not include gasoline sales nor beer and/or wine sales. No sales of distilled spirits are permitted.~~

- (1) The following establishments or businesses, as defined in this Article, may be permitted to sell for retail sales malt beverages, beer, or wine provided that the use is permissible under the applicable zoning regulations and by Section 4-39 of this Article.

- (i) Retail establishments which derive 50 percent of their total annual sales from groceries and related products. For purposes of this section, the term "related products" shall not include gasoline sales nor beer and/or wine sales.
- (ii) Microbreweries and craft breweries
- (iii) Wine specialty shops
- (iv) Growler shops

- (b) No sign or advertisement shall be located or placed in a retail establishment except as follows:
 - (1) Bottles may be labeled to indicate the price of the beer and/or wine offered for sale.
 - (2) A sign may be displayed overhead above the counter where the beer and/or wine is sold. The lettering on such signs shall not be overly conspicuous or the size of the letters exceeding in size the lettering of signs on the other counters where the other products are sold. No other signs may be exposed within or without the retail establishment showing prices or indicating that beer and/or wine is for sale on the premises.
- (c) Retail sales of single cans, bottles or other containers of malt beverages and/or wine shall be allowed.
- (d) No retailer shall purchase beer or wine from any person, other than a wholesaler licensed under this article; provided, however, that this section shall not prohibit the purchase by one retailer of another retailer's entire stock in a bona fide purchase of an ongoing business.
- (e) The General Government Administration Department or its designee may request, from time to time, information concerning purchases and sales of beer and wine from retailers and wholesalers.

~~(Code 1979, § 9-4-21; Code 1998, § 6-48; Ord. No. 07-2003, § 6-48, 7-7-2003; Ord. No. 12-2019, § I, 9-3-2019)~~

Sec. 4-42. - Consumption on the premises.

- (a) **Except as provided below, n**~~No~~ alcoholic beverages shall be sold for consumption on the premises., ~~except in the following licensed establishments~~

(1) The following establishments or businesses, as defined in this Article, may be permitted to sell malt beverages, beer, or wine provided that the use is permissible under the applicable zoning regulations and by Section 4-39 of this Article:

- (i) Eating establishments or restaurants;**
- (ii) Brewpubs;**
- (iii) Bars;**
- (iv) Microbreweries or craft breweries;**
- (v) Distilleries;**
- (vi) Wine specialty shops.**

~~(1) — Eating establishments or restaurants, as defined herein;~~

- ~~(2) — Brewpubs, as defined herein;~~
 - ~~(3) — Microbreweries, as defined herein;~~
 - ~~(4) — Craft breweries, as defined herein;~~
 - ~~(5) — Growler shops, as defined herein;~~
 - ~~(6) — Wine specialty shops, as defined herein;~~
 - ~~(7) — Distillers, as defined herein; and~~
 - ~~(8) — Bars, as defined herein.~~
- (b) Any eating establishment or restaurant, as defined in this article, where alcoholic beverages are sold for consumption on the premises shall have a seating capacity of **at least** 75 persons excluding stools and counters.
 - (c) The only advertisement or sign indicating that alcoholic beverages may be consumed on the premises shall be a menu stating the name, brand or type of alcoholic beverages served and the price per serving. No other sign may be displayed either within or without the eating establishment indicating that alcoholic beverages are sold or may be consumed on the premises.
 - (d) On or before the 20th day of the month following the end of each calendar quarter, the licensee shall file with the General Government Administration Department a gross income report for the proceeding calendar quarter certified under oath by the licensee which contains a percentage breakdown of the amount of alcoholic beverage sales relative to the establishment's total gross income from the sale of prepared meals and food for the preceding applicable quarter. Failure to file a timely and complete report as provided herein, or the filing of an incomplete or fraudulent report, shall constitute grounds for the suspension or revocation of the license issued by the city to such license
- II. Severability: If the provisions of any section, subsection, paragraph, subdivision or clause of his ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgement shall not affect or invalidate the remainder of any ordinance, section, subsection, paragraph, subdivision or clause of this ordinance.
 - III. Repealer: All ordinances or parts thereof which are in conflict with any provision or any section, subsection, paragraph, subdivision or clause of this ordinance are hereby repealed to the extent of the conflict.

DRAFT RECOMMENDATION FOR REVIEW

IN WITNESS WHEREOF, I have hereunto set my hand and cause this seal to be affixed this
____ day of _____, 2022

Craig Newton, Mayor

ATTEST:

Monique Lang, City Clerk

Attachment: Alcohol Ordinance DRAFT Modification v2 (22-6515 : Alcohol Sales Clarification)



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
 COUNCILMEMBER **ARLENE BECKLES** • COUNCILMEMBER **BRUCE GAYNOR** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

City of Norcross

Legislation Details (With Details)

File #:	22-6516	Version:	
Type #:	Agenda Item	Status:	Agenda Ready
On Agenda:	8/1/2022 6:30 PM	In Control:	Mayor and Council
Title:	Handbook Edits		

Sponsors:

Code Sections:

Attachments:

1. [Agenda Report- Employee Handbook Revision](#)
2. [Employee Handbook Revision 7-18-2022](#)

Title
Handbook Edits

Drafter
Camille Washington

Motion
 A motion to approve/deny revisions to the Employee Handbook as presented.



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
COUNCILMEMBER **BRUCE GAYNOR** • COUNCILMEMBER **ARLENE BECKLES** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

Agenda Report

To: Mayor and Council

From: Camille Washington, Human Resources Manager

Meeting Date: August 1, 2022 – Mayor and Council

Item No.: 22-6516

Title: Employee Handbook Revision

CC: Eric Johnson

Recommendation: To adopt the revisions of the 2022 Employee Handbook. The Handbook is revised to update current policies, add policies that did not exist in the older version, and ensure compliance with current employment law. Our policies and procedures change as the City grows, and the Handbook should reflect the same.

Background: With the constant change in our environment and culture, particularly in the last two years, our handbook can quickly become outdated. While reviewing the handbook, certain sections were very critical to the process. I have highlighted the sections of the handbook to reflect the new policies and updates to existing policies in the attachment. They are three policies that are most relevant to this handbook revision. (1) **Political Activities.** This policy is not to prevent anyone from becoming involved in political activities but to help employees navigate the process without hindering their employment with the City of Norcross. (2) **Interim Appointment** by the city manager is established to give employees a clearer understanding of the eligibility, requirements, and responsibilities of the position. (3) **The Gossip Policy** implemented is not to enforce limitations on any employee's right to freedom of speech but instead aims to decrease the erosion of trust and employee morale.

Financial Impact: There is no financial impact attached to the revision of the employee handbook.

Consistent with Comprehensive Plan? Yes

Next Steps: Council approval of the City of Norcross 2022 Employee Handbook and distribute to all City employees.

Attachments:
Employee Handbook Revision

Update: Handbook was reviewed by City Attorney, and updates complete. See attachment.

Attachment: Agenda Report- Employee Handbook Revision (22-6516 : 2022 Employee Handbook Edits)

INTRODUCTION

Purpose of the Handbook - Update

This Employee Handbook was developed to describe many of your responsibilities and expectations as an employee and outlines the policies, programs, and benefits available to eligible employees. [Employees should familiarize themselves with the Employee Handbook's content as soon as possible, as it should answer many questions related to your employment with the City. \(p. 8\)](#)

EMPLOYMENT PRACTICES & POLICIES

Core Business Hours - Update

Friday. Employees may be requested to work late evenings, weekends, [and certain holidays](#).

Georgia law does not require that employers provide lunch periods. However, if possible, the City would like to encourage employees to take time to rejuvenate. This is limited to a one-hour lunch period each day. [The City of Norcross does not compensate for meal periods of thirty minutes or more.](#)

All [Full-time](#) employees are assigned to work a minimum of forty (40) hours per week. [\(p. 9\)](#)

Activities – (new policy)

- A. No employee shall participate in any activity which would substantially compromise the ability of the employee to discharge with neutrality, efficiency, and integrity their duties and obligations to the City of Norcross or the citizens thereof.
- B. No employee, without resigning from their City job effective on their date of qualification, shall run for an elected office or participate in political activities related to running for elected office (including publicizing their political aspirations, seeking endorsements or financial contributions, etc.), or hold any elected office in the City of Norcross.
- C. Employees are encouraged to vote and participate as private citizens in our system of an elected government. [\(p. 11\)](#)

Changes in Personal Information – Update

Equal Employment Opportunity Policy - Update

The City provides equal opportunity to all employees and applicants for employment without regard to race, color, religion, gender, national origin, age, disability, [sex \(including pregnancy and gender identity\)](#), [sexual orientation](#), [parental status](#), [family medical history](#), [genetic information](#), [political affiliation](#), [military service](#), or status as covered veterans following applicable federal, state, and local laws. [\(p. 13\)](#)

Harassment Defined - Update

The two major forms of sexual harassment are Quid Pro Quo (this for that) and Hostile Environment, as described below:

- A hostile or offensive working environment is determined based on the circumstances but shall include severe or pervasive written, verbal, or physical conduct directed toward an employee based on his/her sex, race, religion, national origin, disability, or age. (p. 15)

Abusive behavior, and Malicious Gossip Policy (new policy)

Nepotism - Update

Two (2) or more members of a family shall not be employed within the same department, unit, or section where undue influence or favoritism due to family relationships could exist.

The term "family" is defined as one of the following: spouse, husband, wife, domestic partner, parent, stepparent, child/stepchild, grandparent, grandchild, brother/brother-in-law, sister/sister-in-law, uncle, aunt, nephew, niece, first cousin, in-laws (father, mother, son daughter).

Promotions - Update

When an employee is promoted to a position in a higher job grade, his or her salary shall be increased to the minimum rate for the higher grade, or to the rate in the pay range of the new position, which is immediately at or above his or her present rate of pay not to exceed 5%.

Employees promoted to a new position will be placed on probationary status for six months, and twelve months for public safety employees. The probationary employee will be evaluated at the end of the probationary period. Upon completion of the evaluation, the employee will be notified of the change in status to a regular employee or terminated.

Voluntary Demotion - New

An employee may request a voluntary demotion of a position to a lower pay grade shall receive the following decrease in pay:

- a 5% decrease, or if an employee's current salary is inside the demotion pay grade, they will receive no lower than the pay range minimum.

Disciplinary Demotion - New

Employees demoted to a position in a lower pay grade because of disciplinary action shall receive the following decrease in pay:

- a 5% decrease in pay or the minimum of the current pay grade, whichever is lower.

The Department Head and City Manager may consider the circumstances surrounding the reasons for the demotion and longevity of employment and may make exceptions.

Transfers - Update

Involuntary Transfer – An employee transferred to a position in a lower pay classification at the request of the city to meet the needs of the City may or may not remain at the same salary as before the transfer.

Interim - New

An employee may be appointed to serve regularly appointed or temporarily in a higher class upon the recommendation of the Department Head and approval of the City Manager, provided that the employee meets the eligibility requirements of such higher classification. A temporary promotional appointment shall not exceed 12 weeks but may be extended upon approval by the City Manager. The employee salary shall be adjusted to the minimum of the pay grade for the new position or a rate of pay not to exceed (5%) whichever is greater. Employee shall receive the new pay after assuming responsibilities for a period greater than thirty (30) consecutive days.

(p. 22)

Dual Employment - Update

Employees should disclose in writing to their department head or Human Resources before accepting outside employment, whether part-time, temporary, or permanent. Documentation pertaining to dual employment will be included in the employee's personnel record. The other occupation may not conflict or interfere with or give the appearance of a conflict with the employee's service to the City. Employees shall not engage in any private business or activity while on duty. (p. 23)

Rehiring - Update

Employees who leave the City in good standing and are gone less than 6 months may return to the City at the same rate of pay as when they left. Service may also be bridged and considered continuous service at the discretion of the City Manager. (p. 23)

CONDUCT AND BEHAVIOR

Discipline Procedures - Update

- Format & Location of Documented Actions
- Progressive Discipline
- Disciplinary Options
- Employee Notice

(pp. 2-29)

Grievance Policy & Procedures – Update

- Policy Statement
- General Provisions
- Areas Considered NON-Grievances
- Procedures
- Appeal Procedures
- Appeal to the City Manager
- Meeting with City Manager
- Evidence
- Administration

(pp 30-34)

Lactation Accommodation - Update

The City of Norcross will provide a reasonable amount of break time for employees to express breast milk for a total of one year from the birth of the child. [Employees wishing to express breast milk while at work are required to use paid rest periods already provided to all employees for that purpose.](#) (p. 48)

Compensation – Update

Employee Performance Evaluation

The City has adopted an employee performance analysis system and evaluation process to help the supervisor and employee understand their goals to accomplish the job more efficiently. [The performance evaluation is intended to ensure all employees are aware of what duties and responsibilities are expected and that they understand the level of performance expected. The supervisor may use it to determine eligibility for incentive pay considerations as approved by City Manager and Mayor and Council.](#)

Employees Subject to Evaluation

Performance evaluations are conducted for all employees in the classified service of the City. Performance evaluations are conducted every six (6) months from July to December and January to June.

Evaluating During Probationary Period - New

The probationary employee will be evaluated *halfway into* and *at the end of the probationary period*. The Police department may evaluate on a monthly or quarterly basis. Upon completion of the evaluation, the employee will be notified of the change in status to a regular employee or terminated. It is expected that informal evaluations will be conducted during the probationary period to assess performance and to advise employees of expectations regarding performance.

Merit Increases - Update

Merit increases are not guaranteed and are based upon employees' performance and are subject to funding. The amount of an increase should be consistent with the approved merit budget. All merit increases should be discussed and approved by City Manager before a discussion with the employee. Employees that have capped out on their salary will receive a percentage based on their performance review score in place of a merit increase.

Eligibility - New

Regular full-time employees with at least one (1) year of continuous service and a favorable performance review score are considered eligible. Newer employees that have not completed their probationary period are not eligible.

(pp. 49-53)

BENEFITS - Update

Retirement Plans - Update

Defined Benefit Retirement Plan (Pension)

The City provides a Defined Benefits Plan (pension) for employees. Employees are required to participate in the plan. Employees are eligible to participate in the defined benefits plan on the first day of employment. Employees become vested and eligible for pension benefits under the pension plan upon completion of five (5) years of employment. Employees hired after November 1, 2011, will contribute three percent (3%) of gross salary toward their Defined Benefit and the city will contribute seven percent (7%). Employees hired after March 8, 2022, are not eligible for post-retirement health benefits.

(p. 64)

Vacation - Update

Eligibility-Full-time Regular and Police Department Employees. Newly hired department heads may receive a vacation accrual rate of 4.62 as determined by the City Manager.

(p. 65)

Holidays - New

Juneteenth

Two Personal Holidays

(p. 67)

LEAVES OF ABSENCE - New

Administrative Leave Policy

(p. 69)

COVID-19 Sick Leave - New

(pp. 75-76)

Military Leave Policy - Update

Eligibility for Leave – Update

(p. 77)

Re-employment Rights and Employment Benefits - Update

(p. 79)

SAFETY, HEALTH, AND THE ENVIRONMENT - Update

Family Members as Passenger in City Vehicles

(p. 82)



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
COUNCILMEMBER **ARLENE BECKLES** • COUNCILMEMBER **BRUCE GAYNOR** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

City of Norcross

Legislation Details (With Details)

File #:	22-6517	Version:	
Type #:	Agenda Item	Status:	Agenda Ready
On Agenda:	8/1/2022 6:30 PM	In Control:	Mayor and Council
Title:	Services Agreement Between Flock Group Inc (Flock Safety) and Norcross PD		

Sponsors:

Code Sections:

Attachments:

1. [Agenda Report- Services Agreement - Flock Group Inc](#)
2. [Agreement- Flock Group Inc and Norcross PD](#)

Title

Services Agreement Between Flock Group Inc (Flock Safety) and Norcross PD

Drafter

Bill Grogan

Motion

A motion to Approve/Deny an agreement with the City of Norcross Police Department and Flock Group Inc for the purchase of 22 Flock Safety LPR cameras as part of our ongoing effort to solve crimes using the latest technology available.



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
COUNCILMEMBER **BRUCE GAYNOR** • COUNCILMEMBER **ARLENE BECKLES** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

Agenda Report

To: Mayor and Council

From: Bill Grogan, Chief of Police

Agenda: August 1, 2022 – Mayor and Council

Agenda #: 22-6517

Item: **Services Agreement between Flock Group Inc (Flock Safety) and Norcross PD**

CC: Eric Johnson

Recommendation

Approve a services agreement with Flock Group Inc (Flock Safety) to provide the Norcross Police Department with 22 Flock Safety cameras. The cost has been included in the proposed FY 23 budget, therefore approval of the Flock Group Inc services agreement should be contingent upon the approval of the proposed budget.

Background

Cameras, specifically LPR, continue to be one of our main investigative resources. Our current array of License Plate Reader (LPR) cameras in the City are reaching end of life and lack the crime-solving capability technology that is now available. Flock Safety is the sole source provider of multi-agency integration and sharing of license plate reader (LPR) technology. Most cities/counties, and numerous HOAs, in and around the Atlanta area have partnered with Flock to provide real-time LPR equipment/web software that allows agencies to identify wanted vehicles/operators at the moment they drive past cameras. We have an existing MOU with Flock that allows us to search LPR reads from Gwinnett County PD, Gateway 85, and surrounding agencies. We have also integrated our RedSpeed school zone cameras into the Flock software giving us some LPR capability on those roads (at no additional cost to City). We need to add our own Flock supplied cameras to uncovered roads/areas in order to have the greatest chance of solving crimes with the latest technology available.

Financial Impact

Included in FY23 budget proposal: Year One Total: \$65,500.00
Future service/access/equipment lease recurring annual total: \$ 58,500.00

Funding source: School Zone Speed Detection funds

Consistent with Comprehensive Plan?

Yes; Community Vision Goal 2: Continue to Strengthen Norcross as a Livable, Inclusive, and Safe Environment and Goal 6: ...High Level of Quality Services.

Next Steps

Council approval / vote.

Attachments

Agreement - Flock Group Inc and Norcross PD

**FLOCK GROUP INC.
SERVICES AGREEMENT
ORDER FORM**

This Order Form together with the Terms (as defined herein) describe the relationship between Flock Group Inc. (“**Flock**”) and the customer identified below (“**Agency**”) (each of Flock and Customer, a “**Party**”). This order form (“**Order Form**”) hereby incorporates and includes the “GOVERNMENT AGENCY AGREEMENT” attached (the “**Terms**”) which describe and set forth the general legal terms governing the relationship (collectively, the “**Agreement**”). The Terms contain, among other things, warranty disclaimers, liability limitations and use limitations.

The Agreement will become effective when this Order Form is executed by both Parties (the “**Effective Date**”).

Agency: GA - Norcross PD Legal Entity Name: Norcross, Georgia, a municipal corporation.	Contact Name: Bill Grogan
Address: 65 Lawrenceville St Norcross, Georgia 30071	Phone: (770) 448-2111 E-Mail: bgrogan@norcrosspd.com
Expected Payment Method:	Billing Contact: (if different than above)

Initial Term: 12 months or until August 31, 2022, the end of the Agency’s current fiscal year. Renewal Term: 12months	Billing Term: Annual payment due Net 30 per terms and conditions
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Name	Price	QTY	Subtotal
Falcon Flex	\$3,000.00	2.00	\$6,000.00
Flock Safety Advanced Search <25 Falcons	\$2,500.00	1.00	\$2,500.00
Professional Services - Falcon, Standard Implementation	\$350.00	20.00	\$7,000.00
Falcon Camera	\$2,500.00	20.00	\$50,000.00

(Includes one-time fees)

Year 1 Total \$65,500.00

Recurring Total: \$58,500.00

I have reviewed and agree to the Customer Implementation Guide on Schedule B at the end of this agreement.

By executing this Order Form, Agency represents and warrants that it has read and agrees all of the terms and conditions contained in the Terms attached. The Parties have executed this Agreement as of the dates set forth below.

FLOCK GROUP, INC.

Agency: GA - Norcross PD

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

flock safety

GOVERNMENT AGENCY AGREEMENT

This Government Agency Agreement (this “**Agreement**”) is entered into by and between Flock Group, Inc. with a place of business at 1170 Howell Mill Rd NW Suite 210, Atlanta, GA 30318 (“**Flock**”) and the police department or government agency identified in the signature block of the order form (“**Agency**”) (each a “**Party**,” and together, the “**Parties**”).

RECITALS

WHEREAS, Flock offers a software and hardware solution for automatic license plate detection through Flock’s technology platform (the “**Flock Service**”), and upon detection, the Flock Services are capable of capturing audio, image, and recordings data of suspected vehicles (“**Footage**”) and can provide notifications to Agency upon the instructions of Non-Agency End User (“**Notifications**”);

WHEREAS, Agency desires access to the Flock Service on existing cameras, provided by Agency, or Flock provided Hardware (as defined below) in order to create, view, search and archive Footage and receive Notifications, including those from non-Agency users of the Flock Service (where there is an investigative or bona fide lawful purpose) such as schools, neighborhood homeowners associations, businesses, and individual users;

WHEREAS, Flock deletes all Footage on a rolling thirty (30) day basis, Agency is responsible for extracting, downloading and archiving Footage from the Flock System on its own storage devices for auditing for prosecutorial/administrative purposes; and

WHEREAS, Flock desires to provide Agency the Flock Service and any access thereto, subject to the terms and conditions of this Agreement, solely for the awareness, prevention, and prosecution of crime, bona fide investigations by police departments, and archiving for evidence gathering (“**Purpose**”).

AGREEMENT

NOW, THEREFORE, Flock and Agency agree as follows and further agree to incorporate the Recitals into this Agreement.

1. DEFINITIONS

Certain capitalized terms, not otherwise defined herein, have the meanings set forth or cross-referenced in this Section 1.

1.1 "**Agency Data**" will mean the data, media and content provided by Agency through the Services. For the avoidance of doubt, the Agency Data will include the Footage.

1.2. "**Agency Hardware**" shall mean the third-party camera owned or provided by Agency and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Services. The term "**Agency Hardware**" excludes the Embedded Software

1.3 "**Authorized End User(s)**" shall mean any individual employees, agents, or contractors of Agency accessing or using the Services through the Web Interface, under the rights granted to Agency pursuant to this Agreement.

1.4 "**Documentation**" will mean text and/or graphical documentation, whether in electronic or printed format, that describe the features, functions and operation of the Services which are provided by Flock to Agency in accordance with the terms of this Agreement.

1.5 "**Embedded Software**" will mean the software and/or firmware embedded or preinstalled on the Agency Hardware.

1.6 "**Flock IP**" will mean the Services, the Documentation, the Embedded Software, the Installation Services, and any and all intellectual property therein or otherwise provided to Agency and/or its Authorized End Users in connection with the foregoing.

1.7 "**Footage**" means still images captured by the Agency Hardware in the course of and provided via the Services.

1.8 "**Hardware**" or "**Flock Hardware**" shall mean the Flock cameras or device, pole, clamps, solar panel, installation components, and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Flock Services. The term "**Hardware**" excludes the Embedded Software.

1.9 "**Implementation Fee(s)**" means the monetary fees associated with the Installation Services, as defined in Section 1.10 below.

1.10 "**Installation Services**" means the services provided by Flock including any applicable installation of Embedded Software on Agency Hardware.

1.11 "**Non-Agency End User(s)**" shall mean any individual, entity, or derivative therefrom, authorized to use the Services through the Web Interface, under the rights granted to pursuant to the terms (or to those materially similar) of this Agreement.

1.12 "**Services**" or "**Flock Services**" means the provision, via the Web Interface, of Flock's software application for automatic license plate detection, searching image records, and sharing Footage.

1.13 “**Support Services**” shall mean Monitoring Services, as defined in Section 2.9 below.

1.14 “**Unit(s)**” shall mean the Agency Hardware together with the Embedded Software.

1.15 “**Usage Fee**” means the subscription fees to be paid by the Agency for ongoing access to Services.

1.16 “**Web Interface**” means the website(s) or application(s) through which Agency and its Authorized End Users can access the Services in accordance with the terms of this Agreement.

2. SERVICES AND SUPPORT

2.1 Provision of Access. Subject to the terms of this Agreement, Flock hereby grants to Agency a non-exclusive, non-transferable right to access the features and functions of the Services via the Web Interface during the Service Term (as defined in Section 6.1 below), solely for the Authorized End Users. The Footage will be available for Agency’s designated administrator, listed on the order form, and any Authorized End Users to access via the Web Interface for thirty (30) days. Authorized End Users will be required to sign up for an account and select a password and username (“**User ID**”). Flock will also provide Agency with the Documentation to be used in accessing and using the Services. Agency shall be responsible for all acts and omissions of Authorized End Users, and any act or omission by an Authorized End User which, if undertaken by Agency, would constitute a breach of this Agreement, shall be deemed a breach of this Agreement by Agency. Agency shall undertake reasonable efforts to make all Authorized End Users aware of the provisions of this Agreement as applicable to such Authorized End User’s use of the Services, and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Services, including without limitation using a third party to host the Web Interface which makes the Services available to Agency and Authorized End Users. Warranties provided by said third party service providers are the agency’s sole and exclusive remedy and flock’s sole and exclusive liability with regard to such third-party services, including without limitation hosting the web interface. Agency agrees to comply with any acceptable use policies and other terms of any third-party service provider that are provided or otherwise made available to Agency from time to time.

2.2 Embedded Software License. Subject to all terms of this Agreement, Flock grants Agency a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Embedded Software as installed on the Hardware or Agency Hardware; in each case, solely as necessary for Agency to use the Services.

2.3 Documentation License. Subject to the terms of this Agreement, Flock hereby grants to Agency a non-exclusive, non-transferable right and license to use the Documentation during the Service Term to Agency’s in connection with its use of the Services as contemplated herein, and under Section 2.4 below.

a. Flock IP. The purpose for usage of the Unit, Documentation, Services, support, and Flock IP are solely to facilitate gathering evidence that could be used in a lawful criminal investigation by the appropriate government agency and not for tracking activities that the system is not designed to capture (“**Permitted Purpose**”). Agency will not, and will not permit any Authorized End Users to, (i) copy or duplicate any of the Flock IP; (ii) decompile, disassemble, reverse engineer or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Flock IP, or attempt to do any of the foregoing, and Agency acknowledges that nothing in this Agreement will be construed to grant Agency any right to obtain or use such source code; (iii) modify, alter, tamper with or repair any of the Flock IP, or create any derivative product from any of the foregoing, or attempt to do any of the foregoing, except with the prior written consent of Flock; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock IP; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within any of the Services or Flock IP; (vi) use the Services, support, Unit, Documentation or the Flock IP for anything other than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent or otherwise transfer or convey, or pledge as security or otherwise encumber, Agency’s rights under Sections 2.1, 2.2, or 2.3.

b. Flock Hardware. Agency understands that all Flock Hardware is owned exclusively by Flock, and that title to any Flock Hardware does not pass to Agency upon execution of this Agreement. Agency is not permitted to remove, reposition, re-install, tamper with, alter, adjust or otherwise take possession or control of Flock Hardware. Notwithstanding the notice and cure period set for in Section 6.3, Agency agrees and understands that in the event Agency is found to engage in any of the restricted actions of this Section 2.4(b), all warranties herein shall be null and void, and this Agreement shall be subject to immediate termination (without opportunity to cure) for material breach by Agency.

2.5 Retained Rights; Ownership. As between the Parties, subject to the rights granted in this Agreement, Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Agency acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Agency further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock’s sole discretion. There are no implied rights.

2.6 Suspension. Notwithstanding anything to the contrary in this Agreement, Flock may temporarily suspend Agency’s and any Authorized End User’s access to any portion or all of the Flock IP or Flock Hardware if (i) Flock reasonably determines that (a) there is a threat or attack on any of the Flock IP; (b) Agency’s or any Authorized End User’s use of the Flock IP disrupts or poses a security risk to the Flock IP or any other Agency or vendor of Flock; (c) Agency or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Flock’s provision of the Services to Agency or any Authorized End User is prohibited by applicable law; (e) any vendor of Flock has suspended or terminated Flock’s access to or use of any third party services or products required to provide the Services to Agency; or (f) Agency has violated any term of this provision, including, but not limited to,

utilizing the Services for anything other than the Permitted Purpose (each such suspension, in accordance with this Section 2.6, a “**Service Suspension**”). Flock will make commercially reasonable efforts, circumstances permitting, to provide written notice of any Service Suspension to Agency (including notices sent to Flock’s registered email address) and to provide updates regarding resumption of access to the Flock IP following any Service Suspension. Flock will use commercially reasonable efforts to resume providing access to the Service as soon as reasonably possible after the event giving rise to the Service Suspension is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits) or any other consequences that Agency or any Authorized End User may incur as a result of a Service Suspension. To the extent that the Service Suspension is not caused by Agency’s direct actions or by the actions of parties associated with the Agency, the expiration of the Term will be tolled by the duration of any suspension (for any continuous suspension lasting at least one full day) prorated for the proportion of cameras on the Agency’s account that have been impacted.

2.7 Installation Services.

2.7.1 Designated Locations. For installation of Flock Hardware, prior to performing the physical installation of the Units, Flock shall advise Agency on the location and positioning of the Units for optimal license plate image capture, as conditions and location allow. Flock may consider input from Agency regarding location, position and angle of the Units (each Unit location so designated by Agency, a “**Designated Location**”). Flock shall have final discretion on location of Units. Flock shall have no liability to Agency resulting from any poor performance, functionality or Footage resulting from or otherwise relating to the Designated Locations or delay in installation due to Agency’s delay in confirming Designated Locations, in ordering and/or having the Designated Location ready for installation including having all electrical work preinstalled and permits ready, if necessary. The deployment plan will confirm the Designated Location. After installation, any subsequent changes to the deployment plan (“**Reinstalls**”) will incur a charge for Flock’s then-current list price for Reinstalls, as listed in the then-current Reinstall Policy (available at <https://www.flocksafety.com/reinstall-fee-schedule>) and any equipment charges. These changes include but are not limited to camera re-positioning, adjusting of camera mounting, re-angling, removing foliage, camera replacement, changes to heights of poles, regardless of whether the need for Reinstalls related to vandalism, weather, theft, lack of criminal activity in view, and the like. Flock Safety shall have full discretion on decision to reinstall Flock Hardware.

2.7.2 Agency Installation Obligations. Agency agrees to allow Flock and its agents reasonable access in and near the Designated Locations at all reasonable times upon reasonable notice for the purpose of performing the installation work. Although the Units are designed to utilize solar power, certain Designated Locations may require a reliable source of 120V AC power, as described in the deployment plan. In the event adequate solar exposure is not available Agency is solely responsible for providing a reliable source of 120V AC power to the Units, if necessary. Additionally, Agency is solely responsible for (i) any permits or associated costs, and managing the

permitting process of installation of cameras or AC power; (ii) any federal, state or local taxes including property, license, privilege, sales, use, excise, gross receipts or other similar taxes which may now or hereafter become applicable to, measured by or imposed upon or with respect to the installation of the Hardware, its use (excluding tax exempt entities), or (iii) any other supplementary cost for services performed in connection with installation of the Hardware, including but not limited to contractor licensing, engineered drawings, rental of specialized equipment or vehicles, third-party personnel (i.e. Traffic Control Officers, Electricians, State DOT-approved poles, etc., if necessary), such costs to be approved by the Agency (“**Agency Installation Obligations**”). In the event that a Designated Location for a Unit requires permits, Flock will provide the Agency with a temporary alternate location for installation pending the permitting process. Once the required permits are obtained, Flock will relocate the Units from the temporary alternate location to the permitted location at no additional cost. Flock will provide options to supply power at each Designated Location. If Agency refuses alternative power supply options, Agency agrees and understands that Agency will not be subject to any reimbursement, tolling, or credit for any suspension period of Flock Services due to low solar. Flock will make all reasonable efforts within their control to minimize suspension of Flock Services. Any fees payable to Flock exclude the foregoing. Without being obligated or taking any responsibility for the foregoing, Flock may pay and invoice related costs to Agency if Agency did not address them prior to the execution of this Agreement or a third party requires Flock to pay. Agency represents and warrants that it has all necessary right title and authority and hereby authorizes Flock to install the Hardware at the Designated Locations and to make any necessary inspections or tests in connection with such installation. Flock is not responsible for installation of Agency Hardware.

2.7.3 Flock’s Obligations. Installation of any Flock Hardware shall be installed in a workmanlike manner in accordance with Flock’s standard installation procedures, and the installation will be completed within a reasonable time from the time that the Designated Locations are confirmed. Following the initial installation of the Hardware and any subsequent Reinstalls or maintenance operations, Flock’s obligation to perform installation work shall cease; however, for the sole purpose of validating installation, Flock will continue to monitor the performance of the Units for the length of the Term and will receive access to the Footage for a period of three (3) business days after the initial installation in order to monitor performance and provide any necessary maintenance solely as a measure of quality control. Agency understands and agrees that the Flock Services will not function without the Hardware. Labor may be provided by Flock or a third party. Flock is not obligated to install, reinstall, or provide physical maintenance to Agency Hardware.

2.7.4 Security Interest. Flock Hardware shall remain the personal property of Flock and will be removed upon the natural expiration of this Agreement at no additional cost to Agency. Agency shall not perform any acts which would interfere with the retention of title of the Hardware by Flock. Should Agency default on any payment of the Flock Services, Flock may remove Hardware at Flock’s discretion. Such removal, if made by Flock, shall not be deemed a waiver of Flock’s rights to any damages Flock may sustain as a result of Agency’s default and Flock shall have the right to enforce any other legal remedy or right.

2.8 Hazardous Conditions. Unless otherwise stated in the Agreement, Flock's price for its services under this Agreement does not contemplate work in any areas that contain hazardous materials, or other hazardous conditions, including, without limit, asbestos, lead, toxic or flammable substances. In the event any such hazardous materials are discovered in the designated locations in which Flock is to perform services under this Agreement, Flock shall have the right to cease work immediately in the area affected until such materials are removed or rendered harmless.

2.9 Support Services. Subject to the payment of fees, Flock shall monitor the performance and functionality of Flock Services and may, from time to time, advise Agency on changes to the Flock Services, Installation Services, or the Designated Locations which may improve the performance or functionality of the Services or may improve the quality of the Footage. The work, its timing, and the fees payable relating to such work shall be agreed by the Parties prior to any alterations to or changes of the Services or the Designated Locations ("**Monitoring Services**"). Subject to the terms hereof, Flock will provide Agency with reasonable technical and on-site support and maintenance services ("**On-Site Services**") in-person or by email at support@flocksafety.com. Flock will use commercially reasonable efforts to respond to requests for support.

2.10 Special Terms. From time to time, Flock may offer certain "Special Terms" related to guarantees, service and support which are indicated in the proposal and on the order form and will become part of this Agreement, upon Agency's consent. To the extent that any terms of this agreement are inconsistent or conflict with the Special Terms, the Special Terms shall control.

2.10 Changes to Platform. Flock may, in its sole discretion, make any changes to any system or platform that it deems necessary or useful to (i) maintain or enhance (a) the quality or delivery of Flock's products or services to its Agency s, (b) the competitive strength of, or market for, Flock's products or services, (c) such platform or system's cost efficiency or performance, or (ii) to comply with applicable law.

3. RESTRICTIONS AND RESPONSIBILITIES

3.1 Agency Obligations. Flock will assist Agency end-users in the creation of a User ID. Agency agrees to provide Flock with accurate, complete, and updated registration information. Agency may not select as its User ID a name that Agency does not have the right to use, or another person's name with the intent to impersonate that person. Agency may not transfer its account to anyone else without prior written permission of Flock. Agency will not share its account or password with anyone, and must protect the security of its account and password. Agency is responsible for any activity associated with its account. Agency shall be responsible for obtaining and maintaining

any equipment and ancillary services needed to connect to, access or otherwise use the Services. Agency will, at its own expense, provide assistance to Flock, including, but not limited to, by means of access to, and use of, Agency facilities, as well as by means of assistance from Agency personnel, to the limited extent any of the foregoing may be reasonably necessary to enable Flock to perform its obligations hereunder, including, without limitation, any obligations with respect to Support Services or any Installation Services.

3.2 Agency Representations and Warranties. Agency represents, covenants, and warrants that Agency will use the Services only in compliance with this Agreement and all applicable laws and regulations, including but not limited to any laws relating to the recording or sharing of video, photo, or audio content. Although Flock has no obligation to monitor Agency's use of the Services, Flock may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of the foregoing.

4. CONFIDENTIALITY; AGENCY DATA

4.1 Confidentiality. To the extent allowable by applicable FOIA and state-specific Public Records Acts, each Party (the "**Receiving Party**") understands that the other Party (the "**Disclosing Party**") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (hereinafter referred to as "**Proprietary Information**" of the Disclosing Party). Proprietary Information of Flock includes non-public information regarding features, functionality and performance of the Services. Proprietary Information of Agency includes non-public data provided by Agency to Flock or collected by Flock via the Unit, including the Footage, to enable the provision of the Services, which includes but is not limited to geolocation information and environmental data collected by sensors built into the Units ("**Agency Data**"). The Receiving Party agrees: (i) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the party takes with its own proprietary information, but in no event will a party apply less than reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. Flock's use of the Proprietary Information may include processing the Proprietary Information to send Agency alerts, such as when a car exits Agency's neighborhood, or to analyze the data collected to identify motion or other events. The Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to contest such order. For clarity, Flock may access, use, preserve and/or disclose the Footage to law enforcement authorities, government officials, and/or third parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to: (a) comply with a legal process or request; (b) enforce this Agreement, including investigation of any potential violation thereof; (c) detect, prevent or

otherwise address security, fraud or technical issues; or (d) protect the rights, property or safety of Flock, its users, a third party, or the public as required or permitted by law, including respond to an emergency situation. Agency hereby expressly grants Flock a non-exclusive, worldwide, perpetual, royalty-free right and license (during and after the term hereof) to disclose the Agency Data (inclusive of any Footage) to enable law enforcement monitoring against law enforcement hotlists as well as provide Footage search access to law enforcement for investigative purposes only. Flock may store deleted Footage in order to comply with certain legal obligations but such retained Footage will not be retrievable without a valid court order.

4.2 Agency Data.. As between Flock and Agency, all right, title and interest in the Agency Data, belong to and are retained solely by Agency. Agency hereby grants to Flock a limited, non-exclusive, royalty-free, worldwide license to use the Agency Data and perform all acts with respect to the Agency Data as may be necessary for Flock to provide the Flock Services to Agency, including without limitation the Support Services set forth in Section 2.9 above, and a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully paid license to use, reproduce, modify and distribute the Agency Data as a part of the Aggregated Data (as defined in Section 4.4 below). As between Agency and Non-Agency End Users that have prescribed access of Footage to Agency, each of Agency and Non-Agency End Users will share all right, title and interest in the Non-Agency End User Data. This Agreement does not by itself make any Non-Agency End User Data the sole property or the Proprietary Information of Agency. Flock will automatically delete Footage older than thirty (30) days. Agency has a thirty (30) day window to view, save and/or transmit Footage to the relevant government agency prior to its deletion.

4.3 Feedback. If Agency provides any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the subject matter hereunder, Agency hereby assigns (and will cause its agents and representatives to assign) to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

4.4 Aggregated Data. Notwithstanding anything in this Agreement to the contrary, Flock shall have the right to collect and analyze data that does not refer to or identify Agency or any individuals or de-identifies such data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Agency Data and data derived therefrom). For the sake of clarity, Aggregated Data is compiled anonymous data which has been stripped of any personal identifying information. Agency acknowledges that Flock will be compiling anonymized and/or aggregated data based on Agency Data input into the Services (the “**Aggregated Data**”). Agency hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right and license (during and after the Service Term hereof) to (i) use and distribute such Aggregated Data to improve and enhance the Services and for other development, diagnostic and corrective purposes, other Flock offerings, and crime prevention efforts, and (ii) disclose the Agency Data (both inclusive of any Footage) to enable law enforcement monitoring against law enforcement hotlists as well as provide Footage search access to law enforcement for investigative purposes only. No rights or licenses are granted as expressly set forth herein. Flock shall not sell Agency Data or Aggregated Data.

5. PAYMENT OF FEES

5.1a **Wing Fees.** For Wing products, the Agency will pay Flock the first Usage Fee and the Implementation Fee (as described on the Order Form attached hereto, together the “*Initial Fees*”) as set forth on the Order Form on or before the 30th day following the Effective Date of this Agreement. Flock shall have no liability resulting from any delay by the Agency in installing the Embedded Software on the Agency Hardware. If applicable, Agency shall pay the ongoing Usage Fees set forth on the Order Form with such Usage Fees due and payable thirty (30) days in advance of each payment period. All payments will be made by either ACH, check, or credit card.

5.1b **Falcon Fees.** For Falcon products during the Initial Term, Agency will pay Flock fifty percent (50%) of the first Usage Fee, the Implementation Fee and any fee for Hardware (as described on the Order Form attached hereto, together the “*Initial Fees*”) as set forth on the Order Form on or before the 30th day following receipt of initial invoice after Effective Date. Upon commencement of installation, Flock will issue an invoice for twenty-five percent (25%) of the Initial Fees, and Agency shall pay on or before 30th day following receipt of invoice. Upon completion of installation, Flock will issue an invoice for the remaining balance and Agency shall pay on or before 30th day following receipt of final invoice. Flock is not obligated to commence the Installation Services unless and until the first payment has been made and shall have no liability resulting from any delay related thereto. For a Renewal Term, as defined below, Agency shall pay the entire invoice on or before the 30th day following receipt of invoice.

5.2 **Changes to Fees.** Flock reserves the right to change the fees or applicable charges and to institute new charges and fees at the end of the Initial Term or any Renewal Term, upon sixty (60) days’ notice prior to the end of such Initial Term or Renewal Term (as applicable) to Agency (which may be sent by email). If Agency believes that Flock has billed Agency incorrectly, Agency must contact Flock no later than sixty (60) days after the closing date on the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit. Inquiries should be directed to Flock’s Agency support department. Agency acknowledges and agrees that a failure to contact Flock within this sixty (60) day period will serve as a waiver of any claim Agency may have had as a result of such billing error.

5.3 **Invoicing, Late Fees; Taxes.** Flock may choose to bill through an invoice, in which case, full payment for invoices issued in any given month must be received by Flock thirty (30) days after the mailing date of the invoice. If Agency is a non-tax exempt entity, Agency shall be responsible for all taxes associated with Services other than U.S. taxes based on Flock’s net income.

6. TERM AND TERMINATION

6.1a Wing Term. Subject to earlier termination as provided below, the initial term of this Agreement shall be for the period of time set forth on the Order Form (the “**Initial Term**”). The Initial Term shall commence upon execution of this Agreement. *Following the Initial Term, unless otherwise indicated on the Order Form, this Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form* (each, a “**Renewal Term**”, and together with the Initial Term, the “**Service Term**”) *unless either party gives the other party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.* This Agreement shall terminate absolutely and without further obligation on the part of the Agency on August 31 of the year in which this Agreement was executed and on August 31 of each subsequent year for which it may be renewed as provided above.

6.1b Falcon Term. Subject to earlier termination as provided below, the initial term of this Agreement shall be for the period of time set forth on the Order Form (the “**Initial Term**”). The Term shall commence upon first installation and validation of a Unit and shall terminate on August 31 of the calendar year in which this Agreement was executed, unless the Agreement is automatically renewed as set forth below. *Following the Initial Term, unless otherwise indicated on the Order Form, this Agreement will automatically renew for successive renewal terms for the length set forth on the Order Form* (each, a “**Renewal Term**”, and together with the Initial Term, the “**Service Term**”) *unless either party gives the other party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.* This Agreement shall terminate absolutely and without further obligation on the part of the Agency on August 31 of the year in which this Agreement was executed and on August 31 of each subsequent year for which it may be renewed as provided above.

6.2 Termination for Convenience. At any time during the agreed upon Term, an Agency not fully satisfied with the service may self-elect to terminate this Agreement for convenience. Termination for convenience will result in a one-time fee of \$500 per Flock Hardware. Upon termination for convenience, a refund will be provided for Falcon Cameras, prorated for any fees for the remaining Term length set forth previously. Agency will remain liable to pay the full outstanding fees for any Wing product on the effective date of termination of that Order Form. Flock will invoice, and Agency will pay, any unbilled fees and any unpaid fees covering the remainder of the term of that Order Form had it not been terminated. Termination for convenience of the Agreement by the Agency will be effective immediately. Flock will provide advanced written notice and remove all Flock Hardware at Flock’s own convenience, within a commercially reasonable period of time upon termination.

6.3 Termination. Notwithstanding the termination provisions in Section 2.4(b), in the event of any material breach of this Agreement, the non-breaching party may terminate this Agreement prior to the end of the Service Term by giving thirty (30) days prior written notice to the breaching party; provided, however, that this Agreement will not terminate if the breaching party has cured the breach prior to the expiration of such thirty (30) day period. Either party may terminate this Agreement, without notice, (i) upon the institution by or against the other party of insolvency, receivership or bankruptcy proceedings, (ii) upon the other party's making an assignment for the benefit of creditors, or (iii) upon the other party's dissolution or ceasing to do business. Upon termination for Flock’s

material breach, Flock will refund to Agency a pro-rata portion of the pre-paid fees for Services not received due to such termination.

6.5 No-Fee Term. For the Term of this Agreement, Flock will provide Agency with complimentary access to ‘hot-list’ alerts, which may include ‘hot tags’, stolen vehicles, Amber Alerts, etc. (“**No-Fee Term**”). In the event a Non-Agency End User grants Agency access to Footage and/or Notifications from a Non-Agency End User Unit, Agency will have access to Non-Agency End User Footage and/or Notifications until deletion, subject to the thirty (30) day retention policy. Non-Agency End Users and Flock may, in their sole discretion, leave access open. The No-Fee Term will survive the Term of this Agreement. Flock, in its sole discretion, can determine not to provide additional No-Fee Terms or can impose a price per No-Fee Term upon thirty (30) days’ notice. Agency may terminate any No-Fee Term or access to future No-Fee Terms upon thirty (30) days’ notice.

6.6 Survival. The following Sections will survive termination: 2.4, 2.5, 3, 4, 5 (with respect to any accrued rights to payment), 5.4, 6.5, 7.4, 8.1, 8.2, 8.3, 8.4, 9.1 and 10.5.

7. REMEDY; WARRANTY AND DISCLAIMER

7.1 Remedy. Upon a malfunction or failure of Flock Hardware or Embedded Software (a “**Defect**”), Agency must notify Flock’s technical support as described in Section 2.9 above. If Flock is unable to correct the Defect, Flock shall, or shall instruct one of its contractors to repair or replace the Flock Hardware or Embedded Software suffering from the Defect. Flock reserves the right in their sole discretion to refuse or delay replacement or its choice of remedy for a Defect until after it has inspected and tested the affected Unit provided that such inspection and test shall occur within seventy-two (72) hours after Agency notifies the Flock of a known Defect. In the event of a Defect, Flock will repair or replace the defective Unit at no additional cost. In the event that a Unit is lost, stolen, or damaged, Agency may request that Flock replace the Unit at a fee according to the then-current Reinstall Policy (<https://www.flocksafety.com/reinstall-fee-schedule>). Agency shall not be required to replace subsequently lost, damaged or stolen Units, however, Agency understands and agrees that functionality, including Footage, will be materially affected due to such subsequently lost, damaged or stolen Units and that Flock will have no liability to Agency regarding such affected functionality nor shall the Usage Fee or Implementation Fees owed be impacted. Flock is under no obligation to replace or repair Hardware.

7.2 Exclusions. Flock will not provide the remedy described in Section 7.1 if Agency is found to have misused the Flock Hardware, Agency Hardware or Embedded Software in any manner.

7.3 Warranty. Flock shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Installation Services in a professional and workmanlike manner. Upon completion of any installation or repair, Flock shall clean and leave the area in good condition. Services may be temporarily unavailable for scheduled maintenance or unscheduled emergency maintenance, either by Flock or by third-party providers, or because of other causes beyond

Flock's reasonable control, but Flock shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

7.4 Disclaimer. THE REMEDY DESCRIBED IN SECTION 7.1 ABOVE IS AGENCY'S SOLE REMEDY, AND FLOCK'S SOLE LIABILITY, WITH RESPECT TO DEFECTIVE EMBEDDED SOFTWARE. THE FLOCK DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED "AS IS" AND FLOCK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. THIS DISCLAIMER OF SECTION 7.4 ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 10.6, OR IF NO STATE IS MENTIONED IN SECTION 10.6, BY THE LAW OF THE STATE OF GEORGIA.

7.5 Insurance. Flock will maintain commercial general liability policies with policy limits commensurate with the magnitude of Flock's business risk and with at least the minimum coverages specified in the Agency's Financial Policy. Certificates of Insurance with the limits specified above shall be provided within ten (10) days of the Effective Date of this Agreement. The cancellation provision in each such policy shall provide thirty (30) days advance notice of cancellation to the Agency. The Certificate Holder shall read as follows:

City of Norcross, its elected officials and employees
65 Lawrenceville Street
Norcross, Georgia 30071

7.6 Force Majeure. Flock is not responsible nor liable for any delays or failures in performance from any cause beyond its control, including, but not limited to acts of God, changes to law or regulations, embargoes, war, terrorist acts, acts or omissions of third-party technology providers, riots, fires, earthquakes, floods, power blackouts, strikes, weather conditions or acts of hackers, internet service providers or any other third party or acts or omissions of Agency or any Authorized End User.

8. LIMITATION OF LIABILITY; NO FEE TERM; INDEMNITY

8.1 Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY, FLOCK AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL HARDWARE AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY, INCOMPLETENESS OR CORRUPTION OF DATA OR FOOTAGE OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF

BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE OR IDENTIFY AND/OR CORRELATE A LICENSE PLATE WITH THE FBI DATABASE; (D) FOR ANY PUBLIC DISCLOSURE OF PROPRIETARY INFORMATION MADE IN GOOD FAITH; (E) FOR CRIME PREVENTION; OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID AND/OR PAYABLE BY AGENCY TO FLOCK FOR THE SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN THE EVENT OF AN EMERGENCY, AGENCY SHOULD CONTACT 911 AND SHOULD NOT RELY ON THE SERVICES. THIS LIMITATION OF LIABILITY OF SECTION 8 ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 10.6, OR IF NO STATE IS MENTIONED IN SECTION 10.6, BY THE LAW OF THE STATE OF GEORGIA.

8.2 Additional No-Fee Term Requirements. IN NO EVENT SHALL FLOCK'S AGGREGATE LIABILITY, IF ANY, ARISING OUT OF OR IN ANY WAY RELATED TO THE COMPLIMENTARY NO-FEE TERM AS DESCRIBED IN SECTION 6.5 EXCEED \$100, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE. Parties acknowledge and agree that the essential purpose of this Section 8.2 is to allocate the risks under the No-Fee Term described in Section 6.5 and limit potential liability given the aforementioned complimentary service, which would have been substantially higher if Flock were to assume any further liability other than as set forth herein. Flock has relied on these limitations in determining whether to provide the complimentary No-Fee Term. The limitations set forth in this Section 8.2 shall not apply to claims or damages resulting from Flock's other obligations under this Agreement.

8.3 Responsibility. Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, deputies, officers, or agents, in connection with the performance of their official duties under this Agreement. Each Party to this Agreement shall be liable (if at all) only for the torts of its own officers, agents, or employees that occur within the scope of their official duties. Agency will not pursue any claims or actions against Flock's suppliers.

8.4 Indemnity. Agency hereby agrees to indemnify and hold harmless Flock against any damages, losses, liabilities, settlements and expenses in connection with any claim or action that arises from an alleged violation of Section 3.2, a breach of this Agreement, Agency's Installation Obligations, Agency's sharing of any data in connection with the Flock system, Flock employees or agent or Non-Agency End Users, or otherwise from Agency's use of the Services, Flock Hardware, Agency Hardware and any Embedded Software, including any claim that such actions violate applicable law or third party right. Although Flock has no obligation to monitor Agency's use of the Services, Flock

may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of Section 3.2 or this Agreement; provided however, that nothing contained herein shall be construed to be a contractual waiver of the Agency's sovereign immunity

9. RECORD RETENTION

9.1 Data Preservation. The Agency agrees to store Agency Data in compliance with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules. As part of Agency's consideration for paid access and no-fee access to the Flock System, to the extent that Flock is required by local, state or federal law to preserve the Agency Data, Flock will notify Agency of the requirement and applicable retention period, and Agency agrees to preserve and securely store this data on Flock's behalf so that should Flock be legally compelled by judicial or government order, Flock may retrieve the data from Agency upon demand.

10. MISCELLANEOUS

10.1 Severability. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.

10.2 Assignment. This Agreement is not assignable, transferable or sublicensable by Agency except with Flock's prior written consent. Flock may transfer and assign any of its rights and obligations, in whole or in part, under this Agreement without consent.

10.3 Entire Agreement. This Agreement, together with the Order Form(s), the then-current Reinstall Policy (<https://www.flocksafety.com/reinstall-fee-schedule>), and Deployment Plan(s), are the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. None of Agency's purchase orders, authorizations or similar documents will alter the terms of this Agreement, and any such conflicting terms are expressly rejected.

10.4 **Relationship.** No agency, partnership, joint venture, or employment is created as a result of this Agreement and Agency does not have any authority of any kind to bind Flock in any respect whatsoever.

10.5 **Governing Law; Venue.** This Agreement shall be governed by the laws of the State in which the Agency is located. The parties hereto agree that venue would be proper in the chosen courts of the State of which the Agency is located. The parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement.

10.6 **Publicity.** Upon prior consent from Agency, Flock has the right to reference and use Agency's name and trademarks and disclose the nature of the Services provided hereunder in each case in business and development and marketing efforts, including without limitation on Flock's website.

10.7 **Export.** Agency may not remove or export from the United States or allow the export or re-export of the Flock IP or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. As defined in FAR section 2.101, the Services, the Hardware, the Embedded Software and Documentation are "commercial items" and according to DFAR section 252.2277014(a)(1) and (5) are deemed to be "commercial computer software" and "commercial computer software documentation." Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

10.8 **Headings.** The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated Sections.

10.09 **Authority.** Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the organizations and individuals they are representing.

10.10 **Notices.** All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

10.11 **Approval by Agency.** Approval of this Agreement by the Agency is contingent on an affirmative vote by the Mayor and Council of the City of Norcross in a public meeting consistent with the requirements of the Georgia Open Meetings Act, O.C.G.A. § 50-14-1 et seq. and shall be authenticated by the subsequent execution of this Agreement by the Mayor of the City of Norcross after such affirmative vote.

10.12 **Execution in Multiple Counterparts.** This Agreement may be executed in multiple counterparts, and all such counterparts shall be taken together so that they may constitute a completely executed Agreement between the Parties.



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
COUNCILMEMBER **ARLENE BECKLES** • COUNCILMEMBER **BRUCE GAYNOR** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

City of Norcross

Legislation Details (With Details)

File #:	22-6518	Version:	
Type #:	Agenda Item	Status:	Agenda Ready
On Agenda:	8/1/2022 6:30 PM	In Control:	Mayor and Council
Title:	Amendment to View Point Health Contract for Services		

Sponsors:

Code Sections:

Attachments:

1. [Agenda Report- Amendment to Contract for Services - View Point Health](#)
2. [Contract for Services](#)
3. [First Amendment to Contract for Services](#)

Title

Amendment to View Point Health Contract for Services

Drafter

Bill Grogan

Motion

A motion to Approve/Deny an amendment to the existing contract for services with View Point Health to provide the Norcross Police Department with a second additional mental health co-responder clinician, at the increased annual cost of \$89,970 x 2 = \$179,940 for both clinicians, with funding to come from the DOJ Grant based on approval.



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COUNCILMEMBER **BRUCE GAYNOR** • COUNCILMEMBER **ARLENE BECKLES** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

Agenda Report

To: Mayor and Council
From: Bill Grogan, Chief of Police
Agenda: August 1, 2022 – Mayor and Council
Agenda #: 22-6518
Item: Amendment to View Point Health Contract for Services
CC: Eric Johnson

Recommendation

Approve an amendment to our existing contract with View Point Health which increases the number of VPH clinicians assigned to Norcross to two (2) beginning September 1, 2022. The amendment also extends the original contract term until August 31, 2023 and specifies the annual cost over that period. The new annual cost has already been included in the proposed FY 23 budget, therefore approval of this amendment should be contingent upon adoption of the proposed budget.

Background

The benefits we have gained from having a co-responder in 2022 include improved overall outcomes of interactions involving individuals in crisis, reduced repeat calls for service, improved law-enforcement-community relations, and minimized strain on agency resources. Moreover, it allows officers more time to patrol the city and respond to calls in a timely manner. There is presently one View Point Health (VPH) co-responder clinician, Patricia Webb, dedicated to the Norcross Police Department. There have been some significant challenges that have surfaced with having only one clinician on staff. It is often difficult for one person to follow up with individuals when there are constant new calls. There is also the issue of not having adequate coverage when the current clinician is out of the office or not on duty. The current clinician receives an average of 8-10 new incidents per week while on duty and misses 6-8 calls when off duty. During the day, she responds to crisis calls, conducts follow up visits from previous calls, participates in hospital discharge planning, inputs client data into the VPH system to connect them with services, and



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partners with outside agencies to connect individuals who need services beyond VPH. We have experienced immense success since the Norcross Police Department launched the Law Enforcement Co-Responder Program in December. The clinician has developed a rapport with officers and raised their awareness of mental health concerns. Additionally, there has been a noticeable decrease in the number of repeated calls to certain addresses, and there have been more opportunities for individuals to divert from jails and hospitals to appropriate levels of care. In addition to responding to crisis calls, the co-responder sometimes accompanies these individuals to the emergency room of a hospital, so they are properly admitted and transferred to the appropriate facility. Communication with the behavioral hospital is necessary to develop a discharge plan, link individuals with appropriate services. The co-responder has also partnered with local schools to bring awareness to issues such as abuse and bullying, she also connects juveniles detained by the NPD with appropriate mentoring programs, counseling, and additional school support. The co-responder has been able to link several individuals with temporary and permanent housing options.

Financial Impact

The annual cost of \$62,000 for our current co-responder is funded via a DOJ grant for 2022. When initially creating this co-responder program, VPH assumed that a portion of the clinicians' duties would be services that are billed to insurance and/or billed under "State Contracted Services." VPH learned they are not able to bill for any services due to insurance and the nature of the calls we have been responding to. In order to avoid limiting the scope of work or the individuals we are able to provide services to the cost of the clinicians are being increased. This will allow NPD to utilize clinicians without limits or barriers. The same DOJ grant is available for 2023 and our grant writer will request funding for 2 clinicians at the increased cost (\$89,970 x 2 = \$179,940). Receipt of the funds is always at the discretion of the DOJ, but we will submit the request in hopes of obtaining it. Otherwise, we recommend School Zone Speed Detection funds be used for this ongoing public safety initiative.

Consistent with Comprehensive Plan?

Yes; Community Vision Goal 2: Continue to Strengthen Norcross as a Livable, Inclusive, and Safe Environment and Goal 6: ...High Level of Quality Services.

Next Steps

Council approval / vote.

Attachments

65 LAWRENCEVILLE STREET, NORCROSS, GEORGIA 30071
(678) 421-2027 **UPSTAIRS CITY HALL** (770) 242-0824 **FAX** (770) 448-2111 **POLICE DEPARTMENT**
<http://www.norcrossga.net>



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
COUNCILMEMBER **BRUCE GAYNOR** • COUNCILMEMBER **ARLENE BECKLES** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

Original Contract for Services - VPH
First Amendment to Contract for Services - VPH

65 LAWRENCEVILLE STREET, NORCROSS, GEORGIA 30071
(678) 421-2027 **UPSTAIRS CITY HALL** (770) 242-0824 **FAX** (770) 448-2111 **POLICE DEPARTMENT**
<http://www.norcrossga.net>

Attachment: Agenda Report- Amendment to Contract for Services - View Point Health (22-6518 : Amendment to View Point Health Contract for



Contract for Services



BETWEEN:

City of Norcross
65 Lawrenceville St
Norcross, GA 30071

View Point Health
175 Gwinnett Dr., Suite 365
Norcross, GA 30046

These parties enter into this Contract for Service ("Contract") regarding Behavioral Health services provided by View Point Health (VPH) effective DEC 16, 2021 (date). This Contract shall remain in effect for one (1) year and renews annually unless either Party gives the other party 30-days written notice of its intent to cancel for any reason. *[Signature]*

- A. Purpose. The City of Norcross and View Point Health (also called the "Parties") establish an understanding whereby a licensed behavioral health clinician will be assigned to the Norcross Police Department to provide mental health services through a Police-Mental Health Collaboration (PMHC) to implement a co-responder program. A PMHC is defined as a collaborative partnership with law enforcement agencies, mental health providers, and other community-based entities. PMHC programs are producing better outcomes for consumers, officers, and agencies.
- B. Duties, Term, and Compensation. View Point Health (VPH) shall provide the Norcross Police Department with fulltime licensed behavioral health clinician(s) to conduct behavioral health evaluations and crisis intervention services to individuals identified by the Norcross 911 Communications Center and/or officers of the Norcross Police Department. The City of Norcross will pay VPH the proposed annual rate of \$62,000.00 for one (1) fulltime, fully licensed clinicians, billable to the City of Norcross on a monthly basis. As the need arises and is mutually agreed upon, additional licensed clinicians maybe added at the same rate. If a clinician is not available during any given month on a full-time basis, the monthly charge shall be adjusted accordingly.
- C. Program Description. The City of Norcross Police Department desires to implement a Police-Mental Health Collaboration (PMHC) co-responder program to supplement and enhance its current Crisis Intervention Team (CIT) service delivery model for mental health crisis response. The PMHC would establish a full scope of behavioral health services to individuals considered to have behavioral and emotional challenges or drug dependency issues in order to eliminate or limit the need for police officers to respond to those in a mental health crisis and further to establish access to a Mobile Crisis Response Team and to provide a Case Management Team for identified individuals. As the public community behavioral health provider, VPH desires to provide these services to the City of Norcross Police Department through a recognized co-responder model. Behavioral Health Services are defined as comprehensive behavioral health assessments, individual and group counseling, linkage to community resources, and other "as needed" behavioral health services.

D. Responsibilities of View Point Health:

1. VPH will provide the Norcross Police Department with a fulltime behavioral health clinician. The City of Norcross may request a change in the clinician at any time and for any reason.
2. The behavioral health clinician will be available during work hours that were mutually agreed upon by VPH and the Norcross Police Department.
3. VPH will provide a behavioral health clinician that will be available for emergency call out after hours during the week and on weekends and holidays at no additional cost.
4. Within 90 days, VPH will perform an initial comprehensive assessment, develop a service/response plan, and present its findings and recommendations to the Norcross Police Department to further develop and enhance the PMHC co-responder program.
5. VPH assigned staff will serve as a liaison to and collaborate with external organizations and agencies to further the efforts of the Norcross Police Department PMHC.
6. VPH will provide individual and/or group therapy sessions at VPH facilities or in the individual's residence when appropriate.
7. VPH will maintain all counseling documentation in a HIPAA-compliant electronic health record management system.
8. VPH will use its own equipment (e.g., computer, internet access, vehicle, and cellular telephone) to provide all services.
9. VPH will obtain and maintain all Releases of Information before starting treatment and therapy sessions.
10. VPH, through its clinicians with authorized Releases of Information, will coordinate with designated Norcross Police personnel on a monthly basis regarding co-responder status, therapeutic progress and/or additional challenges.
11. VPH staff will work with Norcross Police Department personnel on a mental health alert process for data sharing of information for the protection and health of individuals in which police may respond or have contact. Such a process will be consistent and compliant with all federal and state laws relating to privacy.
12. VPH will provide and supervise all clinicians. All clinicians shall be employees or contractors on VPH and under no circumstances shall the clinicians be held out as or otherwise deemed to be employees of the City of Norcross.
13. VPH and assigned Norcross Police personnel will discuss to determine whether a higher level of service is indicated and necessary such as further assessment or review at the View Point temporary observation unit or admission to the Crisis Stabilization Unit.
14. VPH is responsible for all salaries and fringe benefits associated with its clinicians.
15. VPH clinicians will abide by all applicable City of Norcross policies and procedures, as well as those of the Norcross Police Department.
16. VPH clinicians shall be required to undergo a full background check, including submission to a criminal history background check.
17. VPH clinicians shall be required to undergo any designated training and certification to access restricted criminal history information, as applicable.

18. VPH shall be responsible for aftercare planning and services for as long as one year after the date of this Contract, including Relapse Prevention Planning, self-help, participation in peer-group therapy, and screening of participants in identified programs.
19. VPH will provide all necessary personal protective equipment (e.g.; masks, face shields, gloves, etc.) as needed by its clinicians to safely interact with in-crisis individuals or to conduct therapy sessions.
20. VPH agrees to protect, defend, hold harmless, and indemnify the City (its officers, agents, employees, elected officials, appointed officials, etc.) from and against any and all liability, damages, claims, suits, liens, expenses, and judgments, for whatever nature, including claims for contribution and/or indemnification, for injuries to or death of any person or persons, or damage to the property or other rights of any person or persons to the extent arising out of and attributed to the negligence, recklessness, intentionally wrongful conduct, or errors or omissions of VPH or persons employed or utilized by VPH in the performance of the Contract.

VPH further agrees to protect, defend, indemnify, and hold harmless the City (its officers, agents, employees, elected officials, appointed officials) from and against any and all claims or liability for compensation under the Worker's Compensation Act arising out of injuries sustained by any employee of VPH.

21. VPH will provide and maintain an active certificate of insurance listing the City of Norcross as an additional insured for general liability coverage and for automobile liability coverage. VPH will provide new certificates of insurance as soon as practicable upon renewal of either general liability or automobile liability coverage.

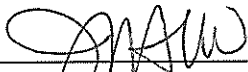
E. Responsibilities of the Norcross Police Department:

1. The Norcross Police Department liaison/representative will be the Uniform Patrol Division Commander or designee.
2. The Norcross Police Department will identify individuals who might benefit from behavioral health services and support.
3. The Norcross Police Department will identify "high utilizers" and/or "complex care clients" for the assignment for VPH services.
4. The Norcross Police Department will make referrals to VPH for it to provide clinical services.
5. The Norcross Police Department will provide private office space for individual counseling sessions or at the View Point assessment and evaluation room when clinicians are working with individuals who need housing or transportation.
6. The Norcross Police Department will maintain no therapeutic records of individuals enrolled in VPH services, nor will any member of the Norcross Police Department access medical records not consistent with public safety objectives pursuant to federal or state laws.

If the Norcross Police Department determines that a clinician is not following policies and procedures or is not fit to provide appropriate and adequate behavior health services as part of this contract, the Norcross Police representative will inform VPH immediately and the VPH clinician will no longer provide program services.

VPH and the Norcross Police Department agree that their designated representatives will meet monthly to evaluate the program's progress. Issues that hinder progress will be addressed in a timely and collaborative manner. A monthly report will be provided by VPH on PMHC's activity.

1. Neither Party is prohibited from entering into negotiations with other third parties regarding the subject of this document.
2. Confidentiality. Both Parties acknowledge that during the period of collaboration each will have access to and become acquainted with various trade secrets, inventions, innovations, processes, information, records, and specifications owned or licensed by the other Party and/or used by the other Party in operating its business including, without limitation, the Party's business and product processes, methods, customer lists, accounts, and procedures. If the information is not subject to the Open Records Act of Georgia, both Parties agree not to disclose the foregoing, directly or indirectly, or use them either during the term of this Contract or thereafter, except as required during this collaboration.
3. Termination. Either Party to this Contract may terminate this Contract at any time by thirty (30) day's written notice to the Chief Executive Officer of VPH or the City Manager of the City of Norcross.
4. Choice of Law. The laws of the State of Georgia shall govern the validity of this Contract, constructing its terms and interpreting the rights and duties of the Parties.
5. Waiver. The waiver by one Party of breach of any provision of this Contract by the other shall not operate to be construed as a continuing waiver.
6. Assignment. The Parties to this Contract shall not assign their rights under this Contract, or delegate the performance of its duties without the prior written consent of the other Party to this Contract.
7. Notices. Any notices, demands, or other communications required or desired to be given by any party shall be in writing and shall be deemed received by the other Party if personally served on a member of its Administration, or if deposited in the United States mail, certified or registered, directed to the City Manager of the City of Norcross or VPH's CEO, postage prepaid, return receipt requested.
8. Modification or Amendment. No amendment, change or modification of this Contract shall be valid unless in writing and signed by the Parties.
9. Service Delivery Notice. Services are primarily funded by the City of Norcross co-responder program and will cease to be provided if funding is no longer available.


View Point Health
Jennifer S. Hibbard
Chief Executive Officer


Craig Newton
Mayor
City of Norcross

FIRST AMENDMENT TO CONTRACT FOR SERVICES

This First Amendment to Contract for Services (“First Amendment”) shall be effective as of the date of execution by and between the original contracting parties to wit: the City of Norcross (the “**City**”), a Local Georgia Government Organization, and View Point Health GRN Community Services Board, now View Point Health, (“VPH”) (collectively, the “**Parties**”).

W I T N E S S E T H

RECITALS

WHEREAS, the Parties entered into a Contract for Services (“Contract”) on the 16th day of December, 2021 for the purposes set forth therein; and

WHEREAS, the Parties are desirous of amending the Contract to add additional staff through this First Amendment, as follows

NOW, THEREFORE in consideration of the execution of this Amendment, Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree to amend the Contract as follows:

1.

The foregoing recitals are incorporated herein by reference and made a part hereof

2.

This First Amendment shall extend the original Contract commencing September 1, 2022 and continuing through August 31, 2023.

3.

Paragraph B. Duties, Term and Compensation of the Contract is hereby amended by adding an additional clinician, thus providing for two (2) full time licensed behavioral health clinicians according to the terms set forth in paragraph B therein.

4.

The annual compensation in paragraph B. Duties, Term and Compensation to be paid to VPH for the two (2) full time clinicians contemplated herein is hereby amended and totals \$179,940.00 for two (2) full time clinicians rather than the per capita amount set forth in the original Contract at paragraph B.

5.

It is the expectation and intent of the Parties hereto that the within First Amendment shall be read, considered and understood in conjunction with the Contract and not displace it except that in the event of a conflict between the terms of this First Amendment and those of the Contract, the terms of this First Amendment shall control. All other terms of the Contract shall remain unaffected and in full force and effect except as expressly modified by this First Amendment.

By signing this proposal, the Parties adhere to the terms of this First Amendment:

View Point Health
Jennifer S. Hibbard
Chief Executive Officer

Craig Newton
Mayor
City of Norcross

Date:_____

Date:_____

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MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
 COUNCILMEMBER **ARLENE BECKLES** • COUNCILMEMBER **BRUCE GAYNOR** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

City of Norcross

Legislation Details (With Details)

File #:	22-6519	Version:	
Type #:	Agenda Item	Status:	Agenda Ready
On Agenda:	8/1/2022 6:30 PM	In Control:	Mayor and Council
Title:	Beaver Ruin Greenway Annual Contract Extension		

Sponsors:

Code Sections:

Attachments:

1. [Agenda Report- Annual Contract](#)
2. [First Amendment to Contract for Professional Services](#)
3. [Original Contract for professional services \(Design Engineering Services\)](#)

Title

Beaver Ruin Greenway Annual Contract Extension

Drafter

Matthew Zaki

Motion

A motion to Approve/Deny the Beaver Ruin Greenway annual contract extension.



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
COUNCILMEMBER **BRUCE GAYNOR** • COUNCILMEMBER **ARLENE BECKLES** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

Agenda Report

To: Mayor and Council
From: **Matthew Zaki**
Agenda: August 1, 2022 – Mayor and Council
Agenda #: 22-6519
Item: **Beaver Ruin Greenway annual contract extension**
CC: Eric Johnson

Recommendation

Approve the Beaver Ruin Greenway annual contract extension.

Background

During the monthly GDOT meeting, it was brought up that the original contract will expire on the 31st of December 2022 and to avoid being out of compliance with the federally funded project, in compliance means the city as the local sponsor will either have to pay back the federal funds that were reimbursed for the period of time where the contract expired, and that the City would either have to pay the Preliminary Engineering moving forward or re-advertise the contract, to avoid being in compliance, the city must extend the term of the contract through an annual amendment.

The services to be performed under this Contract shall commence upon execution of this Contract. The initial term of this contract shall be through December 31, 2019. This Contract shall terminate absolutely and without further obligation on the part of the City on December 31, 2019, and each December 31 of each succeeding and renewed year, as required by O.C.G.A. §36-60-13, as amended, unless terminated earlier in accordance with the provisions of this Contract.

This Contract may be renewed for three (3) additional twelve-month term, upon the same terms and conditions, as provided for in this Contract, unless terminated by the City, by notice to service provider or termination and non-renewal by December 31 of the Contract year. This Contract will terminate on December 31, 2022.

Financial Impact

N/A



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
 COUNCILMEMBER **BRUCE GAYNOR** • COUNCILMEMBER **ARLENE BECKLES** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

Consistent with Comprehensive Plan?

Proceeding forward with this contract extension enforces Goal 2 of the Community Vision outlined in the 2040 Norcross Comprehensive Plan: Continue to strength Norcross as a livable, inclusive, and safe Environment as well as Goal 3 to promote safe and efficient transportation for pedestrians, cyclists.

Next Steps

Upon approval, contracts will be signed by all parties to allow consultant to providing the engineering services

Attachments

- 1) First amendment to contract for professional services
- 2) Original Contract for professional services (Design Engineering services)

Update

N/A

**FIRST AMENDMENT TO
CONTRACT FOR PROFESSIONAL SERVICES
Design Engineering Services**

This First Amendment to Contract for Professional Services (“First Amendment”) shall be effective as of the ____ day of _____ 2022 by and between the original contracting parties to wit: the City of Norcross (the “**City**”), a Local Georgia Government Organization, and Clark Patterson Engineers, Surveyor and Architects, P.C. (“**CPE**”) (collectively, the “**Parties**”).

W I T N E S S E T H

RECITALS

WHEREAS, the Parties entered into a Contract for design engineering services (“Contract”) on the _____ day of _____, 20__ for the purposes set forth therein; and

WHEREAS, the Contract by its terms will expire on 31st day of December, 2022; and

WHEREAS, the Parties are desirous of extending the term of the Contract through this First Amendment as follows,

NOW, THEREFORE in consideration of the execution of this amendment, Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree to amend the Contract as follows:

1.

The foregoing recitals are incorporated herein by reference and made a part hereof

2.

This First Amendment shall amend section **1. TERM** as follows:

The services to be performed under the Contract shall continue upon execution of this Amendment. The term of this Amendment shall be through December 31, 2023. This Amendment shall terminate absolutely and without further obligation on the part of the City on December 31,

2023 and each December 31 of each succeeding and renewed year, as required by O.C.G.A. §36-60-13, as amended, unless terminated earlier in accordance with the provisions of this Amendment or not renewed by either Party by notice to the other Party.

The Term of the Contract through this Amendment may continue and be renewed upon the same terms and conditions on the anniversary date, as provided for in this Amendment, by notice to service provider.

3.

It is the expectation and intent of the Parties hereto that the within First Amendment shall be read, considered and understood in conjunction with the Contract and not displace it except that in the event of a conflict between the terms of this First Amendment and those of the Contract, the terms of this First Amendment shall control. All other terms of the Contract shall remain unaffected and in full force and effect except as expressly modified by this First Amendment.

By signing this proposal, the Parties adhere to the terms of this First Amendment:

City of Norcross, GEORGIA

By: _____

CRAIG NEWTON, MAYOR
City of Norcross, Georgia

ATTEST:

MONIQUE LANG
City Clerk

APPROVED AS TO FORM:

J. PATRICK O'BRIEN
City Attorney

SERVICE PROVIDER:

Clark Patterson Engineers, Surveyor and Architects, P.C.

BY: _____

Jennifer Harper

Print NamePrincipal

Title

ATTEST:

Signature_____
Print Name
Corporate Secretary

(SEAL)

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CONTRACT FOR PROFESSIONAL SERVICES
Design Engineering Services

This **CONTRACT** made and entered into this 22 day of July, 2019 by and between the **City of Norcross, Georgia** (Party of the First Part, hereinafter called the "City"), and, (Party of the Second Part, hereinafter called **Clark Patterson Engineers, Surveyor and Architects, P.C.** the "Service Provider" or "Contractor").

NOW THEREFORE, for and in consideration of the mutual promises and obligations contained herein and under the conditions hereinafter set forth, the parties do hereby agree as follows:

1. TERM:

The services to be performed under this Contract shall commence upon execution of this Contract. The initial term of this Contract shall be through December 31, 2019. This Contract shall terminate absolutely and without further obligation on the part of the City on December 31, 2019 and each December 31 of each succeeding and renewed year, as required by O.C.G.A. §36-60-13, as amended, unless terminated earlier in accordance with the provisions of this Contract.

This Contract may be renewed for three (3) additional twelve-month term, upon the same terms and conditions, as provided for in this Contract, unless terminated by the City, by notice to service provider or termination and non-renewal by December 31 of the Contract year. This Contract will terminate on December 31, 2022.

ATTACHMENTS:

The following documents are attached and are specifically incorporated into this Contract by reference:

- Exhibit A: General Conditions
- Exhibit B: Fees/Rate
- Exhibit C: Scope of Services
- Exhibit D: Timeline
- Exhibit E: Contractor's Affidavit and Agreement
- Exhibit F: Drug Free Workplace

2. PERFORMANCE:

Service Provider agrees to furnish all skill and labor of every description necessary to carry out perform the services in accordance with the Contract Documents (the "work").

3. PRICE:

As full compensation for the performance of this Contract, the City shall pay the Service Provider for the actual quantity of work performed. The amount shown on Exhibit B is the total obligation of the City pursuant to O.C.G.A section 36-60-13(a)(3). The fees for the work to be performed under this Contract shall be charged to the City in accordance with the lump sum fees and rate schedule shown on Exhibit B. The City agrees to pay the Service Provider following receipt by the City of a detailed invoice, reflecting the actual work performed by the Service Provider.

4. INDEMNIFICATION AND HOLD HARMLESS:

[See Section 13 of Exhibit A---General Conditions]

Service Provider further agrees to protect, defend, indemnify, and hold harmless the City, its council members, officers, agents, and employees from and against any and all claims or liability for compensation under the Worker's Compensation Act arising out of injuries sustained by any employee of the Service Provider.

5. TERMINATION FOR CAUSE:

The City may terminate this Contract for cause upon ten (10) days prior written notice to the Service Provider of the Service Provider's default in the performance of any term of this Contract. Such termination shall be without prejudice to any of the City's rights or remedies provided by law.

6. TERMINATION FOR CONVENIENCE:

The City may terminate this Contract for its convenience at any time upon thirty (30) days written notice to the Service Provider. In the event of the City's termination of this Contract for convenience, the Service Provider will be paid for those services actually performed. Partially completed performance of the Contract will be compensated based upon a signed statement of completion to be submitted by the Service Provider who shall itemize each element of performance.

7. TERMINATION FOR FUND APPROPRIATION:

The City may unilaterally terminate this Contract due to a lack of funding at any time by written notice to the Service Provider. In the event of the City's termination of this Contract for fund appropriation, the Service Provider will be paid for those services actually performed. Partially completed performance of the Contract will be compensated based upon a signed statement of completion to be submitted by the Service Provider which shall itemize each element of performance.

8. CONTRACT NOT TO DISCRIMINATE:

During the performance of this Contract, the Service Provider will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, or disability which does not preclude the applicant or employee from performing the essential functions of the position. The Service Provider will also, in all solicitations or advertisements for employees placed by qualified applicants, consider the same without regard to race, creed, color, sex, national origin, age, or disability which does not preclude the applicant from performing the essential functions of the job. The Service Provider will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provision will be binding upon each subservice provider, providing that the foregoing provisions shall not apply to contracts or subservice providers for standard commercial supplies of raw materials.

9. ASSIGNMENT:

The Service Provider shall not sublet, assign, transfer, pledge, convey, sell or otherwise dispose of the whole or any part of this Contract or his right, title, or interest therein to any person, firm, or corporation without the previous consent of the City in writing.

10. WAIVER:

A waiver by either party of any breach of any provision, term, covenant, or condition of this Contract shall not be deemed a waiver of any subsequent breach of the same or any other provision, term, covenant, or condition.

11. SEVERABILITY:

The parties agree that each of the provisions included in this Contract is separate, distinct and severable from the other and remaining provisions of this Contract, and that the invalidity of any Contract provision shall not affect the validity of any other provision or provisions of this Contract.

12. GOVERNING LAW:

The parties agree that this Contract shall be governed and construed in accordance with the laws of the State of Georgia. This Contract has been signed in Gwinnet County, Georgia.

13. MERGER CLAUSE:

The parties agree that the terms of this Contract include the entire Contract between the parties, and as such, shall exclusively bind the parties. No other representations, either oral or written, may be used to contradict the terms of this Contract.

CLARK PATTERSON ENGINEERS, SURVEYOR AND ARCHITECTS, P.C.

City of Norcross

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized agents, have caused this CONTRACT to be signed, sealed and delivered.

Norcross, GEORGIA

By: _____

Gray Newton

 Mayor
 City of Norcross, Georgia

ATTEST: _____

Monique Lang

Monique Lang

 City Clerk



APPROVED AS TO FORM: _____

 City Attorney

SERVICE PROVIDER:

Clark Patterson Engineers, Surveyor and Architects, P.C.

BY: _____

Signature

Jennifer Harper

Print Name

Principal

Title

ATTEST: _____

Signature

RICHARD J. EDINGER

Print Name

Asst Corporate Secretary

(Seal)

Contract #XXXXXXX

Attachment: Original Contract for professional services (Design Engineering Services) (22-6519 : Beaver Ruin Greenway Annual Contract

EXHIBIT A**GENERAL CONDITIONS****1. SCOPE OF WORK**

The Contract will be to provide the work to the City in accordance with the Contract Documents. All work shall be performed in accordance with the Scope of Services attached hereto as Exhibit "C".

2. REGULATIONS

- 2.1 The Contractor shall comply with all applicable federal, state and local laws, ordinances, rules and regulations pertaining to the performance of the work specified herein.
- 2.2 The Contractor shall obtain all permits, licenses and certificates, or any such approvals of plans or specifications as may be required by Federal, State and local laws, ordinances, rules and regulations, for the proper execution of the work specified herein.
- 2.3 During the performance of this Contract, the Contractor shall keep current and, if requested by the City, provide copies of any and all licenses, registrations or permits required by applicable governing agencies. The Contractor shall keep a copy of any and all licenses, registrations and permits on the job site while performing the Contract work.

3. INTENTIONALLY OMITTED**4. CONTRACTOR'S PERSONNEL**

- 4.1 The Contractor will abide by all State and Federal regulations on wages and hours of an employee dealing with the employment relationship between the Contractor and its subsidiaries or related parties and its employees, including but not limited to the Federal National Labor Relations Act, the Federal Fair Labor Standards Act, the Federal Civil Rights Act of 1964, as amended, and the Americans with Disabilities Act.
- 4.2 The Contractor shall require all prospective employees to show proof of citizenship, or proof from the United States Immigration and Naturalization Service of valid entry permits and/or work permits for legal aliens and proof that such legal aliens are eligible to be employed in the United States. This includes any requirement for participation in the DHS e-Verify or SAVE program.
- 4.3 The Contractor shall maintain a drug-free workplace within the meaning of the Georgia Drug-free Workplace Act. No employee shall be hired by a Contractor for work on the City's premises prior to such employee having tested negative for drugs. In addition, existing employees of the Contractor must be subject to drug testing by the Contractor upon reasonable suspicion of drug use. Results of all such drug tests are to be retained by the Contractor. Copies shall be provided to the City, if requested.
- 4.4 The Contractor shall transfer promptly from the City any employee or employees that the City advises are not satisfactory, and replace such personnel with employees satisfactory to the City; but in no event shall the City be responsible for monitoring or assessing the suitability of any employee or agent of the Contractor.

- 4.5 The Contractor's employees shall be instructed that no gratuities shall be solicited or accepted for any reason whatsoever from the tenants, customers or other persons at the City.
- 4.6 A valid driver license (Commercial Driver License, if applicable) will be required of all personnel operating motor vehicles or motorized equipment on roadways in or around the City.
- 4.7 While working on city property all Contractors' employees shall wear neat-appearing business casual attire or uniforms with the company name and/or logo and footwear of a style that complies with all legal and safety requirements, including and without limitation, the requirements of OSHA.
- 4.8 Designation of Project Manager - The Contractor shall designate a Project Manager acceptable to the City for all purposes related to the work. The initial Project Manager shall be (Jeff Mueller).
- 4.8.1 The Project Manager shall be fully responsible for the Contractor meeting all of its obligations under this Contract. The Project Manager shall provide the City with an appropriate status report on the progress of the project.
- 4.8.2 The Project Manager shall be available, as reasonably required, to be on-site during necessary times. Such times shall be discussed between the Project Manager and the City, but the final required times will be at the City's discretion.
- 4.8.3 In the event that the designated Project Manager terminates employment with the Contractor, or is requested by the City to be removed from the role of Project Manager (as provided in Section 4.5), the position shall be assumed by an individual with equivalent qualifications, experience, and knowledge. Such replacement shall require the City's prior approval.
- 4.9 The process by which the implementation partner requests the removal of a team member from the project. If a Contractor replaces a proposed team member, the Contractor shall replace that team member with a new team member of similar experience. The City reserves the right to accept or reject any proposed or replacement team member, with or without cause, at any time during the duration of the project.

5. TOOLS AND EQUIPMENT

It shall be the sole responsibility of the Service Provider to provide for all tools, parts, and equipment necessary to perform work under this Contract.

6. PERFORMANCE REQUIREMENTS

- 6.1 The Contractor shall perform all of its obligations and functions under the Contract in accordance with the Contract specifications and industry standards. The Contractor shall adjust and coordinate its activities to the needs and requirements of the City and perform its activities so as not to annoy, disturb, endanger, unreasonably interfere with or delay the operations or activities of the City.
- 6.2 The Contractor's personnel shall perform work in compliance with all Federal, State, and City of Norcross regulations.
- 6.3 Dates for commencement and completion of work shall be coordinated with the City's Authorized Representative (CAR).
- 6.4 Any work required beyond that which is specified herein shall be reported in advance to the City. At no time shall work beyond the scope be performed without prior written authorization from the City.

7. USE OF PREMISES

During the progress of the work specified herein, to the extent any work is performed on the City's premises, the Service Provider shall keep the premises free from accumulation of waste materials, and other debris resulting from the work. At the completion of each work day, the Service Provider shall remove daily all waste materials and debris from, and about the premises as well as tools, equipment, machinery and surplus material, and leave the site clean and ready for occupancy by the City.

8. SAFETY AND PROTECTION

The Service Provider shall be solely and completely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. The Service Provider shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to all employees on the work site and other persons including, but not limited to, the general public who may be affected thereby.

9. COMPENSATION - INVOICE AND PAYMENT FOR SERVICES

- 9.1 The City shall pay the Contractor, subject to any authorized deductions, the applicable lump sum prices set forth for each service authorized by the City in Exhibit B Fees/Rates, and actually delivered or performed on a percent complete basis for Design Services and hourly for Construction Administration Services and acceptance, as appropriate, of the City. The timing of such payments shall be as set forth below in this Section.
- 9.2 The Contractor will bill the City monthly for the percentage of work accomplished for that month. The City shall pay the Contractor the price as set forth within 30 days after the City's receipt of the invoice. The Contractor shall only invoice the City for the implementation services that were completed and accepted under the Contract, accompanied by such supporting documentation and other backup material as the City may reasonably require.
- 9.3 The Contractor shall invoice with such supporting documentation and other backup material as the City may reasonably require.
- 9.4 The Contractor shall deliver to the City for approval and acceptance, and before eligible for final payment of any amounts due, all documents and material prepared by the Contractor for the City under this Contract.
- 9.5 The City shall pay the undisputed amount of the Contractor's invoice, as it may be reduced to reflect unsubstantiated or unsatisfactory services. Items in dispute shall be paid upon the resolution of the dispute. No verification or payment of any amounts invoiced shall preclude the City from recovering any money paid in excess of that due under the terms of this Contract for a period of up to twelve (12) months from the date of payment.
- 9.6 The Contractor shall be obligated to pay promptly all proper charges and costs incurred by the Contractor for labor and expenses incurred for the work performed hereunder. The City shall have the right, but not the obligation, to pay directly to third parties (including subcontractors) all past due amounts owed by the Contractor to third parties for labor and materials used for the work hereunder, based on invoices submitted by such third party, and all such amounts paid by the City shall be applied toward, and shall reduce, amounts owed to Contractor hereunder.
- 9.7 The Contractor shall submit all invoices to: City of Norcross, GA, Accounts Payable, 65 Lawrenceville St. Norcross, GA 3007.

10. COMPLIANCE WITH LAWS AND REGULATIONS

- 10.1 The Service Provider shall perform its obligations and functions hereunder in compliance with the applicable

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laws of the United States, the State of Georgia, Gwinnet County, the City of Norcross, any applicable rules, regulations or directives of any agency thereof, and the applicable regulations of the City. OSHA rules and regulations shall be followed at all times. The City shall have the right (but not the obligation) to contest or challenge by any means whatsoever any law, regulation, rule or directive which in any way affects or otherwise impacts upon the Service Provider's performance of its obligations and functions hereunder; the Service Provider shall cooperate to the fullest extent and take whatever action (including becoming a party in any litigation) the City should reasonably request in connection with any such challenge or contest by the City.

- 10.2 The Service Provider shall obtain and keep current all licenses, permits and authorizations, whether municipal, county, state or federal, required for the performance of its obligations and functions hereunder and shall pay promptly when due all fees therefore.
- 10.3 The Service Provider shall abide by all applicable state and federal regulations pertaining to wages and hours of an employee; including but not limited to the Service Provider's compliance with requirements of O.C.G.A. 13-10-91 and Rule 300-10-1-.02.

11. SERVICE PROVIDER'S LIABILITY

The Service Provider shall be responsible for the prompt payment of any fines imposed on the City or the Service Provider by any other federal, state or local governmental agency as a result of the Service Provider's, or its subcontractor's (or the officers', directors', employees' or agents' of either), failure to comply with the requirements of any law or any governmental agency rule, regulation, order or permit. The liability of the Service Provider under this Section 12 is in addition to and in no way a limitation upon any other liabilities and responsibilities which may be imposed by applicable law or by the indemnification provisions of Section 13 hereof, and such liability shall survive the expiration or earlier termination of this Contract for a period of twelve (12) months.

12. INDEMNIFICATION AND INSURANCE

- 12.1 Indemnification by The Service Provider. To the fullest extent permitted by law, the Service Provider shall indemnify and hold harmless the City, and the City's officers, directors, partners, agents, consultants, and employees from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Service Provider or Service Provider's officers, directors, partners, employees, or Consultants.
- 12.2 Indemnification by the City. To the fullest extent permitted by law, the City shall indemnify and hold harmless Service Provider, Service Provider's officers, directors, partners, agents, employees, and Consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of the City or the City's officers, directors, partners, agents, consultants, or employees, or others retained by or under contract to the City with respect to this Contract or to the Project.
- 12.3 Environmental Indemnification. In addition to the indemnity provided under Section 13 of Exhibit A---General Conditions of this Contract, and to the fullest extent permitted by law, the City shall indemnify and hold harmless the Service Provider and its officers, directors, partners, agents, employees, and Consultants from and

against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals, and all court, arbitration, or other dispute resolution costs) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that (i) any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (ii) nothing in this paragraph shall obligate the City to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.

12.4 **Percentage Share of Negligence.** To the fullest extent permitted by law, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of the City, Service Provider, and all other negligent entities and individuals.

12.5 **Mutual Waiver.** To the fullest extent permitted by law, the City and Service Provider waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project.

12.6 **Insurance**

12.6.1 **General Liability and Automobile Liability.** The Service Provider shall purchase and maintain in force during the term of the Contract, at its own cost and expense, to protect the Service Provider, the City, and the members (including, without limitation, all members of the governing City's Council and the citizens' advisory committees of each), officers, agents, and employees of each, from and against any and all liabilities arising out of the Service Provider's performance of the Contract work:

(1) Commercial general liability insurance with coverage of ONE MILLION DOLLARS (\$1,000,000.00) combined single limit per occurrence, and with contractual liability coverage for Service Provider's covenants to and indemnification of the City under the Contract, and

(2) Automobile liability insurance with policy limits of ONE MILLION DOLLARS (\$1,000,000.00) combined single limit per accident or occurrence covering each motor vehicle operated on City property.

13.7.1.2 **Additional Insured Endorsement.** Service Provider agrees and shall cause the City their members (including, without limitation, members of the City's Council and members of the citizens' advisory committees of each), officers, employees, and agents to be named as additional insured under such policy or policies of commercial general and automobile liability insurance.

12.6.2 **Workers' Compensation and Employer's Liability.** If Service Provider has any employee working on City property, Service Provider shall procure and maintain in force during the term of the Contract (i) workers' compensation insurance, and (ii) employer's liability insurance. The policy limits of the Service Provider's employer's liability insurance shall not be less than \$100,000 for "each accident," \$500,000 for "disease policy limit," and \$100,000 for "disease each employee." If the Service Provider is self-insured, the Service Provider shall provide proof of self-insurance and authorization to self-insure as required by applicable state laws and regulations.

12.6.3 **Professional Liability Insurance.** The Service Provider shall purchase and maintain in force during the term of the Contract, Professional Liability insurance which will pay for damages arising out of errors or omissions in the rendering, or failure to render professional services under the Contract in the amount of at least ONE MILLION DOLLARS (\$1,000,000.00) per claim. Such insurance

must contain nose and tail coverage to include work performed by the Service Provider from the project's inception date and until such time as the Statue of Limitations has run for the work done on the project.

12.6.4 Health Insurance. Not applicable.

12.6.5 Garage Liability Insurance. Not applicable.

12.6.6 Garage Keeper's Legal Liability Insurance. Not applicable.

12.6.7 Crime Coverage. Not applicable.

12.6.8 Pollution Liability Insurance. Not applicable.

12.6.9 Deductibles. The Service Provider's policies of insurance required by this Section 12.7 may require the Service Provider's payment of a deductible, provided the Service Provider's insurer is required to pay claims from the first dollar at 100% of the claim value without any requirement that the Service Provider pay the deductible prior to its insurer's payment of the claim.

12.6.10 Other Insurance Requirements. All insurance policies required by this Section 13.7 shall provide that they are primary insurance with the exception of Professional Liability and Worker's Compensation and Employer's Liability with respect to any other valid insurance the City may possess, and that any other insurance the City does possess shall be considered excess insurance only. All such insurance shall be carried with a company or companies which meet the requirements of Section 14.2 of these General Conditions, and said policies shall be in a form satisfactory to the City. A properly completed and executed Certificate of Insurance on a form provided or approved by the City (such as a current ACORD certificate of insurance) evidencing the insurance coverage required by this Section shall be furnished to the City upon the Service Provider's execution of the Contract. The Service Provider shall provide the City with at least thirty (30) days' prior written notice of any adverse material change in the Service Provider's required insurance coverage except that ten (10) days' notice of cancellation for non-payment is required. For purposes of this Section 13.7.10, an "adverse material change" shall mean any reduction in the limits of the insurer's liability below the minimum limits of insurance required by this Section 13, non-renewal, or cancellation of any insurance coverage, or any increase in the Service Provider's self-insured retention. Prior to the expiration of any such policy, the Service Provider shall file with the City a certificate of insurance showing that such insurance coverage has been renewed. In the event of an adverse material change, the Service Provider shall, within five (5) days after such adverse material change, file with the City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies approved by the City. If the Service Provider fails to obtain or have such insurance reinstated, the City may, if it so elects, and without waiving any other remedy it may have against the Service Provider, immediately terminate this Contract upon written notice to the Service Provider. The City Manager shall have the right to alter the monetary limits or coverage herein specified from time to time during the term of this Contract, and the Service Provider shall comply with all reasonable requests of the City Manager with respect thereto.

13. SURETY BONDS/LETTERS OF CREDIT/LIABILITY INSURANCE

13.1 A surety Bond/Letter of Credit is not required for this Contract.

13.2 Liability Insurance Companies furnishing insurance coverage required by these General Conditions shall (a) be approved to issue insurance policies in the State of Georgia, and (b) must have no less than a "B+" Financial Rating and a Financial Size Category of "Class VI" or higher according to the most current edition of A.M.

Best's Insurance Reports. If the liability insurer is rated by A.M. Best's Insurance Reports at an "A-" Financial Rating and a Financial Size Category of "Class VIII" or higher than the City Manager may waive the requirement for the insurer to be approved by the State of Georgia.

14. CONTRACT ADJUSTMENTS

- 14.1 Notwithstanding any provision herein to the contrary, the City reserves the right to modify at any time the nature, method, scope, frequency, or timing of the Service Provider's obligations under this Contract (Contract Adjustments) in whatever manner it determines to be reasonably necessary for the proper completion of the Service Provider's work hereunder. Both parties agree that, should any Contract Adjustments be made, the Service Provider's compensation will be adjusted accordingly, in such amount or amounts as will be mutually agreed to by means of good faith negotiation by the City and the Service Provider and, to the extent possible, by reference to any unit costs already established in the Proposal. Without exception, all deletions or additions to the scope of work will be set forth in a written Amendment to this Contract.
- 14.2 Notwithstanding the foregoing, the City shall have the right to terminate this Contract herein should the Service Provider and the City fail to reach agreement on the adjusted compensation within thirty (30) days after the date of the Contract Adjustment.
- 14.3 Notwithstanding the foregoing, there shall be no upward adjustment of the compensation on account of any Contract Adjustment made necessary or appropriate as a result of the mismanagement, improper act, or other failure of the Service Provider, its employees, agents, or its subcontractors to properly perform its obligations and functions under this Contract.

15. SUBCONTRACTORS

- 15.1 The Contractor shall perform all of its obligations and functions under this Contract by means of its own employees, or by a duly qualified subcontractor which is approved in advance by the City. Such subcontractor which is an affiliate, parent, or subsidiary company; or had principal owners, relatives, management, or employees common to the Contractor; or any other party that has the ability to significantly influence the management or daily business operations of the subcontractor must be disclosed in writing to the City Manager. Goods and services provided by subcontractors which are reimbursed by the City must be bona fide arm's-lengths transactions. In the event a subcontractor is employed, the Contractor shall continuously monitor the subcontractor's performance, shall remain fully responsible to ensure that the subcontractor performs as required and itself perform or remedy any obligations or functions which the subcontractor fails to perform properly. Nothing contained herein shall be construed to prevent the Contractor from using the services of a common carrier for delivering goods to the City. The City approves the sub-contractors listed in the Statement of Qualifications.
- 15.2 This Contract shall be referred to and incorporated within any contractual arrangement between the Contractor and a subcontractor and, in such contractual arrangement; the subcontractor shall give its express written consent to the provisions of this Section 15. To the extent feasible, the provisions of this Contract shall apply to any such subcontractor in the same manner as they apply to the Contractor. However, such application shall neither make any subcontractor a party to this Contract, nor make such subcontractor a third-party beneficiary hereof.
- 15.3 In the event that the Contractor employs a subcontractor, then the City may require that copies of invoices for all work (including invoices submitted to the Contractor for work performed by a subcontractor) shall be submitted to the City by the Contractor and the City shall pay all compensation to the Contractor. It shall be the sole responsibility of the Contractor to deal with a subcontractor with respect to the collecting and submission of invoices and the payment of compensation. In no event shall the City have any obligation or liability hereunder to any subcontractor, including, in particular, any obligations of payment.

16. DEFAULT AND TERMINATION**16.1 In the event that:**

- 16.1.1 the Service Provider shall fail to keep, perform or observe any of the promises, covenants or agreements set forth in this Contract (provided that notice of the first failure shall have been given to the Service Provider, but whether or not the Service Provider shall have remedied any such failure); or
- 16.1.2 the Service Provider shall fail to keep, perform or observe any promise, covenant, or agreement set forth in this Contract, and such failure shall continue for a period of more than five (5) days after delivery to the Service Provider of a written notice of such breach or default; or
- 16.1.3 the Service Provider's occupational or business license shall terminate, or the Service Provider shall fail to provide the City with any bond, letter of credit, or evidence of insurance as required by the Contract Documents, for any reason; or
- 16.1.4 the Service Provider fails for any reason to provide the City with an acceptable renewal or replacement bond or letter of credit within the time period specified by a provision of this Contract; or
- 16.1.5 the Service Provider shall become insolvent, or shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy or a petition or answer seeking an arrangement for its reorganization, or the readjustment of its indebtedness under the Federal Bankruptcy laws, or under any other law or statute of the United States or any State thereof, or shall consent to the appointment of a receiver, trustee or liquidator of all or substantially all of its property; or
- 16.1.6 the Service Provider shall have a petition under any part of the Federal Bankruptcy laws, or an action under any present or future insolvency laws or statute filed against it, which petition is not dismissed within thirty (30) days after the filing thereof; or
- 16.1.7 there is any assignment by the Service Provider of this Contract or any of the Service Provider's rights and obligations hereunder for which the City has not consented in writing; or
- 16.1.8 the Service Provider shall default on any other agreement entered into by and between Service Provider and the City, then, in its discretion, the City shall have the right to terminate this Contract for default, which termination shall be effective upon delivery of written notice of such termination to the Service Provider. In the event that the City terminates this Contract for default, or the Service Provider abandons or wrongfully terminates the Contract, the Service Provider shall be paid for compensation earned to the date of termination or abandonment (but the City shall have the right to reduce by off-set any amounts owed to the Service Provider hereunder or under any other Contract or obligation by the amount of the City's damages and any amounts owed by the Service Provider to the City), but the Service Provider shall not be compensated for any profits earned or claimed after the receipt of the City's notice of termination by default or after abandonment or wrongful termination. The City's election to terminate or not to terminate this Contract in part or whole for the Service Provider's default shall in no way be construed to limit the City's right to pursue and exercise any other right or remedy available to it pursuant to the terms of the Contract or otherwise provided by law or equity.

- 16.2 Notwithstanding anything else herein contained, the City may terminate this Contract in whole or in part at any time for its convenience by giving the Service Provider thirty (30) days written notice. In that event, the Service

Provider shall proceed to complete any part of the work, as directed by the City, and shall settle all its claims and obligations under the Contract, as directed by the City. The Service Provider shall be compensated by the City in accordance with the provisions hereof, including in particular Section 2 of these General Conditions, provided, however, that in no event shall Service Provider be entitled to compensation for work not performed or for anticipatory profits. Service Provider shall justify its claims, as requested by the City, with accurate records and data.

17. CITY'S AUTHORIZED REPRESENTATIVE

During the term of this Contract, the City Manager or designee may from time to time designate an individual to serve as the City's Authorized Representative (CAR) and an Assistant CAR designated to serve in that capacity in the absence of the CAR, who shall have such authority to act on the City's behalf as the City Manager may from time to time actually delegate to such person, but in no event shall the CAR have authority to modify or terminate this Contract, or make final decisions with respect to amendments, time extensions, assignments, cost or payment adjustments or payment disputes.

18. ASSIGNMENT

Neither this Contract nor any of the Service Provider's rights or obligations hereunder may be assigned by the Service Provider without the City's prior written consent, which consent may be granted or withheld at the City's sole discretion. Any transfer of this Contract by merger, consolidation or liquidation (unless the stock of the Service Provider is traded on a national stock exchange or in a generally recognized over the counter securities market) any change in ownership of or power to vote a majority of the outstanding voting stock or ownership interests of the Service Provider shall constitute an assignment of this Contract for purposes of this Section. In the event the Service Provider assigns or subcontracts or attempts to assign or subcontract any right or obligation arising under this Contract without the City's prior written consent, the City shall be entitled to terminate this Contract pursuant to the provisions of Section 17 hereof.

19. NOTICES

- 19.1 Unless otherwise stated herein, all notices or other writings which the City is required or permitted to give to the Contractor may be hand delivered, mailed via U.S. Certified Mail or sent next-day delivery by a nationally-recognized overnight delivery service to the Contractor's address set forth in the Proposal. Any such notice shall be deemed to have been delivered upon actual delivery, or one (1) day following submission to a nationally-recognized overnight delivery service for next day delivery to the Contractor, or three (3) days following submission to the Contractor by U.S. Certified Mail.
- 19.2 Unless otherwise stated herein, all notices or other writings which the Contractor is required or permitted to give to the City may be hand delivered to the City Manager, mailed via U.S. Certified Mail, or sent next-day delivery by a nationally-recognized overnight delivery service. Any such notice shall be deemed to have been delivered upon actual delivery, or one (1) day following submission to a nationally-recognized overnight delivery service for next day delivery to City, or three (3) days following submission to the City by U.S. Certified Mail. Any such notice shall be sent to:

City of Norcross, GA
ATTN: City Manager
65 Lawrenceville St.
Norcross, GA 30071

Clark Patterson Engineers, Surveyor and Architects, P.C.
ATTN: Jennifer Harper, PE
3011 Sutton Gate Drive, Suite 130
Suwanee, GA 30024
678-318-1070

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19.3 Either party may change its notice address by written notice to the other given as provided in this section.

20. NONDISCRIMINATION

20.1 During the performance of this Contract, the Service Provider, for itself, its assignees and successors in interest agrees as follows:

20.1.1 Compliance with Regulations. The Service Provider shall comply with the Laws and Regulations as they may be amended from time to time (hereafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this Contract.

20.1.2 Nondiscrimination. The Service Provider, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of any subcontractor, including procurement of materials and leases of equipment. The Service Provider shall not participate either directly or indirectly in the discrimination prohibited by the Regulations.

20.1.3 Solicitations for Subcontracts, Including Procurement of Materials and Equipment. In all solicitations either by competitive proposing or negotiation made by the Service Provider for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Service Provider of the Service Provider's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color or national origin.

20.1.4 Information and Reports. The Service Provider shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources or information, and its facilities as may be determined by the City to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the Service Provider is in the exclusive possession of another who fails or refuses to furnish this information, the Service Provider shall so certify to the City, as appropriate, and shall set forth what efforts it has made to obtain the information.

20.1.5 Sanctions for Noncompliance. In the event of the Service Provider's noncompliance with the nondiscrimination provisions of this Contract, the City shall impose such Contract Sanctions as it may determine to be appropriate, including but not limited to:

21.1.5.1 Withholding of payments to the Service Provider under the Contract until the Service Provider complies, and/or

21.1.5.2 Cancellation, termination or suspension of the Contract, in whole or in part.

21.1.6 Incorporation of Provisions. The Service Provider shall include the provisions of subsections 21.1.1 through 21.1.5 in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Service Provider shall take such action with respect to any subcontract or procurement as the City may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Service Provider becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Service Provider may request the City to enter into such litigation to protect the interest of the City and, in addition, the Service Provider may request the United States to enter into such litigation to protect the interests of the United States.

- 21.2 The Service Provider assures the City that it will comply with the pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, marital status, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision shall bind the Service Provider from the period beginning with the initial solicitation through the completion of the Contract.

21. COPYING DOCUMENTS

The Service Provider hereby grants the City and its agent's permission to copy and distribute any and all materials and documents contained in, comprising, or which are otherwise submitted to the City with or in connection with the Service Provider's Proposal or which are contained in the Contract Documents (the "Submittals"). The permission granted by the Service Provider shall be on behalf of the Service Provider and any and all other parties who claim any rights to any of the materials or documents comprising the Submittals. Such permission specifically authorizes the City and its agents to make and distribute such copies of the Submittals or portions thereof as may be deemed necessary or appropriate by the City for its own internal purposes or for responding to requests for copies from any member of the public regardless of whether the request is specifically characterized as a public records request pursuant to Georgia Code. This provision shall survive the expiration or termination of the Contract.

22. GENERAL PROVISIONS

- 22.1 The Contract Documents consist of the Contract, the Proposal Forms, the Instructions to Proposers, Request for Proposals, all Addendum(s) issued prior to execution of this Contract, these General Conditions and the Request for best and final offer. Together, these documents comprise the Contract and all the documents are fully a part of the Contract as if attached to the Contract or repeated herein. Precedence of the Contract Documents shall be as follows: (i) addendum(s) to the Contract Documents, (ii) the Contract, (iii) the General Conditions, (iv) the Fees/Rate, (v) the Proposal Forms, and (vi) the Request.
- 22.2 This Contract represents the entire agreement between the parties in relation to the subject matter hereof and supersedes all prior agreements and understandings between such parties relating to such subject matter, and there are no contemporaneous written or oral agreements, terms or representations made by any party other than those contained herein. No verbal or written representations shall be relied upon outside the Contract terms and amendments. Without exception, all deletions or additions to the scope of work will be set forth in a written amendment to this Contract. No amendment, modification, or waiver of this Contract, or any part thereof, shall be valid or effective unless in writing signed by the party or parties sought to be bound or charged therewith; and no waiver of any breach or condition of this Contract shall be deemed to be a waiver of any other subsequent breach or condition, whether of a like or different nature.
- 22.3 The Service Provider shall, during the term of this Contract, repair any damage caused to real or personal property of the City and/or its tenants, wherever situated, caused by the intentional, reckless, or negligent acts or omissions of the Service Provider's officers, agents, or employees, and any subcontractors and their officers, agents, or employees, or, at the option of the City, the Service Provider shall reimburse the City for the cost of repairs thereto and replacement thereof accomplished by or on behalf of the City.
- 22.4 The Service Provider warrants to the City that no work performed or materials purchased pursuant to the Contract, whether by, from, or through the Service Provider or a subcontractor, shall cause any claim, lien or encumbrance to be made against any property of the City, and the Service Provider shall indemnify and save the City harmless from and against any and all losses, damages and costs, , with respect thereto. If any such claim, lien or encumbrance shall be filed, the Service Provider shall, within thirty (30) days after notice of the filing thereof, cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. This provision shall survive the expiration or termination of the Contract for a period of twelve (12) months.

- 22.5 The language of this Contract shall be construed according to its fair meaning, and not strictly for or against either the City or the Service Provider. This Contract shall be deemed to be made, construed and performed according to the laws of the State of Georgia. Any suit or proceeding initiated for the purpose of interpreting or enforcing any provision of this Contract or any matter in connection therewith shall be brought exclusively in a court of competent jurisdiction in Gwinnet County, Georgia, and the Service Provider waives any venue objection, including, but not limited to, any objection that a suit has been brought in an inconvenient forum. The Service Provider agrees to submit to the jurisdiction of the Georgia courts and irrevocably agrees to acknowledge service of process when requested by the City
- 22.6 The section headings herein are for the convenience of the City and the Service Provider, and are not to be used to construe the intent of this Contract or any part hereof, or to modify, amplify, or aid in the interpretation or construction of any of the provisions hereof.
- 22.7 The use of any gender herein shall include all genders, and the use of any number shall be construed as the singular or the plural, all as the context may require.
- 22.8 The delay or failure of the City at any time to insist upon a strict performance of any of the terms, conditions and covenants herein shall not be deemed a waiver of that breach or any subsequent breach or default in the terms, conditions, or covenants of this Contract. The Service Provider shall not be relieved of any obligation hereunder on account of its failure to perform by reason of any strike, lockout, or other labor disturbance.
- 22.9 In any litigation commenced between the Service Provider, the City, and/or a third party arising out of the Service Provider's operations and activities at the premises or in any action to enforce the terms of this Contract, then the non-prevailing party shall pay all costs and reasonable attorney's fees and other court or legal costs incurred by or imposed upon the prevailing party in connection with such litigation for all trial and appellate proceedings in proportion equal to the percentage liability of the non-prevailing party as ultimately adjudicated using principles of comparative fault. The parties shall give prompt notice to the other party of any claim or suit instituted against it by such third party. The provisions of this Section shall survive the acceptance of the services and payment therefore, and the expiration or earlier termination of this Contract.
- 22.10 The Service Provider shall not during the term of the Contract knowingly hire or employ (on either a full-time or part-time basis) any current employee of the City.
- 22.11 The Service Provider shall be required, during the term of the Contract, at no additional cost to the City, to take such reasonable security precautions with respect to its operations at City Hall as the City in its discretion may from time to time prescribe. The Service Provider shall comply with all regulations, rules and policies of any governmental authority, including the City, relating to security issues.
- 22.12 The City may, but shall not be obligated to, cure, at any time, upon five (5) days written notice to the Service Provider (provided, however, that in any emergency situation the City shall be required to give only such notice as is reasonable in light of all the circumstances), any default by the Service Provider under this Contract; whenever the City so cures a default by the Service Provider, all costs and expenses incurred by the City in curing the default, including, but not limited to, reasonable attorneys' fees, shall be paid by the Service Provider to the City on demand.
- 22.13 The City shall, in its discretion, be entitled to deduct from the compensation to which the Service Provider is otherwise entitled hereunder, an amount equal to any liabilities of the Service Provider to the City which are then outstanding. In the event that additional work beyond the scope of this Contract is requested by the City Manager and it results in any extra charges to the City, the Service Provider shall so advise the City in writing of the amount of the extra charges. The City is not required to pay any extra charges for additional work unless such work and the charges therefore have been approved in advance and have been confirmed in writing within twenty-four (24) hours by the City Manager, in his or her exclusive discretion.

- 22.14 The Service Provider is an independent Contractor and nothing contained herein shall be construed as making the Service Provider an employee, agent, partner or legal representative of the City for any purpose whatsoever. The Service Provider acknowledges that it does not have any authority to incur any obligations or responsibilities on behalf of the City, and agrees not to hold itself out as having any such authority. Nothing contained in this Contract shall be construed to create a joint employer relationship between the City and the Service Provider with respect to any employee of the Service Provider or of its subcontractors.
- 22.15 The Service Provider and its subcontractors, if any, shall maintain complete and accurate books and records in accordance with generally accepted accounting principles, consistently applied, and shall be in a form reasonably acceptable to the City Manager or designee. The Service Provider and its subcontractors shall account for all expenses of any nature related to transactions in connection with this Contract in a manner which segregates in detail those transactions from other transactions of the Service Provider and subcontractors and which support the amounts reported and/or invoiced to the City. At a minimum, the Service Provider's and subcontractor's accounting for such expenses and transactions shall include such records in the form of electronic media compatible with or convertible to a format compatible with computers utilized by the City at its offices; a computer run hard copy, together with access to the applicable reader. All such books and records and computerized accounting systems, shall upon reasonable notice from the City be made available in Gwinnet County, Georgia, for inspection, examination, audit and copying by the City through and by its duly authorized representatives at any time for up to four (4) years after the year to which books and records pertain. Such inspection, examination, or audit may include, but is not limited to a review of the general input, processing, and output controls of information systems, using read only access, for all computerized applications used to record financial transactions and information. The Service Provider and subcontractor shall freely lend its own assistance in a timely manner in making such inspection, examination, audit, or copying and, if such records are maintained in electronic and other machine readable format, shall provide the City and/or its representative such assistance as may be required to allow complete access to such records. The City Manager may require the Service Provider and subcontractors to provide other records the City Manager, in his or her sole discretion, deems necessary to enable the City to perform an accurate inspection, examination or audit of expenses incurred in and transactions related to performance of this Contract. Such records shall be provided within thirty (30) days of request thereof.
- 22.16 The Service Provider and subcontractors shall prepare and provide the City with all detailed reports as required under the Contract on a timely basis. The City reserves the right to modify the reporting procedures or the form and content of any report as it deems necessary.
- 22.17 There are no third-party beneficiaries to this Contract and nothing contained herein shall be construed to create such.
- 22.18 Time is of the essence for the performance of each of the Service Provider's obligations under this Contract.
- 22.19 In computing any period of time established under this Contract, except as otherwise specified herein the word "days," when referring to a period of time that is ten (10) days or less means business days, and when referring to a period of time that is more than ten (10) days means calendar days. The day of the event, from which the designated period of time begins to run shall not be included. A business day is any day other than Saturday, Sunday, or Federal, State of Georgia or City holidays.
- 22.20 The Service Provider agrees to perform all acts and execute all supplementary instruments or documents which may be reasonably necessary to carry out or complete the transaction(s) contemplated by this Contract.
- 22.21 The Service Provider and the City hereby mutually waive any claim against each other and their respective members, officials, officers, agents and employees for damages (including damages for loss of anticipated

profits) caused by any suit or proceedings brought by either of them or by any third party directly or indirectly attacking the validity of this Contract or any part thereof, or any addendum or amendment hereto, or the manner in which this Contract was solicited, awarded or negotiated, or arising out of any judgment or award in any suit or proceeding declaring this Contract, or any addendum or amendment hereto, null, void or voidable or delaying the same, or any part thereof, from being carried out.

- 22.22 At the option of the Service Provider, the products and/or services provided under the Contract resulting from this solicitation may be provided to other governmental agencies, including the State of Georgia, its agencies, political subdivisions, counties and cities under the same terms and conditions, including price, as such products and/or services are provided under this Contract. Each governmental agency allowed by the Service Provider to purchase products and/or services in connection with this Contract shall do so independent of the City or any other governmental entity. Each agency shall be responsible for its own purchases and shall be liable only for goods and services ordered, received and accepted by it. The City shall have no liability to the Service Provider or any governmental agency resulting from the purchase by that agency of products and/or services from the Service Provider in connection with this Contract.

***** END OF GENERAL CONDITIONS *****

EXHIBIT B**Fees/Rates****Design Fee: \$368,276.00****Additional Services to be billed hourly at the rates provided below.**

Exhibit B
Fees/Rates

Lump Sum Fee = \$368,276.00

Additional Services not included in the scope outlined below to be billed hourly at the rates provided below.

Title	Hourly Rate
Principal	\$200 - 270
Project Manager	\$150 - 180
Project Architect/Professional Engineer/Planner	\$110 - 150
Sr. Architect /Sr. Engineer/Sr. Interior Designer	\$100 - 135
Sr. Draftsperson/Jr. Engineer/Jr. Interior Designer	\$70 - 95
Jr. Draftsperson	\$75
Specification + Word Processor/Analyst	\$65
Clerical	\$65

EXHIBIT C
SCOPE OF SERVICES

Exhibit C

Scope of Services

PROJECT DESCRIPTION

The City of Norcross (Gwinnett County) has been awarded \$380,000 in Livable Centers Initiative (LCI) funds with a \$95,000 required match for preliminary engineering for pedestrian trail project for Priority 1 segments of the Norcross Greenway. The selected consultant would provide surveys, planning, design, bidding and construction oversight services to the City of Norcross. Submitting firms must demonstrate they have knowledge of Livable Centers Initiative implementation projects and the Georgia Department of Transportation's (GDOT) Plan Development Process (PDP). Submitting firms must also be pre-qualified with GDOT.

The project proposes a multiuse trail adjacent to the roadways along S. Cemetery Street, Mitchell Road and Pinnacle Way, with connecting trails between those roadways. The project includes upgrades to existing sidewalks, landscaping, crosswalks, and connections to the new Pinnacle Park. This project begins at Mitchell Road/Buford Hwy and ends at Beaver Ruin Road in 2 locations.

The project is being funded by a combination of City and federal funds through reimbursements from the LCI Program managed by the Atlanta Regional Commission (ARC) and GDOT. Total funds anticipated for preliminary engineering are \$476,000, for right-of-way are \$210,000, and for construction are approximately \$4,435,025.00, which includes a required 10% contingency.

In addition, the City desires to explore the potential of relocating overhead utilities and utility poles within the project limits. Interested firms should include utility contact, coordination and pricing tasks as part of the proposed services. Should the City decide to pursue actual relocation of utilities, additional funds may be provided on an as-needed basis for the relocation of the overhead utilities, and associated construction and design services.

It will be incumbent upon the design team to produce a design that is constructible within the Project Budget listed above. The design team shall prepare bid alternates for the City of Norcross which will provide as much flexibility as the City needs to stay within the budget for construction.

The City has developed a scoping study that describes the intent and extent of priority 1 segments. The study is on the City web site: <http://www.norcrossga.net/DocumentCenter/View/1711>

SCOPE OF WORK

This scope of work is an add service to the existing contract scope of services in Exhibit C of the Contract between City of Norcross and Clark Patterson Engineers, Surveyor and Architects, P.C. dated March 21, 2019 for consulting services for the Beaver Ruin Trail Design Project. The add service scope will extend the design and database services for the trail to include the full three (3) miles of trail whereas the original contract scope only included a two (2) mile section of the trail to be designed. The design and database services with this add service will include a multiuse trail adjacent to the roadways along S. Cemetery Street, Mitchell Road and Pinnacle Way, with connecting trails between those roadways. The project includes upgrades to existing sidewalks, landscaping, crosswalks, and connections to the new

Pinnacle Park. This project begins at Mitchell Road/Buford Hwy and ends at Beaver Ruin Road in 2 locations.

The add service will also include construction administration assistance. The contract shall include construction contract administration assistance, including bidding assistance, attendance at bi-weekly construction progress meetings during the construction contract, review of submittals and responses to Requests for Information (RFIs). Construction Inspection is not included in the construction administration phase.

EXHIBIT D**TIMELINE**

To be developed later with input by both Parties

EXHIBIT "E"
GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT AFFIDAVIT

Attachment: Original Contract for professional services (Design Engineering Services) (22-6519 : Beaver Ruin Greenway Annual Contract



E-Verify Contractor Affidavit O.C.G.A. § 13-10-91 (b)(1)

Physical performance of services: Contracts with the City involving both physical labor and any services over \$2499.99 in value.

Contractors must be registered with and use the E-Verify program. If you have not registered, you can find the information at www.uscis.gov (click on E-verify Homepage, see start here directions.)

It is the responsibility of the Contractor to submit additional E-Verify Affidavits on every Sub-Contractor for this project.

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services on behalf of the City of Norcross has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Project Name: Beaver Ruin Greenway Project Date of Project: _____

Legal Name of Contractor: Clark Patterson Engineers, Surveyor and Architects, P.C.

Address: 3011 Sutton Gate Dr. Suite 130 City: Suwanee State: GA Zip Code: 30024

Federal Work Authorization User Identification Number (E-Verify Number): 209339 (4-6 digit numeric #)

Date of Authorization: March 2009

EXEMPT: YES OR NO

***If a contractor has no employees and does not hire or intend to hire they may satisfy the law by submission of (State DL or State ID) Drivers' License Number: _____**

I hereby declare under penalty of perjury that the foregoing is true and correct

Kevin J. McMoran
Signature of Authorized Officer/Agent

3/20/19
Date

Kevin J. McMoran, SR. V.P.
Printed Name and Title of Authorized Officer/Agent

MUST BE COMPLETED BY NOTARY

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE 20th DAY OF March, 2019

Executed in Suwanee (City), Georgia (State)

M. Helen Norman
NOTARY PUBLIC Signature

10/8/2020
My Commission Expires

M. Helen Norman
Expires
Oct. 8, 2021
Gwinnett Co., Georgia
Notary Public

EXHIBIT F**DRUG FREE WORKPLACE**

The undersigned certifies that the provisions of Code Sections 50-24-1 through 50-24-6 of the Official Code of Georgia Annotated, relating to the "Drug-free Workplace Act", have been complied with in full. The undersigned further certifies that:

- (1) A drug-free workplace will be provided for the Contractor's employees during the performance of the Contract; and
- (2) Each Contractor who hires a Subcontractor to work in a drug-free workplace shall secure from that Subcontractor the following written certification:

"As part of the subcontracting agreement with _____ (Contractor),
 _____ (Subcontractor) certifies to the Contractor that a drug free
 workplace will be provided for the Subcontractor's employees during the performance of this Contract
 pursuant to paragraph (7) of subsection (b) of Code Section 50-24-03."

Also, the undersigned further certifies that he will not engage in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the Contract.

Company Name

Clark Patterson Engineers Surveyor and Architects, P.C.

Kevin J. McComber

BY: Authorized Officer or Agent Date
 (Contractor Signature)

SENIOR VICE PRESIDENT

Title of Authorized Officer or Agent of Contractor

KEVIN J. McCOMBER

Printed Name of Authorized Officer or Agent

3/20/2019

Date



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
 COUNCILMEMBER **ARLENE BECKLES** • COUNCILMEMBER **BRUCE GAYNOR** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

City of Norcross

Legislation Details (With Details)

File #:	22-6522	Version:	
Type #:	Agenda Item	Status:	Agenda Ready
On Agenda:	8/1/2022 6:30 PM	In Control:	Mayor and Council
Title:	Sanitation Services Fees		

Sponsors:

Code Sections:

Attachments:

1. [Agenda Report- Sanitation Service Fees](#)

Title
Sanitation Services Fees

Drafter
Eric Johnson

Motion
 A motion to Approve/Deny sanitation service fees for FY23 based on Option ____.



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
COUNCILMEMBER **BRUCE GAYNOR** • COUNCILMEMBER **ARLENE BECKLES** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

Agenda Report

To: Mayor and Council
From: Eric Johnson, City Manager
Meeting Date: August 1, 2022– Mayor and Council
Item No.: 22-6522
Title: Sanitation Services Fees

Recommendation – Approve sanitation services fees for FY 23 based on one of several alternatives/options.

Background – The City extended a contract with Waste Management for one year in June and will go out for a competitive request for proposals (an “RFP”) in FY 23. In addition to the Waste Management charges, which will increase significantly on September 1, the City incurs about \$140,000 per year in administrative costs (billing, collections, management, and customer service) associated with managing the sanitation enterprise. That amounts to about 4% of total costs. The sanitation enterprise operated at a deficit in the past three years and is projected to operate at a larger deficit in FY 22. The estimated net position as of the end of FY 22 will be less than 10% of annual operating expenses. Adopted fees for FY 23, therefore, should equal anticipated expenses. The City bills residential customers annually on their tax bill, while offering an exemption to those aged sixty-two and older. (Exemptions are based on a County exemption listing.) In FY 22, there were 612 residential accounts that received an exemption. The cost of Waste Management services to those with exemptions was \$115,447. The City bills commercial customers monthly. Based on the one-year extension approved in June, the cost to the City for residential service would increase from \$15.72 to \$26.73 per month. In FY 22, the City billed residential customers \$15.05 per month. At the new rate, the annual cost per residential customer would be \$320.76, excluding any recovery of City administrative costs. By comparison, the annual amount charged in FY 22 was \$180.60. The value of senior exemptions will rise to \$203,362 in FY 23 based on new Waste Management rates and 634 current residential customers eligible for exemption. For front load service (dumpsters), Waste Management is raising their cost to the City 22.5%. For rolloff and other services (e.g., commercial hand pick, Skin Alley compactor), there is no increase to the City. There are a variety of options for how the City realigns billings. Several different approaches are presented below:

Option A – Recover all costs for exemptions and administration from non-residential customers. Adjust residential bills to the annual rate charged by Waste Management (\$320.76), and increase the cost for front load service, rolloff service, and other services by an equal percentage to cover the City's cost for their Waste Management services, free service to seniors, and the City's administrative expense -- an increase of about 25-30% for non-residential service.

Option B – Reduce the residential exemption for seniors to 50% (\$160.38) and recover the cost of exemptions and administration from non-residential customers. Adjust residential bills to the annual rate charged by Waste Management, less the value of reducing the exemption for seniors to 50% (\$160.38). Increase the cost for front load service, rolloff service, and other services by an equal percentage to cover the City's cost for their Waste Management services, discounted service to seniors, and the City's administrative expense -- an increase of about 20-25% for non-residential service.

Option C – Create a senior fee of \$150 and apply the added revenue to reducing residential charges for other residential customers by \$28.51 to \$292.25. Recover the cost of serving seniors and administrative costs from non-residential customers. Adjust residential bills to \$292.25, and to \$150.00 for those with senior exemptions. Increase the cost for front load service, rolloff service, and other services by an equal percentage to cover the City's cost for their Waste Management services, the cost of service to seniors, and the City's administrative expense – an increase of about 25-30%.

Option D – Eliminate the senior exemption, charge all residential customers the same fee, and recover administrative expenses from non-residential customers. Charge all residential customers the Waste Management fee of \$320.76. increase non-residential charges by an equal percentage to recover the City's cost for their Waste Management services and the City's administrative expenses – an increase of about 18-20% for non-residential service.

Option E - Eliminate the senior exemption, charge all residential customers a fee of \$295.00, and recover administrative expenses from non-residential customers along with a \$25.76 subsidy per residential customer. Charge all residential customers a fee of \$295.00 fee, passing the difference of \$108,192 between what residential customers cost the City and what they pay, along with increased cost for non-residential customers, and administrative costs proportionately to non-residential customers – an increase of about 20-25% for non-residential service.

Option F – Create a senior exemption of 50% paid through a drawdown of the sanitation fund net position (i.e., funding carried forward from prior years). Charge all other residential customers a fee of \$295.00. Recover administrative expenses, and a \$25.76 subsidy per residential customer from nonresidential customers. The senior fee would be 50% of \$295.00, or \$147.50. The savings of \$109,847 to seniors would be drawn down from an estimated beginning net position for the sanitation fund of about \$400,000. The \$140,000 in administrative expenses and \$97,424 in subsidy of other residential customers would be recovered through increased charges to non-residential customers, along with the increased cost from Waste Management for those customers.

Financial Impact – Based on current customer counts, the annual cost to the City would increase from \$4.0 million to \$4.9 million – an increase of \$0.9 million or 21.9%. Each of the estimated non-residential impacts are reflected as ranges because the number of each type of customer varies through the year and staff will finalize an estimate of quantities/customers for a final calculation of what each category of non-residential will be charged.

Consistent with Comprehensive Plan? Yes, consistent with Goal 6: Further the City's Tradition of Strong Leadership and High Level of Quality Services.

Next Steps – Once a decision is made, public notification will be made.



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
COUNCILMEMBER **ARLENE BECKLES** • COUNCILMEMBER **BRUCE GAYNOR** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

City of Norcross

Legislation Details (With Details)

File #:	22-6525	Version:	
Type #:	Agenda Item	Status:	Agenda Ready
On Agenda:	8/1/2022 6:30 PM	In Control:	Mayor and Council
Title:	Plant Vogtle Ownership Participation Agreements		

Sponsors:

Code Sections:

Attachments:

1. [Agenda Report - Plant Vogtle Ownership Participation Agreements](#)
2. [MEAG Power Sharing Agreements](#)

Title
Plant Vogtle Ownership Participation Agreements

Drafter
Eric Johnson

Motion
A motion to support the tender option by SPV M, SPV J, and SPV P.



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
COUNCILMEMBER **BRUCE GAYNOR** • COUNCILMEMBER **ARLENE BECKLES** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

Agenda Report

To: Mayor and Council

From: Eric Johnson, City Manager

Meeting Date: August 1, 2022 – Mayor and Council

Item No.: 22- 6525

Title: Plant Vogtle ownership participation agreements

Recommendation – Provide MEAG a response related to the City’s participation in three separate ownership participation agreements.

Background – Through MEAG, the City participates in agreements regarding power the City will receive from Plant Vogtle Units 3 and 4 upon their completion. Current litigation between MEAG and Georgia Power requires each participant in each of three agreements through MEAG to provide a response to MEAG by mid-August. The City is a party to each of the agreements. Due to the litigation, discussion of this item will be conducted in an executive session.

Financial Impact – The actual impact is pending determination of final construction costs for Units 3 and 4.

Consistent with Comprehensive Plan? Yes, Consistent with Goal 6: Further the City’s Tradition of Strong Leadership and High Level of Quality Services.

Next Steps – Once a decision is made, MEAG will be notified.

Norcross

PROPOSED MOTION

Based upon the information provided by the MEAG Power staff concerning the tender option decision pertaining to the Vogtle Units 3 and 4 Project and after consultation with our internal staff concerning the potential benefits and costs associated with the tender option, I hereby move that the City Council for the City of Norcross notify MEAG Power that it:

_____ Does support exercising the tender option by SPV M

or;

_____ Does not support exercising the tender option by SPV M

_____ Does support exercising the tender option by SPV J

or;

_____ Does not support exercising the tender option by SPV J

_____ Does support exercising the tender option by SPV P

or;

_____ Does not support exercising the tender option by SPV P



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
COUNCILMEMBER **ARLENE BECKLES** • COUNCILMEMBER **BRUCE GAYNOR** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

City of Norcross

Legislation Details (With Details)

File #:	22-6521	Version:	
Type #:	Agenda Item	Status:	
On Agenda:	8/1/2022 6:30 PM	In Control:	Mayor and Council
Title:	Electric Rates CY 2023		

Sponsors:

Code Sections:

Attachments:

1. [Agenda Report- Electric Rates CY 2023](#)

Title
Electric Rates CY 2023

Drafter
Eric Johnson

Motion
A motion to Approve/Deny retention of existing electric rates in calendar year 2023, subject to potential future power cost adjustments (PCAs), or reconsideration based on a revised MEAG budget later in the year.



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
COUNCILMEMBER **BRUCE GAYNOR** • COUNCILMEMBER **ARLENE BECKLES** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

Agenda Report

To: Mayor and Council
From: Eric Johnson, City Manager
Meeting Date: August 1, 2022 – Mayor and Council
Item No.: 22-6521
Title: Electric Rates

Recommendation – Approve retention of existing electric rates in calendar year 2023, subject to potential future power cost adjustments (PCAs), or reconsideration based on a revised MEAG budget later in the year.

Background – The City previously planned to increase electric rates annually by 1.9% for five years based on a rate model prepared by Electric Cities of Georgia (ECG). Last year, Mayor and Council decided to forego rate increases for calendar year 2022. While electric rates are expected to increase significantly once Plant Vogtle Units 3 and 4 are completed, based on the City's past agreement for power sharing from those sources, the City maintains reserves in the Municipal Competitive Trust (MCT) established for each member of MEAG. Those reserves are expected to be used, in part, to defray higher electricity costs, allowing for the ramping up of the City's rate structure. There is a provision in place in which ECG monitors financial activity for the City and advises the City monthly if a PCA is warranted.

In response to a question raised of ECG of what the implications would be if the City foregoes a 2023 rate increase, ECG responded as follows:

"Here are possible consequences of freezing the rates again in January. Reducing the General Fund transfer would help to mitigate impacts.

- The Vogtle delay is not incorporated in the MEAG budget yet, and the 2023 budget won't be out until later this year. The impact of Vogtle 3 on power costs next year is unknown. You may need the revenue.
- If there are higher or unexpected costs, it could result in a higher PCA than you would need with a rate increase. A higher PCA is less equitable than collecting revenues through the rate increase and impacts larger customers more.

- There is potential that a higher rate increase will be needed in the future in order to catch up revenues to a level that cover future power costs.

The power cost adjustment is a ¢/kWh charge that can be changed at any time. It can be increased as needed (or decreased) in any given month. It is meant as a temporary adjustment for unexpected or higher than budget expenses but could also be a credit.”

Based on this response, the City can revisit rates prior to January 2023 if higher rates from the impact of Plant Vogtle on the MEAG budget necessitate they be changed. As indicated, if City expenses rise unexpectedly, there is a mechanism in place to adjust rates through a PCA. Additionally, while the City has experienced losses in its MCT accounts due to market activities, and will likely experience additional losses, the City is selling excess energy for a gain based on current high market rates for power. By contrast, a MEAG analysis for 2020 determined that the City had sustained an annual loss of about \$360,000 when market rates for power were, on average, below the City’s cost for power.

Financial Impact – The actual impact will be based on actual sales, but the annual impact could be in the range of \$250,000. Since rates adjustments are made in January, the impact on FY 23 would be for eight months, including the peak Summer season.

Consistent with Comprehensive Plan? Yes, Consistent with Goal 6: Further the City’s Tradition of Strong Leadership and High Level of Quality Services.

Next Steps – Once a decision is made, public notification will be made.



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
COUNCILMEMBER **ARLENE BECKLES** • COUNCILMEMBER **BRUCE GAYNOR** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

City of Norcross

Legislation Details (With Details)

File #:	22-6528	Version:	
Type #:	Agenda Item	Status:	Agenda Ready
On Agenda:	8/1/2022 6:30 PM	In Control:	Mayor and Council
Title:	Employee Medical Benefits Proposed Rate Increase		

Sponsors:

Code Sections:

Attachments:

1. [Agenda Report- Employee Medical Contributions](#)
2. [Rates Cost Share % 9-1-22 through 12-31-23](#)

Title
Employee Medical Benefits Proposed Rate Increase

Drafter
Eric Johnson

Motion
A motion to adopt the new adjusted employee contributions for our 2022-2023 Open Enrollment.



MAYOR **CRAIG NEWTON** • MAYOR PRO TEM **MATT MYERS** • COUNCILMEMBER **ANDREW HIXSON** • COUNCILMEMBER **JOSH BARE**
COUNCILMEMBER **BRUCE GAYNOR** • COUNCILMEMBER **ARLENE BECKLES** • CITY MANAGER **ERIC JOHNSON** • CITY CLERK **MONIQUE LANG**

Agenda Report

To: Mayor and Council

From: Paul Hanebuth and Eric Johnson

Meeting Date: August 1, 2022 – Mayor and Council

Item No.: 22-6528

Title: Employee Medical Benefits Proposed Rate Increase

Recommendation: To adopt new adjusted employee contributions for our 2022-2023 Open Enrollment.

Background: Employee contributions have remained the same for several years. While the overall value of this benefit increases significantly each year, the insurance market does change over time, and the city has an obligation to adjust the small portion of insurance premiums paid by employees. This adjustment is to ensure that this benefit is distributed equitably, taking into consideration that employees enjoy a diverse range of family compositions and situations.

Financial Impact: An 8% increase (approximately \$135,000) in the city contribution to medical premiums has already been included in the proposed FY23 budget; the proposed changes to employee contributions increase overall employee contributions by about \$1,650 or 8%.

Consistent with Comprehensive Plan? Yes

Next Steps: Mayor & Council approval and rollout of Open Enrollment with updated rates.

Attachments: Explanation of changes/Benefits Open Enrollment Announcement

Update:

CITY OF NORCROSS
Rates 9/1/2022 through 12/31/2023

CIGNA HDHP \$3,000 70% \$6500 Low Plan - Active Employees					
Coverage Type	Total Monthly Cost	City Contribution Monthly	Employee Contribution Monthly	Employer Contribution Bi-Weekly	Employee Contribution Bi-Weekly
Employee Only	\$ 596.45	\$ 596.45	\$ -	\$ 275.28	\$ -
Employee & Spouse	\$ 1,252.52	\$ 1,173.79	\$ 78.73	\$ 541.75	\$ 36.34
Employee & Child(ren)	\$ 1,133.25	\$ 1,068.83	\$ 64.42	\$ 493.31	\$ 29.73
Family	\$ 1,789.29	\$ 1,646.15	\$ 143.14	\$ 759.76	\$ 66.06

Low Plan Medical Cost %	
ER	EE
100%	0%
94%	6%
94%	6%
92%	8%

CIGNA OAP \$2,500 80% Mid Plan - Active Employees					
Coverage Type	Total Monthly Cost	City Contribution Monthly	Employee Contribution Monthly	Employer Contribution Bi-Weekly	Employee Contribution Bi-Weekly
Employee Only	\$ 734.61	\$ 651.32	\$ 83.29	\$ 300.61	\$ 38.44
Employee & Spouse	\$ 1,542.27	\$ 1,358.02	\$ 184.25	\$ 626.78	\$ 85.04
Employee & Child(ren)	\$ 1,395.64	\$ 1,229.72	\$ 165.92	\$ 567.56	\$ 76.58
Family	\$ 2,203.09	\$ 1,936.22	\$ 266.87	\$ 893.64	\$ 123.17

Mid Plan Medical Cost %	
ER	EE
89%	11%
88%	12%
88%	12%
88%	12%

CIGNA OAP \$1,500 85% High Plan - Active Employees					
Coverage Type	Total Monthly Cost	City Contribution Monthly	Employee Contribution Monthly	Employer Contribution Bi-Weekly	Employee Contribution Bi-Weekly
Employee Only	\$ 800.79	\$ 677.66	\$ 123.13	\$ 312.77	\$ 56.83
Employee & Spouse	\$ 1,681.50	\$ 1,448.26	\$ 233.24	\$ 668.43	\$ 107.65
Employee & Child(ren)	\$ 1,521.65	\$ 1,308.41	\$ 213.24	\$ 603.88	\$ 98.42
Family	\$ 2,402.38	\$ 2,079.03	\$ 323.35	\$ 959.55	\$ 149.24

High Plan Medical Cost %	
ER	EE
85%	15%
86%	14%
86%	14%
87%	13%

Cigna Dental Plan - Active Employees					
Coverage Type	Total Monthly Cost	City Contribution Monthly	Employee Contribution Monthly	Employer Contribution Bi-Weekly	Employee Contribution Bi-Weekly
Employee Only	\$ 43.81	\$ 43.81	\$ -	\$ 20.22	\$ -
Employee & Spouse	\$ 110.77	\$ 88.67	\$ 22.10	\$ 40.92	\$ 10.20
Employee & Child(ren)	\$ 126.28	\$ 99.07	\$ 27.21	\$ 45.72	\$ 12.56
Family	\$ 167.20	\$ 126.49	\$ 40.71	\$ 58.38	\$ 18.79

Dental Cost %	
ER	EE
100%	0%
80%	20%
78%	22%
76%	24%

Cigna Vision Plan - Active Employees					
Coverage Type	Total Monthly Cost	City Contribution Monthly	Employee Contribution Monthly	Employer Contribution Bi-Weekly	Employee Contribution Bi-Weekly
Employee Only	\$ 7.49	\$ -	\$ 7.49	\$ -	\$ 3.46
Employee & Spouse	\$ 14.98	\$ -	\$ 14.98	\$ -	\$ 6.91
Employee & Child(ren)	\$ 14.24	\$ -	\$ 14.24	\$ -	\$ 6.57
Family	\$ 22.38	\$ -	\$ 22.38	\$ -	\$ 10.33

Vision Cost %	
ER	EE
0%	100%
0%	100%
0%	100%
0%	100%