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CIVILITY PLEDGE
The way we govern ourselves is often as important as the positions we take. Our collective decisions will be better when differing views have had the opportunity to be fully vetted and considered. All people have the right to be treated with respect, courtesy and openness. We value all input. We commit to conduct ourselves at all times with civility and courtesy to each other.

ALAN HALLMAN
MAYOR

MIKE RAST
ALDERMAN AT LARGE

BRETT REICHERT
COUNCILMAN AT LARGE

MARK ADAMS
COUNCILMAN WARD I

CHLOE ALEXANDER
COUNCILMAN WARD II

MAYOR AND COUNCIL REGULAR SESSION

Join in person at 700 Doug Davis Drive, Hapeville, GA 30354, or, visit the City's Website for the live stream at https://hapeville.org/562/Agendas-and-Minutes

February 4, 2025 6:00 PM

AGENDA

1. **CALL TO ORDER:**
2. **ROLL CALL:**
   Alan Hallman
   Mike Rast
   Brett Reichert
   Mark Adams
   Chloe Alexander
3. **WELCOME:**
4. **PLEDGE OF ALLEGIANCE:**
5. **INVOCATION:**
6. **PRESENTATIONS:**

6.I. Proclamation Recognizing and Honoring Eagle Scout Kye Marrero.

Supporting Document(s):
1. Proclamation Recognizing Kye Marrero On Achieving The Rank Of Eagle Scout

6.II. **Championship Ring Ceremony:** Celebrating the 5-Year-Old Boys Atlanta Youth United League Champions.

6.III. **Championship Ring Ceremony:** Celebrating the Girls Atlanta Youth United Seven-year-old Division Champions and their 5–8-year-old Grand Champions.

7. **PUBLIC HEARING:**

7.I. Consideration of an amendment to the Code of Ordinances to Clarify language for City Exemptions. – First Reading

Background:
In July 2019, the Ordinance 2019-16 was signed authorizing the call for a special election, which resulted in House Bill (HB) 612. The bill increased the county homestead exemption, expanded exemptions to seniors 65 and up, and created new opportunities for veterans and the disabled.

- City Homestead exemptions increased from $10,000 to $15,000.
- Low-income requirement for aged 65+ was removed and the age exemptions is $10,000 to $20,000
- Veterans can now get a $20,000 exemption, no age requirement. – This was not an option prior to HB 612.

- 100% Disabled can now get a $20,000 exemption, no age requirement

Staff is requesting an ordinance amendment to change the City ordinances to mirror HB 612.

Staff Comments:
Public Comments:

Supporting Document(s):
1. Hapeville Homestead Exemptions Ord.
2. AD460334

8. QUESTIONS ON AGENDA ITEMS:

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

9. CONSENT AGENDA:

9.I. Consideration and Action to Approve the December 3, 2024, Mayor and Council Meeting Minutes.

Supporting Document(s):
1. 12032024 Drafted Minutes

9.II. Consideration and Action to Approve the January 7, 2025, Mayor and Council Meeting Minutes.

Supporting Document(s):
1. 01072025 Drafted Minutes

9.III. Consideration and Action to Approve the January 7, 2025, Executive Session Meeting Minutes.

10. OLD BUSINESS:

10.I. Discussion of current obstacles and future requirements for Re-Certification of the Norfolk Southern quiet zone in Hapeville.

Background:
Every 4 1/2 to 5 years, the Federal Railroad Authority requires those agencies that have active quiet zones active to go through an affirmation process by conducting traffic counts at the rail crossings. This discussion will address our current calculations, challenges and needs for future improvements to the railroad crossings.

Supporting Document(s):
1. Hapeville_GA_QZ_Affirmation_2025_THR212001

11. NEW BUSINESS:

11.I. Consideration and Action to Approve A Resolution to Declare the Need for New Public Facilities and for Other Purposes.

Background:
The City has determined that there is a need for additional public facilities for municipal buildings, administrative office space, and a new fire station facility. The City intends to pursue acquisition of real property sufficient to meet the needs for new public facilities and to undertake necessary measures associated with the potential property acquisition. Approval is requested to authorize the City's employees, agents, or both to take all actions necessary for the acquisition of property to meet the City's need for new public facilities.

Supporting Document(s):
1. Resolution to Declare Need for Public Facilities

11.II. Consideration and Action to Approve a CDBG award from the Fulton County Board of Commissioners in the amount of $ 84,971 for the construction of a bicycle pump track in John Lewis Memorial Park.

Background:
This CDBG award is to provide facilities and environments that primarily serve low to moderate-income persons. Bicycle pump tracks have being growing in popularity with cities such as East Point, Roswell and Powder Springs. With the ever-increasing organizations that provide bikes to those in need, this pump track will provide a place for kids and adults to ride and improve their overall health and well-being. After bidding and award, construction should begin sometime early this summer.

Supporting Document(s):
1. CDBG Award

11.III. Consideration and Action to Approve the Event Request for Delta Scholarship Fund 5k.

Background:
The Delta Care & Scholarship Fund, a 501(c)(3) organization, is pleased to present a proposal for the 13th Annual Delta Scholarship 5K Run. This event serves as a crucial fundraiser, with all proceeds supporting the Delta Scholarship Fund, which provides educational scholarships to Delta Air Lines employees and their eligible dependents worldwide.

In 2023, the Delta Scholarship Fund awarded over 700 scholarships, totaling $1.5 million, made possible by the generosity of Delta employees and community supporters. The organization aims to continue this tradition of community engagement and support in 2024.

The proposed 5K course is USATF-certified and serves as an official qualifying event for the AJC Peachtree Road Race. Details about last year's race are available here: Delta Scholarship Fund 5K Run/Walk and Fun Run.

The event is planned for May 3rd, starting at 7:30 AM, with the race beginning and ending at the Delta Community Credit Union. A course map has been attached for reference.

The Delta Care & Scholarship Fund respectfully requests approval to proceed with the necessary arrangements for this event. The support of the City Board will help ensure the continuation of valuable educational opportunities for Delta employees and their families. Thank you for your consideration.

Supporting Document(s):
1. Online Form Submittal_ Hapeville Event Request Form_Redacted
2. Delta JPG - Redacted
3. Delta Scholarship Fund 5k-map certified

11.IV. Discussion on HB 581: Provisional Rollback Rate Impact and Implementation.

Background:
During the final week of the 2024 legislative session, four separate bills were consolidated into: House Bill 581 (HB 581). This comprehensive legislation introduces significant changes to property taxes and local sales tax options aimed at reducing the reliance on property taxes by shifting some of the tax burden to sales taxes. Specifically, HB 581:

1. Establishes a floating homestead exemption for property taxes tied to inflation.
2. Creates a new Floating Local Option Sales Tax (FLOST), a 1% sales tax that functions similarly to a LOST (Local Option Sales Tax) but replaces property tax revenue with sales tax revenue.

City Council has decided to not "opt-out" of the floating homestead exemption. The next stage in the process for Fulton County Municipalities that are participating is to provide an "Estimated" Rollback Rate to the Tax Commissioner by March 1, 2025. City Staff is working on the estimate now for presentation at the February 18th meeting. City Manager will discuss the information that we have and the steps we intend to provide our best "estimate" for a 2025 rollback rate.

Supporting Document(s):
1. FC -Procedural - Tax Commissioner

2. ACCG - Prop Tax Changes - Rollback
3. ACCG- Rollback References

12. CITY MANAGER REPORTS:

13. PUBLIC COMMENTS:

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

14. MAYOR AND COUNCIL COMMENTS:

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

16. ADJOURN:

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

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PROCLAMATION RECOGNIZING KYE MARRERO ON ACHIEVING THE RANK OF EAGLE SCOUT

WHEREAS: The Mayor and City Council of Hapeville, Georgia, recognize the Boy Scouts of America as an organization dedicated to developing character, citizenship, and leadership in young people; and

WHEREAS: Kye Marrero has exemplified these values by earning the distinguished rank of Eagle Scout, the highest achievement attainable in the Boy Scouts of America, a rank that fewer than 8% of Scouts achieve; and

WHEREAS: Kye Marrero began his Scouting journey in 2014 as a Tiger Cub in Pack 1030 and crossed over to Troop 1906 in 2018, continuing his dedication to personal growth, community service, and leadership development; and

WHEREAS: Kye Marrero's Eagle Scout service project, entitled "Cascade Elementary Forest of Dreams," demonstrates his commitment to environmental stewardship and education by creating a nature trail and developing a STEM curriculum to enhance student science achievement at Cascade Elementary School in Atlanta; and

WHEREAS: This project was completed through collaboration with the Adams Park Resident Association and the Eco Addendum Organization, fostering a unique approach to learning that integrates environmental issues, community involvement, and teacher professional development, thereby creating a lasting impact on the school and surrounding community; and

WHEREAS: Kye Marrero's project-based curriculum and outdoor laboratory promote critical thinking and inspire future generations to engage in environmental education and stewardship, positioning Cascade Elementary as a beacon of science and nature within the community; and

THEREFORE, BE IT RESOLVED that the members of this City Council formally do hereby recognize and commend Kye Marrero for his exemplary service, dedication, and accomplishment in earning the rank of Eagle Scout, and further acknowledge the lasting positive impact his project will have on the environment, education, and the community, and that this proclamation is presented to Kye Marrero on Tuesday January 7, 2025, as a token of appreciation and admiration for his achievements and commitment to making the world a better place:

Once an Eagle,
Always an Eagle

By: __________________________
Alan Hallman, Mayor

Attest: __________________________
Sharee N. Steed, City Clerk

Chapter 17 FINANCE AND TAXATION

ARTICLE 2. FINANCIAL ADMINISTRATION[1]

Sec. 17-2-1. Fiscal year.

The fiscal year of the city shall begin on July 1 and shall end on June 30 of each year.

(Code 1981, § 3-1-1; Ord. No. 92-4, 6-2-1992)

Sec. 17-2-2. Annual budget; appropriations ordinance.

(a) An annual budget and appropriations ordinance shall be adopted by the mayor and council prior to the first day of the fiscal year, provided if such budget and appropriations ordinance is not adopted, the previous year's budget and appropriations ordinance shall continue as the budget for the ensuing fiscal year and until the new budget and appropriations ordinance is adopted.

(b) The budget as adopted shall be a balanced budget with anticipated revenues equal to appropriated expenditures.

(Code 1981, § 3-1-2)

Sec. 17-2-3. Amendments.

All amendments to the budget shall be by ordinance.

(Code 1981, § 3-1-3)

Sec. 17-2-4. Appropriations to lapse.

All appropriations which are not obligated, encumbered or expended at the end of the fiscal year shall lapse and become a part of the unencumbered surplus of the city which may be appropriated for the next fiscal year.

(Code 1981, § 3-1-4)

Sec. 17-2-5. Method of accounting.

To the extent possible, the modified accrual basis of accounting shall be used so that expenditures, other than accrued interest on long-term debt, are recorded at the time liabilities are incurred and revenues are recorded when cash is received, except for material or available revenues which shall be accrued to reflect properly the taxes levied and the revenues earned. All receipts and disbursements shall be posted promptly and at

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[1]Charter reference(s)—Fiscal control, charter, § 5-301 et seq.

State law reference(s)—Local government financial management standards and procedures act, O.C.G.A. § 23-3601 et seq.

least on a monthly basis. To the extent possible, all interfund transfers shall be cleared by the end of the fiscal year.

(Code 1981, § 3-1-5)

Sec. 17-2-6. Responsibility for financial administration.

The responsibility for administering the city's financial and fiscal affairs is hereby vested in the director of finance and administration of the city.. The director of finance may establish procedures and delegate specific financial duties and responsibilities to the assistant director of finance and other employees in the financial administration department of the city, with approval of the city manager.

(Code 1981, § 3-1-6)

Sec. 17-2-7. Credit card payments.

The **city finance director,** with the approval of the city manager, may establish procedures for acceptance of credit card payments for amounts due the city. A convenience fee may be charged for the use of a credit card when said fee is permitted by the operating rules and regulations of the credit card issuer.

(Ord. No. 2013-13, § 1, 9-17-2013)

ARTICLE 3. PURCHASING AND CONTRACTING

DIVISION 1. Purchasing Agent

Sec. 17-3-1. Appointment.

The mayor and council shall appoint the purchasing agent for the city.

(Code 1959, § 2-7; Code 1981, § 3-2-1)

Sec. 17-3-2. Duties.

(a) The purchasing agent, hereinafter called "the agent," shall have the power and it shall be his duty to purchase or contract for the purchase of all supplies and contractual services needed by any agency of the city, except as otherwise provided by law.

(b) The agent shall:

  (1) Act to procure for the city the highest quality in supplies and contractual services at the least expense to the city;

  (2) Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases and sales;

  (3) Keep informed of current developments in the field of purchasing by other governmental jurisdictions;

  (4) Prescribe and maintain such forms as he shall find reasonably necessary to the operation of this chapter;

  (5) Exploit the possibilities of buying in bulk so as to take full advantage of discounts; and

  (6) Act so as to procure for the city all federal tax exemptions to which it is entitled.

(c) The agent shall also have the authority to declare vendors who default on their quotations irresponsible bidders and to disqualify them from receiving any business for the city for a stated period of time.

(Code 1959, § 2-8; Code 1981, § 3-2-2)

Secs. 17-3-3—17-3-20. Reserved.

DIVISION 2. SUPPLIES AND CONTRACTS

Sec. 17-3-21. Methods of source selection.

Except as otherwise authorized by law, all contracts shall be awarded by:

(1) Competitive sealed bidding pursuant to section 17-3-22;

(2) Competitive negotiation pursuant to section 17-3-23;

(3) Noncompetitive negotiation pursuant to section 17-3-24; or

(4) Small purchase procedures pursuant to section 17-3-25.

(Code 1981, § 3-2-11; Ord. No. 94-21, 8-2-1994)

Sec. 17-3-22. Competitive sealed bidding.

Conditions for use of competitive sealed bidding are as follows:

(1) *Award by competitive sealed bidding.* Contracts exceeding the amount provided by section 17-3-25 (small purchases) shall be awarded by competitive sealed bidding whenever practicable. Factors in determining whether competitive sealed bidding is not practicable shall include whether:

a. The specifications permit award on the basis of the lowest bid price or lowest evaluated bid price, as determined in accordance with objective, measurable criteria set forth in the invitation for bids; and

b. The available sources, the time and place of performance, and other relevant circumstances are appropriate for use of competitive sealed bidding. Nothing in this article is intended to authorize letting contracts without competitive sealed bids when such bids are required by state law.

(2) *Public notice.*

a. The invitation for bids shall be given adequate public notice a sufficient time prior to the date set forth therein for the opening of bids.

b. Such notice may include publication in a newspaper of general circulation a reasonable time prior to bid opening.

(3) *Bid opening.* Bids shall be opened publicly at the time and place designated in the invitation for bids. After opening each bid, it shall be recorded and be open to public inspection.

(4) *Award.* The contract shall be awarded with reasonable promptness by written notice to the responsive and responsible bidder whose bid is determined to contain the lowest bid price or the lowest evaluated bid price.

(5) *Excessive prices; rebid.* In the event that all bids submitted pursuant to a competitive sealed bidding invitation for bid result in bid prices in excess of the funds available for the purchase, then new

invitations for competitive sealed bids may be issued and the project may be rebid or the project may be changed or abandoned.

(Code 1981, § 3-2-12; Ord. No. 94-21, 8-2-1994)

Sec. 17-3-23. Competitive negotiation.

(a) *When used.* When it is determined by the mayor and council that the use of competitive sealed bidding is not practicable, a contract may be awarded by competitive negotiation in accordance with this article and regulations promulgated hereunder. Competitive negotiation shall not be used where state law, the city Charter, or any applicable federal statute or regulation requires another method such as competitive bidding.

(b) *Use after unsuccessful competitive sealed bidding.* Contracts may also be competitively negotiated when it is determined by the mayor and council that the bid prices received by competitive sealed bidding either are unreasonable as to all or part of the requirements, or were not independently reached in open competition, and for which:

(1) Each responsible bidder has been notified of the intention to negotiate and is given reasonable opportunity to negotiate;

(2) The negotiated price is lower than the lowest rejected bid of any responsible bidder; and

(3) The negotiated price is the lowest negotiated price offered by any responsible supplier.

(c) *Public notice.* The request for proposals shall be given adequate public notice in the same manner as provided in section 17-3-22.

(d) *Evaluation factors.* When an award is not to be made solely on the basis of the lowest evaluated price, the request for proposals shall indicate the relative importance of price and other significant evaluation factors.

(e) *Award.* Award shall be made to the bidder whose proposal is determined to be more advantageous to the city, taking into consideration price and the evaluation factors set forth in the request for proposals.

(f) *Discussion with all responsible offerors.* Written or oral discussions may be conducted with all responsible offerors who submit proposals reasonably susceptible of being selected for award. Discussions should not disclose any information derived from proposals submitted by competing offerors. Discussions need not be conducted:

(1) With respect to prices, where such prices are fixed by law or regulation, except that consideration shall be given to competitive terms and conditions;

(2) Where time of delivery or performance will not permit discussions; or

(3) Where it can be clearly demonstrated and documented from the existence of adequate competition or accurate prior cost experience with the procured items that acceptance of an initial offer without discussion would result in fair and reasonable prices, and the request for proposals notifies all offerors of the possibility that award may be made on the basis of the initial offers.

(Code 1981, § 3-2-13; Ord. No. 94-21, 8-2-1994)

Sec. 17-3-24. Noncompetitive negotiation.

When, as determined by the mayor and council prior to an award, the needs of the city cannot be met by the other methods of procedure outlined hereunder, a contract may be made by noncompetitive negotiation, as determined prior to award. Noncompetitive negotiation shall not be used where state law, the city Charter, or any applicable federal statute or regulation requires another method such as competitive bidding.

(Code 1981, § 3-2-14; Ord. No. 94-21, 8-2-1994)

Sec. 17-3-25. Small purchases.

(a) Budgeted purchases of supplies and services of less than the estimated value of $5,000.00 may be made in the open market without newspaper advertisement and without observing the procedure prescribed in section 17-3-22 et seq., for the award of formal contracts.

(b) Budgeted purchases of supplies and services in an amount of less than $5,000.00 may be made by department heads of the city with the approval of the council chairman of the appropriate standing committee.

(c) The city shall not be deemed to be contractually bound unless Charter section 5-401 has been complied with.

(d) Budgeted purchases of supplies and services amounting to the estimated value up to $10,000.00 may be made by the city manager without prior approval of the council.

(Code 1981, § 3-2-15; Ord. No. 94-28, 11-1-1994; Ord. No. 2004-21, § 1(3-2-15), 12-21-2004; Ord. No. 2019-22 , § 1, 7-16-2019)

Sec. 17-3-26. Cancellation of invitations for bids or requests for proposals.

When it is in the best interest of the city, any invitation for bids, request for proposals or other solicitation may be cancelled, and all bids or proposals in response thereto may be rejected.

(Code 1981, § 3-2-16; Ord. No. 94-28, 11-1-1994)

Sec. 17-3-27. Responsibility of bidders and offerors.

(a) *Determination of responsibility.* The responsibility of a bidder or offeror shall be determined in accordance with this article.

(b) *Inquiry authorized.* A reasonable inquiry to determine the responsibility of a bidder or offeror may be conducted in accordance with this section. The unreasonable failure of a bidder or offeror to promptly supply information in connection with such an investigation may be grounds for a determination that the bidder is not responsible.

(c) *Right of nondisclosure.* Except as otherwise provided by law, information disclosed by a bidder or offeror pursuant to this section may not be disclosed outside of the agency requesting the bids and the department of finance and administration without the prior written consent of the bidder or offeror.

(Code 1981, § 3-2-17; Ord. No. 94-21, 8-2-1994)

Sec. 17-3-28. Regulations for procedure.

The city administrator may prepare regulations for procedure under this article. The regulations shall be consistent with the terms of this article and shall specify details and forms to be used. The regulations shall be in full force and effect after they are approved by the city council.

(Code 1981, § 3-2-18; Ord. No. 94-21, 8-2-1994)

Secs. 17-3-29, 17-3-30. Reserved.

DIVISION 3. IMPROVEMENT CONTRACTS

Sec. 17-3-31. Written contracts; when required.

All public improvement projects costing in the aggregate of $5,000.00 or more should be completed and performed under and by virtue of a written contract by and between the city and the performing party and which contract shall be drawn, prepared and executed in accordance with ordinances and resolutions in effect in the city, unless otherwise specified by mayor and council after consultation with the city attorney.

(Code 1959, § 2-23; Code 1981, § 3-2-31; Ord. No. 2004-21, § 2(3-2-31), 12-21-2004)

Sec. 17-3-32. Procedure for awarding contracts.

(a) Whenever the mayor and council deem it necessary or desirable to undertake any public works or other public improvements costing in the aggregate $5,000.00 or more, they shall adopt a resolution declaring such work or improvements necessary. The resolution shall state the type of work or improvement to be done, as well as define the extent and character of the same.

(b) Upon the adoption of the resolution, it shall be the duty of the city engineer or engineering firm designated by the mayor and council to proceed to prepare an estimate of the cost of such proposed improvements, as well as all plans and specifications as may be necessary. Said plans, specifications and cost estimates shall thereupon be delivered to the mayor and council, who, after examining the same, shall determine whether to proceed with the improvements.

(c) Should the mayor and council determine, after studying the estimate furnished by the engineer, to proceed with the improvements, they shall adopt a resolution setting forth the facts. The resolution shall set forth such terms and conditions as they shall deem proper or necessary with reference to the letting of the contract and the provisions thereof.

(Code 1959, § 2-24; Code 1981, § 3-2-32; Ord. No. 2004-21, § 2(3-2-32), 12-21-2004)

Sec. 17-3-33. Bid deposits.

The city shall require a bid deposit of at least five percent on proposed improvement contracts with the city. All unsuccessful bidders shall be entitled to return of any deposit and/or release of any surety. A successful bidder shall forfeit any bid deposit and/or penalty imposed against a surety on any contract upon failure of the contracting party with the city to enter a contract within ten days after the award to that party, or such other times as the city clerk shall direct.

(Code 1959, § 2-25; Code 1981, § 3-2-33; Ord. No. 2004-21, § 2(3-2-33), 12-21-2004)

Sec. 17-3-34. Rejection of bids.

The city shall reserve the right to reject all bids, or parts of all bids, when the public interest will be served thereby, and shall have the further right to waive all technicalities.

(Code 1959, § 2-26; Code 1981, § 3-2-34)

Sec. 17-3-35. Lowest responsible bidder.

Contracts for municipal improvements shall be awarded to the lowest responsible bidder. In determining the "lowest responsible bidder," in addition to price, the purchasing agent shall consider:

(1) The ability, capacity and skill of the bidder to perform the contract;

(2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified without delay or interference;

(3) The character, integrity, reputation, judgment, experience and efficiency of the bidder;

(4) The quality of the performance of previous contracts;

(5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract;

(6) The sufficiency of the financial resources and ability of the bidder to perform the contract;

(7) The ability of the bidder to provide future maintenance for the use of the subject of the contract; and

(8) The number and scope of conditions attached to the bid.

(Code 1959, § 2-27; Code 1981, § 3-2-35)

Sec. 17-3-36. Award to other than low bidder.

No award for a contract for municipal improvements shall be given to other than the lowest bidder without the express consent of the mayor and council, as evidence by a resolution adopted for such purpose.

(Code 1959, § 2-28; Code 1981, § 3-2-36)

Sec. 17-3-37. Tie bids.

If all low bids received are for the same amount or unit price, all other things being equal, the contract shall be awarded to a local bidder. Where no local bidder is involved, the purchasing agent shall award the contract for municipal improvements to one of the tie bidders by drawing lots in public.

(Code 1959, § 2-29; Code 1981, § 3-2-37)

Sec. 17-3-38. Preparation of plans, estimates, etc., and execution of public works by engineer; when required.

In all public works costing $5,000.00 or more, the plans and specifications and estimates of cost shall be prepared by and the construction executed under the direct supervision of a registered professional engineer or the city engineer.

(Code 1959, § 2-30; Code 1981, § 3-2-38; Ord. No. 2004-21, § 2(3-2-38), 12-21-2004)

Sec. 17-3-39. Performance bond required for contracts of designated amount.

No contract for any public works or improvements, costing more than $5,000.00, shall become valid until the contract therefor shall have been duly executed and the contractor shall have executed and delivered to the city good and sufficient surety bond conditioned for the faithful performance and completion of such contract and the bond shall have been approved by the city attorney.

(Code 1959, § 2-31; Code 1981, § 3-2-39; Ord. No. 2004-21, § 2(3-2-39), 12-21-2004)

Sec. 17-3-40. Award of contracts of less than specified amount.

All public works contracts costing less than $5,000.00 shall be awarded in such manner as shall be directed by the mayor and council.

(Code 1959, § 2-32; Code 1981, § 3-2-40; Ord. No. 2004-21, § 2(3-2-40), 12-21-2004)

ARTICLE 4. PROPERTY AND SANITARY TAXES

DIVISION 1. GENERAL PROVISIONS

The county will annually assess a real and personal property valuation and a millage rate for property subject to ad valorem property tax in the city. Following adoption of the city's fiscal year budget, mayor and council shall, by ordinance, adopt a millage rate upon which real and personal property subject to ad valorem tax will be assessed.

In determining the fair market value of real property within its taxing jurisdiction, the county shall calculate and use the fair market value as finally determined for property subject to ad valorem property tax in the city for county and city ad valorem property taxation purposes as required by <u>O.C.G.A. § 48-5-352 and O.C.G.A. § 48-5-353.</u>

Annual ad valorem property tax notices shall be provided to owners with real and personal property in the city. Tax notices will identify the owner, the address of the real and personal property subject to ad valorem taxation, the appraised fair market value of the real and personal property, the millage rate, the amount of ad valorem property tax due to the city, the due date for tax payment, notice of fees and penalty for late tax payments, and such additional information as allowed by law or authorized by the mayor and council.

Sec. 17-4-1. Date due, method of collection when delinquent.

All property taxes shall be due and payable within a period of 45 days from the date of the property tax notic**e. In the event that the 45th day falls on a Saturday, Sunday, or on a legal holiday, in which the administrative offices of the city are closed, the ad valorem property tax bill will be due on the next business day following the Saturday, Sunday, or legal holiday.** If ad valorem for property taxes are not paid as set forth in this section, the city may impose additional penalties and fees. Property owners who fail to pay delinquent ad valorem property tax shall also be subject to collection by fi. fa. and execution.

(Code 1981, § 3-3-1; Ord. No. 2009-05, § 1, 5-5-2009)

Sec. 17-4-2. Penalty and interest after due date.

(a) *Penalty on failure to pay tax.* Failure to pay any ad valorem tax after 120 days from the due date shall result in a five (5%) percent penalty; then an additional five(5%) percent on the remaining balance after every subsequent 120 days, not to exceed 20%.

(b) *Interest on unpaid taxes*. Except otherwise provided by law, unpaid ad valorem taxes and unpaid special assessments for property subject to taxation in the jurisdiction shall bear interest at an annual rate equal to the bank prime loan rate as posted by the Board of Governors of the Federal Reserve System in statistical release H. 15 or any publication that may supersede it, plus three percent, to accrue monthly. Such annual interest rate shall be determined and applied to each unpaid tax balance for each calendar year based on the first weekly posting of statistical release H. 15 on or after January 1 of each calendar year as required by O.C.G.A. § 48-2-40. For purposes of the Code Section, any period less than one month shall be considered to be one month.

(Code 1981, § 3-3-2; Ord. No. 94-14, 5-3-1994; Ord. No. 2009-05, § 2, 5-5-2009; Ord. No. 2014-08 , § 1, 9-16-2014)

State law reference(s)—Interest rate on unpaid taxes, O.C.G.A. § 91A-239.2

Sec. 17-4-3. Issuance of fi. fa.

It shall be the duty of **the finance director or his or her designee** to process, prepare and issue tax fi. fas against all persons owing taxes and special assessments to the city for the year in which such tax or assessment are unpaid.

All executions issued shall continue to bear interest and penalties at the rates established in this section for past due taxes and assessments.

(Code 1981, § 3-3-3)

Sec. 17-4-4. Sanitary tax; as prescribed annually.

There is levied a sanitary tax as prescribed by the mayor and council at the beginning of each year.

(Code 1959, § 19-9; Code 1981, § 3-3-4)

Except as otherwise provided, the finance director or his or her designee shall be charged with the duty to administer the imposition, collection and enforcement of all taxes and special assessments levied or imposed by the city in accordance with the administrative procedures hereinafter set forth.

Charter reference(s)—For authority to levy, § 5-102.

Sec. 17-4-5. Same; constitutes a lien.

Such sanitary tax shall be a lien against the property on which it is levied, and such lien will attach in the same way and manner as the ad valorem tax levied and prescribed in the city.

(Code 1959, § 19-10; Code 1981, § 3-3-5)

Sec. 17-4-6. Same; payment plans, enforcement and collection.

Such sanitary tax will be collected and its payments enforced in the same way and manner as the ad valorem tax in the city is now collected and enforced, including the right to issue execution therefore, and enforce the same in the same way and manner as the executions for ad valorem taxes are issued and enforced.

(Code 1959, § 19-11; Code 1981, § 3-3-6)

New Section- Payment Plans

The city finance director or his or her designee, or city manager may offer taxpayers reasonable tax payment arrangements for unpaid tax bills or assessments for tax payers who are experiencing extreme hardship or adverse conditions as determined by the city finance director or his or her designee or the city manager.

The city finance director or his or her designee or city manager may waive the collection of any interest, in whole or in part, due to the city on unpaid taxes or assessments whenever or to the extent that he or she reasonably determines that the delay in payment was due to a reasonable cause and not due to gross or willful neglect or disregard of the law or of regulations that mandate payment of taxes and assessments to the city. Taxpayers who seek a payment plan under this section must comply with repayment plan terms and conditions which are established by the finance director or his or her designee or city manager.

<u>New Section- Tax Sale</u> (Outlined fi. Fa. Tax liens, now must address tax sales)

The city finance director or his or her designee shall cause all executions issued to be placed for collection or levy and sale of property. The city finance director or his or her designee shall exercise their best efforts to collect the full amount of taxes, assessments due, together with all interest, penalties, and any costs due thereon, from the taxpayer. In the event that there is an inability to collect taxes or assessments due, the police chief shall levy the execution on a sufficient amount of the taxpayer's property, whether real or personal, to satisfy the obligations due. The levy, execution and tax sale shall be held and conducted in accordance with O.C.G.A. § 48-3-3 et seq.

Twenty (20) days before advertising a property for tax sale after a levy and execution, the police of the city shall have the duty to provide written notice of levy to the record owner of the property and the record owner of each security deed and mortgage affecting such property that has delinquent or unpaid taxes and assessments as set forth in O.C.G.A. § 48-3-9.

After the notice of levy is completed as required by law, the property shall be advertised for at least ten (10) days, with written notice of the advertisement provided to the taxpayer at least ten (10) days prior to the tax sale, and sold by the city in the same manner as provided for executions and judicial sales as set forth in O.C.G.A. § 48-4-1.

Sales of property under execution shall be made by the police chief at city hall on the first Tuesday of each month. The city shall sell the property to the highest bidder for cash, and upon collection of the sales price, make a tax deed or bill of sale for the property to the purchaser. Any person who becomes the purchaser of any property sold at the tax sale, but fails or refuses to comply with the terms of sale when requested to do so, shall be liable for the amount of the highest bid amount for the property purchased.

The police chief shall promptly record, account for, and settle with the finance director or his or her designee any amount collected from the tax sale to satisfy unpaid taxes or assessments. Proceeds of all tax sales or final returns showing uncollected executions shall be made by the city police no later than 90 days from the time that the execution is placed in the hands of the city policy as required by O.C.G.A. § 48-4-3.

Sec. 17-4-7. Hotel/motel/high-rise structures special tax district.

(a) Pursuant to Article IX, Section II, Paragraph VI of the Georgia Constitution, there is hereby established a special tax district within the city to be known as the "Hotel/Motel/High-Rise Structures Special Tax District." Said hotel/motel/high-rise structures special tax district shall include and encompass all structures and related personal property that are not exempt from ad valorem taxation as designated on the map entitled "Hotel/Motel/High-Rise Structures Special Tax District Map" attached to Ord. No. 2014-13 as Exhibit "A" and incorporated herein by express reference. A copy of the "Hotel/Motel/High-Rise Structures Special Tax District Map" shall be maintained on file in the office of the city clerk where it shall be available for public inspection. The mayor and council of the city may amend such map from time to time by resolution of the mayor and council of the city.

(b) Purpose. The hotel/motel/high-rise structures special tax district was established for purposes allowed under state law. The tax is assessed against any owner of real property and personal property included within the said special tax district.

(c) Rate. There is hereby assessed and levied upon all real and personal property in this district for each year, until changed, a tax, the rate of which shall be determined annually by the city and adopted by resolution of the mayor and council. Said tax revenues shall be used for all purposes allowed by Georgia Constitution of 1983, Article IX, Section II, Paragraph VI.

(Ord. No. 2014-13 , § 1, 12-2-2014)

Secs. 17-4-8—17-4-20. Reserved.

DIVISION 2. ***CITY*** *EXEMPTION**S** FOR ELIGIBLE RESIDENTS*[2]

Sec. 17-4-21. Persons eligible.

Definitions

(1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal purposes levied by, for, or on behalf of the City of Hapeville.

(2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended.

(3) "Senior citizen" means a person who is 65 years of age or older on or before January 1 of the year in which application for the exemption under subsection (b) of this section is made.

(4) "Veteran" means any veteran who was discharged under other than dishonorable conditions and who served on active duty in the armed forces of the United States or on active duty in a reserve component of the armed forces of the United States, including the National Guard during wartime.

Each resident of the city who is a senior citizen, who is a veteran, or who is disabled as defined in this section, is granted an exemption on that person's homestead from the city's ad valorem taxes for municipal purposes in the amount of $20,000 of the assessed value of the eligible person's homestead. The value of the eligible person's property in excess of such exemption shall remain subject to taxation.

(Code 1981, § 3-3-21; Ord. No. 87-1, 1-6-1987; Ord. No. 2019-16 , § 3, 7-2-2019; Election of 11-5-2019)

Sec. 17-4-22. Limit on amount.

There shall be no more than one $20,000.00 exemption per homestead and the value of the homestead in excess of such exemption shall be subject to ad valorem taxation by the city.

(Code 1959, § 19-41; Code 1981, § 3-3-22; Ord. No. 87-1, 1-6-1987; Ord. No. 2019-16 , § 3, 7-2-2019; Election of 11-5-2019)

Sec. 17-4-23. Affidavit; required to be filed; contents.

Each eligible resident claiming a city exemption shall not receive such benefits unless he or she files an affidavit with the governing authority of the city, or with a person designated by the governing authority of the city**. Said affidavit must state the name of the eligible person seeking the exemption, the property address, and the qualifying category (i.e. age, veteran status, or disability) and such additional information relative to receiving such exemption necessary to enable the City of Hapeville, or the designee thereof, to make determination regarding the initial and continuing eligibility of such person for the exemption.**

[2]State law reference(s)—Homestead exemptions generally, O.C.G.A. § 91A-1110 et seq.

Eligible residents seeking to obtain the exemption on the basis of disability must obtain and present a certificate from three (3) licensed physicians, licensed to practice law under the laws of the State of Georgia, which states that in the opinion of such physicians, such resident seeking the exemption is mentally or physically incapacitated to the extent that such person is unable to be gainfully employed and that such incapacity is likely to be permanent. Said certifications must be submitted with the affidavit for city exemption.

(Code 1959, § 19-42; Code 1981, § 3-3-23)

Sec. 17-4-24. Same; filing time; additional information.

Such affidavit and any certifications or documents to support applications for homestead exemptions for eligible persons must be filed between January 1 and **June 30. The city's governing body or the person designated by the governing body to make a determination regarding the approval of city exemption applications must have all requested information to make a determination as to whether the applicant is eligible for the exemption.**

Once granted, the exemption shall apply to all taxable years after the eligible person' application for the exemption is approved. It shall be the duty of any person granted the city exemption under this Section to notify the governing authority of the City of Hapeville, or designee thereof, in the event that the person for any reason becomes ineligible for any applicable exemption. The city reserves the right to audit eligibility and require resubmission of certifications or documents, and/or complete a new affidavit.

(Code 1981, § 3-3-24)

Sec. 17-4-25. Same; providing forms.

The governing authority of the city or the person designated by such governing authority shall provide such affidavit forms for this purpose. **(No application process prior. Now we would like to use the attached application moving forward).**

(Code 1959, § 19-44; Code 1981, § 3-3-25)

Sec. 17-4-26. Applicability of division.

This division shall apply to all taxable years beginning after January 1, 2020.

(Code 1959, § 19-45; Code 1981, § 3-3-26)

Secs. 17-4-27—17-4-30. Reserved.

DIVISION 3. HOMESTEAD EXEMPTION FOR CITY RESIDENTS[3]

Sec. 17-4-31. Homestead defined.

For purposes of this division, the term "homestead" means such term as defined and qualified in of O.C.G.A. § 48-5-40.

[3]Editor's note(s)—The provisions of this division are derived from Senate Bill 653, which was adopted by referendum.

(Code 1981, § 3-3-41)

Sec. 17-4-32. Exemption granted.

Each resident of the city is granted an exemption on that person's homestead from all city ad valorem taxes in the amount of $15,000.00. The value of the homestead in excess of the exempted amount shall remain subject to taxation.

(Code 1981, § 3-3-42; Ord. No. 2019-16 , § 2, 7-2-2019; Election of 11-5-2019)

Sec. 17-4-33. Administrative authority.

The governing authority of the city may, by ordinance, provide the procedures and requirements necessary for the proper administration of the homestead exemption provided for by this division.

(Code 1981, § 3-3-43)

Sec. 17-4-34. Nonapplicability.

The exemption granted by this division shall not apply to or affect any county school taxes, state taxes or county taxes for county purposes.

(Code 1981, § 3-3-44)

Sec. 17-4-35. Effective date.

The exemption granted by this division shall apply to all taxable years beginning after January 1. 2020.

(Code 1981, § 3-3-45)

ARTICLE 5. OCCUPATIONAL TAXES

Sec. 17-5-1. Tax levied; required for business dealings in city.

For the year 1996 and succeeding years thereafter, an occupation tax is levied, and each person engaged in any business, trade, profession, or occupation in the city, whether with a location in the city or in the case of an out-of-state business with no location in Georgia but exerting substantial efforts within the city or owning real or personal property located within the city from which income is generated pursuant to O.C.G.A. § 48-13-7(b), shall register the business, trade, profession or occupation and shall pay the occupation tax for such business, trade, profession, or occupation; which tax and any applicable occupation tax certificate shall be displayed in a conspicuous place in the place of business, if the taxpayer has a permanent business location in the city. If the taxpayer has no permanent business location in the city, such occupation tax certificate shall be shown to the business tax clerk or this officer's deputies or to any police officer of the city, upon request. Realtors selling property within the city but maintaining no fixed place of business within the city shall be liable for a tax based on gross receipts for real estate transactions with respect to property located within the corporate limits.

(Code 1981, § 3-4-1; Ord. No. 95-07, § 1, 12-5-1995)

Sec. 17-5-2. Construction of terms; definitions.

As used in this article, the term:

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

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

Employee means:

(1) An individual whose work is performed under the direction and supervision of the employer and whose employer withholds FICA, federal income tax, or state income tax from such individual's compensation or whose employer issues to such individual for purposes of documenting compensation a form I.R.S. W-2 but not a form I.R.S. 1099.

(2) An individual who performs work under the direction and supervision of one business or practitioner in accordance with the terms of a contract or agreement with another business which recruits such individual is an employee of the business or practitioner which issues to such individual for purposes of documenting compensation a form I.R.S. W-2.

Gross receipts means the total revenue of the business, trade, profession or occupation for the period.

(1) "Gross receipts" includes, without limitation, the following:

a. Total income without deduction for the cost of goods or expenses incurred;

b. Gain from trading in stocks, bonds, capital assets, or instruments of indebtedness;

c. Proceeds from commissions on the sale of property, goods, or services;

d. Proceeds from fees for services rendered; and

e. Proceeds from rent, interest, royalty, or dividend income.

(2) "Gross receipts" shall not include the following:

a. Sales, use, or excise tax;

b. Sales returns, allowances, and discounts;

c. Interorganizational sales or transfers between or among the units of a parent-subsidiary controlled group of corporations, as defined by 26 USC 1563(a)(1), between or among the units of a brother-sister controlled group of corporations, as defined by 26 USC 1563(a)(2), between or among a parent corporation, wholly owned subsidiaries of such parent corporation, and any corporation in which such parent corporation or one or more of its wholly owned subsidiaries owns stock possessing at least 30 percent of the total value of shares of all classes of stock of such partially owned corporation, or between or among wholly owned partnerships or other wholly owned entities;

d. Payments made to a subcontractor or an independent agent which contributed to the gross receipts in issue;

e. Governmental and foundation grants, charitable contributions, or the interest income derived from such funds received by a nonprofit organization which employs salaried practitioners otherwise covered by this article, if such funds constitute 80 percent or more of the organization's receipts; and

f. Proceeds from sales of goods or services which are delivered to or received by customers who are outside the state at the time of delivery or receipt.

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

Number of employees means the number of full-time equivalents resulting when all employees of the business, trade, profession or occupation, regardless of full-time, part-time or seasonal status, are counted.

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

Occupational tax certificate means a document issued by the city acknowledging payment of the occupation tax and administrative fee.

Person shall be held to include sole proprietors, corporations, partnerships, nonprofits, or any other form of business organization.

Practitioners of professions or occupations are those persons who engage in a profession, trade, business or occupation identified in O.C.G.A. § 48-13-9(c)(1) through (c)(18). "Practitioners of professions or occupations" shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.

Regulatory fee means a payment, whether designated as a license fee, permit fee, or by another name, which is required by the city as an exercise of its police power and as a part of or an aid to regulation of an occupation, trade, profession, or business. Except where otherwise authorized by state statute, the amount of a regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the city. Development impact fees, as defined by O.C.G.A. § 36-71-2(8), or other costs or conditions of zoning or land development are not regulatory fees.

(Code 1981, § 3-4-2; Ord. No. 95-07, § 1, 12-5-1995)

Sec. 17-5-3. Administrative and regulatory fee structure.

(a) A non-prorated, nonrefundable administrative fee of $25.00 shall be required on all business and occupation tax accounts for the initial startup, renewal, or reopening of those accounts.

(b) A regulatory fee will be imposed as permitted under O.C.G.A. § 48-13-9 on applicable businesses for which regulations under the city's police power are adopted.

(c) A non-prorated, nonrefundable administrative fee of $250.00 shall be required by all qualified businesses attempting to transfer its occupational tax certificate to a new business, owner, or entity that acquires the qualified business prior to renewal of the occupational tax certificate.

(Code 1981, § 3-4-3; Ord. No. 95-07, § 1, 12-5-1995; Ord. No. 2019-11 , § 1, 5-21-2019)

Sec. 17-5-4. Occupation tax structure.

(a) Except as provided in subsection (b), the occupation tax is imposed upon businesses, and practitioners of professions and occupations based upon gross receipts of the business or practitioner in combination with the profitability ratio for the type of business, trade, profession, or occupation as measured by nationwide averages derived from statistics, classifications, or other information published by the U.S. Office of Management and Budget in its Standard Industrial Classification Manual, 1987 edition.

(b) Where gross receipts, as defined by this article, do not exceed $25,000.00 per year; or where federal law precludes the imposition of a gross receipts tax on a particular class of business, trade, occupation or profession including but not limited to the airline industry, which business, trade, occupation or profession is otherwise subject to taxation by the city, such occupation tax is imposed based on the number of employees of the business, trade, occupation or profession.

(c) Occupation tax schedule shall be as follows:

(1) Number of employees. The tax rate determined by number of employees for each business, trade, profession, or occupation is as follows:

Employees	Tax Liability
1—2	$30.00
3—9	$60.00 + $15.00/employee over 2
10—99	$165.00 + $15.00/employee over 9
100—499	$1,299.00 + $10.40/employee over 99
500 or more	$5,459.00 + $7.40/employee over 499

(2) Profitability ratios in combination with gross receipts. The tax rate determined by profitability ratios in combination with gross receipts for each business, trade, profession, or occupation shall be as follows:

Profitability Ratio/ Tax Class	Tax Rate on Gross Receipts (per $1,000.00)
Class 1	$0.85
Class 2	0.96
Class 3	1.02
Class 4	1.14
Class 5	1.29
Class 6	1.43

(d) The following additional limitations shall apply:

(1) No business or practitioner shall be required to pay more than one occupation tax for each of its locations.

(2) No occupation tax will be required upon more than 100 percent of a business' or practitioner's gross receipts.

(3) No occupation tax will be required on receipts on which such tax has been levied in other localities or states.

(4) An occupation tax shall be required from real estate brokers' agents, or companies whose offices are located outside the taxing jurisdiction and who sell property inside the taxing jurisdiction.

(5) Occupation taxes are limited to the gross receipts earned in the city or, for those businesses not maintaining a location in state, on receipts earned in the state.

(6) Out-of-state businesses with no location in Georgia shall be assessed occupation taxes based on the gross receipts of the business as set out in section 17-5-5.

(7) No business or practitioner shall be required to pay an occupation tax of more than $75,000.00.

(Code 1981, § 3-4-4; Ord. No. 95-07, § 1, 12-5-1995)

Sec. 17-5-5. Businesses with no location in the state.

(a) Registration and assessment of an occupation tax is hereby imposed on those businesses and practitioners of professions and occupations with no location or office in the state if the business' or practitioner's largest dollar volume of business in the state is in the city and the business or practitioner:

(1) Has one or more employees or agents who exert substantial efforts within the jurisdiction of the city for the purpose of soliciting business or serving customers or clients; or

(2) Owns personal or real property which generates income and which is located within the jurisdiction of the city.

(b) Any person, business or practitioner engaged in the activities identified in subsection (a)(1) and (a)(2) above shall be required to register with the city and shall be presumed to be subject to taxation under this article; provided no tax shall apply where:

(1) Such person, business or practitioner provides proof of gross receipts generated within the state to another local government which exceed the gross receipts generated within the city and on which a tax is paid to the other jurisdiction; or

(2) Proof of payment of a tax on receipts generated in the state to a government outside the state is provided.

(Code 1981, § 3-4-5; Ord. No. 95-07, § 1, 12-5-1995)

Sec. 17-5-6. Each parcel identification number of business identified on business registration.

The business registration of each business operated in the city's jurisdiction shall identify the parcel identification number for each tract or parcel on which business is operated or conducted. No business shall conduct any business without first having the parcel identification number of the location of the business registered with the business tax clerk, and that parcel identification number being noted by the business tax clerk upon the occupation tax certificate form which is to be displayed by the business owner.

(Code 1981, § 3-4-6; Ord. No. 95-07, § 1, 12-5-1995; Ord. No. 2021-01 , § 1, 1-5-2021)

Editor's note(s)—Ord. No. 2021-01 § 1, adopted January 5, 2021, amended the title of § 17-5-6 by replacing "line" with "parcel identification number."

Sec. 17-5-7. The number of businesses considered to be operating in the city.

Where a person conducts business at more than one fixed location, each location or place shall be considered a separate business for the purpose of occupation tax.

(Code 1981, § 3-4-7; Ord. No. 95-07, § 1, 12-5-1995)

Sec. 17-5-8. Professionals as classified in O.C.G.A. § 48-13-9(c)(1) through (c)(18).

(a) Practitioners of professions and occupations as described in O.C.G.A. § 48-13-9(c)(1) through (c)(18) shall elect as their entire occupation tax one of the following:

(1) The occupation tax based on gross receipts combined with profitability ratios as set forth in section 17-5-4; or

(2) A fee of $400.00 per practitioner who is licensed to provide the service, such tax to be paid at the practitioner's office or location; provided, however, that a practitioner paying according to this subsection shall not be required to provide information to the local government relating to the gross

receipts of the business or practitioner. The per-practitioner fee applies to each person in the business that qualifies as a practitioner under the state's regulatory guidelines and framework.

(b) This election is to be made on an annual basis and must be done by January 1 of each year.

(c) Payment of this tax shall not be a preexisting condition before practicing law in the city.

(Code 1981, § 3-4-8; Ord. No. 95-07, § 1, 12-5-1995)

Sec. 17-5-9. Practitioners exclusively practicing for a government.

Any practitioner whose office is maintained by and who is employed in practice exclusively by the United States, the state, a municipality or county of the state, instrumentalities of the United States, the state, or a municipality or county of the state shall not be required to register or pay an occupation tax for that practice.

(Code 1981, § 3-4-9)

Sec. 17-5-10. Purpose and scope of tax.

The occupation tax levied herein is for revenue purposes only and is not for regulatory purposes, nor is the payment of the tax made a condition precedent to the practice of any such business, profession, trade, or calling. The occupation tax only applies to those businesses, trades, occupations, and professions which are covered by the provisions of O.C.G.A. §§ 48-13-5 to 48-13-26. All other applicable businesses, trades, occupations and professions are taxed by the local government pursuant to the pertinent general and/or local law and ordinance.

(Code 1981, § 3-4-10; Ord. No. 95-07, § 1, 12-5-1995)

Sec. 17-5-11. When tax due and payable; delinquency.

(a) Each such occupation tax shall be for the calendar year, beginning in 1996 and continuing in succeeding calendar years thereafter unless otherwise specifically provided. Said registration and occupation tax shall be due and payable January 1 of each year and shall, if not paid by April 1 of each year, be subject to ten percent penalty for delinquency. On any new profession, trade, profession or occupation begun in the city in 1995 or succeeding years thereafter, the registration and tax shall be delinquent if not obtained immediately upon beginning business and a penalty of ten percent imposed. The occupation tax certificate shall be issued by the business tax clerk and if any person, firm, or corporation whose duty it is to obtain an occupation tax certificate shall, after said occupation tax becomes delinquent, transact or offer to transact in the city any of the kind of business, profession, trade, or occupation subject to this article without having first obtained such certificate, such offender shall, upon conviction by the municipal judge, be punished by a fine not to exceed $500.00 or imprisonment not to exceed 90 days, either or both in the discretion of the judge. No occupational tax certificate shall be issued to any person, firm, or corporation whose duty it is to obtain an occupational tax certificate until all outstanding taxes or assessments or any other debts owed to the city by such person, firm, corporation, or owner thereof, or any business owned by such person, firm, or corporation, are paid in full.

(b) In addition to the above remedies, the chief of police may proceed to collect the tax in the same manner as provided by law for tax executions.

(Code 1981, § 3-4-11; Ord. No. 95-07, § 1, 12-5-1995; Ord. No. 2009-16, § 1, 12-1-2009; Ord. No. 2011-01, § 1, 2-1-2011)

Sec. 17-5-12. Allocation of gross receipts of business with multiple intrastate or interstate locations.

(a) For those businesses and practitioners having multiple locations inside and outside of the city where the gross receipts can be allocated to each location, the gross receipts used to determine the occupation tax assessed will be those gross receipts attributed to each city location. Where the dollar amount of gross receipts attributed locally cannot be determined in those businesses with multiple locations, the total gross receipts will be divided by the total number of locations in the city and elsewhere and allotted to those locations pursuant to O.C.G.A. § 48-13-14(a)(2). At the time of annual registration, the business or practitioner with a location or office situated in more than one jurisdiction shall provide to the city the following:

(1) Financial information necessary to allocate the gross receipts of the business or practitioner; and

(2) Information relating to the allocation of the business' or practitioner's gross receipts by other local governments.

(b) Where the business or practitioner has locations outside of the city and taxation is levied by a criteria other than gross receipts in the other local government, the city shall not assess more than the allotted share of gross receipts for the local operation.

(Code 1981, § 3-4-12; Ord. No. 95-07, § 1, 12-5-1995)

Sec. 17-5-13. Business operated for charitable purpose, exemption.

No person for which an occupation tax certificate is required or an occupation tax is levied by this article shall be exempt from said registration or tax on the grounds that such business is operated for a charitable purpose, unless 80 percent or more of the entire proceeds from said business are devoted to such purpose.

(Code 1981, § 3-4-13; Ord. No. 95-07, § 1, 12-5-1995)

Sec. 17-5-14. State registration required; displayed.

(a) Each person who is licensed by the secretary of state pursuant to O.C.G.A. title 43 shall provide evidence of proper and current state licensure before the city tax certificate may be issued.

(b) Each person who is licensed by the state shall post the state license in a conspicuous place in the licensee's place of business and shall keep the license there at all times while the license remains valid.

(Code 1981, § 3-4-14; Ord. No. 95-07, § 1, 12-5-1995)

Sec. 17-5-15. Evidence of qualification required if applicable.

Any person required to obtain health permits, bonds, certificates of qualification, certificates of competency, or any other regulatory matter as a condition of engaging in business shall first, before the issuance of a city tax certificate, show evidence that such requirements have been met and, where applicable, that annual application for continuance of the business has been submitted to the appropriate agency.

(Code 1981, § 3-4-15; Ord. No. 95-07, § 1, 12-5-1995)

Sec. 17-5-16. Liability of officers and agents; registration required; failure to obtain.

All persons subject to the occupation tax levied pursuant to this article shall be required to obtain the necessary tax certificate for such business as described in this article, and in default thereof the officer or agent soliciting for or representing such persons shall be subject to the same penalty as other persons who fail to obtain a tax certificate. Every person commencing business in the city after January 1 of each year shall likewise obtain the tax certificate herein provided for before commencing the same; and any person transacting, or offering to transact in the city, any of the kinds of business, trade, profession, or occupation without first having so obtained said tax certificate shall be subject to penalties provided thereof.

(Code 1981, § 3-4-16; Ord. No. 95-07, § 1, 12-5-1995)

Sec. 17-5-17. Penalty for article violation.

Any person who fails to pay occupation taxes or regulatory fees when they become due and payable may be charged all costs and fees allowed by law and in addition may be charged all costs of attorney's fees spent towards collection as well as being subject to a civil fine set by a municipal judge not to exceed $500.00. Such fine may be enforced by the contempt powers of the municipal court.

(Code 1981, § 3-4-17; Ord. No. 95-07, § 1, 12-5-1995; Ord. No. 99-14, § I, 10-5-1999)

Sec. 17-5-18. Business tax clerk; subpoena and arrest powers.

The business tax clerk and his duly designated officers and inspectors or successors shall be classified as deputy marshals-business inspectors with full subpoena powers in conjunction with any violation pertaining to this article.

(Code 1981, § 3-4-18; Ord. No. 95-07, § 1, 12-5-1995)

Sec. 17-5-19. Businesses not covered by this article.

The following businesses and activities are not covered by the provisions of this article, but may be assessed an occupation tax or other type of tax pursuant to the provisions of other general laws of the state or by local law:

(1) Those businesses regulated by the state public service commission.

(2) Those electrical service businesses organized under O.C.G.A. title 46, chapter 3.

(3) Any farm operation for the production from or on the land of agricultural products, but not including agribusiness.

(4) Cooperative marketing associations governed by O.C.G.A. § 2-10-105.

(5) Insurance companies governed by O.C.G.A. § 33-8-8 et seq.

(6) Motor common carriers governed by O.C.G.A. § 46-7-15.

(7) Those businesses governed by O.C.G.A. § 48-5-355. (Businesses that purchase carload lots of guano, meats, meal, flour, bran, cottonseed, or cottonseed meal and hulls.)

(8) Agricultural products and livestock raised in the state governed by O.C.G.A. § 48-5-356.

(9) Depository financial institutions governed by O.C.G.A. § 48-6-93.

(10) Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55.

(Code 1981, § 3-4-19; Ord. No. 95-07, § 1, 12-5-1995)

Sec. 17-5-20. Occupation tax inapplicable where prohibited or provided for pursuant to other law.

An occupation tax based on gross receipts shall not apply to any part of a business where such levy is prohibited or exempted by the laws of the state or of the United States.

(Code 1981, § 3-4-20; Ord. No. 95-07, § 1, 12-5-1995)

Sec. 17-5-21. Taxes levied on business transacted during current year; filing returns; adjustments.

(a) All occupation taxes levied under this article are levied on the amount of business to be transacted during the current calendar year. However, for convenience of both the city and the taxpayer, each person subject to the occupation tax levied in section 17-5-1 hereof shall, on or before the dates hereinafter set forth, file with the business tax clerk the return hereinafter specifically provided for, showing the gross receipts of that business during the preceding calendar year. This return shall be used as the basis for making estimated payment of the occupation tax for the current calendar year. The actual and final amount of tax levied for business transacted in the current calendar year shall be paid in accordance with a final return to be made after the end of the year, in accordance with the procedure set forth herein.

(b) Where a person subject to the occupation tax for the calendar year has conducted business for only a part of the preceding year, the amount of gross receipts for such part shall be reported in said return. Said return shall also show a figure putting the receipts for such part of a year on an annual basis with the part-year receipts bearing the same ratio to the whole-year gross receipts as the part year bears to the whole year. Said figure shall be used as the estimate of the gross receipts of the business for the current calendar year in establishing the business tax liability.

(c) The owner, proprietor, manager, or secretary officer of the business subject to said occupation tax of the current calendar year shall, at the end of the preceding year, and on or before February 15 of the current calendar year, file with the business tax clerk of the city, on a form furnished by said officer, a signed return setting forth the amount of actual gross receipts of such business for the entire preceding calendar year. This return will be used to determine the final tax for the calendar year just completed and as an estimate of the gross receipts and occupation tax for the current year.

(d) If the amount of the occupation tax for the preceding year based on the return provided for in this section and on the rate of tax provided for in this article, is less than the amount of occupation tax theretofore paid by said person based on the estimate filed pursuant to subsection (a) hereof, the difference in such amount shall be due and payable by the taxpayer to the city on April 1 of the current year and delinquent if not paid on or before that date.

(e) If the amount of the occupation tax for the preceding year based on the return provided for in this section and on the rate of tax provided for in this article exceeds the amount of occupation tax theretofore paid by such person based on the estimate filed pursuant to subsection (a) hereof, the difference in such amount shall be refundable by the city to the taxpayer; or, if said business continues to conduct business in the city during the current year, such difference in amount may be credited by the city on the amount of occupation tax to be paid to the city by such person for the current year. This election is to be taken by the city.

(Code 1981, § 3-4-21; Ord. No. 95-07, § 1, 12-5-1995)

Sec. 17-5-22. Payment of tax by businesses.

In the case of a business or profession subject to occupation tax for a calendar year, which was not conducted for any period of time in the corporate limits of the city in the preceding year, the owner, proprietor, manager, or executive officer of the business or profession liable for occupation tax shall estimate the gross volume of revenue from the commencing date to the end of the calendar year, and such tax shall be paid in advance of a tax certificate being issued.

(Code 1981, § 3-4-22; Ord. No. 95-07, § 1, 12-5-1995)

Sec. 17-5-23. More than one place or line of business.

Where a business or profession is operated at more than one place or where the business includes more than one line, the business or profession shall be required to obtain the necessary tax certificate for each location and line and pay an occupation tax in accordance with the prevailing taxing method and tax rate for each location and line.

(Code 1981, § 3-4-23; Ord. No. 95-07, § 1, 12-5-1995)

Sec. 17-5-24. Returns confidential.

Except in the case of judicial proceedings or other proceedings necessary to collect the occupation tax hereby levied, it shall be unlawful for any officer, employee or agent of the city, or any other person to divulge or make known in any manner the amount of gross receipts or any particulars set forth or disclosed in any occupation tax return required under this article. All contents of such return shall be confidential and open only to the officials, employees or agents of the city using the returns for the purpose of this occupation tax levy and the collection of the tax. Independent auditors or bookkeepers employed by the city shall be classed as "employees." Nothing herein shall be construed to prohibit the publication by city officials of statistics, so classified as to prevent the identification of particular reports or returns and items thereof; or the inspection of the records by duly qualified employees of the tax departments of the state, the United States, and other local governments.

(Code 1981, § 3-4-24; Ord. No. 95-07, § 1, 12-5-1995)

Sec. 17-5-25. Inspections of books and records.

In any case, the business tax clerk of the city, through his officers, agents, employees, or representatives, may inspect the books of the business or profession for which the returns are made. The business tax clerk shall have the right to inspect the books or records for the business or profession for which the return was made in the city, and upon demand of the business tax clerk such books or records shall be submitted for inspection by a representative of the city within 30 days. Failure of submission of such books or records within 30 days shall be grounds for revocation of the tax certificate. Adequate records shall be kept in the city, for examination by the business tax clerk at that officer's discretion. If, after examination of the books or records, it is determined that a deficiency occurs as a result of underreporting, interest in the amount of 1½ percent per month in addition to a ten percent penalty will be assessed for the period delinquent.

(Code 1981, § 3-4-25; Ord. No. 95-07, § 1, 12-5-1995)

Sec. 17-5-26. Failure to pay tax, file returns, permit inspection; revocation of certificate.

Upon the failure of any business to pay the occupation tax or any part thereof before it becomes delinquent, or upon failure to make any of such returns within the time required herein, or upon failure to make a true return, or upon failure to amend a return to set forth the truth, or upon failure to permit inspection of its books as above provided, any occupation tax certificate granted by the city under this article shall be automatically revoked. No new occupation tax certificate shall be granted by the city for the operation of a business for which any part of the occupation tax herein provided for is at that time unpaid, or to an individual, firm, or corporation who has failed to submit adequate records as requested by the business tax clerk in accordance with provisions found in section 17-5-25.

(Code 1981, § 3-4-26; Ord. No. 95-07, § 1, 12-5-1995)

Sec. 17-5-27. Failure to comply with chapter; continuing business after revocation.

Any person, his manager, agent, or employee, who does business in the city after the tax for such business becomes delinquent, or who is required to make occupation tax returns, and who fails to make those returns within the time and in the manner herein provided, or who refuses to amend such returns so as to set forth the truth, or who makes false returns; and any person, his manager, agent, or employee who refuses to permit an inspection of books in his charge when the officer, agent, employee, or representative of the city requests such inspection, during business hours, for the purpose of determining the accuracy of the returns herein provided for, shall be subject to penalties provided in section 17-5-17.

(Code 1981, § 3-4-27; Ord. No. 95-07, § 1, 12-5-1995)

Sec. 17-5-28. Lien taken for delinquent tax.

In addition to the other remedies herein provided for the collection of the occupation tax herein levied, the business tax clerk of the city, upon any tax or installment of such tax becoming delinquent and remaining unpaid, shall issue execution for the correct amount of the tax against the person liable for such tax, which execution shall bear interest at the rate of 1½ percent per month from the date when such tax or installment becomes delinquent, and the lien shall cover the property in the city of the person liable for such tax. The lien for occupation tax shall become fixed on and date from the time when such tax or any installment thereof becomes delinquent. The execution shall be levied by the chief of police of the city upon the property of defendant located in such jurisdiction, and sufficient property shall be advertised and sold to pay the amount of the execution, with interest and costs. All other proceedings in relation thereto shall be had as provided by the laws of the state, and the defendant in such execution shall have rights of defense, by affidavit of illegality and otherwise, which are provided by the applicable laws in regard to tax executions. When a nulla bona entry has been entered by proper authority upon an execution issued by the business tax clerk against any person defaulting on the occupation tax, the person against whom the entry was made shall not be allowed or entitled to have or collect any fees or charges whatsoever for services rendered after the entry of the nulla bona. If, at any time after the entry of nulla bona has been made, the person against whom the execution issues pays the tax in full together with all interest and costs accrued on the tax, the person may collect any fees and charges due him or her as though he or she had never defaulted in the payment of the taxes.

(Code 1981, § 3-4-28; Ord. No. 95-07, § 1, 12-5-1995)

Sec. 17-5-29. Transferability of occupational tax certificate.

Occupational tax certificates may be transferred between businesses that have a current occupational tax certificate and acquiring entities, or subsequent owners of the business (hereinafter referred to collectively as "subsequent business owners" or "acquiring business owners"), if all of the following criteria are met:

(1) *Business type and location.* The original business and the subsequent business must be identical in type and nature (i.e. both businesses must be Mexican restaurants, Italian restaurants, extended-stay hotels, bed and breakfast, boutique hotels, etc.). The operating addresses for the original and subsequent business must remain at the same location.

(2) *Proof.* Prior to the approval of the transfer, the acquiring business owners must provide the city with documentation showing the sale and purchase agreement of the subject property, the method or

payment and calculation of the prorated occupational tax to be paid by the acquiring business owners to the original business owner(s), and a completed application of transfer provided by the city.

(3) *Responsibility of payment.* The legal owners of the subject property at the time of occupational tax assessment will be liable to the city for any additional occupation taxes levied. The original business owners and the subsequent business owners will be responsible for ensuring the occupational taxes paid to the city are internally balanced within the sale or acquisition transaction between the parties. The city will not make any demands or requests for refunds to any business, owner, or entity for claims regarding the overpayment of occupational taxes brought by acquiring business owners nor any other party.

(4) *Compliance with current zoning.* All businesses must be in compliance with current zoning standards. Non-conforming use permits and approvals are non-transferrable. If a business owner operated a business based on an approved non-conforming use, the non-conforming use is not transferrable to acquiring business owners. Acquiring business owners must apply for a non-conforming use permit in conformity with the provisions of chapter 93 (zoning) to acquire approval for any non-conforming uses.

(5) *Payment of future occupational tax.* The payment of future occupation taxes levied under this article shall be in accordance with the provisions set forth herein.

(Ord. No. 2019-11 , § 2, 5-21-2019)

Sec. 17-5-30. Revocation of occupational tax certificate.

(a) *Causes for revocation.* Any occupational tax certificate may be revoked or suspended, and the city may cease and desist all non-permitted operations if any of the following criteria are met:

(1) The change of use of the property no longer meets the qualifications for an occupational tax certificate under this Code;

(2) False or incomplete information was provided on an application;

(3) The business owner or holder of the occupational tax certificate has violated or is violating any provision of this chapter or provision of this Code, state or federal statutes or regulations governing the business owner or holder's business;

(4) The business owner or holder of the occupational tax certificate has obtained or aided another person to obtain an occupational tax certificate by fraud or deceit;

(5) The business owner or holder of the occupational tax certificate has failed to pay any taxes or fees to the city when due;

(6) The business owner or holder of the occupational tax certificate is not complying with a requirement or condition set by the planning commission or planning and zoning department, if applicable, under a conditional use permit; by the board of zoning appeals, if applicable, granting a variance or special exception; by the city council, or by agreement;

(7) Violation of this chapter by the agents or employees of a business owner or holder of the occupational tax certificate and violations of any other laws by the agents or employees committed while acting as an agent or employee of the owner or holder; or

(8) Any other reason expressly provided for by ordinance.

The city manager shall have the authority to temporarily suspend an occupational tax certificate, without a hearing, for reasons provided for in this section. However, the temporary suspension shall not be for more than 45 days. A hearing following a temporary suspension must be scheduled within 15 days.

Code enforcement may, on his/her own initiative or in response to complaints from the general public or any city department or division, investigate and gather evidence of violations of this chapter or other circumstances which may give rise to a denial, suspension or revocation.

(b) *Procedure for suspension or revocation.* Code enforcement shall cause written notice to be given by personal service or registered mail to the business owner or holder of the occupational tax certificate at the owner's or holder's business address which states:

(1) His or her decision to suspend or revoke an occupational tax certificate;

(2) The reason for such decision;

(3) That operation of a business after the effective date of the suspension or revocation shall constitute a misdemeanor;

(4) The owner or holder's right to appeal the code enforcement's decision and have a hearing; and

(5) The appeal procedure.

(c) *Procedure for appeal.* Appeals of the code enforcement or city manager's decision to deny, suspend or revoke an occupational tax certificate or regarding the application of this chapter may be made to the city council by filing a written notice of appeal with the city clerk within 15 days of receipt of the notice of denial, suspension or revocation.

Notice of appeal shall be in writing and shall set forth with specificity the reasons for which the appeal is taken.

(d) *Hearing.* Hearing shall be at a time, place, and day set by the city council, but not later than 21 days after receipt of the notice of appeal.

(1) At the hearing, code enforcement or his or her designee shall have 15 minutes to present the reasons for the decision to deny, suspend or revoke the occupational tax certificate. City council may extend the time to present evidence as necessary.

(2) The business owner or holder of the occupational tax certificate, in person or through his or her attorney, shall have 15 minutes to present any evidence showing reason why the decision was in error. City council may extend the time to present evidence as necessary.

(3) All witnesses shall be sworn to testify truthfully. Either party is entitled to confront and cross-examine any witnesses.

(4) Any oral or documental evidence may be received, but the council shall exclude all privileged, irrelevant, immaterial, or unduly repetitious evidence.

(5) If the denial, suspension, or revocation appealed from is based on a determination by a code enforcement official that grounds existed pursuant to this Code, the city council may examine the factual nature of the grounds and determine whether such grounds are sufficient to sustain the decision of the code enforcement.

(6) The city council does not have the authority to waive compliance with applicable provisions of the occupational tax certificate codes, nor can the council extend deadlines set forth in this Code or change the substance or form of this Code.

(e) *Decision of the city council.* The city council, after hearing all the evidence, shall announce its decision within 15 days from the date of hearing. The council may affirm, reverse or modify the decision of the city manager or code enforcement. The decision shall be in writing and shall be based upon findings of fact.

(f) *Appeal of the city council decision.* Any decision of the city council made pursuant to the provisions of this title may be appealed by any aggrieved party to the county superior court within 30 days from when the written decision is made.

(g) *Obtaining an occupational tax certificate after revocation.* A person or business, whose occupational tax certificate has been revoked, may not be issued an occupational tax certificate for a period of 12 months after the decision of revocation by city council.

(h) *Validity of the business license during appeal.* Throughout the administrative appeal process as outlined above, a business owner or holder of a suspended or revoked occupational tax certificate may continue to operate his or her business in accordance with federal, state and local laws pending final decision on the appeal, or until the time for appeal has passed, whichever occurs first.

(Ord. No. 2021-15 , § 1, 8-3-2021)

ARTICLE 6. TAX ON ALCOHOLIC BEVERAGES BY THE DRINK[4]

Sec. 17-6-1. Definitions.

The following words, terms and phrases shall, for the purposes of this article and except where the context clearly indicates a different meaning, be defined as follows:

Alcoholic beverage. Any beverage containing alcohol obtained by distillation including rum, whisky, gin and other spirituous liquors by whatever name called; but not including malt or vinous beverage or fortified wines.

City. The city, and variously, the incorporated area of Hapeville, wherein the city is empowered to impose this tax by O.C.G.A. § 3-4-130.

City clerk. The duly appointed city clerk or his/her designee.

Due date. The 20th day after the close of the monthly period for which the tax is to be computed.

Licensee. Any person who holds a permit from the city to sell alcoholic beverages by the drink.

Monthly period. The calendar months of any year.

Person. An individual, firm, partnership, joint adventure, association, social club, fraternal cooperative, estate, trust, receiver, trustee, syndicate, or any other group or combination acting as a unit, the plural as well as the singular number, excepting the United States, the state and any instrumentality of either thereof upon which the city is without power to impose the tax.

Tax. The sales tax on alcoholic beverages by the drink imposed by this article.

(Code 1981, § 3-5-1; Ord. No. 2000-13, § 1, 4-4-2000)

Sec. 17-6-2. Imposition: rate of tax.

There is hereby imposed, and there shall be paid, a tax of three percent on the sale of alcoholic beverages by the drink in the city.

(Code 1981, § 3-5-2; Ord. No. 2000-13, § 1, 4-4-2000)

Sec. 17-6-3. Collection by licensee.

Every licensee shall collect a tax of three percent on the sale of liquor by the drink at his/her pouring outlet.

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[4]State law reference(s)—Alcoholic beverages generally. O.C.G.A. § 58-101 et seq.

(Code 1981, § 3-5-3; Ord. No. 2000-13, § 1, 4-4-2000)

Sec. 17-6-4. Determination generally; returns; payments.

(a) *Due date of taxes.* All amount of such taxes shall be due and payable to the city clerk monthly on or before the 20th day of every month next succeeding each respective monthly period.

(b) *Penalty and interest for failure to pay tax by due date.* A specific penalty of 15 percent is imposed for failure to pay any amount of tax when due and payable to the city. Delinquent amounts shall bear interest at the rate of one percent per month, or fraction thereof, until paid.

(c) *Return; time of filing; persons required to file; contents.* On or before the 20th day of the month following each monthly period, a return for the preceding monthly period shall be filed by every licensee with the city clerk showing the gross sales of liquor by the drink and the amount of tax collected or otherwise due for the period, and such other information as may be required by the city clerk.

(d) *Collection fee allowed licensees.* Licensees collecting the tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if the amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from state tax under the "Georgia Retailers' and Consumers' Sales and Use Tax Act," as now and hereafter amended.

(Code 1981, § 3-5-4; Ord. No. 2000-13, § 1, 4-4-2000)

Sec. 17-6-5. Deficiency determinations.

(a) *Recalculation of tax; authority to make; basis of recalculation.* If the city clerk is not satisfied with the return, or returns of the tax, or the amount of the tax required to be paid to the city by any person, he/she may compute and determine the amount required to be paid upon the basis of any information within his/her possession, or that may come into his/her possession. One or more deficiency determinations may be made of the amount due for one or more monthly periods.

(b) *Penalty and interest for failure to pay tax.* The penalty which shall be applied shall be the same as the penalty designated under section 17-6-4(b), Penalty and interest for failure to pay tax. A specific penalty of 15 percent is imposed upon the amount of any determination. Additionally, the amount of any determination shall bear interest at the rate of one percent per month, or fraction thereof, from the due date of taxes until the date of payment.

(c) *Notice of determination; service of.* The city clerk shall give to the licensee written notice of his/her determination. The notice may be served personally or by mail; if by mail, such service shall be addressed to the licensee at his/her address as it appears in the records of the city. Service by mail is complete when delivered by certified mail with a receipt signed by addressee.

(d) *Time within which notice of deficiency determination to be mailed.* Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within three years after the 20th day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period should last expire.

(Code 1981, § 3-5-5; Ord. No. 2000-13, § 1, 4-4-2000)

Sec. 17-6-6. Determination if no return made.

(a) *Estimate of gross receipts.* If any person fails to make a return, the city clerk shall make an estimate of the amount of the gross receipts of the licensee from the sale of alcoholic beverages by the drink, or as the case may be, of the amount of total such receipts in this city which are subject to the tax. The estimate shall be made for the period or periods in respect to which the person failed to make the return and shall be based upon any information which is or may come into the possession of the city clerk. Written notice shall be given in the manner prescribed in section 17-6-5.

(b) *Penalty and interest for failure to pay tax.* The penalty which shall be applied shall be the same as the penalty designated under section 17-6-4(b).

(Code 1981, § 3-5-6; Ord. No. 2000-13, § 1, 4-4-2000)

Sec. 17-6-7. Collection of tax by city.

(a) *Action for delinquent tax; time for.* At any time within three years after any tax or any amount of tax required to be collected becomes due and payable, and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the city clerk may bring an action in a court of competent jurisdiction in the name of the city to collect the amount delinquent together with penalty, interest, court fees, filing fees, attorney's fees and other legal fees incident thereto.

(b) *Duty of successors or assignees of licensee to withhold tax from purchase money.* If a licensee liable for any amount under this article sells out his/her business or quits the business, his/her successors or assigns shall withhold sufficiently from the purchase price to cover such amount until the former owner produces from the city clerk either a receipt reflecting full payment or a certificate stating that no amount is due.

(c) *Liability for failure to withhold.* If the purchaser of a business fails to withhold purchase as required, he/she shall be personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price.

(d) *Credit for tax, penalty or interest paid more than once or erroneously or illegally collected.* Whenever the amount of any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected or received by the city, it may be offset by the city clerk. If the operator or person determines that he has overpaid or paid more than once, which fact has not been determined by the city clerk, such person shall have three years from the date of payment to file a claim in writing stating the specific grounds upon which the claim is founded. The claim shall be audited. If the claim is approved by the city clerk, the excess amount paid the city may be credited on any amounts then due and payable from the person by whom it was paid.

(Code 1981, § 3-5-7; Ord. No. 2000-13, § 1, 4-4-2000)

Sec. 17-6-8. Administration of article; recordkeeping.

(a) *Authority of city clerk.* The city clerk shall administer and enforce the provisions of this article for the collection of the tax.

(b) *Records required from licensees, etc.; form.* Every licensee shall preserve, for a minimum of three years, all records, receipts, invoices and such other documents as the city clerk may prescribe, and in such form as he/she may require.

(c) *Examination of records; audits.* The city clerk or any person authorized in writing by him/her may examine the books, papers, records, financial reports, inventory, equipment and other facilities of any licensee liable for the tax, in order to verify the accuracy of any return made, or if no return is made, to ascertain and determine the amount required to be paid.

(d) *Authority to require reports; contents.* In administration of the provisions of this article, the city clerk may require the filing of reports by any person or class of persons having in their possession or custody information relating to the sale of liquor by the drink. The reports shall be filed with the city clerk when required by said official, and shall set forth the gross sales from the sale of liquor by the drink, the amount of tax collected thereon, or such other information as the city clerk may prescribe.

(Code 1981, § 3-5-8; Ord. No. 2000-13, § 1, 4-4-2000)

Sec. 17-6-9. Preparation of forms.

The city clerk is authorized to develop, use and revise such forms as are not inconsistent with this article to effectuate the purposes of this article. The city Return of Tax on Sale of Alcoholic Beverages By-The-Drink Form, attached as exhibit "A" and incorporated here by reference, is adopted for use by the city clerk.

(Code 1981, § 3-5-9; Ord. No. 2000-13, § 1, 4-4-2000)

Sec. 17-6-10. Violations.

Any person violating any of the provisions of this article shall be deemed guilty of an offense and, upon conviction thereof, shall be punished by a fine not to exceed $1,000.00, or imprisonment for a term not to exceed 60 days. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this article is committed, continued or permitted by such person, and shall be punished accordingly. Any licensee who fails to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other date required by the city clerk, or who renders a false or fraudulent return, shall be deemed guilty of an offense and, upon conviction thereof, shall be punished as aforesaid. Persons who submit false or fraudulent returns shall be punished by a court of appropriate jurisdiction for violations of O.C.G.A. § 16-10-20.

(Code 1981, § 3-5-10; Ord. No. 2000-13, § 1, 4-4-2000)

ARTICLE 7. HOTEL OCCUPANCY TAX[5]

Sec. 17-7-1. Definitions.

The following words, terms and phrases shall, for the purposes of this article and except where the context clearly indicates a different meaning, be defined as follows:

City. The City of Hapeville and, variously, the incorporated territory of the City of Hapeville, wherein the city government is empowered to impose this tax by O.C.G.A. § 48-13-50, et seq.

City clerk. The duly appointed city clerk of the city or his/her designee.

Due date. The twentieth day after the close of the monthly period for which the tax is to be computed.

Estimated tax liability. The lodging provider's prospective tax liability based upon the average monthly tax remittance in the prior fiscal year, as adjusted for change in tax rate or substantial change in circumstances due to damage to the hotel.

Folio. Primary documentation produced by a hotel that demonstrates interaction between the lodging provider and the occupant, and which, at a minimum, reflects the name and address given by the occupant, the

[5]Editor's note(s)—Ord. No. 2013-03, § 1, adopted March 5, 2013, amended the Code by, in effect, repealing former art. 7, §§ 17-7-1—17-7-12, and adding a new art. 7. Former art. 7 pertained to similar subject matter, and derived from the Code of 1981, §§ 3-6-2—3-6-8; Ord. No. 2000-12, adopted April 4, 2000; Ord. No. 2000-18, adopted July 11, 2000; Ord. No. 2007-02, adopted January 26, 2007; and Ord. No. 2011-12, adopted October 4, 2011.

State law reference(s)—Municipalities authorized to impose, O.C.G.A. § 48-13-50 et seq.

date(s) of occupancy, the amount of rent charged for each date together with the amounts of applicable excise tax, and the method(s) of payment.

Guest room. Accommodations occupied, or intended, arranged, or designed for transient occupancy, by one or more occupants for the purpose of living quarters or residential use.

Hotel. Any facility or any portion of a facility, including any lodging house, rooming house, dormitory, Turkish bath, bachelor hotel, studio hotel, motel, motor hotel, auto or trailer court, truckstop, tourist cabin, campground, lodge, inn, time-share or other condominium, apartment community, public club, or private club, containing guest accommodations and which is occupied, or is intended or designed for occupancy, by paying guests, whether rent is paid in money, goods, labor, or otherwise. It does not include any hospital, asylum, sanitarium, orphanage, jail, prison, or other facility in which human beings are housed and detained under legal restraint.

Lodging provider. Any person operating a hotel in the city including, but not limited to, the owner or proprietor of such premises, lessee, sub-lessee, lender in possession, licensee or any other person operating such hotel; and who is subject to the taxation imposed for furnishing for value to the public any rooms, lodgings, or accommodations.

Monthly period. The calendar months of any year.

Occupancy. The use or possession, or the right to the use or possession of any guest room in a hotel or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the guest room.

Occupant. Any person who, for a consideration, uses, possesses, or has the right to use or possess any guest room in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

Permanent resident. Any occupant who, as of a given date, has or shall have occupied or has or shall have the right of occupancy of any guest room in a hotel for not less than 30 continuous days next preceding such date.

Person. Any individual, firm, partnership, joint adventure, association, social club, fraternal organization, joint stock company, corporation, cooperative, estate, trust, receiver, trustee, syndicate, or any other group or combination acting as a unit, the plural as well as the singular number; excepting the United States, the State of Georgia and any instrumentality of either thereof upon which the city is without power to impose the tax.

Rent. The consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature, and also the amount for which credit is allowed by the lodging provider to the occupant, without any deduction therefrom whatsoever.

Tax. The tax on occupants imposed by this article, as provided for by O.C.G.A. § 48-13-50, et seq., specifically O.C.G.A. § 48-13-51(b).

Tourism product development. The expenditure of funds for the creation or expansion of physical attractions which are available and open to the public and which improve destination appeal to visitors, support visitors' experience, and are used by visitors. Such expenditures may include capital costs and operating expenses. Tourism product development may include: (1) lodging for the public for no longer than 30 consecutive days to the same customer; (2) overnight or short-term sites for recreational vehicles, trailers, campers, or tents; (3) meeting, convention, exhibit, and public assembly facilities; (4) sports stadiums, arenas, and complexes; (5) golf courses associated with a resort development that are open to the general public on a contract or fee basis; (6) racing facilities, including dragstrips, motorcycle racetracks, and auto or stock car racetracks or speedways; (7) amusement centers, amusement parks, theme parks, or amusement piers; (8) hunting preserves, trapping preserves, or fishing preserves or lakes; (9) visitor information and welcome centers; (10) wayfinding signage; (11) permanent, nonmigrating carnivals or fairs; (12) airplanes, helicopters, buses, vans, or boats for excursions or sightseeing; (13) boat rentals, boat party fishing services, rowboat or canoe rentals, horse shows, natural wonder attractions, picnic grounds, river-rafting services, scenic railroads for amusement, aerial tramways, rodeos, water slides, or wave pools; (14) museums, planetariums, art galleries, botanical gardens, aquariums, or zoological gardens; (15) parks, trails, and other recreational facilities; or (16) performing arts facilities, and any other purposes allowed pursuant to O.C.G.A. § 48-13-50.2(6)).

(Ord. No. 2013-03, § 1, 3-5-2013; Ord. No. 2018-04 , § 1, 6-5-2018; Ord. No. 2019-21 , § 1, 7-16-2019)

Sec. 17-7-2. Tax rate.

(a) *Tax rate.* There is hereby set and levied on the occupant of a guest room of any hotel/motel/cabin/residence/lodge located within the special district a tax in the amount of eight percent of the gross rent for such occupancy.

(b) *Effective date.* This article shall take effect on the 1st day of July, 2018.

(c) *Use of revenue.* The proceeds of this tax shall be used in accordance with O.C.G.A. §§ 48-13-51(b)(5) and O.C.G.A. § 48-13-51(b)(6), with proceeds to be collected and used for the following statutory purposes:

(1) The first five percent shall be collected and allocated towards any and all uses permitted under O.C.G.A. § 48-13-51(a)(3). Of that five percent, the first three percent shall be allocated and used in the city's general revenue fund. The remaining two percent shall be allocated expended for purposes of promoting and marketing tourism conventions and trade shows through a contract with one or more destination marketing organizations ("DMOs") as defined by O.C.G.A. § 48-13-50.2(1).

(2) Of the remaining three percent, no less than one and one-half percent shall be collected and allocated towards tourism, convention(s), and tradeshow(s) promotion and marketing activities by one or more of the aforementioned DMOs contracted with the city.

(3) Proceeds from no less than the final one and one-half percent shall be collected and allocated towards activities of tourism product development as defined in O.C.G.A. § 48-13-50.2(6).

(Ord. No. 2013-03, § 1, 3-5-2013; Ord. No. 2018-04 , § 2, 6-5-2018)

Sec. 17-7-3. Collection of tax by lodging provider.

Every lodging provider furnishing guest rooms in a hotel in the city shall collect a tax of eight percent on the amount of rent from the occupant unless an exception is provided under section 17-7-4. The lodging provider shall provide a receipt to each occupant, which receipt shall reflect both the amount of rent and the amounts of this and other tax applicable. This tax shall be due from the occupant, and shall be collected by the lodging provider at the same time that the rent is collected. The lodging provider shall be liable to the city for the full amount received or collected as tax, whether collected appropriately or inappropriately; and for any amount of tax that should have been collected, but was not.

(1) Any person who receives or collects the tax or any consideration represented to be the tax from another person holds the amount so collected in trust for the benefit of the city and is liable to the city for the full amount collected, plus penalty and interest.

(2) An individual who controls or supervises the collection of the tax from another person, or an individual who controls the accounting for or remittance of the tax, and who willfully fails to remit or cause to be remitted the tax is liable as a responsible individual for an amount equal to the tax not remitted or caused to be remitted, plus penalty and interest. The dissolution of a corporation, partnership or other business or fraternal association does not affect a responsible individual's liability under this subsection. Furthermore, the liability imposed by this sub-section shall be in addition to any other penalty provided by law.

(Ord. No. 2013-03, § 1, 3-5-2013; Ord. No. 2018-04 , § 3, 6-5-2018)

Sec. 17-7-4. Exceptions.

In accordance with O.C.G.A. § 48-13-51(h), the tax imposed by this article shall not apply to the following charges:

(1) Charges made for any rooms, lodgings, or accommodations provided to any persons who certify that they are staying in such room, lodging, or accommodation as a result of the destruction of their home or residence by fire or other casualty;

(2) The use of meeting rooms and other such facilities or any rooms, lodgings, or accommodations provided without charge;

(3) Any rooms, lodgings, or accommodations furnished for a period of one or more days for use by state or local governmental officials or employees when traveling on official business. Notwithstanding the availability of any other means of identifying the person as a state or local government official or employee, whenever a person pays for any rooms, lodgings, or accommodations with a state or local government credit or debit card, such rooms, lodgings, or accommodations shall be deemed to have been furnished for use by a state or local government official or employee traveling on official business for purposes of the exemption provided by this paragraph. For purpose of the exemption provided under this paragraph, a local government official or employee shall include officials or employees of counties, municipalities, consolidated governments, or county or independent school districts; or

(4) Charges made for continuous use of any rooms, lodgings, or accommodations after the first 30 days of continuous occupancy pursuant to O.C.G.A. § 48-13-51(h).

(Ord. No. 2013-03, § 1, 3-5-2013; Ord. No. 2018-04 , § 4, 6-5-2018)

Sec. 17-7-5. Registration of lodging provider; form and contents; execution; certificate of authority.

Every person engaging or about to engage in business as a lodging provider in the city shall immediately register with the city clerk on a form provided by said official. Persons engaged in such business must so register not later than 30 days after the date that this article becomes effective. Such registration shall set forth the name under which such person transacts business or intends to transact business, the location of his place(s) of business and such other information which would facilitate the administration of the tax as prescribed by the city clerk. The registration shall be signed by the owner if a natural person; in case of ownership by an association or partnership, by a member or partner; in case of ownership by a corporation, by an officer. The city clerk shall, after such registration, issue without charge a certificate of authority to each lodging provider to collect the tax from the occupant. A separate registration shall be required for each place of business of a lodging provider. Each certificate shall state the name and location of the business to which it is applicable.

(Ord. No. 2013-03, § 1, 3-5-2013)

Sec. 17-7-6. Determination generally; returns; payments.

(a) *Due date of taxes.* All amounts of such tax shall be due and payable to the city clerk monthly on or before the twentieth day of the month next succeeding the respective monthly period. The tax shall become delinquent for any monthly period after the twentieth day of each succeeding month during which it remains unpaid.

(b) *Penalty and interest for failure to pay tax by due date.* A lodging provider who fails to make any return or to pay the amount of tax as prescribed, shall be assessed a specific penalty to be added to the tax in the amount of five percent or $5.00, whichever is greater, if the failure is for one month or less; and an additional five percent or $5.00, whichever is greater, for each additional month or fraction thereof in which such failure shall continue; provided, however, that the aggregate penalty for any single violation shall not exceed 25 percent or $25.00, whichever is greater. Delinquent amounts shall bear interest at the rate of one percent per month, or fraction thereof, until paid.

(c) *Acceptance of delinquent return and remittance without imposing penalty and interest; authority; requirements.* If the failure to make any return or to pay the amount of tax by the due date results from providential cause shown to the satisfaction of the governing authority of the city by affidavit attached to the return, and remittance is made within ten days of the due date, such return may be accepted exclusive of penalty and interest.

(d) *Waiving of penalty and interest; authority.* O.C.G.A. § 48-2-41, relating to the authority to waive interest, and section 48-2-43, relating to the authority to waive penalty, shall apply; provided, however, that the governing authority shall stand in lieu of the state commissioner of revenue, and the city shall stand in lieu of the state.

(e) *Penalty for fraud.* In the case of a false or fraudulent return, or of failure to file a return where willful intent exists to defraud the city of any tax due, a penalty of 50 percent shall be assessed.

(f) *Return; remittance; time of filing; lodging providers required to file; contents.* On or before the twentieth day of the month succeeding each monthly period, a return for the preceding monthly period together with appropriate remittance shall be filed with the city clerk. The return shall report the gross rent, taxable rent, exempt rent, amount of tax collected or otherwise due for the period, and such other information as may be required by the city clerk. However, if the estimated tax liability for any monthly period shall exceed $2,500.00 for a lodging provider who, in the prior fiscal year remitted tax greater than $2,500.00 in any three consecutive months, such lodging provider shall file an estimated return and remit not less than 50 percent of the estimated tax liability for the monthly period by the twentieth day of that same monthly period. The amount of tax so remitted shall be credited against the amount to be due with the regular return for the monthly period to be filed on the twentieth day of the succeeding month.

(g) *Extension of time of filing; authority; requirements; remittance; penalty and interest.* The governing authority of the city may, for good cause, extend the time for making returns for not longer than 30 days. No extension shall be valid unless granted in writing upon written application of the lodging provider. Such grant may not be applicable for longer period than 12 consecutive months. A lodging provider granted an extension shall remit tax equaling not less than 100 percent of the tax paid for the corresponding period of the prior fiscal year; such remittance to be made on or before the date the tax would otherwise come due without the grant of extension. No penalty or interest shall be charged during the first ten days of the extension period. Thereafter, interest shall be collected on the unpaid balance at the rate of one percent per month.

(h) *Collection fee allowed lodging providers.* Lodging providers collecting the tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if the amount is not delinquent at the time of payment. The rate of the deduction shall be three percent of the amount due, but only if the amount due was not delinquent at the time of payment.

(Ord. No. 2013-03, § 1, 3-5-2013)

Sec. 17-7-7. Deficiency determinations.

(a) *Recomputation of tax; authority to make; basis of recomputation.* If the city clerk is not satisfied with the return or returns of the tax or the amount of the tax required to be paid to the city by any lodging provider, he may compute and determine the amount required to be paid upon the basis of any information within his possession or that may come into his possession. One or more deficiency determinations may be made of the amount due for one or more monthly periods.

(b) *Penalty and interest for failure to pay tax.* Penalty and interest shall be assessed upon the amount of any determination, as provided by section 17-7-6.

(c) *Notice of determination; service of.* The city clerk shall give to the lodging provider written notice of his determination. The notice may be served personally or by mail; if by mail, such service shall be addressed to the lodging provider at his address as it appears in the records of the city. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee, or when made by statutory overnight delivery.

(d) *Time within which notice of deficiency determination to be mailed.* Except in cases of failure to make a return or of fraud, every notice of deficiency determination shall be mailed within three years after the twentieth day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period should last expire.

(e) *Appeal or protest of deficiency determination.* The procedure for contesting a deficiency determination shall be as provided by O.C.G.A. § 48-5-380.

(Ord. No. 2013-03, § 1, 3-5-2013)

Sec. 17-7-8. Determination if no return made.

(a) *Estimate of gross receipts.* If any lodging provider fails to make a return, the city clerk shall make an estimate of the amount of the gross receipts of the lodging provider, or as the case may be, of the amount of total rentals in the city which are subject to the tax. The estimate shall be made for the period or periods in respect to which the lodging provider failed to make the return and shall be based upon any information which is or may come into the possession of the city clerk. Written notice shall be given in the manner prescribed in section 17-7-7(c).

(b) *Penalty and interest for failure to pay tax.* Penalty and interest shall be assessed upon the amount of any determination, as provided by section 17-7-6.

(Ord. No. 2013-03, § 1, 3-5-2013)

Sec. 17-7-9. Collection of tax by city.

(a) *Action for delinquent tax; time for.* At any time within three years after any tax or any amount of tax required to be collected becomes due and payable, and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the city clerk may bring an action in a court of competent jurisdiction in the name of the city to collect the amount delinquent together with penalty, interest, court fees, filing fees, attorney's fees and other legal fees incident thereto.

(b) *Lodging provider selling or quitting business.* If any lodging provider liable for any amount under this article sells out his business or quits his business, he shall make a final return and remittance within 15 days after the date of selling or quitting the business.

(c) *Duty of successors or assignees of lodging provider to withhold tax from purchase money.* If any lodging provider liable for any amount of tax, interest or penalty under this article sells out his business or quits the business, his successors or assigns shall withhold sufficiently from the purchase price to cover such amount until the former owner produces from the city clerk either a receipt reflecting full payment or a certificate stating that no amount is due.

(d) *Liability for failure to withhold.* If the purchaser of a business fails to withhold from the purchase price as required, he shall be personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price.

(e) *Credit for tax, penalty or interest paid more than once or erroneously or illegally collected.* Whenever the amount of any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected or received by the city, it may be refunded by the governing authority. If the lodging provider or person determines that he has overpaid or paid more than once, which fact has not been determined by the city clerk, such person shall have three years from the date of payment to file a claim in writing stating the specific ground upon which the claim is founded. The claimant may request a hearing before the governing authority at which the claim and any other information available will be considered. The governing authority shall approve or disapprove the claim, and notify the claimant of its action.

(Ord. No. 2013-03, § 1, 3-5-2013)

Sec. 17-7-10. Administration of article; record keeping.

(a) *Authority of city clerk.* The city clerk shall administer and enforce the provisions of this article for the collection of the tax.

(b) *Records required from lodging providers, etc.; form.* Every lodging provider renting guest rooms in the city shall preserve, for a minimum of three years, all folios, receipts, certificates of exemption and such other documents as the city clerk may prescribe, and in such form as he may require. Said records shall at all times be available for examination within the city.

(c) *Examination of records; audits.* The city clerk or any person authorized in writing by him may examine the books, papers, records, financial reports, equipment and other facilities of any lodging provider renting guest rooms and any lodging provider liable for the tax, in order to verify the accuracy of any return made, or if no return is made by the lodging provider, to ascertain and determine the amount required to be paid. Such examination shall be conducted at the place of lodging provision, unless the city clerk shall stipulate another place within the city.

(d) *Authority to require reports; contents.* In administration of the provisions of this article, the city clerk may require the filing of reports by any person or class of persons having in their possession or custody information relating to the rental of guest rooms which are subject to the tax. The reports shall be filed with the city clerk when required by said official, and shall set forth the rental charged for each occupancy, the date(s) of occupancy, the basis for exemption, or such other information as the city clerk may prescribe.

(Ord. No. 2013-03, § 1, 3-5-2013)

Sec. 17-7-11. Violations.

Any lodging provider who fails, neglects or refuses to collect the tax as provided by section 17-7-3 shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $100.00, or confinement for a term not to exceed three months, or both fine and confinement. Any lodging provider who fails or refuses to make any return as provided by section 17-7-6, to keep adequate records or to open them for inspection by the city, or to furnish other data reasonably requested by the governing authority shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $100.00, or confinement for a term not to exceed three months, or both. Any lodging provider who makes a false or fraudulent return with intent to evade the tax shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than $100.00, nor more than $300.00, or confinement for a term not to exceed three months, or both. Each and every day during any portion of which any violation is committed, continued or permitted, shall constitute a separate offense and shall be punished accordingly.

(Ord. No. 2013-03, § 1, 3-5-2013)

ARTICLE 8. RENTAL VEHICLE EXCISE TAX

Sec. 17-8-1. Definitions.

For the purpose of this article, the following terms shall have the meanings respectively ascribed to them:

Rental charge means the total value received by a rental motor vehicle concern for the rental or lease for 31 or fewer consecutive days of a rental motor vehicle, including the total cash and nonmonetary consideration for the rental or lease, including, but not limited to, charges based on time or mileage or charges for insurance coverage or collision damage waiver but excluding all charges for motor fuel taxes or sales taxes.

Rental motor vehicle means a motor vehicle designed to carry ten or fewer passengers and used primarily for the transportation of persons that is rented or leased without a driver, regardless of whether such vehicle is licensed in this state.

Rental motor vehicle concern means a person or legal entity which owns or leases five or more rental motor vehicles and which regularly rents or leases such vehicles to the public for value.

(Code 1981, § 9-6-1; Ord. No. 96-05, § 1, 7-9-1996)

Sec. 17-8-2. Assessment and levy; responsibility for payment.

(a) There is hereby assessed and levied an excise tax upon the rental charge collected by a rental motor vehicle concern when such charge constitutes a taxable event for purpose of state sales and use tax, under this article. Such tax shall be three percent of the rental charges as defined herein. The tax levied pursuant to this article shall be imposed only at the time when, and place where, the customer pays sales tax with respect to the rental charge.

(b) Such tax is imposed upon the customer who pays the rental charge, and such customer shall be liable for the tax until such tax is paid over to the rental motor vehicle concern by the customer.

(c) The owner or operator of the rental motor vehicle concern shall collect the excise taxes as set forth in this article and shall remit the same to the city as hereinafter provided. Any owner or operator who shall neglect, fail or refuse to collect the tax herein provided shall be liable for, and shall pay the tax personally.

(Code 1981, § 9-6-2; Ord. No. 96-05, § 1, 7-9-1996)

Sec. 17-8-3. Exemptions.

The following rentals are exempt from the excised tax imposed under this article:

(1) Rental charges associated with the rental or lease of a rental motor vehicle if either:

a. The customer picks up the rental motor vehicle outside this state and returns it in this state; or

b. The customer picks up the rental motor vehicle in this state and returns it outside this state;

(2) Rental charges associated with the rental or lease of a rental motor vehicle in excess of 31 consecutive days.

(Code 1981, § 9-6-3; Ord. No. 96-05, § 1, 7-9-1996)

Sec. 17-8-4. Use of proceeds.

(a) The tax proceeds levied and imposed by this article shall be dedicated to and expended for the following projects:

(1) Capital outlay projects consisting of:

a. Improvement and renovation to recreational facilities including the Recreation Center and Master Park, pool and facilities;

b. Improvement and renovation of pedestrian walkways and right-of-way in the downtown area;

(2) Capital outlay projects consisting of the construction and/or renovation of public safety facilities;

(3) Additional public improvements associated with any of the capital outlay projects outlined above, or the retirement of debt issued with respect to such capital outlay projects;

(4) Maintenance and operation expenses associated with qualified capital outlay projects as set out above.

(b) In addition, the tax proceeds levied and imposed by this article shall be dedicated to and expended for the following purposes:

(1) Promoting industry, trade, commerce, and tourism;

(2) Capital outlay projects consisting of the construction of convention, trade, sports, and recreational facilities, or public safety facilities, including the acquiring, constructing, renovating, improving, and equipping of parking facilities, pedestrian walkways, plazas, connections, and other public improvements associated with such convention, trade, sports, and recreational facilities or public safety facilities or the retirement of debt issued with respect to such capital outlay projects; and

(3) Maintenance and operation expenses or security and public safety expenses associated with capital outlay projects funded pursuant to subsection (b) of this section.

(Code 1981, § 9-6-4; Ord. No. 96-05, § 1, 7-9-1996)

Sec. 17-8-5. Intergovernmental agreements concerning use of proceeds.

The city acting as an entity or through the city development authority may contract with a county, municipality, development authority, downtown development authority, urban redevelopment authority, recreation authority, or any combination of two or more such entities for the purpose of expending the proceeds authorized by this chapter, and in accordance with the purposes outlined in section 17-8-4 above. Such intergovernmental contracts may pertain to the construction and maintenance of facilities located outside the city, but the existence and operation of which the city deems beneficial to the residents of the city.

(Code 1981, § 9-6-5; Ord. No. 96-05, § 1, 7-9-1996)

Sec. 17-8-6. Monthly report and remittance; penalties.

The rental motor vehicle concern liable for the taxes set out herein shall on or before the 20th day of each month, for the preceding calendar month, transmit to the city administrator a statement showing the gross sales and gross taxes collected by authority of this article. Along with such statement, the rental motor vehicle concern shall submit to the city administrator the net taxes due. Failure to remit taxes by the due date shall subject the rental motor vehicle concern to a penalty of five percent of the tax due, and in addition to such penalty, to interest on the unpaid amount computed at the rate of one percent per month.

(Code 1981, § 9-6-6; Ord. No. 96-05, § 1, 7-9-1996)

Sec. 17-8-7. Collection fee for rental motor vehicle concern.

For the purpose of compensating the rental motor vehicle concern for collecting, accounting for and remitting the tax levied by this article, such rental motor vehicle concern shall be allowed three percent of the amount of the tax due and accounted for and remitted to the city in the form of a deduction, provided such report and remittance is submitted to the city by the due date thereof.

(Code 1981, § 9-6-7; Ord. No. 96-05, § 1, 7-9-1996)

Sec. 17-8-8. Records to be kept by rental motor vehicle concern.

In order to aid in the administration and enforcement of the provisions of this article and to collect all the tax imposed, all rental motor vehicle concerns are hereby required to keep a record of all sales and charges for rental motor vehicles and the taxes collected. Said records shall be open for inspection by any duly authorized agent of the city during regular business daytime hours.

(Code 1981, § 9-6-8; Ord. No. 96-05, § 1, 7-9-1996)

Sec. 17-8-9. Inadequate returns; powers of city administrator.

(a) If the city administrator is not satisfied with the return or returns of the excise tax and the amount of tax required to be paid to the city by any rental motor vehicle concern, he may compute and determine the amount required to be paid upon the basis of any information within his possession or that may come into his possession. One or more deficiency determinations may be made of the amount due for one or more monthly periods.

(b) The amount of the determination shall bear interest at the rate of one percent per month, or fraction thereof from the due date of taxes.

(c) If the city administrator or a designated representative shall give to the rental motor vehicle concern written notice of the determination, the notice may be served personally or by mail, if by mail the service shall be addressed to the operator or the owner of the rental motor vehicle concern at the address as it appears in the records of the city administrator. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.

(d) Except in cases of failure to make a return, every notice of deficiency determination shall be mailed within three years after the 20th day of the calendar month, following the monthly period in which the amount proposed to be determined or within three years after the return is filed, whichever period expires last.

(Code 1981, § 9-6-9; Ord. No. 96-05, § 1, 7-9-1996)

Sec. 17-8-10. Failure to make return; powers of city administrator.

(a) If any rental motor vehicle concern fails to make a return, the city administrator shall make an estimate of the rental tax due. The estimate shall be made for the period or periods in respect for which such rental motor vehicle concern failed to make the return and shall be based upon any information which is, or may come into the possession of, the city administrator. Written notice shall be given in the manner prescribed in section 17-8-9.

(b) The amount of determination shall bear interest at the rate of one percent per month, or fraction thereof, from the 20th day of the month following the monthly period, for which the amount or any portion thereof should have been returned, until the date of payment.

(Code 1981, § 9-6-10; Ord. No. 96-05, § 1, 7-9-1996)

Sec. 17-8-11. Audit authority of city.

Duly authorized employees of the city upon exhibiting of written credentials and during regular business hours may examine the books, papers, records, financial reports, equipment and other facilities of a rental motor vehicle concern, in order to verify the accuracy of any return made, or if no return is made by the rental motor vehicle concern, to ascertain and determine the amount required to be paid.

(Code 1981, § 9-6-11; Ord. No. 96-05, § 1, 7-9-1996)

Sec. 17-8-12. Withholding tax on sale of business.

(a) If any rental motor vehicle concern liable for any amount under this article sells out its business or quits the business, its successors or assigns shall withhold sufficiently from the purchase price to cover the amount required until the former owner or operator of the rental motor vehicle concern produces a receipt from the city administrator showing that the indebtedness has been paid or a certificate stating that no amount is due.

(b) If the purchaser of a business fails to withhold from the purchase price as required, he shall be personally liable for the payment of the amount outstanding tax required to be withheld by him to the extent of such purchase price.

(Code 1981, § 9-6-12; Ord. No. 96-05, § 1, 7-9-1996)

Sec. 17-8-13. Penalties for violations.

In addition to the interest and delinquent penalties specified in section 17-8-6, any person violating the provisions of this article shall be deemed guilty of an offense and, upon conviction thereof, shall be punished by the city court in accordance with limits established by the city Charter. Such person shall be guilty of a separate offense for each and every day during which any violation of any provision of this article is committed, continued or permitted by that person and shall be punished accordingly.

(Code 1981, § 9-6-13; Ord. No. 96-05, § 1, 7-9-1996)

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PUBLIC HEARING
City of Hapeville

A Public Hearing will be held by the City of Hapeville Mayor and Council on **Tuesday, February 4th and February 18th, 2025, at 6:00 p.m.** at the City of Hapeville Municipal Annex located at 700 Doug Davis Drive, Hapeville, Georgia 30354. The meeting will also be made available to the public by live streaming only via teleconference/videoconference in accordance with O.C.G.A § 50-14-1(g) at https://ga-hapeville3.civicplus.com/562/Agendas-and-Minutes to consider the following:
Consideration of an amendment to the Code of Ordinances, Chapter 17 (Finance and Taxation), Division 2 (Homestead Exemption for Elderly Residents) and Division 3 (Homestead Exemption for City Residents) to clarify language of exemptions
Public Hearing Comments: For those who are unable to physically attend the meeting, citizen comments must be emailed to the Interim Customer Financial Services Director at sjohnston@hapeville.org or called in at 404-669-2115 **no later than 5:00 p.m. on February 18, 2025.** When emailing or verbally delivering your comment to the Interim Customer Financial Services Director, please include your name, address, the agenda item, and the comment for or against the item. All comments submitted to the Interim Customer Financial Services Director will be read into the record. Citizens may not make comments on public hearing agenda items via livestream or video conference.
1:29,2:12ep

CIVILITY PLEDGE
The way we govern ourselves is often as important as the positions we take. Our collective decisions will be better when differing views have had the opportunity to be fully vetted and considered. All people have the right to be treated with respect, courtesy and openness. We value all input. We commit to conduct ourselves at all times with civility and courtesy to each other.

ALAN HALLMAN
MAYOR

MIKE RAST
ALDERMAN AT LARGE

BRETT REICHERT
COUNCILMAN AT LARGE

MARK ADAMS
COUNCILMAN WARD I

CHLOE ALEXANDER
COUNCILMAN WARD II

MAYOR AND COUNCIL REGULAR SESSION

Join in person at 700 Doug Davis Drive, Hapeville, GA 30354 Or, visit the City's Website for live stream at https://hapeville.org/562/Agendas-and-Minutes

December 3, 2024 6:00 PM

MINUTES

1. **CALL TO ORDER:** by Mayor Hallman at 6:04 PM
2. **ROLL CALL:** All members of the Council were present, which constituted a quorum.
   - ☑ Alan Hallman
   - ☑ Mike Rast
   - ☑ Brett Reichert
   - ☑ Mark Adams
   - ☑ Chloe Alexander
3. **WELCOME:** Mayor Hallman welcomed all to the December 3rd meeting.
4. **PLEDGE OF ALLEGIANCE:** The pledge of allegiance was recited in unison.
5. **INVOCATION:** Given by Pastor Barry Odom.
6. **PRESENTATIONS:**

   6.I. Purple Heart City Proclamation

   Mayor Hallman read a proclamation officially recognizing and designating the City of Hapeville as a "Purple Heart City." Members of the Military Order of the Purple Heart Association, along with Representative Kim Schofield, attended to commemorate the occasion. During the ceremony, the Military Order of the Purple Heart proudly presented an award in recognition of the City's dedication and support in honoring America's combat-wounded veterans through its designation as a Purple Heart City.
7. **PUBLIC HEARING:**

   7.I. Consideration and Action to Approve the Alcohol Beverage License Request for Thai Heaven, located at 632 N. Central Ave, Hapeville, GA 30354.

   Staff Comments: City Manager, Tim Young noted that there were no additional staff comments, except to mention that a recent fire inspection conducted last week identified some items that were red-tagged. However, upon reinspection on Monday, all issues were resolved, and the business was cleared to operate.

   Applicant Comments: The applicant had no additional remarks.

   Public Comments: There were no public comments for this item.

   MOTION: Councilman Adams motioned to approve the Alcohol Beverage License Request for Thai Heaven, located at 632 N. Central Ave, Hapeville, GA 30354; Alderman Rast provided a second. **The motion carried with a vote of 4-0.**

7.II. Consideration and Action to Approve the Alcohol Beverage License Request for Ace Brewing, Inc -***DBA:*** Chattabrewchee the Hangar, located at 3361 Dogwood Dr, Hapeville, GA 30354.

Staff Comments: There were no additional comments provided by staff.

Applicant Comments: Latimer Neal, owner of Ace Brewing, introduced himself to the Council, sharing his background and intentions for the brewery. He noted that he has owned a brewery in Columbus for three years and is a retired Air Force Delta pilot. While he has been connected to the Hapeville area for the past decade, he expressed excitement about becoming more actively involved in the community. Addressing concerns about noise issues, Mr. Neal acknowledged the reputation left by the previous establishment but assured the Council that he does not plan to host bands regularly or disrupt the peace of the neighborhood. He emphasized his understanding of noise disturbances, having grown up next to a bar, and reiterated his commitment to fostering a family-friendly environment where everyone can enjoy themselves without causing disturbances to residents. He concluded by thanking the Council for their time and consideration.

Public Comments:

1. Susan Bailey

MOTION: Councilman Reichert motioned to approve the Alcohol Beverage License Request for Ace Brewing, Inc -***DBA:*** Chattabrewchee the Hangar, located at 3361 Dogwood Dr, Hapeville, GA 30354; Councilman Alexander provided a second. **The motion carried with a vote of 4-0.**

7.III. Consideration of the 2024-Bridge Budget amendment Ordinance - First Reading

<u>Background:</u>
Fiscal Year 2024-Bridge Period Budget was adopted on June 18, 2024. This adopted budget called for $$4.5M in General Fund expenditures with revenues listed as $1.86M and $2.6M supplemented by an apportionment from the City's Fund balance.

FY2024 Proposed Amended Bridge Period Budget calls for approximately $3.9M in General Fund expenditures. A review of the City's expenditures and budget realignment has allowed Finance to project the following summarized departmental increases to the General Fund budget. Explanations of these projected increases are included in the attached budget document.

- Department 1540 – Human Resources – Budget increase requested for increase in Funding for Medicare/Stipend expenditures for Retirees - $32K
- Department 2650 – Municipal Court – Budget increase requested for additional services and fees - $28K
- Department 4100 – Public Works – Budget increase requested for additional expenditures related to supplies, repairs & maintenance and site improvements - $74K

Proposed operational inflows are budgeted at $3.9M, which includes $1.6M supplemented by an apportionment from the City's Fund balance. Projected Fund Balance usage decreased by $1M from $2.6M to $1.6M.
The proposed 2024 Bridge Period Budget is our best estimate and projection for the Period July 2024 – September 2024. This budget will be the final submitted budget before we transition to our full fiscal year, which started October 1, 2024.

The updated 2024-Bridge Period Budget will be uploaded to the City's Website after Mayor and Council Approval.

DISCUSSION: Staff Comments: Finance Director, Randy Brewer presented the Council with a budget amendment summary and was available to address any questions or concerns from the governing body.

Public Comments: There were no public comments made on this item.

No action was taken; this stood as the first reading of this item.

8. QUESTIONS ON AGENDA ITEMS: There were no questions on agenda items at this meeting.

9. CONSENT AGENDA:

9.I. Consideration and Action to Approve the November 12, 2024, Mayor and Council meeting minutes.

9.II. Consideration and Action to Approve the November 12, 2024, Executive Session meeting minutes.

9.III. Consideration and Action to approve a Resolution to add Membership in a Fund Of Georgia Interlocal Risk Management Agency (Girma).

9.IV. Consideration and Action to Approve the Civility Resolution.

MOTION: Alderman Rast motioned to approve the consent agenda; Councilman Adams provided a second. **The motion carried with a vote of 4-0.**

10. OLD BUSINESS:

10.I. Consideration and Action to Approve amending the ordinance that addresses the Metro Water District Water Efficiency Code Requirements.- Second Reading

MOTION: Alderman Rast motioned to approve amending the ordinance that addresses the Metro Water District Water Efficiency Code Requirements; Councilman Adams provided a second. **The motion carried with a vote of 4-0.**

10.II. Update on Sylvan Road Rail Crossing Improvements.

DISCUSSION: Community Services Director, Lee Sudduth, provided an update to the Council regarding ongoing traffic concerns on Sylvan Road. He explained that after meeting with the contractor, it was discovered that the lead time for the necessary poles is significantly long, delaying potential resolutions. While at the site, staff observed continued traffic violations, including vehicles improperly using the turn lane.

To address this, Mr. Sudduth proposed an extended trial to block the turning lane for one week to determine if its closure alleviates the issue. A previous one-day trial showed no significant problems, and staff believed removing the middle turn lane and re-stripping the area could effectively reduce the violations. He noted that even with signage and additional measures, violations might persist. Mr. Sudduth also highlighted that the shorter train delays currently experienced, compared to the extensive blockages during the Motor Ford period, would allow for this adjustment without major disruption.

No action was taken; this was a discussion item only.

11. NEW BUSINESS:

11.I. Consideration and Action to Approve the Mayor and Council 2025 Meeting Schedule Ordinance. - Second Reading. ***Ordinance 2024-18***

MOTION: Councilman Adams motioned to approve the the Mayor and Council 2025 Meeting Schedule Ordinance (***Ordinance 2024-18)***; Councilman Alexander provided a second. **The motion carried with a vote of 4-0.**

11.II. Consideration and Action to Approve temporary traffic on College Street, between Perkins & S. Fulton, for the First Baptist Church Hapeville's Live Nativity & Christmas Market.

MOTION: Councilman Alexander motioned to approve temporary traffic on College Street, between Perkins & S. Fulton, for the First Baptist Church Hapeville's Live Nativity & Christmas Market; Councilman Adams provided a second. **The motion carried with a vote of 4-0.**

11.III. Consideration and Action to Approve the expansion of Airport West Community Improvement District (CID).

MOTION: Alderman Rast motioned to approve the expansion of Airport West Community Improvement District (CID); Councilman Alexander provided a second. **The motion carried with a vote of 4-0.**

12. **CITY MANAGER REPORTS:** City Manager, Tim Young provided an update to the Mayor and Council on several key items and upcoming activities as the City approaches the holiday season.

1. **Audit Status**
   Mr. Young reported that all materials for the June 30, 2024 audit, including transmittals and engagement letters, have been submitted to the auditors. The city expects to receive the completed audit by the end of December.
2. **Tax Collections**
   Over 90% of real and personal property taxes have been collected, following the due date last week. Mr. Young noted the positive progress in collections.
3. **Holiday Events and Initiatives**
   Several events and initiatives were highlighted to engage the community during the holiday season:
   - **Residential Neighborhood Decoration Competition – "Light Up the Holidays"**
     Residents can register their decorated homes to be included on the competition map. The registration deadline is Friday, December 6th , with voting running from December 13 through December 31st.
   - **Main Street Business Decoration Contest – "Slay the Holidays"**
     Businesses in the Main Street area are participating in a decoration competition that runs through December 20th .
   - **Free Art Hapeville Event**
     Scheduled for Saturday, December 7th, from 4:30 PM to 7:00 PM in Arts Alley, this event will feature free art, jazz music, and community engagement.
   - **Rich's Southern Institution Exhibit**
     Opening Friday, December 6th, at Christ Church, this exhibit will run through January at the Depot Museum. The event celebrates the history and legacy of Rich's Department Store.
4. **Holiday Luncheon and Trash Pickup Schedule**
   - The City's annual staff holiday luncheon is scheduled for December 13th.
   - Mr. Young reminded residents of the City's trash pickup policy during the holidays. If the holiday falls on a weekday, trash will be collected the following business day. For example, if the scheduled pickup day is Friday, it will be moved to the following Monday.

Mr. Young concluded by wishing everyone a happy holiday season and encouraged participation in the City's holiday events.

13. **PUBLIC COMMENTS:** There were no public comments during this meeting.

14. **MAYOR AND COUNCIL COMMENTS:**
Councilman Alexander extended holiday greetings to all, wishing everyone a happy holiday season.
Alderman Rast had no comments at this time.
Councilman Adams thanked everyone for attending the meeting and wished everyone happy holidays.
Councilman Reichert echoed the sentiments of his fellow council members and the Mayor, expressing gratitude to staff for their efforts. He encouraged everyone to be mindful of those in need during the cold winter months, suggesting donations of food, jackets, gloves, and blankets, which many may already have at home.
Mayor Hallman expressed gratitude to the city staff for their hard work organizing the recent tree lighting event. He noted the large turnout, possibly the biggest yet, and remarked on the festive atmosphere, highlighting Santa Claus's remarks about Hapeville being his favorite stop. He also thanked the Council for covering for him during the November meeting while he attended out-of-town training.

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

MOTION: Councilman Reichert made a motion to go into recess; Councilman Adams provided a second. **Motion carried 4-0.**

MOTION: Councilman Adams made a motion to go into executive session at 7:06PM; Councilman Alexander provided a second. **Motion carried 4-0.**

MOTION: Councilman Adams made a motion to convene back into regular session at 7:32 PM, Councilman Alexander second. **Motion carried 4-0.**

EXECUTIVE SESSION ITEMS:

15.I. **MOTION:** Councilman Alexander motioned to approve an addendum, allowing the City Manager to be eligible for cost-of-living adjustments (COLA)***;*** Alderman Rast provided a second. **The motion carried with a vote of 4-0.**

16. ADJOURN:

MOTION: Councilman Reichert motioned to adjourn at 7:37 PM; Councilman Alexander provided a second**. The motion carried with a vote of 4-0.**

Respectfully submitted,

____
Alan Hallman, Mayor

____
Sharee Steed, City Clerk

CIVILITY PLEDGE
The way we govern ourselves is often as important as the positions we take. Our collective decisions will be better when differing views have had the opportunity to be fully vetted and considered. All people have the right to be treated with respect, courtesy and openness. We value all input. We commit to conduct ourselves at all times with civility and courtesy to each other.

ALAN HALLMAN
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MIKE RAST
ALDERMAN AT LARGE

BRETT REICHERT
COUNCILMAN AT LARGE

MARK ADAMS
COUNCILMAN WARD I

CHLOE ALEXANDER
COUNCILMAN WARD II

MAYOR AND COUNCIL REGULAR SESSION

Join in person at 700 Doug Davis Drive, Hapeville, GA 30354 Or, visit the City's Website for live stream at https://hapeville.org/562/Agendas-and-Minutes

January 7, 2025 6:00 PM

MINUTES

1. **CALL TO ORDER:** by Mayor Hallman at 6:05 PM
2. **ROLL CALL:** All members of the Council were present, which constituted a quorum.
Alan Hallman
Mike Rast
Brett Reichert
Mark Adams
Chloe Alexander
3. **WELCOME:** Mayor Hallman welcomed all to the January 7th meeting**.**
4. **PLEDGE OF ALLEGIANCE:** The pledge of allegiance was recited in unison.
5. **INVOCATION:** Given by Pastor Barry Odom.
6. **PRESENTATIONS:**

6.I. Introduction of Deputy Chief Brock Robertson.

Fire Chief, Nick Condrey introduced Deputy Fire Chief, Brock Robertson to the Hapeville City Council, highlighting his 26 years of service and extensive experience, which will greatly benefit the department and the community. Deputy Chief Robertson expressed his gratitude for the opportunity to serve Hapeville, reflecting on his deep family roots in the city and his long-standing career. He shared his dedication to preparing the department for future challenges by focusing on training and equipping staff during his remaining years of service. He also commended Hapeville's remarkable growth and development over the years.

6.II. HB 581 – Its Impact and the City of Hapeville - Presented by Mr. Ed Wall

Financial Advisor, Ed Wall provided an explanation of House Bill 581, detailing its implications for the City of Hapeville and its millage rate. He outlined three primary components of the bill:

1. **Floating Homestead Exemption:** Mr. Wall explained that the bill introduces a new floating homestead exemption tied to inflation. This exemption would apply to homesteaded properties and adjust annually based on the difference between assessed property value increases and the inflation rate. He emphasized that once the City opts for the exemption, it cannot reverse the decision, making it a critical choice. Conversely, if the city opts out, it cannot opt back in later.

2. **New Floating Local Option Sales Tax (FLOST):** The bill establishes a new sales tax like the existing LOST (Local Option Sales Tax), but it can be implemented in increments as small as 0.05%. The FLOST is designed to reduce property taxes.

3. **Simplified Rollback Rate Calculation:** The bill purports to simplify the process of calculating and adopting rollback rates for millage, though Mr. Wall noted that it appears to be as complex as the current process.

Mr. Wall explained the operation of the floating homestead exemption using examples, illustrating its impact on property tax calculations based on assessed value and inflation adjustments. He highlighted how it would help homeowners manage tax increases due to rising property assessments. Additionally, he stressed the importance of careful consideration regarding whether to opt in or out, as the decision is irrevocable.

He concluded by noting that City staff, including the City Manager, are working to synthesize information from various sources, including ACCG and GMA, to better understand the bill's full impact and provide informed guidance to Council.

7. PUBLIC HEARING:

7.I. Consideration and Action to Approve the 2024-Bridge Budget Amendment - Second Reading. (***Ordinance 2025-01)***

Staff Comments: There were no additional comments provided by staff.

Public Comments: No public comments were made for this public hearing item.

MOTION: Alderman Rast motioned to approve the 2024-Bridge Budget Amendment *(Ordinance 2025-01);* Councilman Alexander provided a second. **The motion carried with a vote of 4-0.**

8. QUESTIONS ON AGENDA ITEMS: There were no questions regarding agenda items at this meeting.

AMEND AGENDA:

MOTION: Alderman Rast motioned amend the agenda and remove item 9.I*;* Councilman Adams provided a second. **The motion carried with a vote of 4-0.**

9. CONSENT AGENDA:

~~9.I. Consideration and Action to Approve the December 3, 2024, Mayor and Council Meeting Minutes.~~ -***Removed***

9.II. Consideration and Action to Approve the December 3, 2024, Executive Session Meeting Minutes.

9.III. Consideration and Action to Approve the Qualifying Fee Notice.

MOTION: Alderman Rast motioned to approve the consent agenda; Councilman Reichert provided a second. **The motion carried with a vote of 4-0.**

10. OLD BUSINESS:

11. NEW BUSINESS:

11.I. Consideration and Action to Approve the Organizational Appointments Ordinance. ***(Ordinance 2025-02)***

MOTION: Alderman Rast motioned to approve the Organizational Appointments Ordinance. *(Ordinance 2025-02);* Councilman Alexander provided a second. **The motion carried with a vote of 4-0.**

11.II. Consideration and Action to Approve the Board Appointments Ordinance. ***(Ordinance 2025-03)***

MOTION: Councilman Adams motioned to approve the Board Appointments Ordinance *(Ordinance 2025-03);* Councilman Reichert provided a second. **The motion carried with a vote of 4-0.**

11.III. Consideration and Action on Financing Bank and Financing Terms – Fire Department Ambulance Vehicle.

MOTION: Councilman Adams motioned to approve ***Regions Equipment Finance Corporation*** as the financing bank and the financing terms for the Fire Department Ambulance Vehicle; Councilman Alexander provided a second. **The motion carried with a vote of 4-0.**

12. CITY MANAGER REPORTS: City Manager Tim Young provided updates on several matters.

1. **Audit Updates**:
   - The June 30th audit has been completed, and the audit firm Malden Jenkins is scheduled to present the results at the next Council meeting.
   - The September 30th audit process has begun, with an expected completion timeline for March or April. A presentation of those findings is anticipated by April or May.
2. **Recognition and Awards**:
   - Another youth championship team will be recognized at the next meeting for their recent achievements.
   - The "Slay the Holidays" competition winner was announced as Folk Art for their festive and creative holiday decorations on Main Street.
3. **Depot Museum Events**:
   - A preservation workshop is planned for January 25th (weather permitting).
   - A "Riches History" lecture by Jeff Clemons will take place on January 25th.
   - Author Hannah Palmer will be present on January 18th.
   - The "Riches" exhibit will conclude on January 31st.

City Manager Young encouraged participation in these community events and expressed gratitude to staff and residents for their continued engagement.

13. PUBLIC COMMENTS:

1. Melvin Traynum
2. Anne Cruise

14. MAYOR AND COUNCIL COMMENTS:

Councilman Alexander extended wishes for a Happy New Year to everyone, encouraging residents to stay warm and safe during the holiday season.

Alderman Rast had no comments at this time.

Councilman Adams reiterated Councilman Alexander's sentiments, emphasizing the importance of staying warm and safe as temperatures drop. He advised residents to stay indoors during extremely cold weather whenever possible.

Councilman Reichert conveyed gratitude to City staff for their efforts during the holiday season, noting how beautiful the city looked. He congratulated Deputy Chief Robertson on his new role and reminded staff and residents to prepare for freezing weather as a winter storm approaches.

Mayor Hallman expressed condolences to the family of Betty Barnett, a former Council Member, Alderman, and Mayor pro-tem, who passed away at the age of 97. He acknowledged the City’s support during her service, including sending flowers and the attendance of residents and Council members. Mayor Hallman also highlighted the recent Aerotropolis event, announcing a $60 million federal non-matching grant for a new regional trail system connecting the Tri-Cities area to the Atlanta Beltline. He commended the collaborative efforts of Hapeville, East Point, and College Park and recognized Hannah Palmer for her leadership in the initiative. Mayor Hallman expressed excitement for the project’s potential and shared that updates would follow as it progresses.

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

MOTION: Councilman Adams made a motion to go into recess; Councilman Alexander provided a second. **Motion carried 4-0.**

MOTION: Alderman Rast made a motion to go into executive session at 6:59PM; Councilman Reichert provided a second. **Motion carried 4-0.**

MOTION: Councilman Adams made a motion to convene back into regular session at 7:24 PM, Alderman Rast second. **Motion carried 4-0.**

EXECUTIVE SESSION ITEMS:

15.I. **MOTION:** Councilman Reichert motioned for the City to enter into a settlement agreement for the property located at 0 Perkin Street as discussed in executive session*;* Councilman Adams provided a second. **The motion carried with a vote of 4-0.**

16. ADJOURN:

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MOTION: Councilman Alexander motioned to adjourn at 7:25 PM; Councilman Adams provided a second**. The motion carried with a vote of 4-0.**

Respectfully submitted,

____

Alan Hallman, Mayor

____

Sharee Steed, City Clerk

DATE: 11 December 2024

Re: THR-212001

Dear Lee Sudduth,

The Federal Railroad Administration's (FRA) records indicate that in calendar year 2021, the public authority you represent established a quiet zone in accordance with Title 49 Code of Federal Regulations (CFR) Part 222–Use of Locomotive Horns at Public Highway-rail Grade Crossings.

Our records indicate the following crossing(s) are included in the quiet zone:

DOT #	STREET NAME
718002B	Sylvan Road
718001U	Virginia Avenue
717998F	Dogwood Drive
717997Y	Fulton Avenue (Ped Xing)
717996S	Perkins Street
717994D	South Street

As required by 49 CFR 222.47(a), each public authority must submit periodic updates for quiet zones that were established pursuant to 49 CFR Sections 222.39(a)(1), 222.41(a)(1)(i), or 222.41(b)(1)(i) by having a supplementary safety measure (SSM) implemented at every public highway-rail grade crossing within the quiet zone. Every 4½ to 5 years after the date of the Notice of Quiet Zone Establishment, and every 4½ to 5 years after the last affirmation, the public authority must take the following steps:

1. Affirm in writing to the FRA Associate Administrator for Railroad Safety and Chief Safety Officer, that all SSMs (and Alternative Safety Measures) if applicable, implemented within the quiet zone continue to conform to the requirements of 49 CFR Part 222, Appendix A, Approved Supplementary Safety Measures, and 49 CFR Part 222, Appendix B, Alternative Safety Measures (see email instructions below). All other Copies of the affirmation must be provided by certified mail, return receipt requested, to all parties identified in 49 CFR 222.43(a)(3), including:

    - All railroads operating over the public highway-rail grade crossings within the quiet zone.
    - The highway, traffic control, or law enforcement authority having jurisdiction over vehicular traffic at grade crossings within the quiet zone.
    - The landowner having control over any private highway-rail grade crossings within the quiet zone.

- The State agency responsible for highway and road safety.
- The State agency responsible for crossing safety.

2. Submit a current and accurate Grade Crossing Inventory Form to the FRA Associate Administrator for Railroad Safety and Chief Safety Officer for each public highway-rail grade crossing, private highway-rail grade crossing, and pedestrian grade crossing within the quiet zone. Please see the Federal Railroad Administration Inventory Forms at https://safetydata.fra.dot.gov/OfficeofSafety/PublicSite/Crossing/Crossing.aspx and print copies of current Grade Crossing Inventory Forms for **updating (Annual Average Daily Traffic Counts (AADT) that are within 3 years of the date of the issuing of this Affirmation are acceptable. AADT taken over 3 years from the current Affirmation date must be measured again).**

Please email the QZ Affirmation for the FRA Associate Administrator for Railroad Safety and Chief Safety Officer to my email address (corwyn.foster@dot.gov) FOR REVIEW, **AND THE GXTO WILL THEN EMAIL YOUR QZ AFFIRMATION AND UPDATED SIGNED GX INVENTORY FORMS TO FRA HEADQUARTERS. ALL OTHER AGENCIES REQUIRED TO RECEIVE THE QZ AFFIRMATION MUST BE SENT CERTIFIED MAIL RETURN RECEIPT BY THE PUBLIC AUTHORITY RESPONSIBLE FOR THE QZ)**.

The Affirmation process should be completed within 90 days of receipt of this email to avoid QZ non-compliance, which could result in the termination of the Quiet Zone.

If you have any questions or concerns, please contact me by email or at (404-354-2339) or Mr. James Payne, Staff Director, Highway-Rail Crossing and Trespasser Programs Division, at (202) 493-6005 or james.payne@dot.gov.

Sincerely,

Corwyn Foster
Railroad Safety Inspector
Grade Crossing and Trespass Outreach Division, District 3
Federal Railroad Administration
U.S. Department of Transportation

RESOLUTION NO. _____________

A RESOLUTION TO DECLARE THE NEED FOR NEW PUBLIC FACILITIES AND FOR OTHER PURPOSES.

WHEREAS, the City of Hapeville, Georgia, ("City") is a municipal corporation existing under the laws of the State of Georgia;

WHEREAS, the City has determined that its current fire station located at 3468 North Fulton Avenue, Hapeville, Georgia 30354 is no longer sufficient to meet the needs of the City as a fire station facility;

WHEREAS, the City has further determined that it needs additional and new administrative office space;

WHEREAS, the result of the foregoing determinations, the City concludes that it needs additional public facilities, such as municipal buildings, that could serve as administrative and office space, or as a new fire station facility;

WHEREAS, the City intends to pursue acquisition of real property sufficient to meet its needs for new public facilities;

WHEREAS, the City is authorized by the Georgia Constitution and state law to perform this undertaking.

NOW, THEREFORE, UPON MOTION BEING DULY MADE AND SECONDED, THE FOLLOWING RESOLUTION IS HEREBY ADOPTED:

1.

THAT the above preamble is incorporated here.

2.

THAT the Mayor and Council of the City hereby authorize the City's employees, agents, or both, to identify real property sufficient to meet the needs of the City for new public facilities, including administrator office space or a new fire station facility, and to undertake preliminary measures associated with the potential acquisition of such property, such as through having such potential properties appraised.

3.

THAT the Mayor and Council of the City further authorize the City's employees, agents, or both, to take all actions necessary or convenient to effectuate the purposes of this Resolution.

4.

THAT to the extent any portion of this Resolution is declared to be invalid, unenforceable, or nonbinding, that shall not affect the remaining portions of this Resolution.

5.

THAT all resolutions or parts or resolutions are hereby repealed to the extent they are inconsistent with this Resolution.

6.

THAT this Resolution shall take effect immediately upon adoption.

SO RESOLVED, this _4th _ day of February, 2025

____
ALAN HALLMAN, Mayor

ATTEST:

____
SHAREE STEED, City Clerk

[SEAL]

APPROVED AS TO FORM:

____
City Attorney

FULTON COUNTY
COMMUNITY
DEVELOPMENT

137 Peachtree Street, S.W.
Suite 300
Atlanta, Georgia 30303
Phone: (404) 613-7944
Fax: (404) 612-0708
Georgia Relay Number 711

January 8, 2025

The Honorable Mayor Alan Hallman
City of Hapeville
3468 North Avenue
Hapeville, GA 30354

RE: City of Hapeville – 2024 CDBG Award Notification $84,971
Project: City Park Improvements

Dear Mayor Alan Hallman:

The Fulton County Board of Commissioners, by and through its Department of Community Development, has approved an award to the City of **Hapeville** for Community Development Block Grant (CDBG) funds in the amount of ***$84,971*** **for Hapeville City Park Improvements**. In addition, the County has completed the environmental review process in accordance with requirements from the U.S Department of Housing and Urban Development (HUD).

Should you have any CDBG program and or project timeline related questions in this regard, please do not hesitate to contact Kim Benjamin at (404) 612-8077 or via email at kim.benjamin@fultoncountyga.gov.

Sincerely,

Stanley Wilson

Stanley Wilson
Director

cc: Robb L. Pitts, Chairman, Fulton County Board of Commissioners
Richard Dick Anderson, County Manager
Dr. Pamela Roshell, Chief Operating Officer
Mia Redd, Deputy Director
Miranda Barney, Division Manager
Kim Benjamin, Community Development Manager

EQUAL HOUSING OPPORTUNITY

From:	noreply@civicplus.com
To:	Wayne Stephens; Fabiola Tadeo; Ashley Moody; Sharee Steed
Subject:	Online Form Submittal: Hapeville Event Request Form
Date:	Tuesday, November 19, 2024 11:09:14 AM

Hapeville Event Request Form

Contact Information

Please note that approval by the Hapeville Mayor and Council may be required for events that include any of the following:

- More than 75 attendees
- Use of City staff, services, utilities, or the placement of a banner on City property
- Charges for admission or other event activities

After you submit this form, you will be contacted regarding date availability, cost estimates, and, if applicable, a date to go before the Mayor and Council for approval (typically either the 1st or 2nd Tuesday of each month).

Today's Date	11/19/2024
Contact Person	Randy Riebel
Name of Organization	Delta Air Lines
Full Mailing Address	[redacted]
City	Decatur
State	GA
Zip Code	30030
Telephone #:	[redacted]
Cell #:	[redacted]
E-mail Address	randal.riebel@delta.com

Event Information

Name of the Event:	Delta Scholarship Fund 5K
Date of the Event:	05/03/2025
Start time:	7am
End time:	11am
Arrival Time for Set-Up	5am
Location of the Event:	Other
If other was selected, please explain	5K run
How many attendees?	500
Banner:	No
If yes, where is the banner to be placed?:	*Field not completed.*
Specify dates banner will hang in proposed location:	N/A
If placing a banner on City property, provide a description of the banner (measurements, color, etc.):	N/A
Upload a pdf version of the banner:	*Field not completed.*

**Banners placed on the Jess Lucas Park fence facing S. Central Avenue must be placed to the left of the telephone pole of Christ Church.*

Will there be alcohol at this event?	No
Will there be a DJ/Music at this event?	Yes
Additional information	*Field not completed.*

about this event:

City Services	
Check all that apply	Road Closures
Do you need City Staff to assist you with your event	Yes
If yes, please specify:	Hapeville Police Officers
If requesting road closures, please specify which roads:	See attached map
Will there be a charge for admission or other event activities?	Yes
If yes, please specify:	race entry fee
Vendor(s)	
Will there be food vendors?	Yes
Required to check box	I understand that it is the responsibility of the event organizer to ensure that all food vendors obtain a Transient Vendor or Mobile Food permit from the City Clerk.
Will there be any other kinds of vendors? If so, what will they be selling?	Homemade crafts and jewelry
Required to check box	I understand that it is the responsibility of the event organizer to ensure that all non-food vendors obtain a Transient Vendor permit from the City Clerk.
Liability Insurance	
Do you or the organization currently possess liability insurance?	N/A
Required to check box	I understand that I may be required to provide a certificate of insurance totaling $1,000,000 General Liability for events that require Mayor and Council approval.

(Section Break)

Road Closure Request

An application for temporary road closure will be needed with the Hapeville Police Department. Please click here to submit a request.

Email not displaying correctly? View it in your browser.

recognized by RRCA

Road Running Technical Council
USA Track & Field
Measurement Certificate

Name of the course: Delta Scholarship Fund 5K Distance: 5 km

Location (state): Georgia (city): Hapeville

Type of course: road race ☒ calibration course ☐

Measuring method: bicycle ☒ steel tape ☐ electronic distance meter ☐

Measured by (name, address, phone & e-mail): Doug Jones, [redacted] Lawrenceville, GA 30046

See below for more information

Race contact (name, address, phone & e-mail): Chad Staples – 1030 Delta Blvd. Atlanta, GA. 30353

[redacted] chad.staples@delta.com

Date(s) when course measured: March 29,2019

Number of measurements of entire course: 2 Course Configuration: out/loop/back

Elevation (meters above sea level) Start 295.9m Finish 295.9m Highest 308.7m Lowest 295.9m

Straight line distance between start & finish 0 Drop 0 m/km Separation 0.0 %

Type of surface: paved 100 % dirt ___ % gravel ___ % grass ___ % track ___ %

Effective date of certification: April 2,2019 Certification code: GA19013DJ

Notice to Race Director: Use this Certification Code in *all* public announcements relating to your race.

Be It Officially Noted That

Based on examination of data provided by the above named measurer, the course described above and in the map attached is hereby certified as reasonably accurate in measurement according to the standards adopted by the Road Running Technical Council. If *any* changes are made to the course, this certification becomes void, and the course must then be recertified.

Verification of Course — In the event a National Open Record is set on this course, or at the discretion of USA Track & Field, a verification remeasurement may be required to be performed by a member of the Road Running Technical Council. If such a remeasurement shows the course to be short, then all pending records will be rejected and the course certification will be cancelled.

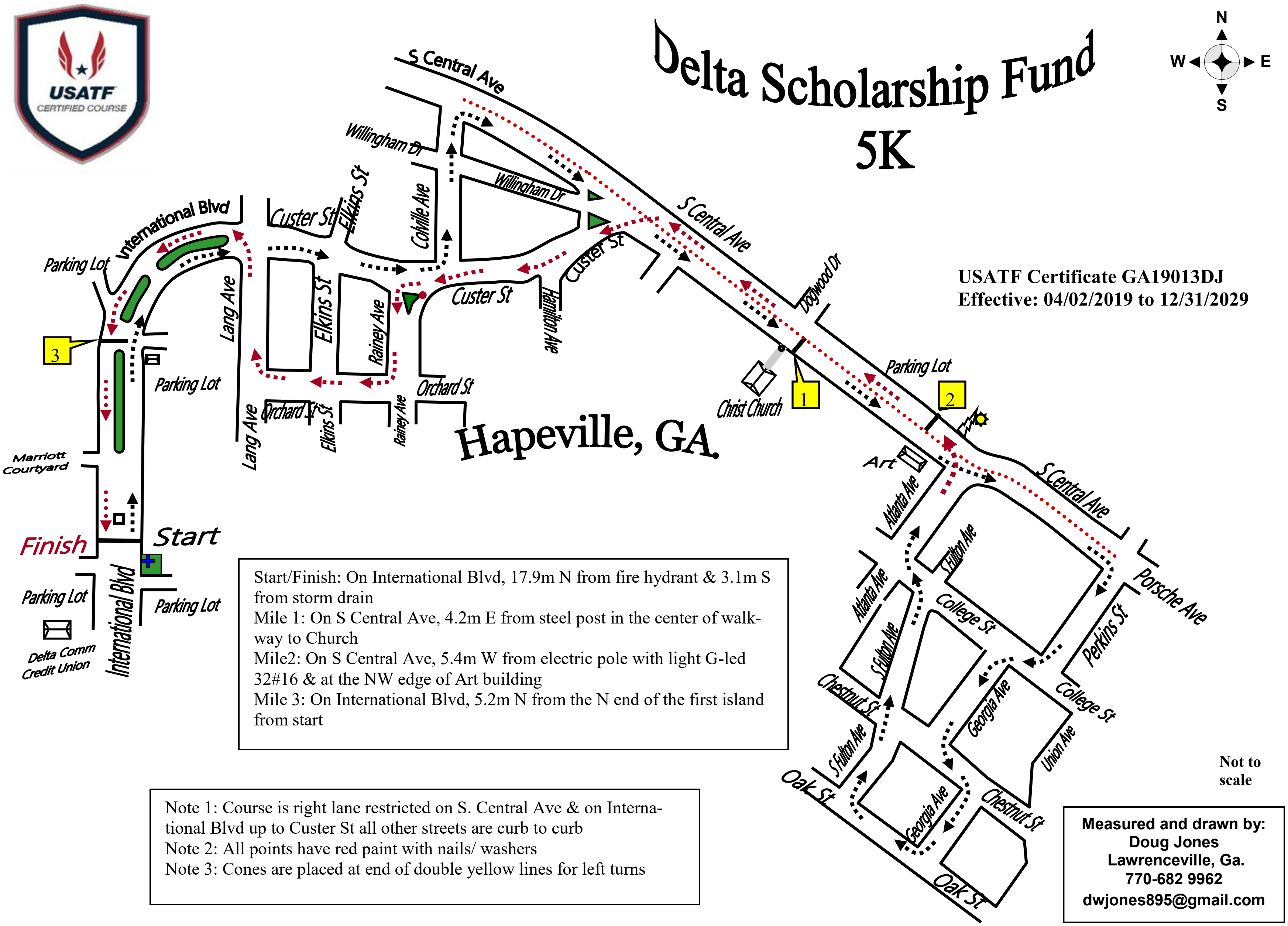
This certification expires on December 31 in the year 2029

AS NATIONALLY CERTIFIED BY:

Date: April 2,2019

Doug Jones – USATF/RRTC Certifier
895 Cremins Rd, Lawrenceville, GA 30046 Phone:770-682-9962 E-mail:dwjones895@gmail.com

Delta Scholarship Fund 5K



Start/Finish: On International Blvd, 17.9m N from fire hydrant & 3.1m S from storm drain
Mile 1: On S Central Ave, 4.2m E from steel post in the center of walkway to Church
Mile2: On S Central Ave, 5.4m W from electric pole with light G-led 32#16 & at the NW edge of Art building
Mile 3: On International Blvd, 5.2m N from the N end of the first island from start

Note 1: Course is right lane restricted on S. Central Ave & on International Blvd up to Custer St all other streets are curb to curb
Note 2: All points have red paint with nails/ washers
Note 3: Cones are placed at end of double yellow lines for left turns

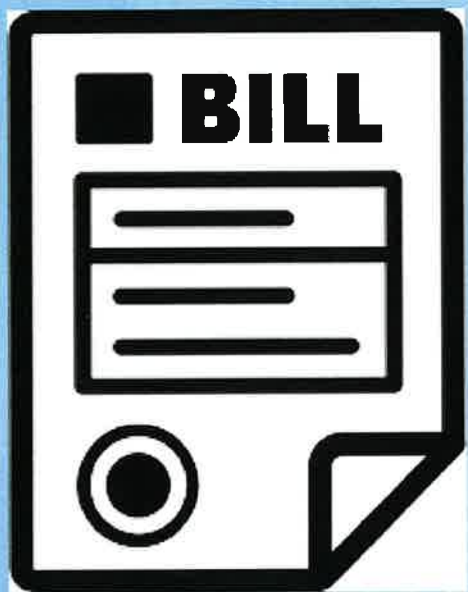
Measured and drawn by:
Doug Jones
Lawrenceville, Ga.
770-682 9962
dwjones895@gmail.com

Procedural Property Tax Changes

- **Creates an "estimated roll-back rate" which is certified to the tax commissioner/collector by the local governments**
  - Tax Commissioner requested that certification be submitted by March 1, 2025
  - Information related to calculating the "estimated roll-back rate" will not be available by this proposed deadline
- **The estimated roll-back rate is required to be included on the assessment notice, replacing the previous year's millage rate**
- **Designed to attempt to allow local government to give more accurate estimate of what tax liability will be for homeowners**
- **If the adopted millage rate exceeds the estimated roll-back rate, then a disclaimer is included on the tax bill stating the name of the governing authority that exceeded the estimated roll-back rate and that this will result in an increase of taxes owed.**

FULTON COUNTY

HB 581
Part 3: Procedural Property Tax Changes



- Created an "estimated roll-back rate" which is certified to the tax commissioner/collector by the local governments.
- The estimated roll-back rate is required to be included on the assessment notice, replacing the previous year's millage rate.
  - Designed to attempt to allow local government to give more accurate estimate of what tax liability will be.

ACCG
Advancing Georgia's Counties.

GEORGIA MUNICIPAL ASSOCIATION

HB 581
Part 3: Procedural Property Tax Changes

- This gives local governments broad flexibility to set this rate wherever they deem appropriate.
  - This <u>does not</u> need to be the same millage rate as the rollback rate for taxpayer bill of rights.
- If the adopted millage rate exceeds the estimated roll-back rate, then a disclaimer is included on the tax bill stating the name of the governing authority that exceeded the estimated roll-back rate and that this will result in an increase of taxes owed.

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Advancing Georgia's Counties.

GEORGIA MUNICIPAL ASSOCIATION

land constitutes the land "immediately surrounding" the homestead. The exemption would not include buildings or structures on the property, which are not part of the homestead dwelling, itself.

17. Does the HB 581 floating homestead exemption apply to special service districts?

Yes, the HB 581 floating homestead exemption applies to all millage rates except for millage rates to retire bonded indebtedness.

Point to consider: If the local government has an existing floating homestead exemption that *does not* apply to special service districts, then you may want to consider opting out, so your special service district millage levies are unaffected.

18. If a homeowner's assessed value was locked following their appeal to the Board of Equalization in 2022, would that value be used for the 2024 base year for the purposes of the HB 581 exemption?

The homestead's final assessed value for the base year is the base year value for the purposes of the HB 581 exemption. Code Section 48-5-44.2(a)(3)(A). Accordingly, if the locked assessed value from 2022 is what was lawfully used as the homestead's final assessed value for 2024, then that taxpayer would have their HB 581 2024 base year assessed value set at that same amount.

19. Will the market value or the adjusted base year value be used when calculating value increases to the tax digest that are factored into the rollback millage rate that cannot be exceeded without advertising a tax increase?

The digest value for rollback purposes utilizes the net taxable digest, which is the value of the digest *after* exemptions are accounted for.

4. What must an IGA to levy FLOST include?

a. The rate of the tax: incremental in .05% increments up to a full 1.0%;
b. The duration of the tax: up to 5[8] years;
c. Provisions for calling the referendum for the tax, including the question for the ballot;
d. The distribution schedule[9] apportioning proceeds among:
   i. County
   ii. Municipalities
   iii. Absent Municipalities
e. The IGA is not required to specify how property tax relief is to be applied but may do so.

5. How is the sales tax referendum scheduled?

First, there must be a valid intergovernmental agreement between the county and cities specifying the distribution of the tax. Next, the county may call for the sales tax referendum similar to other sales tax referenda.[10]

6. Is a local referendum necessary to impose the FLOST even if the ballot measure in November is successful?

Yes. It is important to note that the ballot question in November of 2024 proposes a constitutional amendment which enables the homestead exemption. If this amendment is not approved, all of HB 581 (including the FLOST) is repealed. If the constitutional amendment is approved, a subsequent referendum within the county is still required to levy the FLOST. Counties and cities should be mindful that the FLOST must be approved by voters in the county to be levied when making policy decisions concerning the homestead exemption.

7. Does FLOST revenue affect the rollback millage rate that is calculated for the purposes of Code Section 45-5-32.1 (Taxpayer Bill of Rights), which requires the advertising of a property tax increase, if exceeded?

Yes. Unlike LOST, the total amount of FLOST collected in the preceding calendar year must be subtracted from the millage equivalent calculated to provide the jurisdiction with the same net proceeds from the current year's net taxable digest value as those derived from the previous year's millage rate when multiplied by the previous year's net taxable digest value.

[8] Code Section 48-8-109.32(a).
[9] Code Section 48-8-109.36(2).
[10] Code Section 48-8-109.32.