



www.cityofpeachtreecornersga.com

SPECIAL CALLED MEETING AGENDA

Mike Mason, Mayor

Phil Sadd – Post 1, Council Member
James Lowe – Post 2, Council Member
Alex Wright – Post 3, Council Member

Jeanne Aulbach – Post 4, Council Member
Lorri Christopher – Post 5, Council Member
Weare Gratwick – Post 6, Council Member

July 05, 2012

SPECIAL CALLED MEETING

7:30 PM

Robert Fowler, YMCA
5600 West Jones Bridge Road, Peachtree Corners GA 30092

A) CALL TO ORDER

B) ROLL CALL

C) PLEDGE OF ALLEGIANCE

D) MAYOR'S OPENING REMARKS

- E) CONSIDERATION OF MINUTES:**
- June 28, 2012 Special Called Meeting
 - June 30, 2012 Special Called Meeting
 - July 1, 2012 Special Called Meeting

F) PUBLIC COMMENT

G) REPORTS AND PRESENTATIONS

- »Report on the Gwinnett County Billboard Litigation
- »Report on the Solid Waste Intergovernmental Agreement with Gwinnett County

H) OLD BUSINESS

1. **O2012-07-40** **SECOND READ and Consideration and Approval of an Ordinance to Provide for the Continuation of Ordinance and Law**
AN ORDINANCE PROVIDING FOR THE CONTINUATION OF ORDINANCE AND LAW DURING THE TRANSITION PERIOD LEGISLATIVELY ESTABLISHED FOR THE CITY OF PEACHTREE CORNERS, GEORGIA AND THE ADOPTION OF ORDINANCES BY THE CITY OF PEACHTREE CORNERS.
- 2.. **O2012-07-41** **SECOND READ and Consideration and Approval of an Ordinance to Adopt and Approve CHAPTER 1: GENERAL PROVISIONS for Code of Ordinances for the City of Peachtree Corners**
AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 1, GENERAL PROVISIONS, AND PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 1: GENERAL PROVISIONS
3. **O2012-07-42** **SECOND READ and Consideration and Approval of an Ordinance to Adopt and Approve CHAPTER 2: ADMINISTRATION for Code of Ordinances for the City of Peachtree Corners**
AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 2, ADMINISTRATION, PROVIDING FOR INCLUSION AND IDENTIFICATION IN

THE CODE OF ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 2: ADMINISTRATION

4. **O2012-07-43** **SECOND READ and Consideration and Approval of an Ordinance to Adopt and Approve CHAPTER 6: ALCOHOL for Code of Ordinances for the City of Peachtree Corners**
AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 6, ALCOHOL, PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 6 ALCOHOL
5. **O2012-07-44** **SECOND READ and Consideration and Approval of an Ordinance to Adopt and Approve CHAPTER 14: BUILDING Code for Code of Ordinances for the City of Peachtree Corners**
AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 14: BUILDING CODE, PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 14: BUILDING CODE
6. **O2012-07-45** **SECOND READ and Consideration and Approval of an Ordinance to Adopt and Approve CHAPTER 18: BUSINESS Code for Code of Ordinances for the City of Peachtree Corners**
AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 18: BUSINESS CODE, PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 18: BUSINESS CODE
7. **O2012-07-46** **SECOND READ and Consideration and Approval of an Ordinance to Adopt and Approve CHAPTER 42: ENVIRONMENT for Code of Ordinances for the City of Peachtree Corners**
AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 42: ENVIRONMENT PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 42: ENVIRONMENT
8. **O2012-07-47** **SECOND READ and Consideration and Approval of an Ordinance to Adopt and Approve CHAPTER 46: FIRE PREVENTION AND PROTECTION for Code of Ordinances for the City of Peachtree Corners**
AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 46: FIRE PREVENTION AND PROTECTION CODE PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 46: FIRE PREVENTION AND PROTECTION
9. **O2012-07-48** **SECOND READ and Consideration and Approval of an Ordinance to Adopt and Approve CHAPTER 50: FLOODS for Code of Ordinances for the City of Peachtree Corners**
AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 50: FLOODS PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 50: FLOODS

10. **O2012-07-49** **SECOND READ and Consideration and Approval of an Ordinance to Adopt and Approve CHAPTER 58: HISTORICAL PRESERVATION for Code of Ordinances for the City of Peachtree Corners**
AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 58: HISTORICAL PRESERVATION CODE PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 58: HISTORICAL PRESERVATION
11. **O2012-07-50** **SECOND READ and Consideration and Approval of an Ordinance to Adopt and Approve CHAPTER 70: MANUFACTURED HOMES for Code of Ordinances for the City of Peachtree Corners**
AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 70: MANUFACTURED HOMES CODE PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 70: MANUFACTURED HOMES
12. **O2012-07-51** **SECOND READ and Consideration and Approval of an Ordinance to Adopt and Approve CHAPTER 82: PAWN SHOPS for Code of Ordinances for the City of Peachtree Corners**
AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 82: PAWN SHOPS CODE PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 82: PAWN SHOPS
13. **O2012-07-52** **SECOND READ and Consideration and Approval of an Ordinance to Adopt and Approve CHAPTER 86: PLANNING AND DEVELOPMENT for Code of Ordinances for the City of Peachtree Corners**
AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 86: PLANNING AND DEVELOPMENT CODE PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 86: PLANNING AND DEVELOPMENT
14. **O2012-07-53** **SECOND READ and Consideration and Approval of an Ordinance to Adopt and Approve CHAPTER 108: TELECOMMUNICATIONS for Code of Ordinances for the City of Peachtree Corners**
AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 108: TELECOMMUNICATIONS CODE PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 108: TELECOMMUNICATIONS
15. **O2012-07-54** **SECOND READ and Consideration and Approval of an Ordinance to Adopt and Approve CHAPTER 114: UTILITIES for Code of Ordinances for the City of Peachtree Corners**
AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 114: UTILITIES CODE PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 114: UTILITIES

16. **O2012-07-55** **SECOND READ and Consideration and Approval of an Ordinance to Adopt and Approve Chapter 118: VEGETATION for the Code of Ordinances for the City of Peachtree Corners**
AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 118: VEGETATION, PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 118: VEGETATION
17. **O2012-07-56** **SECOND READ and Consideration and Approval of an Ordinance Regarding the Standard Code or Technical Regulations for the Code of Ordinances for the City of Peachtree Corners**
AN ORDINANCE TO ADOPT AND APPROVE THE BACKFLOW PREVENTION MANUAL OF GWINNETT COUNTY, GEORGIA AND THE PUMP STATION AND FORCE MAIN DESIGN MANUAL OF GWINNETT COUNTY, GEORGIA
18. **O2012-07-57** **SECOND READ and Consideration and Approval of an Ordinance Regarding Sexually Oriented Businesses - Scott Bergthold**
AN ORDINANCE ESTABLISHING LICENSING REQUIREMENTS AND REGULATIONS FOR SEXUALLY ORIENTED BUSINESSES WITHIN THE CITY OF PEACHTREE CORNERS, GEORGIA
19. **ACTION ITEM** **Discussion and Consideration to Authorize Attorney to Intervene on behalf of the City of Peachtree Corners Regarding Gwinnett County Billboard Litigation**

I) MAYOR'S COMMENTS

J) EXECUTIVE SESSION

K) ADJOURNMENT

CITY OF PEACHTREE CORNERS
SPECIAL CALLED MEETING
June 28, 2012 @ 7:30pm

The Mayor and Council of the City of Peachtree Corners held a Special Called Meeting on Thursday, June 14, 2012 at 7:30pm. This Special Called Meeting was held at Robert Fowler YMCA, located at 5600 West Jones Bridge in Peachtree Corners, GA 30092. The following were in attendance:

Mike Mason, Mayor
Phil Sadd, Council Member, Post 1
James Lowe, Council Member, Post 2
Alex Wright, Council Member, Post 3
Jeanne Aulbach, Council Member, Post 4
Lorri Christopher, Council Member, Post 5
Weare Gratwick, Council Member, Post 6

Acting City Attorney, Bill Riley
Consultants, John Kachmar
Acting City Clerk, Joan Jones

PLEDGE OF ALLEGIANCE: Mayor Mason led the Pledge of Allegiance.

OPENING COMMENTS: Mayor Mason remarked on the revenue side of the upcoming budget, explaining what makes up the revenue such as the Tax Anticipation Note (TAN), Franchise Fees and Property Taxes. He reviewed the timing of receiving the various fees and when the TAN is to be paid. Service Delivery has to be considered, costs and revenues are changing all the times.

PUBLIC COMMENT: Bob Allen addressed council that everyone is learning about budgets, some items are on the high side, and there are unknowns. He understands having a balanced budget, but do you need to spend everything, what if there is a surplus.

Mayor Mason asked Mr. Kachmar to explain how a balanced budget works and what happens at the end of the year with any extra dollars. Mr. Kachmar stated a city normally puts these funds into fund reserves; however, council should avoid using these funds for ongoing expenses.

Mim Harris addressed the council explaining she respects the explanation of revenues and timing; however there are a lot of extras in this budget. She would like close representation and feels the citizens would like to be heard as we are hearing what you are saying.

William Monett asked about certain land within Berkley Lake. Attorney Riley said he would be happy to talk with Mr. Monett after the meeting.

Allen Peel asked council to consider a question and answer period within their meetings; it would be most helpful to have a feedback opportunity with the council

REPORTS and PRESENTATIONS: Attorney Riley presented the **Intergovernmental Agreement** for the Zoning and Permitting. The county has agreed to do the land use services, which will save a considerable

amount of money; however, they need a time line on when we will take over services. Attorney Riley outlined the numerous services, such as variances, reviews, inspections, zoning reviews, sign applications, public notices, on site inspections, erosion control inspections, open records requests, permits, etc. The council will need to purchase a \$5,000,000 policy per occurrence and we will need a liaison for the city. This individual will have to make the determination information is accurate and will be presenting the information given to them by Gwinnett County to this body. The County does not want to take on the liability, the codes are being modified and will be presented to council Saturday night. The sign ordinance will need to be separate, GIRMA has reviewed the County Sign Ordinance and recommends changes prior to the city adopting their own ordinances. There was council discussion on the cost of the liability coverage (estimated \$17-35K). Mr. Kachmar feels this IGA is pretty thorough, it is a complex process, this is a brand new experience for both the city and the county. Once this IGA is passed, the city has thirty days to provide a timeline. Council Member Sadd asked about the termination portion of the agreement.

Attorney Riley gave an overview of what we will be covered Saturday night and Sunday morning meetings. He will present a moratorium resolution(s) at both sessions (moratorium pertaining to planning & zoning along with licensures). He will present an omnibus ordinance which will take **Gwinnett County Ordinances** and adopt them as city ordinances, such as word "county" changing to "city" for example. There will be ordinances adopted as emergencies (council can do emergency ordinances for thirty days) and certain ordinances will be handled as a First Read at the 12:01 meeting. This IGA will be on the July 1 agenda along with authorization to advertising for the zoning procedures hearings in order to comply with Zoning Procedure Acts.

Attorney Riley presented CD's to the Mayor and Council which were put together by Attorney Scott Bergthold, who is a leading attorney on **Sexually Oriented Businesses**, he understands the constitutional issues and represents cities throughout the United States. This is a very technical subject as it deals with free speech, Attorney Riley asked Mayor and Council to review and understand the documents and information on the secondary effects of strip clubs, book stores and other entertainment shops. Council needs to understand the secondary effect; Mr. Bergthold will present information and evidence to the council on secondary effects.

Acting City Clerk announced the upcoming meetings on June 30th and July 1st at the Hilton Atlanta NE, 5993 Peachtree Industrial Blvd.

Attorney Riley reported to council there are 800 addresses that will not be included in the Georgia Power Franchise. They will not be able to include these addresses in the negotiation until the addresses can be determined. This will take some time to resolve.

OLD BUSINESS:

FY 2013 BUDGET: Acting City Clerk read the Budget Ordinance and reminded council there has been a First and Second Read along with two Public Hearings on this ordinance. Mayor Mason called for a motion to approve this ordinance adopting the 2013 budget. Council Member Weare motioned, seconded by Council Member Christopher to adopt the 2013 Budget. During discussion Council Member Sadd motioned, Council Member Aulbach to amend the motion. For clarification purposes, both Council Member Sadd and Aulbach withdrew their motion to amend, then Council Member Aulbach motioned to amend the budget ordinance to allow for procedures to put controls on budget spending, she offered the following amendments and an explanation of each: 1) *Have a Mid -Year Budget Review*; 2) *Have a Zero*

Based Budget for FY 2014; 3) Fund Balance Reserve-to call for the creation of an undesignated Fund Balance Reserve; 4) Millage Rate Reset. Council Member Sadd seconded this amendment. Mr. Kachmar called for a point of order to clarify these amendments would be part of the future budget/financial policy manual, and asked if an additional statement could be made to make these amended items part of a future financial policy and procedures in order not to conflict with any other changes. Attorney Riley confirmed with both Council Members that this is the intent of their motion; Council Member Aulbach confirmed it is, Council Member Sadd confirmed this is the intent of his second to the motion. Attorney Riley explained now would be the time for discussion of the amendment on the floor. There being no further discussion, the amendment carried unanimously.

Council Member Aulbach made the following amendment to the motion, Council Member Gratwick seconded: under General Operations to reduce the following: *Prof. Svcs-Call Center to \$60,000; Prof. Svcs-Comprehensive Plan to \$75,000; Prof. Svcs-Communications to \$60,000; IT Equipment & Licenses to \$75,000; and under Facilities & Building to reduce the following: Technical Services to \$15,000; Furnishings to \$40,000 for a total budget reduction of \$120,000 and to place this \$120,000 into the reserves and the term undesignated reserves.* During discussion of this amendment, clarification was asked for the difference between contingency verses reserve fund; will Gwinnett County give us the revenue numbers so the council can take this into account with new budgets; motor vehicle tax revenues with the current changes and possible code enforcement revenues (currently part of the IGA) and the cost of litigation. Mr. Kachmar explained how only the council should have the authority to move line items in the budget and this would take two reads and how to obtain the goal of building the reserves; he gave a brief overview of the current motor vehicle tax process and changes. Attorney Riley explained the code enforcement will hopefully be a compliance issue and not revenue issue, you won't pay for services from the collection of code enforcement fines. There being no further discussion of this amendment, Mayor Mason called the amended motion and the amendment carried unanimously. Mayor Mason called for any other further discussion on the original motion. Council Member Sadd voiced concern on the high cost of the line items, this will cover "worst case" scenario, his expectation however is to be fiscally responsible, be responsible and diligent and to come under budget on every line item. Council Member Lowe explained making these few changes is responsible, there are lots of unknowns ahead, he is concerned about the franchise fees, this is an estimate and have we prepared enough. Mr. Kachmar explained this is a conservative budget and explained how the timing may affect the revenue stream (franchise fees and tax anticipation notes), there is a contingency built in and reserve funds. There being no further discussion, Mayor Mason called the main motion to approve the budget as amended. The motion carried with Council Members Sadd, Lowe, Aulbach, Christopher, Gratwick and Mayor Mason voting in favor of the motion and Council Member Wright opposing the motion. (**Ordinance 2012-06-03**)

CITY HALL LEASE: Mr. Kachmar reviewed the update lease with ADKC Realty Holdings for the leasing the facility at 147 Technology Parkway, that the changes (reduction of COLA, renewable each year for five years) requested by council have been reconciled. Council Member Christopher motioned, seconded by Council Member Wright motioned to approve this Action Item approving the revised contract for the city hall lease and authorizing the Mayor to sign the lease. During discussion, Council Member Sadd thanked Mr. Kachmar for working with this, he had questions about late payments and the 5 day default. If the finance person cannot pay the bills on time, council needs to reconsider their finance director, bills should be paid on time. Attorney Riley explained this is a simple lease, the landlord has worked with the city and the city has a number of advantages (no escalation until 2014). There being no further discussion. The motion carried unanimously. (**ACTION ITEM**)

NEW BUSINESS:

Schedule of Fees: City Hall Lease: Attorney Riley explained these are the same fees that Gwinnett County charges; part of the IGA request. Council Member Wright asked what a TV inspection was. Council Member Christopher motioned, seconded by Council Member Gratwick to approve the Resolution Adopting a Schedule of Fees for the City of Peachtree Corners, Georgia. During discussion, clarification was made by Attorney Riley that these are county's fees and were just reformatted for the City of Peachtree Corners. The motion carried unanimously. ***(Resolution 2012-06-07)***

MAYOR'S COMMENTS: Mayor Mason extended his appreciation for everyone's attendance, and explained there still an issue with expectation and we will figure out a way to get the communication out there.

EXECUTIVE SESSION: No Executive Session Held.

ADJOURNMENT: Council Member Sadd motioned, seconded by Council Member Gratwick to adjourn the meeting. There being no further discussion, the motion carried unanimously and the meeting was adjourned.

Approved,

Attest,

Mike Mason, Mayor

Joan C. Jones, Acting City Clerk

CITY OF PEACHTREE CORNERS
SPECIAL CALLED MEETING
June 30, 2012 @ 11:00pm

The Mayor and Council of the City of Peachtree Corners held a Special Called Meeting on Saturday, June 30, 2012 at 11:00pm. This Special Called Meeting was held at Hilton Atlanta NE, 5993 Peachtree Industrial Blvd, Peachtree Corners, GA 30092. The following were in attendance:

Mike Mason, Mayor
Phil Sadd, Council Member -Post 1
James Lowe, Council Member-Post 2
Alex Wright, Council Member-Post 3
Jeanne Aulbach, Council Member-Post 4
Lorri Christopher, Council Member-Post 5
Weare Gratwick, Council Member-Post 6

Acting City Attorney, Bill Riley
Consultant, John Kachmar
Acting City Clerk, Joan Jones

PLEDGE OF ALLEGIANCE: Mayor Mason led the Pledge of Allegiance.

OPENING REMARKS: Mayor Mason welcomed everyone to tonight's momentous meeting.

PUBLIC COMMENT: Mr. Tom Herring addressed the council and voiced his thanked the council for doing this thankless job and for their service.

REPORTS and PRESENTATIONS: Acting Attorney Bill Riley asked each Council Member and Mayor to acknowledge that any additional notices of the upcoming July 1, 2012 said meeting is waived. Each Council Member and Mayor confirmed their acknowledgement of the waiver of any further additional notices of the July 1, 2012 12:01am meeting. In addition, Mr. Riley introduced members of his legal team in attendance tonight as they assisted with the review and analysis of tonight's pending consideration of the Peachtree Corners Code of Ordinance Chapters. (Attorney Lenny Felgin and Scott Robichaux, Interin Daniel Hall and Scott Bergthold who is an expert lawyer who is with us tonight and his Executive Assistant Donna Geisenger)

EMERGENCY ORDINANCES: Mr. Riley reviewed each of the following ordinance as they were read into the record, explaining the need for acceptance, if it was applicable to the Intergovernmental Agreement with Gwinnett County or how it meets/complies with state statute and any other applicable requirements. He explained for the majority of these ordinance, they are duplicates of the Gwinnett County Code of Ordinance, with the appropriate reference changes from County to City, Commissioners to Council, etc.

Emergency Ordinance: Continuation of Law: Council Member Lowe motioned, seconded by Council Member Christopher to approve the Emergency Ordinance Providing for the Continuation of Ordinance and Law During the Transition Period Legislatively Established for the City of Peachtree Corners, Georgia and the Adoption of Ordinances by the City of Peachtree Corners. Attorney Riley explained this ordinance adopts the current Gwinnett Code of Ordinances until we adopt our own. There being no discussion, Mayor

Mason called the motion and the motion carried unanimously. (***Ordinance 2012-06-04***)

Emergency Ordinance: Chapter 1-General Provisions: Attorney Riley explained this chapter provides an outline on how to read the codes, supplement the codes, definition of ordinances and general violations. Council Member Aulbach motioned, seconded by Council Member Gratwick to approve the Emergency Ordinance to Adopt and Approve Chapter 1, General Provisions and Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 1: General Provisions. There being no discussion, the Mayor called the motion and the motion carried unanimously. (***Ordinance 2012-06-05***)

Emergency Ordinance: Chapter 2-Administration: Attorney Riley explained this chapter lines up with the charter and outlines how the city will run and work, provides for the formation of boards and commissions purchasing and includes a code of ethics the council. He explained the council can made amendments to these chapters in the future. Council Member Christopher motioned, seconded by Council Member Wright to approve the Emergency Ordinance to Adopt and Approve Chapter 2, Administration Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 2: Administration. There being no discussion, the Mayor called the motion and the motion carried unanimously. (***Ordinance 2012-06-06***)

Emergency Ordinance: Chapter 6-Alcohol: Attorney Riley explained this chapter is the alcoholic beverage code, pertains to sale, licensing and regulations of alcoholic beverages, and follows the Gwinnett County code along with State Law. Council Member Christopher motioned, seconded by Council Member Aulbach to approve the Emergency Ordinance to Adopt and Approve Chapter 6, Alcohol Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 6: Alcohol. During discussion of this ordinance, a scribner's error was noted on the Chapter Number, listed as Chapter 4, and should read as Chapter 6. Council Member Lowe motioned to amend the motion, seconded by Council Member Gratwick to clarify this ordinance as Chapter 6. The amended motion carried unanimously. There being no discussion, the Mayor called the main motion and the motion carried unanimously. (***Ordinance 2012-06-07***)

Emergency Ordinance: Chapter 14-Building Code: Attorney Riley explained this chapter is the same as Gwinnett County's Planning and zoning Code. Council Member Gratwick motioned, seconded by Council Member Sadd to approve the Emergency Ordinance to Adopt and Approve Chapter 14, Building Code Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 14: Building Code. There being no discussion, the Mayor called the motion and the motion carried unanimously. (***Ordinance 2012-06-08***)

Emergency Ordinance: Chapter 18-Business Code: Attorney Riley explained this chapter is the same as Gwinnett County's code, that it general provisions and regulates the businesses, industries, includes the occupational tax, escorts, etc. Council Member Aulbach motioned, seconded by Council Member Christopher to approve the Emergency Ordinance to Adopt and Approve Chapter 18, Business Code Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 18: Business Code. There being no discussion, the Mayor called the motion and the motion carried unanimously. (***Ordinance 2012-06-09***)

Emergency Ordinance: Chapter 42-Environment: Attorney Riley explained this chapter is the same as Gwinnett County's code and is also required by the Intergovernmental Agreement with Gwinnett County.

Council Member Sadd motioned, seconded by Council Member Gratwick to approve the Emergency Ordinance to Adopt and Approve Chapter 42, Environment Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 42: Environment. There being no discussion, the Mayor called the motion and the motion carried unanimously. (***Ordinance 2012-06-10***)

Emergency Ordinance: Chapter 46-Fire Prevention and Protection: Attorney Riley explained this chapter is the same as Gwinnett County's code, it adopts the Fire Safety Laws and construction codes, which is be part of the Community Development Department. Council Member Christopher motioned, seconded by Council Member Gratwick to approve the Emergency Ordinance to Adopt and Approve Chapter 46, Fire Prevention and Protection Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 46: Fire Prevention and Protection. There being no discussion, the Mayor called the motion and the motion carried unanimously. (***Ordinance 2012-06-11***)

Emergency Ordinance: Chapter 50-Floods: Attorney Riley explained this chapter is the same as Gwinnett County's ordinance amended for the city code and goes with the Intergovernmental Agreement for planning and zoning. Council Member Aulbach motioned, seconded by Council Member Wright to approve the Emergency Ordinance to Adopt and Approve Chapter 50, Floods, Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 50: Floods. There being no discussion, the Mayor called the motion and the motion carried unanimously. (***Ordinance 2012-06-12***)

Emergency Ordinance: Chapter 58-Historical Preservation: Attorney Riley explained this chapter is the same as Gwinnett County's ordinance amended for the city code and required by the Intergovernmental Agreement. Council Member Sadd motioned, seconded by Council Member Gratwick to approve the Emergency Ordinance to Adopt and Approve Chapter 58, Historical Preservation, Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 58: Historical Preservation. During discussion Council Member Aulbach asked about the city having their own board, there was clarification that once the city's Community Development and Planning and Zoning are up and running this would be the time to address this concern, but at this time we cannot substitute our own board. There being no discussion, the Mayor called the motion and the motion carried unanimously. (***Ordinance 2012-06-13***)

Emergency Ordinance: Chapter 70-Manufactured Homes: Attorney Riley explained this chapter is the same as Gwinnett County's ordinance amended for the city code and goes with the Intergovernmental Agreement. Council Member Wright motioned, seconded by Council Member Christopher to approve the Emergency Ordinance to Adopt and Approve Chapter 70, Manufactured Homes, Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 70: Manufactured Homes. There being no discussion, the Mayor called the motion and the motion carried unanimously. (***Ordinance 2012-06-14***)

Emergency Ordinance: Chapter 82-Pawn Shops: Attorney Riley explained this chapter is our ordinance, he further explained there are certain state guidelines and regulations that have to be followed, this code gives authority to the Gwinnett County Police to act on behalf of the city in our own pawn shop ordinance. Council Member Aulbach motioned, seconded by Council Member Gratwick to approve the Emergency Ordinance to Adopt and Approve Chapter 82, Pawn Shops, Providing for Inclusion and Identification in the

Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 82: Pawn Shops. There being no discussion, the Mayor called the motion and the motion carried unanimously. **(Ordinance 2012-06-15)**

Emergency Ordinance: Chapter 86-Planning and Development: Attorney Riley explained this chapter is the same as Gwinnett County's ordinance amended for the city code and goes with the Intergovernmental Agreement. There was a brief discussion on the city having their own planning commission, the recommendation to have staggered terms and the time frame for having this commission in place. Council Member Sadd motioned, seconded by Council Member Christopher to approve the Emergency Ordinance to Adopt and Approve Chapter 86, Planning and Development, Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 86: Planning and Development. There being no discussion, the Mayor called the motion and the motion carried unanimously. **(Ordinance 2012-06-16)**

Emergency Ordinance: Chapter 108-Telecommunications: Attorney Riley explained this chapter is the same as Gwinnett County's ordinance amended for the city code and goes with the Intergovernmental Agreement and Land Use IGA. Council Member Christopher motioned, seconded by Council Member Gratwick to approve the Emergency Ordinance to Adopt and Approve Chapter 108, Telecommunications, Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 108: Telecommunications. There being no discussion, the Mayor called the motion and the motion carried unanimously. **(Ordinance 2012-06-17)**

Emergency Ordinance: Chapter 114-Utilities: Attorney Riley explained this chapter is the same as Gwinnett County's ordinance amended for the city code and goes with the Intergovernmental Agreement. Council Member Sadd motioned, seconded by Council Member Gratwick to approve the Emergency Ordinance to Adopt and Approve Chapter 114, Utilities, Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 114: Utilities. There being no discussion, the Mayor called the motion and the motion carried unanimously. **(Ordinance 2012-06-18)**

Emergency Ordinance: Chapter 118-Vegetation: Attorney Riley explained this chapter is adopted Gwinnett County Codes as our own, it includes information on buffers, trees, brush etc. The city is has to mirror what Gwinnett County has until we have are our own Planning and Development Plan in place. Council Member Lowe motioned, seconded by Council Member Sadd to approve the Emergency Ordinance to Adopt and Approve Chapter 118, Vegetation, Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 118: Vegetation. There being no discussion, the Mayor called the motion and the motion carried unanimously. **(Ordinance 2012-06-19)**

Emergency Ordinance Regarding Certain Codes and Regulations: Attorney Riley explained this chapter is not in the code book as it is for the purposes of adopting by reference the Backflow Prevention Manual and the Pump Station and Force Main Design Manuel, both of Gwinnett County, for the purposes of the IGA. These manuals are comprised of standard codes and technical regulations and the manuals will be kept on file at the City Clerk's office. Council Member Aulbach motioned, seconded by Council Member Sadd to approve the Emergency Ordinance to Adopt and Approve Backflow Prevention Manual of Gwinnett County and the Pump Station and Force Main Design Manual of Gwinnett County Georgia. There being no discussion, the Mayor called the motion and the motion carried unanimously. **(Ordinance 2012-06-20)**

Emergency Ordinance Sexually Oriented Businesses: Attorney Bill Riley introduced Attorney Scott Bergthold who presented information and evidence to the council on the negative secondary effects of sexually oriented businesses. He explained the CD the council received outlines in more detail the court cases and the negative secondary effects. In addition, he reviewed several court cases such as Renton v. Playtime Theaters and City of Littleton v. Z.J. Gifts which provided evidence into the records such as Land Use Reports, Criminal Impact Reports and Expert Reports, along with Judicial Opinions on the types of secondary effects that the Mayor and Council can consider when reviewing their ordinance. Attorney Bergthold cited some negative secondary effects such as the impact on surrounding property, personal and property crimes, sexual crimes, illicit drug use and trafficking and litter along with an increase of alcohol, which can all impact the surrounding area. During his presentation, Attorney Bergthold informed council the City of Peachtree Corners can take into consideration the many court cases from Spokane, Washington to Manatee, Florida that have on record how the secondary effects sexually oriented businesses can impact their city i.e. the documentation of prostitution, underage drinking and how some crimes are handled through Vice Squads like referenced in the Houston case and shows how adult entertainment crimes are not usually handled by 911 calls. He referenced the Fulton County case which was upheld by the 11th Circuit Court of Appeals which are included as part of the record the council is considering tonight. In conclusion, he asked council to adopt the title of this ordinance as an Emergency Ordinance Establishing Licensing Requirements and Regulations for Sexually Oriented Businesses within the City of Peachtree Corners. Council Member Christopher motioned, seconded by Council Member Gratwick to adopt this Ordinance Establishing Licensing Requirements and Regulations for Sexually Oriented Businesses with the City of Peachtree Corners, Georgia. During discussion, Council Member Aulbach motioned to amend the motion to include the word "Emergency" before the word "Ordinance". Council Member Sadd seconded the amended motion. The amended motion carried unanimously. There being no further discussion, the Mayor called the main motion, Attorney Riley noted for the record the document Attorney Bergthold presented is the copy of the proposed ordinance of an emergency ordinance establishing licensing requirements and regulations for sexually oriented businesses, which is the basis for the original motion. The motion carried unanimously to approve the Emergency Ordinance Establishing Licensing Requirements and Regulations for Sexually Oriented Businesses for the City of Peachtree Corners, Georgia. **(Ordinance 2012-06-21)**

NEW BUSINESS: Attorney Riley explained the next two resolutions contain information and restrictions pertaining to a one month moratorium during this transition period of July 1, 2012 through November 30, 2013 for purposes of planning and development, zoning ordinance, business licensing, permitting and to prepare applications, however the plan is to lift it soon if possible. The City has and intends to adopt certain Gwinnett County Codes and these resolutions will give the City time to adopt its own certain ordinances.

ZONING MORATORIUM RESOLUTION: Attorney Riley explained this moratorium resolution is necessary for zoning, land use and licensing purposes to consider when developing the city ordinances for zoning and land development, business and alcohol permits, applications and processing of applications and more. Council member Sadd motioned, seconded by Council Member Aulbach to adopt Resolution Imposing within the Territorial Limits of the City of Peachtree Corners, Georgia, a Moratorium of One Month (Unless Sooner Terminated) Upon the Application For or Issuance Of, Land Disturbance Permits, Building Permits, Use Permits, Land Use Permits, Land Development Permits, Clearing or Grading Permits, Sign Permits, Administrative Permits, Business Licenses, Alcoholic Beverage Licenses and Any and All Other Permits or Licenses Dependent Upon, or Related to, Zoning of Land in Order to Allow for the Consideration

and Adoption of Necessary Zoning Ordinances, and the Preparation of Necessary Forms and Adoption of Necessary Procedures for the Processing of Such Applications. There was council discussion on the processing of current applications, the need for better communication with citizens. Attorney Riley explained the IGA does not include any early resolution, that is up to the county if they decide to return to the pre-application review process. There being no further discussion, Mayor Mason called the motion and the motion carried unanimously. **(Resolution 2012-06-08)**

BUSINESS MORATORIUM RESOLUTION: Attorney Riley reviewed this resolution which allows a moratorium for thirty days on licensing and/or or permits for businesses, including adult entertainment, massage establishments and spas and escort and dating services; which will allow time for the city to develop its regulations and consider adopting its own ordinances. Council Member Aulbach motioned seconded by Council Member Sadd to Resolution Imposing within the Territorial Limits of the City of Peachtree Corners, Georgia, a Moratorium of One Month (Unless Sooner Terminated) Upon the Application For or Issuance Of, Business Licenses for Businesses of the Type Described or Defined by Existing Gwinnett County, Georgia Code Chapter 18, Businesses, Article XI: Adult Entertainment Establishments, Article V: Massage Establishments and Spas and Article VIII: Escort And/Or Dating Services. During discussion there was noted a scribner's error on the agenda, the correct chapter in the resolution is Chapter 18. There being no further discussion, the motion carried unanimously. **(Resolution 2102-06-09)**

CONTINUATION OF SERVICES: Attorney Riley outlined his email and telephonic communications with Gwinnett County, he read a letter that will go to the County Manger referencing a May 1, 2012 letter, explaining the functions under the IGA. He requested council to authorize the approval of the Agreement with Gwinnett County for the Continuation of Services. Council Member Sadd motioned, seconded by Council Member Christopher to approve this action. There being no further discussion, the motion carried unanimously. **(ACTION ITEM)**

MAYOR'S COMMENTS: No Mayor's Comments

EXECUTIVE SESSION: No Executive Session was held,.

ADJOURNMENT: Council Member Sadd motioned, seconded by Council Member Aulbach to adjourn the meeting. There being no further discussion, the motion carried unanimously and the meeting was adjourned.

Approved,

Attest,

Mike Mason, Mayor

Joan C. Jones, Acting City Clerk

CITY OF PEACHTREE CORNERS
SPECIAL CALLED MEETING
July 01, 2012 @ 12:01am

The Mayor and Council of the City of Peachtree Corners held a Special Called Meeting on Sunday, July 1, 2012 at 12:01 am. This Special Called Meeting was held at Hilton Atlanta NE, 5993 Peachtree Industrial Blvd, Peachtree Corners, GA 30092. The following were in attendance:

Mike Mason, Mayor
Phil Sadd, Council Member -Post 1
James Lowe, Council Member- Post 2
Alex Wright, Council Member-Post 3
Jeanne Aulbach, Council Member-Post 4
Lorri Christopher, Council Member-Post 5
Weare Gratwick, Council Member-Post 6

Acting City Attorney, Bill Riley
Consultant, John Kachmar
Acting City Clerk, Joan Jones

PLEDGE OF ALLEGIANCE: Mayor Mason led the Pledge of Allegiance.

OPENING COMMENTS: Mayor Mason thanked everyone for staying so late and for their continued support.

PUBLIC COMMENT: Mr. Alan Kaplan addressed the council and thanked them for their hard work and dedication and the citizens of Peachtree Corners will be the beneficiaries of all your hard work.

REPORTS and PRESENTATIONS: Acting Attorney Bill Riley again poled the Council and Mayor to acknowledge that any additional notices of the upcoming July 1, 2012 said meeting is waived. Each Council Member and Mayor confirmed their acknowledgement of the waiver of any further additional notices of the July 1, 2012 12:01am meeting.

EMERGENCY ORDINANCES: Attorney Riley explained the Emergency Ordinances on this agenda are the same as on the 11:00pm June 30th Agenda but in an abundance of caution, he is asking council to consider approving them again in as this is the first day of incorporation and until the city's ordinances may be put in place.

Emergency Ordinance: Continuation of Ordinance and Law: Council Member Sadd motioned, seconded by Council Member Wright to approve the Emergency Ordinance Providing for the Continuation of Ordinance and Law During the Transition Period Legislatively Established for the City of Peachtree Corners, Georgia and the Adoption of Ordinances by the City of Peachtree Corners. Attorney Riley confirmed there have been no changes to this ordinance. There being no discussion, Mayor Mason called the motion and the motion carried unanimously. (***Ordinance 2012-07-22***)

Emergency Ordinance: Chapter 1-General Provisions: Council Member Christopher motioned, seconded by Council Member Gratwick to approve the Emergency Ordinance to Adopt and Approve

Chapter 1, General Provisions and Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 1: General Provisions. Attorney Riley confirmed there have been no changes to this ordinance. There being no discussion, the Mayor called the motion and the motion carried unanimously. (**Ordinance 2012-07-23**)

Emergency Ordinance: Chapter 2-Administration: Council Member Christopher motioned, seconded by Council Member Wright to approve the Emergency Ordinance to Adopt and Approve Chapter 2, Administration Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 2: Administration. Attorney Riley confirmed there have been no changes to this ordinance. There being no discussion, the Mayor called the motion and the motion carried unanimously. (**Ordinance 2012-07-24**)

Emergency Ordinance: Chapter 6-Alcohol: Council Member Gratwick motioned, seconded by Council Member Wright to approve the Emergency Ordinance to Adopt and Approve Chapter 6, Alcohol Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 6: Alcohol. During discussion, Council Member Christopher amended the motion, seconded by Council Member Gratwick to correct the scribner's error to reflect the correct chapter is #6 not 4. The amended motion carried unanimously. Mayor Mason called the main motion to approve Ordinance 2012-07-25 as Chapter 6 and the motion carried unanimously. (**Ordinance 2012-07-25**)

Emergency Ordinance: Chapter 14-Building Code: Council Member Aulbach motioned, seconded by Council Member Wright to approve the Emergency Ordinance to Adopt and Approve Chapter 14, Building Code Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 14: Building Code. Attorney Riley confirmed there have been no changes to this ordinance. There being no discussion, the Mayor called the motion and the motion carried unanimously. (**Ordinance 2012-07-26**)

Emergency Ordinance: Chapter 18-Business Code: Council Member Christopher motioned, seconded by Council Member Gratwick to approve the Emergency Ordinance to Adopt and Approve Chapter 18, Business Code Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 18: Business Code. Attorney Riley confirmed there have been no changes to this ordinance. here being no discussion, the Mayor called the motion and the motion carried unanimously. (**Ordinance 2012-07-27**)

Emergency Ordinance: Chapter 42-Environment: Council Member Wright motioned, seconded by Council Member Sadd to approve the Emergency Ordinance to Adopt and Approve Chapter 42, Environment Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 42: Environment. There being no discussion, the Mayor called the motion and the motion carried unanimously. (**Ordinance 2012-07-28**)

Emergency Ordinance: Chapter 46-Fire Prevention and Protection: Council Member Christopher motioned, seconded by Council Member Aulbach to approve the Emergency Ordinance to Adopt and Approve Chapter 46, Fire Prevention and Protection Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 46: Fire Prevention and Protection. Attorney Riley confirmed there have been no changes to this ordinance. There being no discussion, the Mayor called the motion and the motion carried unanimously. (**Ordinance**

2012-07-29)

Emergency Ordinance: Chapter 50-Floods: Council Member Aulbach motioned, seconded by Council Member Sadd to approve the Emergency Ordinance to Adopt and Approve Chapter 50, Floods, Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 50: Floods. Attorney Riley confirmed there have been no changes to this ordinance. There being no discussion, the Mayor called the motion and the motion carried unanimously. **(Ordinance 2012-07-30)**

Emergency Ordinance: Chapter 58-Historical Preservation: Council Member Sadd motioned, seconded by Council Member Gratwick to approve the Emergency Ordinance to Adopt and Approve Chapter 58, Historical Preservation, Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 58: Historical Preservation Attorney Riley confirmed there have been no changes to this ordinance. There being no discussion, the Mayor called the motion and the motion carried unanimously. **(Ordinance 2012-07-31)**

Emergency Ordinance: Chapter 70-Manufactured Homes: Council Member Christopher motioned, seconded by Council Member Gratwick to approve the Emergency Ordinance to Adopt and Approve Chapter 70, Manufactured Homes, Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 70: Manufactured Homes. Attorney Riley confirmed there have been no changes to this ordinance. There being no discussion, the Mayor called the motion and the motion carried unanimously. **(Ordinance 2012-07-32)**

Emergency Ordinance: Chapter 82-Pawn Shops: Council Member Gratwick motioned, seconded by Council Member Wright to approve the Emergency Ordinance to Adopt and Approve Chapter 82, Pawn Shops, Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 82: Pawn Shops. Attorney Riley confirmed there have been no changes to this ordinance. There being no discussion, the Mayor called the motion and the motion carried unanimously. **(Ordinance 2012-07-33)**

Emergency Ordinance: Chapter 86-Planning and Development: Council Member Sadd motioned, seconded by Council Member Christopher to approve the Emergency Ordinance to Adopt and Approve Chapter 86, Planning and Development, Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 86: Planning and Development. Attorney Riley confirmed there have been no changes to this ordinance. There being no discussion, the Mayor called the motion and the motion carried unanimously. **(Ordinance 2012-07-34)**

Emergency Ordinance: Chapter 108-Telecommunications: Council Member Gratwick motioned, seconded by Council Member Sadd to approve the Emergency Ordinance to Adopt and Approve Chapter 108, Telecommunications, Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 108: Telecommunications. Attorney Riley confirmed there have been no changes to this ordinance. There being no discussion, the Mayor called the motion and the motion carried unanimously. **(Ordinance 2012-07-35)**

Emergency Ordinance: Chapter 114-Utilities: Council Member Aulbach motioned, seconded by Council Member Wright to approve the Emergency Ordinance to Adopt and Approve Chapter 114, Utilities,

Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 114: Utilities. Attorney Riley confirmed there have been no changes to this ordinance. There being no discussion, the Mayor called the motion and the motion carried unanimously. (***Ordinance 2012-07-36***)

Emergency Ordinance: Chapter 118-Vegetation: Council Member Christopher motioned, seconded by Council Member Gratwick to approve the Emergency Ordinance to Adopt and Approve Chapter 118, Vegetation, Providing for Inclusion and Identification in the Code of Ordinances for the City of Peachtree Corners, Georgia to be Referenced in the Future as Chapter 118: Vegetation. Attorney Riley confirmed there have been no changes to this ordinance. There being no discussion, the Mayor called the motion and the motion carried unanimously. (***Ordinance 2012-07-37***)

Emergency Ordinance Regarding Certain Codes and Regulations: Council Member Aulbach motioned, seconded by Council Member Sadd to approve the Emergency Ordinance to Adopt and Approve Backflow Prevention Manual of Gwinnett County and the Pump Station and Force Main Design Manual of Gwinnett County Georgia. Attorney Riley confirmed there have been no changes to this ordinance. There being no discussion, the Mayor called the motion and the motion carried unanimously. (***Ordinance 2012-07-38***)

Emergency Ordinance Sexually Oriented Businesses: Attorney Scott Bergthold reviewed the structure of the ordinance and reminded the council the documents in the CD they received a few days ago include some of the legislative basis for this ordinance. He reviewed the outline of Sections 1, 2, and 3 which state purpose, findings and rationale, with clarification by definition of adult establishments, along with licensing requirements (Section 3) and back ground information is obtained to make sure the employees are of age, to check for previous criminal activities associated with sexually oriented businesses and the hours of operation to limit the secondary effects (prostitution and crimes) along with inspection of the businesses. Mr. Bergthold reviewed how the interior configuration of the business can be affected by the six foot rule for dancers, (table dancing and private dancers) placement of booths for watching videos, the prohibition of physical contact and alcohol consumption and how the direct line of sight is considered when inspecting the buildings. In addition, he reviewed how Georgia law can affect the ordinance providing for the location of these types of establishments, requires 1000 foot of buffers between churches, homes and schools, you can consider this when licensing .you may consider this without going thru the zoning procedures in most cases.

Attorney Bergthold reviewed important case law such as Renton v. Playtime Theaters, setting the secondary effects that cities can rely on evidence that is reasonably believed to be relevant to the problem that the city addresses. He explained the previously mentioned reports such as Land Use, Crime Impact, Judicial Opinions, etc. are still relevant for Peachtree Corners. Court cases such as the ones from Warner Robbins, Fulton County, Daytona Beach citing the negative secondary effects on property values, litter/blight, personal property crimes to gives the possibility of violent crime. The procedures for licensing, background checks, administrative hearings and appeals in this ordinance are modeled after the City of Littleton v. Z.J. Gifts and have been upheld by the courts. Attorney Bergthold highlighted various cases that cover various aspects of the sexually oriented businesses, how there are basic rationale to support these regulations. The finding of secondary effects is scientifically robust, wide array of data has been accumulated over the years, strip clubs from years ago have the same issues today. He reviewed the expert findings and cases that rejected the industry's experts on secondary effects and explained to the council all of this material and handout will be left with the city clerk for the records. He asked council include the word "Emergency" in this ordinance they adopt tonight. Council Member Christopher asked

how current businesses are affected. Attorney Bergthold explained that with licensing matters, businesses are not grandfathered, they have to conform within a certain time frame. If it is a question on the zoning, they are grandfathered. Council Member Christopher motioned, seconded by Council Member Gratwick to approve this ordinance. Council Member Aulbach then motioned to amend the motion to include the word "Emergency" within the title. Council Member Sadd seconded the amendment. Mayor Mason called for discussion on the amendment, Council asked Attorney Bergthold to review how the current businesses may be affected, (further research is needed) and what new businesses will need to do to open such a business. The goal is to allow the constitutional amount/number of sights, offering least affect on the community and that satisfies all the requirements. Mayor called the amendment and the amendment carried unanimously. Mayor Mason then called the main motion and the motion carried unanimously to approve an Emergency Ordinance Establishing Licensing Requirements and Regulations for Sexually Oriented Businesses within the City of Peachtree Corners, GA. (**Ordinance 2012-07-39**)

NEW BUSINESS:

ZONING MORATORIUM RESOLUTION: Council Member Sadd motioned, seconded by Council Member Christopher to Adopt Resolution Imposing within the Territorial Limits of the City of Peachtree Corners, Georgia, a Moratorium of One Month (Unless Sooner Terminated) Upon the Application For, or Issuance Of, Land Disturbance Permits, Building Permits, Use Permits, Land Use Permits, Land Development Permits, Clearing or Grading Permits, Sign Permits, Administrative Permits, Business Licenses, Alcoholic Beverage Licenses and Any and All Other Permits or Licenses Dependent Upon, or Related to, Zoning of Land in Order to Allow for the Consideration and Adoption of Necessary Zoning Ordinances, and the Preparation of Necessary Forms and Adoption of Necessary Procedures for the Processing of Such Applications. During discussion, Attorney Riley explained the reasoning for the restrictions pertaining to a one month moratorium during this transition period of July 1, 2012 through November 30, 2013. The City has and intends to adopt certain Gwinnett County Codes and this resolution will give the city time to adopt its own certain ordinances pertaining to zoning and permits, this will take a reasonable amount of time to establish these procedures and this is the purpose of this resolution. There being no further discussion, Mayor Mason called the motion and the motion carried unanimously. (**Resolution 2012-07-10**)

BUSINESS MORATORIUM RESOLUTION: Attorney Riley explained there were no changes to this resolution and explained the purpose of the moratorium was to allow time during this transition period to consider any affects of businesses, to consider the proposed changes of the city ordinances and conduct hearings. The City has and intends to adopt certain Gwinnett County Codes and this resolution will give the City time to adopt its own certain ordinances. Council Member Christopher motioned seconded by Council Member Gratwick to Resolution Imposing within the Territorial Limits of the City of Peachtree Corners, Georgia, a Moratorium of One Month (Unless Sooner Terminated) Upon the Application For or Issuance Of, Licenses, permits And/Or Certificates for Businesses of the Type Described or Defined by Existing Gwinnett County, Georgia Code Chapter 18, Businesses, Article XI: Adult Entertainment Establishments, Article V: Massage Establishments and Spas and Article VIII: Escort And/Or Dating Services. During discussion there was noted a scribe's error, the correct chapter is Chapter 18. There being no further discussion, the motion carried unanimously. (**Resolution 2102-07-11**)

RATIFICATIONS OF COUNCIL ACTIONS: Attorney Riley reviewed this resolution and reasoning behind his request to pass this resolution ratifying the actions taken by Mayor and Council during their past meetings. Council Member Lowe motioned, seconded by Council Member Sadd to Approve A Resolution to Ratify the Actions Taken by the Mayor and Council of the City of Peachtree Corners, Georgia Prior to

July 1, 2012. There being no discussion, the motion carried unanimously. **(Resolution 2012-07-12)**

GWINNETT COUNTY IGA: Council Member Wright motioned, seconded by Council Member Sadd to authorize and adopt the Intergovernmental Agreement for the Provision of Zoning Review and Permitting Services between Gwinnett County, Georgia and the City of Peachtree Corners, Georgia. During discussion, Attorney Riley explained this IGA remains the same as previously presented to council. Mayor called the motion and the motion carried unanimously. **(ACTION ITEM)**

CONTINUATION OF SERVICES: Attorney Riley explained the council has previously considered this action item. Council Member Christopher motioned, seconded by Council Member Gratwick to approve the request for authorizing the agreement with Gwinnett County Georgia for Continuation of Services. The motion carried unanimously. **(ACTION ITEM)**

CITY CHARTER: Council Member Aulbach motioned, seconded by Council Member Sadd to Approve a Resolution Formally Adopting the City Charter of Peachtree Corners, Georgia. There being no need for discussion, the motion carried unanimously. **(Resolution 2102-07-13)**

FIRST READ of Ordinance 2012-07-40 to Provide for the Continuation of Ordinance and Law was held.

FIRST READ of Ordinance 2012-07-41 to Adopt and Approve Chapter 1: General Provisions for the Code of Ordinances for the City of Peachtree Corners, Georgia was held.

FIRST READ of Ordinance 2012-07-42 to Adopt and Approve Chapter 2: Administrations for the Code of Ordinances for the City of Peachtree Corners, Georgia was held.

FIRST READ of Ordinance 2012-07-43 to Adopt and Approve Chapter 4: Alcohol for the Code of Ordinances for the City of Peachtree Corners, Georgia was held. (THIS WILL BE CHANGED TO REFLECT THE CORRECT CHAPTER #6 AT THE SECOND READ AND PRIOR TO ADOPTION)

FIRST READ of Ordinance 2012-7-44 to Adopt and Approve Chapter 14: Building Code for the Code of Ordinances for the City of Peachtree Corners, Georgia was held.

FIRST READ of Ordinance 2012-07-45 to Adopt and Approve Chapter 18: Businesses for the Code of Ordinances for the City of Peachtree Corners, Georgia was held.

FIRST READ of Ordinance 2012-07-46 to Adopt and Approve Chapter 42: Environment Provisions for the Code of Ordinances for the City of Peachtree Corners, Georgia was held.

FIRST READ of Ordinance 2012-07-47 to Adopt and Approve Chapter 46: Fire Prevention and Protection for the Code of Ordinances for the City of Peachtree Corners, Georgia was held.

FIRST READ of Ordinance 2012-07-48 to Adopt and Approve Chapter 50: Floods for the Code of Ordinances for the City of Peachtree Corners, Georgia was held.

FIRST READ of Ordinance 2012-07-49 to Adopt and Approve Chapter 58: Historical Preservation for the Code of Ordinances for the City of Peachtree Corners, Georgia was held.

FIRST READ of Ordinance 2012-07-50 to Adopt and Approve Chapter 70: Manufactured Homes for the Code of Ordinances for the City of Peachtree Corners, Georgia was held.

FIRST READ of Ordinance 2012-07-51 to Adopt and Approve Chapter 82: Pawn Shops for the Code of Ordinances for the City of Peachtree Corners, Georgia was held.

FIRST READ of Ordinance 2012-07-52 to Adopt and Approve Chapter 86: Planning and Development for the Code of Ordinances for the City of Peachtree Corners, Georgia was held.

FIRST READ of Ordinance 2012-07-53 to Adopt and Approve Chapter 108: Telecommunications for the Code of Ordinances for the City of Peachtree Corners, Georgia was held.

FIRST READ of Ordinance 2012-07-54 to Adopt and Approve Chapter 114: Utilities for the Code of Ordinances for the City of Peachtree Corners, Georgia was held.

FIRST READ of Ordinance 2012-07-55 to Adopt and Approve Chapter 118: Vegetation for the Code of Ordinances for the City of Peachtree Corners, Georgia was held.

FIRST READ of Ordinance 2012-07-56 to Adopt and Approve and Ordinance Regarding the Standard Code and Technical Regulation Manuals for the Code of Ordinances for the City of Peachtree Corners, Georgia was held.

FIRST READ of Ordinance 2012-07-57 to Adopt and Approve an Ordinance Establishing Licensing Requirements and Regulations for Sexually Oriented Businesses Within the City of Peachtree Corners, Georgia was held.

ADVERTISEMENT OF ZONING AND SIGN ORDINANCES: Attorney Riley asked for a motion to approve the advertisement of this notices as required by the zoning procedure law. Council Member Christopher motioned, seconded by Council Member Gratwick to approve this action item approving the advertisement notice. The motion carried unanimously. (ACTION ITEM)

MAYOR'S COMMENTS: Mayor Mason thanked everyone for attending tonight.

EXECUTIVE SESSION: No Executive Session was held,.

ADJOURNMENT: Council Member Sadd motioned, seconded by Council Member Aulbach to adjourn the meeting. There being no further discussion, the motion carried unanimously and the meeting was adjourned.

Approved,

Attest,

Mike Mason, Mayor

Joan C. Jones, Acting City Clerk

**AN ORDINANCE PROVIDING FOR THE CONTINUATION OF ORDINANCE AND LAW
DURING THE TRANSITION PERIOD LEGISLATIVELY ESTABLISHED FOR THE CITY OF
PEACHTREE CORNERS, GEORGIA AND THE ADOPTION OF ORDINANCES BY THE
CITY OF PEACHTREE CORNERS, GEORGIA.**

IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF PEACHTREE CORNERS, Georgia while in regular session on July 1, 2012 at 12:01 a.m. as follows:

SECTION 1. That the General Law of the State of Georgia provides for a transition period, not to exceed twenty-four (24) months, for the orderly transition of governmental functions from the county to a new municipal corporation during which, the new municipal corporation can assume individual governmental functions as authorized by law. O.C.G.A. § 36-31-8; and,

SECTION 2. That the Charter Act for the City of Peachtree Corners, Georgia (HB 396, General Assembly 2011) provides for the transition period beginning July 1, 2012, and ending at midnight on December 31, 2013, during which transition period, until assumed by the City, Gwinnett County shall continue to provide within the territorial limits of Peachtree Corners all government services and functions which Gwinnett County provided in that area as of the date of enactment of the Charter for Peachtree Corners, except as is otherwise provided by the Charter; and,

SECTION 3. That accordingly, it is hereby declared by the City Council for the City of Peachtree Corners that until: (1) repealed by the City Council by specific reference to the law or Ordinance of the Code of Gwinnett County, or (2) the City Council adopts regulation by the valid passage and adoption of an ordinance by the City Council affirmatively replacing specific Gwinnett County ordinances in conformance with the Charter of the City of Peachtree Corners, Georgia, and O.C.G.A. § 36-31-8, all existing laws and ordinances of Gwinnett County, in effect as of June 30, 2012 shall continue in full force and effect within the territorial limits of the City of Peachtree Corners for the term of the Charter transition period, or until otherwise repealed or replaced as contemplated herein. Subject to the following exception, to wit: as general law of the State of Georgia prohibits a local government from taking action resulting in a zoning decision without compliance with statutory requirements (Georgia Law Title 36, Chapter 66) the zoning ordinances of Gwinnett County as relating to zoning procedures to be applied are specifically not continued as a part of the ordinances of the City of Peachtree Corners; and,

SECTION 4. That further, pursuant to the authority as granted in its Charter for the adoption of emergency ordinances and, the City Council hereby affirmatively adopts and enacts all of those provisions of the Gwinnett County, Georgia Code of Ordinances which are not repealed or replaced by those certain Ordinances of the City of Peachtree Corners, Georgia which are enacted contemporaneously herewith in this first business meeting of the City Council; and,

For the purposes of this adoption, and as consistent based upon the text of the ordinance, any reference contained in the Gwinnett County Code of Ordinances to: (1) Gwinnett County, Georgia shall be deemed to refer to the City of Peachtree Corners, Georgia, (2) the Gwinnett County Board of Commissioners shall be deemed to refer to the Mayor and City Council of Peachtree Corners, Georgia, (3) the County Manager shall be deemed to refer to the Interim

and/or permanent City Manager of Peachtree Corners, Georgia, and in the absence of a permanent or interim City Manager the Mayor of Peachtree Corners, GA. Further, any duties or functions carried out by boards, authorities, commissions, and/or other entities in the Gwinnett County Code of Ordinances shall be carried out by the Mayor and Council of Peachtree Corners, Georgia or their duly authorized designees. Further, any other reference to any staff member or staff function set out in the Gwinnett County Code of Ordinances shall be deemed to be the responsibility of the closest corresponding staff member or department in the City of Peachtree Corners, or the Interim and/or permanent City Manager of Peachtree Corners, Georgia or his or her duly authorized designees. It is the intent of this provision that as to the names, designation of persons or entities, and construction as to other issues, the existing Gwinnett County Code be construed in a manner to allow for appropriate implementation as it applies within the City of Peachtree Corners.

Further, the City Clerk is directed forthwith to maintain a copy of the Official Code of Gwinnett County, Georgia as it existed on June 30, 2012, in the Office of the City Clerk of Peachtree Corners and to make the same available for public inspection upon request.

SECTION 5. That the Council finds an emergency exists for the adoption of governing laws and ordinances for the City of Peachtree Corners for beginning its function as a city as of its official incorporation date, July 1, 2012, without interruption or loss of services and functions essential for the city; and,

SECTION 6. That this Ordinance shall become effective upon its adoption.

SECTION 7. In the event that any one or more of the provision contained in this ordinance shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not effect any other provisions of this ordinance, but this ordinance shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

ORDAINED this the ____ day of July, 2012.

Approved:

Michael Mason, Mayor

Attest:

Joan C. Jones, Acting City Clerk

(SEAL)

Approved as to Form and Content:

William F. Riley, Acting City Attorney

AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 1: GENERAL PROVISIONS CODE, PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 1: GENERAL PROVISIONS

WHEREAS: The Ordinance relating to Chapter 1, General Provisions Code is hereby adopted and approved; and is presented hereto as if fully set forth herein; and,

WHEREAS: This Ordinance shall be designated as Chapter 1 of the Code of Ordinances of the City of Peachtree Corners, Georgia; and

WHEREAS: This Ordinance is shall become effective upon its adoption,

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF PEACHTREE CORNERS that Chapter 1, General Provisions Code is hereby adopted and approved as part of the Code of Ordinances for the City of Peachtree Corners, Georgia

SO ORDAINED AND EFFECTIVE this the 5th day of July, 2012.

Approved:

Mike Mason, Mayor

Attest:

Joan C. Jones, Acting City Clerk

(Seal)

Approved as to Form and Content:

William F. Riley, Acting City Attorney

**AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 2: ADMINISTRATION,
PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF
ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE
REFERENCED IN THE FUTURE AS CHAPTER 2: ADMINISTRATION**

WHEREAS: The Ordinance relating to Chapter 2, Administration is hereby adopted and approved; and is presented hereto as if fully set forth herein; and,

WHEREAS: This Ordinance shall be designated as Chapter 2 of the Code of Ordinances of the City of Peachtree Corners, Georgia; and

WHEREAS: This Ordinance is shall become effective upon its adoption,

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF PEACHTREE CORNERS that Chapter 2, Administration is hereby adopted and approved as part of the Code of Ordinances for the City of Peachtree Corners, Georgia

SO ORDAINED AND EFFECTIVE this the 5th day of July, 2012.

Approved:

Mike Mason, Mayor

Attest:

Joan C. Jones, Acting City Clerk

(Seal)

Approved as to Form and Content:

William F. Riley, Acting City Attorney

**AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 6: ALCOHOL CODE
PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF
ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE
REFERENCED IN THE FUTURE AS CHAPTER 6: ALCOHOL CODE**

WHEREAS: The Ordinance relating to Chapter 6, Alcohol Code is hereby adopted and approved; and is presented hereto as if fully set forth herein; and,

WHEREAS: This Ordinance shall be designated as Chapter 6 of the Code of Ordinances of the City of Peachtree Corners, Georgia; and

WHEREAS: This Ordinance is shall become effective upon its adoption,

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF PEACHTREE CORNERS that Chapter 6, Alcohol Code is hereby adopted and approved as part of the Code of Ordinances for the City of Peachtree Corners, Georgia

SO ORDAINED AND EFFECTIVE this the 5th day of July, 2012.

Approved:

Mike Mason, Mayor

Attest:

Joan C. Jones, Acting City Clerk

(Seal)

Approved as to Form and Content:

William F. Riley, Acting City Attorney

**AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 14: BUILDING CODE
PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF
ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE
REFERENCED IN THE FUTURE AS CHAPTER 14: BUILDING CODE**

WHEREAS: The Ordinance relating to Chapter 14, Building Code is hereby adopted and approved; and is presented hereto as if fully set forth herein; and,

WHEREAS: This Ordinance shall be designated as Chapter 14 of the Code of Ordinances of the City of Peachtree Corners, Georgia; and

WHEREAS: This Ordinance is shall become effective upon its adoption,

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF PEACHTREE CORNERS that Chapter 14, Building Code is hereby adopted and approved as part of the Code of Ordinances for the City of Peachtree Corners, Georgia

SO ORDAINED AND EFFECTIVE this the 5th day of July, 2012.

Approved:

Mike Mason, Mayor

Attest:

Joan C. Jones, Acting City Clerk

(Seal)

Approved as to Form and Content:

William F. Riley, Acting City Attorney

**AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 18: BUSINESS CODE,
PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF
ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE
REFERENCED IN THE FUTURE AS CHAPTER 18: BUSINESS CODE**

WHEREAS: The Ordinance relating to Chapter 18, Business Code is hereby adopted and approved; and is presented hereto as if fully set forth herein; and,

WHEREAS: This Ordinance shall be designated as Chapter 18 of the Code of Ordinances of the City of Peachtree Corners, Georgia; and

WHEREAS: This Ordinance is shall become effective upon its adoption,

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF PEACHTREE CORNERS that Chapter 18, Business Code is hereby adopted and approved as part of the Code of Ordinances for the City of Peachtree Corners, Georgia

SO ORDAINED AND EFFECTIVE this the 5th day of July, 2012.

Approved:

Mike Mason, Mayor

Attest:

Joan C. Jones, Acting City Clerk

(Seal)

Approved as to Form and Content:

William F. Riley, Acting City Attorney

**AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 42: ENVIRONMENT,
PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF
ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE
REFERENCED IN THE FUTURE AS CHAPTER 42: ENVIRONMENT**

WHEREAS: The Ordinance relating to Chapter 42, Environment Code is hereby adopted and approved; and is presented hereto as if fully set forth herein; and,

WHEREAS: This Ordinance shall be designated as Chapter 42 of the Code of Ordinances of the City of Peachtree Corners, Georgia; and

WHEREAS: This Ordinance is shall become effective upon its adoption,

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF PEACHTREE CORNERS that Chapter 42, Environment is hereby adopted and approved as part of the Code of Ordinances for the City of Peachtree Corners, Georgia

SO ORDAINED AND EFFECTIVE this the 5th day of July, 2012.

Approved:

Mike Mason, Mayor

Attest:

Joan C. Jones, Acting City Clerk

(Seal)

Approved as to Form and Content:

William F. Riley, Acting City Attorney

AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 46: FIRE PREVENTION AND PROTECTION, PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 46: FIRE PROTECTION AND PREVENTION

WHEREAS: The Ordinance relating to Chapter 46, Fire Protection and Prevention Code is hereby adopted and approved; and is presented hereto as if fully set forth herein; and,

WHEREAS: This Ordinance shall be designated as Chapter 46 of the Code of Ordinances of the City of Peachtree Corners, Georgia; and

WHEREAS: This Ordinance is shall become effective upon its adoption,

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF PEACHTREE CORNERS that Chapter 46, Fire Protection and Prevention is hereby adopted and approved as part of the Code of Ordinances for the City of Peachtree Corners, Georgia

SO ORDAINED AND EFFECTIVE this the 5th day of July, 2012.

Approved:

Mike Mason, Mayor

Attest:

Joan C. Jones, Acting City Clerk

(Seal)

Approved as to Form and Content:

William F. Riley, Acting City Attorney

AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 50: FLOODS, PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 50: FLOODS

WHEREAS: The Ordinance relating to Chapter 50, Floods is hereby adopted and approved; and is presented hereto as if fully set forth herein; and,

WHEREAS: This Ordinance shall be designated as Chapter 50 of the Code of Ordinances of the City of Peachtree Corners, Georgia; and

WHEREAS: This Ordinance is shall become effective upon its adoption,

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF PEACHTREE CORNERS that Chapter 50, Floods is hereby adopted and approved as part of the Code of Ordinances for the City of Peachtree Corners, Georgia

SO ORDAINED AND EFFECTIVE this the 5th day of July, 2012.

Approved:

Mike Mason, Mayor

Attest:

Joan C. Jones, Acting City Clerk

(Seal)

Approved as to Form and Content:

William F. Riley, Acting City Attorney

AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 58: HISTORICAL PRESERVATION, PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 58: HISTORICAL PRESERVATION

WHEREAS: The Ordinance relating to Chapter 58, Historical Preservation is hereby adopted and approved; and is presented hereto as if fully set forth herein; and,

WHEREAS: This Ordinance shall be designated as Chapter 58 of the Code of Ordinances of the City of Peachtree Corners, Georgia; and

WHEREAS: This Ordinance is shall become effective upon its adoption,

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF PEACHTREE CORNERS that Chapter 58, Historical Preservation is hereby adopted and approved as part of the Code of Ordinances for the City of Peachtree Corners, Georgia

SO ORDAINED AND EFFECTIVE this the 5th day of July, 2012.

Approved:

Mike Mason, Mayor

Attest:

Joan C. Jones, Acting City Clerk

(Seal)

Approved as to Form and Content:

William F. Riley, Acting City Attorney

AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 70: MANUFACTURED HOMES, PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 70: MANUFACTURED HOMES

WHEREAS: The Ordinance relating to Chapter 70, Manufactured Homes is hereby adopted and approved; and is presented hereto as if fully set forth herein; and,

WHEREAS: This Ordinance shall be designated as Chapter 70 of the Code of Ordinances of the City of Peachtree Corners, Georgia; and

WHEREAS: This Ordinance is shall become effective upon its adoption,

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF PEACHTREE CORNERS that Chapter 70, Manufactured Homes is hereby adopted and approved as part of the Code of Ordinances for the City of Peachtree Corners, Georgia

SO ORDAINED AND EFFECTIVE this the 5th day of July, 2012.

Approved:

Mike Mason, Mayor

Attest:

Joan C. Jones, Acting City Clerk

(Seal)

Approved as to Form and Content:

William F. Riley, Acting City Attorney

**AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 82: PAWN SHOPS,
PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF
ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE
REFERENCED IN THE FUTURE AS CHAPTER 82: PAWN SHOPS**

WHEREAS: The Ordinance relating to Chapter 82, Pawn Shops is hereby adopted and approved; and is presented hereto as if fully set forth herein; and,

WHEREAS: This Ordinance shall be designated as Chapter 82 of the Code of Ordinances of the City of Peachtree Corners, Georgia; and

WHEREAS: This Ordinance is shall become effective upon its adoption,

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF PEACHTREE CORNERS that Chapter 82, Pawn Shops is hereby adopted and approved as part of the Code of Ordinances for the City of Peachtree Corners, Georgia

SO ORDAINED AND EFFECTIVE this the 5th day of July, 2012.

Approved:

Mike Mason, Mayor

Attest:

Joan C. Jones, Acting City Clerk

(Seal)

Approved as to Form and Content:

William F. Riley, Acting City Attorney

AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 86: PLANNING AND DEVELOPMENT, PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 86: PLANNING AND DEVELOPMENT

WHEREAS: The Ordinance relating to Chapter 86, Planning and Development is hereby adopted and approved; and is presented hereto as if fully set forth herein; and,

WHEREAS: This Ordinance shall be designated as Chapter 86 of the Code of Ordinances of the City of Peachtree Corners, Georgia; and

WHEREAS: This Ordinance is shall become effective upon its adoption,

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF PEACHTREE CORNERS hat Chapter 86, Planning and Development is hereby adopted and approved as part of the Code of Ordinances for the City of Peachtree Corners, Georgia

SO ORDAINED AND EFFECTIVE this the 5th day of July, 2012.

Approved:

Mike Mason, Mayor

Attest:

Joan C. Jones, Acting City Clerk

(Seal)

Approved as to Form and Content:

William F. Riley, Acting City Attorney

**AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 108:
TELECOMMUNICATIONS, PROVIDING FOR INCLUSION AND IDENTIFICATION
IN THE CODE OF ORDINANCES FOR THE CITY OF PEACHTREE CORNERS,
GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 108:
TELECOMMUNICATIONS**

WHEREAS: The Ordinance relating to Chapter 108, Telecommunications is hereby adopted and approved; and is presented hereto as if fully set forth herein; and,

WHEREAS: This Ordinance shall be designated as Chapter 108 of the Code of Ordinances of the City of Peachtree Corners, Georgia; and

WHEREAS: This Ordinance is shall become effective upon its adoption,

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF PEACHTREE CORNERS that Chapter 108, Telecommunications is hereby adopted and approved as part of the Code of Ordinances for the City of Peachtree Corners, Georgia

SO ORDAINED AND EFFECTIVE this the 5th day of July, 2012.

Approved:

Mike Mason, Mayor

Attest:

Joan C. Jones, Acting City Clerk

(Seal)

Approved as to Form and Content:

William F. Riley, Acting City Attorney

**AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 114: UTILITIES,
PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF
ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE
REFERENCED IN THE FUTURE AS CHAPTER 114: UTILITIES**

WHEREAS: The Ordinance relating to Chapter 114, Utilities is hereby adopted and approved; and is presented hereto as if fully set forth herein; and,

WHEREAS: This Ordinance shall be designated as Chapter 114 of the Code of Ordinances of the City of Peachtree Corners, Georgia; and

WHEREAS: This Ordinance is shall become effective upon its adoption,

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF PEACHTREE CORNERS that Chapter 114, Utilities is hereby adopted and approved as part of the Code of Ordinances for the City of Peachtree Corners, Georgia

SO ORDAINED AND EFFECTIVE this the 5th day of July, 2012.

Approved:

Mike Mason, Mayor

Attest:

Joan C. Jones, Acting City Clerk

(Seal)

Approved as to Form and Content:

William F. Riley, Acting City Attorney

**AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 118: VEGETATION,
PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF
ORDINANCES FOR THE CITY OF PEACHTREE CORNERS, GEORGIA TO BE
REFERENCED IN THE FUTURE AS CHAPTER 118: VEGETATION**

WHEREAS: The Ordinance relating to Chapter 118, Vegetation is hereby adopted and approved; and is presented hereto as if fully set forth herein; and,

WHEREAS: This Ordinance shall be designated as Chapter 118 of the Code of Ordinances of the City of Peachtree Corners, Georgia; and

WHEREAS: This Ordinance is shall become effective upon its adoption,

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF PEACHTREE CORNERS that Chapter 118, Vegetation is hereby adopted and approved as part of the Code of Ordinances for the City of Peachtree Corners, Georgia

SO ORDAINED AND EFFECTIVE this the 5th day of July, 2012.

Approved:

Mike Mason, Mayor

Attest:

Joan C. Jones, Acting City Clerk

(Seal)

Approved as to Form and Content:

William F. Riley, Acting City Attorney

**AN ORDINANCE TO ADOPT AND APPROVE THE BACKFLOW PREVENTION
MANUAL OF GWINNETT COUNTY, GEORGIA AND THE PUMP STATION AND
FORCE MAIN DESIGN MANUAL OF GWINNETT COUNTY, GEORGIA**

WHEREAS: The Mayor and Council of the City of Peachtree Corners may adopt any standard code or technical regulation by ordinance, incorporating said code or regulation by reference, and

WHEREAS: The details of such standard codes and technical regulations need not be advertised, but at least one copy of each such code or regulation shall be available at the City Clerk's Office for public inspection, and

WHEREAS: The following standard codes or technical regulations are hereby incorporated by reference:

*Backflow Prevention Manual of Gwinnett County
Pump Station and Force Main Design Manual of Gwinnett County*

WHEREAS: This Ordinance is shall become effective upon its adoption,

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF PEACHTREE CORNERS that both the Manuals aforementioned are hereby adopted and approved as part of the Code of Ordinances for the City of Peachtree Corners, Georgia

SO ORDAINED AND EFFECTIVE this the 5th day of July, 2012.

Approved:

Mike Mason, Mayor

Attest:

Joan C. Jones, Acting City Clerk

(Seal)

Approved as to Form and Content:

William F. Riley, Acting City Attorney

**AN ORDINANCE ESTABLISHING LICENSING REQUIREMENTS AND
REGULATIONS FOR SEXUALLY ORIENTED BUSINESSES WITHIN
THE CITY OF PEACHTREE CORNERS, GEORGIA**

Section

Preamble

1. - Purpose; findings and rationale.
2. - Definitions.
3. - License required.
4. - Issuance of license.
5. - Fees.
6. - Inspection.
7. - Expiration and renewal of license.
8. - Suspension.
9. - Revocation.
10. - Hearing; license denial, suspension, revocation; appeal.
11. - Transfer of license.
12. - Hours of operation.
13. - Regulations pertaining to exhibition of sexually explicit films on premises.
14. - Loitering, exterior lighting and monitoring, and interior lighting requirements.
15. - Penalties and enforcement.
16. - Applicability of ordinance to existing businesses.
17. - Prohibited conduct.
18. - Scienter required to prove violation or business licensee liability.
19. - Failure of City to meet deadline not to risk applicant/licensee rights.
20. - Location of sexually oriented businesses.
21. - Severability.
22. - Conflicting code provisions repealed.

WHEREAS, sexually oriented businesses require special supervision from the public safety agencies of the City in order to protect and preserve the health, safety, and welfare of the patrons of such businesses as well as the citizens of the City; and

WHEREAS, the City Council finds that sexually oriented businesses, as a category of establishments, are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

WHEREAS, there is convincing documented evidence that sexually oriented businesses, as a category of establishments, have deleterious secondary effects and are often associated with crime and adverse effects on surrounding properties; and

WHEREAS, the City Council desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from crime;

preserve the quality of life; preserve the character of surrounding neighborhoods and deter the spread of urban blight; and

WHEREAS, certain sexually oriented products and services offered to the public are recognized as not inherently expressive and not protected by the First Amendment, *see, e.g., Sewell v. Georgia*, 233 S.E.2d 187 (Ga. 1977), *dismissed for want of a substantial federal question*, 435 U.S. 982 (1978) (sexual devices); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 224 (1990) (escort services and sexual encounter services); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007) (upholding ban on sexual novelty devices); and

WHEREAS, there is documented evidence of sexually oriented businesses, including adult bookstores and adult video stores, manipulating their inventory and/or business practices to avoid regulation while retaining their essentially “adult” nature, *see, e.g., City of New York v. Hommes*, 724 N.E.2d 368 (N.Y. 1999); *Taylor v. State*, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002) (noting that “the nonadult video selections appeared old and several of its display cases were covered with cobwebs”); *Z.J. Gifts D-4, L.L.C. v. City of Littleton*, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001) (finding “plaintiff’s argument that it is not an adult entertainment establishment frivolous at best”); *People ex rel. Deters v. The Lion’s Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005) (noting that “the accuracy and credibility” of the evidence on inventory in a Lion’s Den was suspect, and that testimony was “less than candid” and “suggested an intention to obscure the actual amount of sexually explicit material sold”); and

WHEREAS, the City intends to regulate such businesses as sexually oriented businesses through a narrowly tailored ordinance designed to serve the substantial government interest in preventing the negative secondary effects of sexually oriented businesses; and

WHEREAS, the City’s regulations shall be narrowly construed to accomplish this end; and

WHEREAS, the City recognizes its constitutional duty to interpret, construe, and amend its laws to comply with constitutional requirements as they are announced; and

WHEREAS, with the passage of any ordinance, the City and the City Council accept as binding the applicability of general principles of criminal and civil law and procedure and the rights and obligations under the United States and Georgia Constitutions, Georgia Code, and the Georgia Rules of Civil and Criminal Procedure; and

WHEREAS, it is not the intent of this ordinance to suppress any speech activities protected by the U.S. Constitution or the Georgia Constitution, but to enact legislation to further the content-neutral governmental interests of the City, to wit, the controlling of secondary effects of sexually oriented businesses.

NOW, THEREFORE, IT IS HEREBY ORDAINED by the Mayor and Council for the City of Peachtree Corners that the following ordinance be enacted:

Section 1. - Purpose; findings and rationale.

- (a) *Purpose.* It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.
- (b) *Findings and Rationale.* Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the City Council, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); *Sewell v. Georgia*, 435 U.S. 982 (1978); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *City of Dallas v. Stanglin*, 490 U.S. 19 (1989); and

Flanigan's Enters., Inc. v. Fulton County, 596 F.3d 1265 (11th Cir. 2010); *Peek-a-Boo Lounge v. Manatee County*, 630 F.3d 1346 (11th Cir. 2011); *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Jacksonville Property Rights Ass'n, Inc. v. City of Jacksonville*, 635 F.3d 1266 (11th Cir. 2011); *Artistic Entertainment, Inc. v. City of Warner Robins*, 331 F.3d 1196 (11th Cir. 2003); *Artistic Entertainment, Inc. v. City of Warner Robins*, 223 F.3d 1306 (11th Cir. 2000); *Williams v. Pryor*, 240 F.3d 944 (11th Cir. 2001); *Williams v. A.G. of Alabama*, 378 F.3d 1232 (11th Cir. 2004); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *Gary v. City of Warner Robins*, 311 F.3d 1334 (11th Cir. 2002); *Ward v. County of Orange*, 217 F.3d 1350 (11th Cir. 2002); *Boss Capital, Inc. v. City of Casselberry*, 187 F.3d 1251 (11th Cir. 1999); *David Vincent, Inc. v. Broward County*, 200 F.3d 1325 (11th Cir. 2000); *Sammy's of Mobile, Ltd. v. City of Mobile*, 140 F.3d 993 (11th Cir. 1998); *Lady J. Lingerie, Inc. v. City of Jacksonville*, 176 F.3d 1358 (11th Cir. 1999); *This That And The Other Gift and Tobacco, Inc. v. Cobb County*, 285 F.3d 1319 (11th Cir. 2002); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Grand Faloon Tavern, Inc. v. Wicker*, 670 F.2d 943 (11th Cir. 1982); *International Food & Beverage Systems v. Ft. Lauderdale*, 794 F.2d 1520 (11th Cir. 1986); *5634 E. Hillsborough Ave., Inc. v. Hillsborough County*, 2007 WL 2936211 (M.D. Fla. Oct. 4, 2007), *aff'd*, 2008 WL 4276370 (11th Cir. Sept. 18, 2008) (per curiam); *Fairfax MK, Inc. v. City of Clarkston*, 274 Ga. 520 (2001); *Morrison v. State*, 272 Ga. 129 (2000); *Flippen Alliance for Community Empowerment, Inc. v. Brannan*, 601 S.E.2d 106 (Ga. Ct. App. 2004); *Oasis Goodtime Emporium I, Inc. v. DeKalb County*, 272 Ga. 887 (2000); *Chamblee Visuals, LLC v. City of Chamblee*, 270 Ga. 33 (1998); *World Famous Dudley's Food & Spirits, Inc. v. City of College Park*, 265 Ga. 618 (1995); *Airport*

Bookstore, Inc. v. Jackson, 242 Ga. 214 (1978); *Imaginary Images, Inc. v. Evans*, 612 F.3d 736 (4th Cir. 2010); *LLEH, Inc. v. Wichita County*, 289 F.3d 358 (5th Cir. 2002); *Ocello v. Koster*, 354 S.W.3d 187 (Mo. 2011); *84 Video/Newsstand, Inc. v. Sartini*, 2011 WL 3904097 (6th Cir. Sept. 7, 2011); *East Brooks Books, Inc. v. Shelby County*, 588 F.3d 360 (6th Cir. 2009); *Entm't Prods., Inc. v. Shelby County*, 588 F.3d 372 (6th Cir. 2009); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); *Fantasy Ranch, Inc. v. City of Arlington*, 459 F.3d 546 (5th Cir. 2006); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *Richland Bookmart, Inc. v. Knox County*, 555 F.3d 512 (6th Cir. 2009); *Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *Richland Bookmart, Inc. v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *City of New York v. Hommes*, 724 N.E.2d 368 (N.Y. 1999); *Taylor v. State*, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); *Fantasyland Video, Inc. v. County of San Diego*, 505 F.3d 996 (9th Cir. 2007); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *Starship Enters. of Atlanta, Inc. v. Coweta County*, No. 3:09-CV-123, R. 41 (N.D. Ga. Feb. 28, 2011); *High Five Investments, LLC v. Floyd County*, No. 4:06-CV-190, R. 128 (N.D. Ga. Mar. 14, 2008); *10950 Retail, LLC v. Fulton County*, No. 1:06-CV-1923, R. 62 Order (N.D. Ga. Dec. 21, 2006); *10950 Retail, LLC v. Fulton County*, No. 1:06-CV-1923, R. 84 Contempt Order (N.D. Ga. Jan. 4, 2007); *Z.J. Gifts D-4, L.L.C. v. City of Littleton*, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); *People ex rel. Deters v. The Lion's Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); *Reliable Consultants, Inc. v. City of Kennedale*, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005);

and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Tucson, Arizona - 1990; Chattanooga, Tennessee - 1999-2003; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Ft. Worth, Texas - 2004; Kennedale, Texas - 2005; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; Jackson County, Missouri - 2008; Louisville, Kentucky - 2004; New York, New York Times Square - 1994; the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota); Dallas, Texas - 2007; "Rural Hotspots: The Case of Adult Businesses," 19 Criminal Justice Policy Review 153 (2008); "Correlates of Current Transactional Sex among a Sample of Female Exotic Dancers in Baltimore, MD," Journal of Urban Health (2011); "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; Fulton County, Georgia - 2001; "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics

and Constitutional Law, Jan. 12, 2000; Memphis, Tennessee – 2005-11; and Assorted Reports Concerning Secondary Effects,

the City Council finds:

- (1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation. Alcohol consumption impairs judgment and lowers inhibitions, thereby increasing the risk of adverse secondary effects.
- (2) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.
- (3) Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the City's rationale for this ordinance, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the City's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the City. The City finds that the cases and documentation relied on in this ordinance are reasonably believed to be relevant to said secondary effects.

The City hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses, including the judicial opinions and reports related to such secondary effects.

Section 2. - Definitions.

For purposes of this ordinance, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

“Adult Bookstore or Adult Video Store” means a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of “specified sexual activities” or “specified anatomical areas.” A “principal business activity” exists where the commercial establishment meets any one or more of the following criteria:

- (a) At least 25% of the establishment's displayed merchandise consists of said items, or
- (b) At least 25% of the retail value (defined as the price charged to customers) of the establishment's displayed merchandise consists of said items, or
- (c) At least 25% of the establishment's revenues derive from the sale or rental, for any form of consideration, of said items, or
- (d) The establishment maintains at least 25% of its floor space for the display, sale, and/or rental of said items (aisles and walkways used to access said items shall be included in "floor space" maintained for the display, sale, or rental of said items); or
- (e) The establishment maintains at least five hundred square feet (500 sq. ft.) of its floor space for the display, sale, and/or rental of said items (aisles and walkways used to access said items shall be included in "floor space" maintained for the display, sale, or rental of said items); or
- (f) The establishment regularly offers for sale or rental at least two thousand (2,000) of said items; or
- (g) The establishment regularly features said items and regularly advertises itself or holds itself out, in any medium, by using "adult," "adults-only," "XXX," "sex," "erotic," or substantially similar language, as an establishment that caters to adult sexual interests; or
- (h) The establishment maintains an "adult arcade," which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or "specified anatomical areas."

"Adult Cabaret" means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment that regularly features live conduct characterized by semi-nudity. No establishment shall avoid classification as an adult cabaret by offering or featuring nudity.

"Adult Motion Picture Theater" means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas" are regularly shown to more than five persons for any form of consideration.

"Characterized by" means describing the essential character or quality of an item. As applied in this ordinance, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

“*City*” means Peachtree Corners, Georgia.

“*Employ, Employee, and Employment*” describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, lessee, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

“*Establish or Establishment*” means and includes any of the following:

- (a) The opening or commencement of any sexually oriented business as a new business;
- (b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or
- (c) The addition of any sexually oriented business to any other existing sexually oriented business.

“*Floor Space*” means the floor area inside an establishment that is visible or accessible to patrons for any reason, excluding restrooms.

“*Hearing Officer*” means an attorney, not otherwise employed by the City, who is licensed to practice law in Georgia, and retained to serve as an independent tribunal to conduct hearings under this ordinance.

“*Influential Interest*” means any of the following: (1) the actual power to operate the sexually oriented business or control the operation, management or policies of the sexually oriented business or legal entity which operates the sexually oriented business, (2) ownership of a financial interest of thirty percent (30%) or more of a business or of any class of voting securities of a business, or (3) holding an office (e.g., president, vice president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates the sexually oriented business.

“*Licensee*” means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In the case of an “employee,” it shall mean the person in whose name the sexually oriented business employee license has been issued.

“*Nudity*” means the showing of the human male or female genitals, pubic area, vulva, or anus with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

“*Operator*” means any person on the premises of a sexually oriented business who manages, supervises, or controls the business or a portion thereof. A person may be found to be an operator regardless of whether such person is an owner, part owner, or licensee of the business.

“*Person*” means an individual, proprietorship, partnership, corporation, association, or other legal entity.

“*Premises*” means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a sexually oriented business license.

“*Regularly*” means the consistent and repeated doing of an act on an ongoing basis.

“*Semi-Nude or Semi-Nudity*” means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

“*Semi-Nude Model Studio*” means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. This definition does not apply to any place where persons appearing in a state of semi-nudity did so in a class operated:

- (a) By a college, junior college, or university supported entirely or partly by taxation;
- (b) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
- (c) In a structure:
 - (1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and
 - (2) Where, in order to participate in a class a student must enroll at least three days in advance of the class.

“*Sexual Device*” means any three (3) dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

“*Sexual Device Shop*” means a commercial establishment that regularly features sexual devices. This definition shall not be construed to include any pharmacy, drug store, medical clinic, any

establishment primarily dedicated to providing medical or healthcare products or services, or any establishment that does not regularly advertise itself or hold itself out, by using “adult,” “adults-only,” “XXX,” “sex,” “erotic,” “novelties,” or substantially similar language, as an establishment that caters to adult sexual interests.

“*Sexually Oriented Business*” means an “adult bookstore or adult video store,” an “adult cabaret,” an “adult motion picture theater,” a “semi-nude model studio,” or a “sexual device shop.”

“*Specified Anatomical Areas*” means and includes:

- (a) Less than completely and opaquely covered: human genitals, pubic region; buttock; and female breast below a point immediately above the top of the areola; and
- (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

“*Specified Criminal Activity*” means any of the following specified crimes for which less than five years has elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

- (a) rape, child molestation, sexual assault, sexual battery, aggravated sexual assault, aggravated sexual battery, or public indecency;
- (b) prostitution, keeping a place of prostitution, pimping, or pandering;
- (c) obscenity, disseminating or displaying matter harmful to a minor, or use of child in sexual performance;
- (d) any offense related to any sexually-oriented business, including controlled substance offenses, tax violations, racketeering, crimes involving sex, crimes involving prostitution, or crimes involving obscenity;
- (e) any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or
- (f) any offense in another jurisdiction that, had the predicate act(s) been committed in Georgia, would have constituted any of the foregoing offenses.

“*Specified Sexual Activity*” means any of the following:

- (a) intercourse, oral copulation, masturbation or sodomy; or
- (b) excretory functions as a part of or in connection with any of the activities described in (a) above.

“*Transfer of Ownership or Control*” of a sexually oriented business means any of the following:

- (a) The sale, lease, or sublease of the business;
- (b) The transfer of securities which constitute an influential interest in the business, whether by sale, exchange, or similar means; or
- (c) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

“*Viewing Room*” means the room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video reproduction.

Section 3. - License required.

- (a) *Business License.* It shall be unlawful for any person to operate a sexually oriented business in the City without a valid sexually oriented business license.
- (b) *Employee License.* It shall be unlawful for any person to be an “employee,” as defined in this ordinance, of a sexually oriented business in the City without a valid sexually oriented business employee license, except that a person who is a licensee under a valid sexually oriented business license shall not be required to also obtain a sexually oriented business employee license.
- (c) *Application.* An applicant for a sexually oriented business license or a sexually oriented business employee license shall file in person at the office of the City Clerk a completed application made on a form provided by the City Clerk. A sexually oriented business may designate an individual with an influential interest in the business to file its application for a sexually oriented business license in person on behalf of the business. The application shall be signed as required by subsection (d) herein and shall be notarized. An application shall be considered complete when it contains, for each person required to sign the application, the information and/or items required in this subsection (c), accompanied by the appropriate licensing fee:
 - (1) The applicant’s full legal name and any other names used by the applicant in the preceding five (5) years.
 - (2) Current business address or another mailing address for the applicant.
 - (3) Written proof of age, in the form of a driver’s license, a picture identification document containing the applicant’s date of birth issued by a governmental agency, or a copy of a birth certificate accompanied by a picture identification document issued by a governmental agency.

- (4) If the application is for a sexually oriented business license, the business name, location, legal description, mailing address and phone number of the sexually oriented business.
- (5) If the application is for a sexually oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process.
- (6) A statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in this ordinance, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable.
- (7) A statement of whether any sexually oriented business in which an applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):
 - (i) been declared by a court of law to be a nuisance; or
 - (ii) been subject to a court order of closure or padlocking.
- (8) An application for a sexually oriented business license shall be accompanied by a legal description of the property where the business is located and a sketch or diagram showing the configuration of the premises, including a statement of total floor area occupied by the business and a statement of floor area visible or accessible to patrons for any reason, excluding restrooms. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. Applicants who are required to comply with the stage, booth, and/or room configuration requirements of this ordinance shall submit a diagram indicating that the setup and configuration of the premises meets the requirements of the applicable regulations. The City Clerk may waive the requirements of this subsection (8) for a renewal application if the applicant adopts a legal description and a sketch or diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

The information provided pursuant to this subsection (c) shall be supplemented in writing by certified mail, return receipt requested, to the City Clerk within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.

- (d) *Signature.* A person who seeks a sexually oriented business employee license under this section shall sign the application for a license. If a person who seeks a sexually oriented business license under this section is an individual, he shall sign the application for a license as applicant. If a person who seeks a sexually oriented business license is other than an individual, each person with an influential interest in the sexually oriented business or in a legal entity that controls the sexually oriented business shall sign the application for a

license as applicant. Each applicant must be qualified under this ordinance and each applicant shall be considered a licensee if a license is granted.

- (e) The information provided by an applicant in connection with an application for a license under this ordinance shall be maintained by the office of the City Clerk on a confidential basis, and such information may be disclosed only as may be required, and only to the extent required, by governing law or court order. Any information protected by the right to privacy as recognized by state or federal law shall be redacted prior to such disclosure.

Section 4. - Issuance of license.

- (a) *Business License.* Upon the filing of a completed application for a sexually oriented business license, the City Clerk shall immediately issue a Temporary License to the applicant if the completed application is from a preexisting sexually oriented business that is lawfully operating in the City and the completed application, on its face, indicates that the applicant is entitled to an annual sexually oriented business license. The Temporary License shall expire upon the final decision of the City to deny or grant an annual license. Within twenty (20) days of the filing of a completed sexually oriented business license application, the City Clerk shall either issue a license to the applicant or issue a written notice of intent to deny a license to the applicant. The City Clerk shall issue a license unless:
 - (1) An applicant is less than eighteen (18) years of age.
 - (2) An applicant has failed to provide information required by this ordinance for issuance of a license or has falsely answered a question or request for information on the application form.
 - (3) The license application fee required by this ordinance has not been paid.
 - (4) The sexually oriented business, as defined herein, is not in compliance with the interior configuration requirements of this ordinance.
 - (5) The sexually oriented business, as defined herein, is not in compliance with locational requirements of this ordinance or the locational requirements of the Peachtree Corners 2012 Zoning Resolution. However, this ground for denial of a license to operate a sexually oriented business shall not prevent issuance or renewal of a license for a sexually oriented business that was lawfully existing in all respects under law prior to the effective date of this ordinance, provided that the sexually oriented business has not been extended to occupy greater area, has not discontinued for twelve (12) months or more, and has not had its structure damaged to an extent exceeding fifty (50) percent of the replacement cost of the above-ground structure at the time of the destruction.

- (6) Any sexually oriented business in which an applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):
 - (i) been declared by a court of law to be a nuisance; or
 - (ii) been subject to an order of closure or padlocking.
 - (7) An applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this ordinance.
- (b) *Employee License.* Upon the filing of a completed application for a sexually oriented business employee license, the City Clerk shall immediately issue a Temporary License to the applicant if the applicant seeks licensure to work in a licensed sexually oriented business and the completed application, on its face, indicates that the applicant is entitled to an annual sexually oriented business employee license. The Temporary License shall expire upon the final decision of the City to deny or grant an annual license. Within twenty (20) days of the filing of a completed sexually oriented business employee license application, the City Clerk shall either issue a license to the applicant or issue a written notice of intent to deny a license to the applicant. The City Clerk shall issue a license unless:
- (1) The applicant is less than eighteen (18) years of age.
 - (2) The applicant has failed to provide information as required by this ordinance for issuance of a license or has falsely answered a question or request for information on the application form.
 - (3) The license application fee required by this ordinance has not been paid.
 - (4) Any sexually oriented business in which the applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):
 - (i) been declared by a court of law to be a nuisance; or
 - (ii) been subject to an order of closure or padlocking.
 - (5) The applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this ordinance.
- (c) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be read at any time that the business is occupied by patrons or is open to the public. A sexually oriented business

employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing.

Section 5. - Fees.

The initial license and annual renewal fees for sexually oriented business licenses and sexually oriented business employee licenses shall be as follows: one hundred dollars (\$100) for the initial fee for a sexually oriented business license and fifty dollars (\$50) for annual renewal; fifty dollars (\$50) for the initial sexually oriented business employee license and twenty-five dollars (\$25) for annual renewal.

Section 6. - Inspection.

Sexually oriented businesses and sexually oriented business employees shall permit the City Clerk and his or her agents to inspect, from time to time on an occasional basis, the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this ordinance, during those times when the sexually oriented business is occupied by patrons or is open to the public. This section shall be narrowly construed by the City to authorize reasonable inspections of the licensed premises pursuant to this ordinance, but not to authorize a harassing or excessive pattern of inspections.

Section 7. - Expiration and renewal of license.

- (a) Each license shall remain valid for a period of one calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in this ordinance.
- (b) Application for renewal of an annual license should be made at least ninety (90) days before the expiration date of the current annual license, and when made less than ninety (90) days before the expiration date, the expiration of the current license will not be affected.

Section 8. - Suspension.

- (a) The City Clerk shall issue a written notice of intent to suspend a sexually oriented business license for a period not to exceed thirty (30) days if the sexually oriented business licensee has knowingly or recklessly violated this ordinance or has knowingly or recklessly allowed an employee or any other person to violate this ordinance.
- (b) The City Clerk shall issue a written notice of intent to suspend a sexually oriented business employee license for a period not to exceed thirty (30) days if the employee licensee has knowingly or recklessly violated this ordinance.

Section 9. - Revocation.

- (a) The City Clerk shall issue a written notice of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if the licensee knowingly or recklessly violates this ordinance or has knowingly or recklessly allowed an employee or any other person to violate this ordinance and a suspension of the licensee's license has become effective within the previous twelve-month (12-mo.) period.
- (b) The City Clerk shall issue a written notice of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if:
 - (1) The licensee has knowingly given false information in the application for the sexually oriented business license or the sexually oriented business employee license;
 - (2) The licensee has knowingly or recklessly engaged in or allowed possession, use, or sale of controlled substances on the premises of the sexually oriented business;
 - (3) The licensee has knowingly or recklessly engaged in or allowed prostitution on the premises of the sexually oriented business;
 - (4) The licensee knowingly or recklessly operated the sexually oriented business during a period of time when the license was finally suspended or revoked;
 - (5) The licensee has knowingly or recklessly engaged in or allowed any specified sexual activity or specified criminal activity to occur in or on the premises of the sexually oriented business;
 - (6) The licensee has knowingly or recklessly allowed a person under the age of twenty-one (21) years to consume alcohol on the premises of the sexually oriented business; or
 - (7) The licensee has knowingly or recklessly allowed a person under the age of eighteen (18) years to appear in a semi-nude condition or in a state of nudity on the premises of the sexually oriented business.
- (c) The fact that any relevant conviction is being appealed shall have no effect on the revocation of the license, provided that, if any conviction which serves as a basis of a license revocation is overturned or reversed on appeal, that conviction shall be treated as null and of no effect for revocation purposes.
- (d) When, after the notice and hearing procedure described in this ordinance, the City revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued a sexually oriented business license or sexually oriented business employee license for one (1) year from the date revocation becomes effective.

Section 10. - Hearing; license denial, suspension, revocation; appeal.

- (a) When the City Clerk issues a written notice of intent to deny, suspend, or revoke a license, the City Clerk shall immediately send such notice, which shall include the specific grounds under this ordinance for such action, to the applicant or licensee (respondent) by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the City Clerk for the respondent. The notice shall also set forth the following: The respondent shall have ten (10) days after the delivery of the written notice to submit, at the office of the City Clerk, a written request for a hearing. If the respondent does not request a hearing within said ten (10) days, the City Clerk's written notice shall become a final denial, suspension, or revocation, as the case may be, on the thirtieth (30th) day after it is issued, and shall be subject to the provisions of subsection (b) of this Section.

If the respondent does make a written request for a hearing within said ten (10) days, then the City Clerk shall, within ten (10) days after the submission of the request, send a notice to the respondent indicating the date, time, and place of the hearing. The hearing shall be conducted not less than ten (10) days nor more than twenty (20) days after the date that the hearing notice is issued. The City shall provide for the hearing to be transcribed.

At the hearing, the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the City Clerk's witnesses. The City Clerk shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two (2) days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The Hearing Officer shall issue a final written decision, including specific reasons for the decision pursuant to this ordinance, to the respondent within five (5) days after the hearing.

If the decision is to deny, suspend, or revoke the license, the decision shall advise the respondent of the right to appeal such decision to a court of competent jurisdiction, and the decision shall not become effective until the thirtieth (30th) day after it is rendered. If the Hearing Officer's decision finds that no grounds exist for denial, suspension, or revocation of the license, the Hearing Officer shall, contemporaneously with the issuance of the decision, order the City Clerk to immediately withdraw the intent to deny, suspend, or revoke the license and to notify the respondent in writing by certified mail of such action. If the respondent is not yet licensed, the City Clerk shall contemporaneously therewith issue the license to the applicant.

- (b) If any court action challenging a licensing decision is initiated, the City shall prepare and transmit to the court a transcript of the hearing within thirty (30) days after receiving written notice of the filing of the court action. The City shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings. The following shall apply to any sexually oriented business that is lawfully operating as a sexually oriented business, or

any sexually oriented business employee that is lawfully employed as a sexually oriented business employee, on the date on which the completed business or employee application, as applicable, is filed with the City Clerk: Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the City's enforcement of any denial, suspension, or revocation of a Temporary License or annual license, the City Clerk shall immediately issue the respondent a Provisional License. The Provisional License shall allow the respondent to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the court's entry of a judgment on the respondent's appeal or other action to restrain or otherwise enjoin the City's enforcement.

Section 11. - Transfer of license.

A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application.

Section 12. - Hours of operation.

No sexually oriented business shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day.

Section 13. - Regulations pertaining to exhibition of sexually explicit films on premises.

- (a) A person who operates or causes to be operated a sexually oriented business which exhibits in a booth or viewing room on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.
 - (1) Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain equipment for displaying films, video cassettes, digital video discs, or other video reproductions. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The City Clerk may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

- (2) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
- (3) The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.
- (4) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no specified sexual activity occurs in or on the licensed premises.
- (5) It shall be the duty of the operator to post conspicuous signs in well-lighted entry areas of the business stating all of the following:
 - (i) That the occupancy of viewing rooms less than 150 square feet is limited to one person.
 - (ii) That specified sexual activity on the premises is prohibited.
 - (iii) That the making of openings between viewing rooms is prohibited.
 - (iv) That violators will be required to leave the premises.
 - (v) That violations of these regulations are unlawful.
- (6) It shall be the duty of the operator to enforce the regulations articulated in (5)(i) through (iv) above.
- (7) The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.
- (8) It shall be the duty of the operator to ensure that no porous materials are used for any wall, floor, or seat in any booth or viewing room.

- (b) It shall be unlawful for a person having a duty under subsections (a)(1) through (a)(8) to knowingly or recklessly fail to fulfill that duty.
- (c) No patron shall knowingly or recklessly enter or remain in a viewing room less than 150 square feet in area that is occupied by any other patron.
- (d) No patron shall knowingly or recklessly be or remain within one foot of any other patron while in a viewing room that is 150 square feet or larger in area.
- (e) No person shall knowingly or recklessly make any hole or opening between viewing rooms.

Section 14. - Loitering, exterior lighting and monitoring, and interior lighting requirements.

- (a) It shall be the duty of the operator of a sexually oriented business to: (i) ensure that at least two conspicuous signs stating that no loitering is permitted on the premises are posted on the premises; (ii) designate one or more employees to monitor the activities of persons on the premises by visually inspecting the premises at least once every ninety (90) minutes or inspecting the premises by use of video cameras and monitors; and (iii) provide lighting to the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. Said lighting shall be of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one (1.0) foot candle as measured at the floor level. If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within an operator's station.
- (b) It shall be the duty of the operator of a sexually oriented business to ensure that the interior premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level and the illumination must be maintained at all times that any customer is present in or on the premises.
- (c) No sexually oriented business shall erect a fence, wall, or similar barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right of way.
- (d) It shall be unlawful for a person having a duty under this section to knowingly or recklessly fail to fulfill that duty.

Section 15. - Penalties and enforcement.

- (a) A person who violates any of the provisions of this ordinance shall be guilty of a violation and, upon conviction, shall be punishable by fines not to exceed one thousand dollars (\$1,000.00) per violation, or by imprisonment for a period not to exceed six (6) months, or

by both such fine and imprisonment. Each day a violation is committed, or permitted to continue, shall constitute a separate offense and shall be fined as such.

- (b) The City's legal counsel is hereby authorized to institute civil proceedings necessary for the enforcement of this ordinance to enjoin, prosecute, restrain, or correct violations hereof. Such proceedings shall be brought in the name of the City, provided, however, that nothing in this section and no action taken hereunder, shall be held to exclude such criminal or administrative proceedings as may be authorized by other provisions of this ordinance, or any of the laws in force in the City or to exempt anyone violating this code or any part of the said laws from any penalty which may be incurred.

Section 16. - Applicability of ordinance to existing businesses.

All preexisting sexually oriented businesses lawfully operating in the City in compliance with all state and local laws prior to the effective date of this ordinance, and all sexually oriented business employees working in the City prior to the effective date of this ordinance, are hereby granted a *De Facto* Temporary License to continue operation or employment for a period of ninety (90) days following the effective date of this ordinance. By the end of said ninety (90) days, all sexually oriented businesses and sexually oriented business employees must conform to and abide by the requirements of this ordinance.

Section 17. - Prohibited conduct.

- (a) No patron, employee, or any other person shall knowingly or intentionally, in a sexually oriented business, appear in a state of nudity or engage in a specified sexual activity.
- (b) No person shall knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the person is an employee who, while semi-nude, remains at least six (6) feet from all patrons and on a stage at least eighteen (18) inches from the floor in a room of at least six hundred (600) square feet.
- (c) No employee who regularly appears semi-nude in a sexually oriented business shall knowingly or intentionally touch a customer or the clothing of a customer on the premises of a sexually oriented business.
- (d) No person shall possess, use, or consume alcoholic beverages on the premises of a sexually oriented business.
- (e) No person shall knowingly or recklessly allow a person under the age of eighteen (18) years to be or remain on the premises of a sexually oriented business.
- (f) No operator or licensee of a sexually oriented business shall knowingly violate the regulations in this section or knowingly or recklessly allow an employee or any other person to violate the regulations in this section.

- (g) A sign in a form to be prescribed by the City Clerk, and summarizing the provisions of subsections (a), (b), (c), (d), and (e), shall be posted near the entrance of the sexually oriented business in such a manner as to be clearly visible to patrons upon entry. No person shall cover, obstruct, or obscure said sign.

Section 18. - Scienter required to prove violation or business licensee liability.

This ordinance does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a reckless mental state is necessary to establish a violation of a provision of this ordinance. Notwithstanding anything to the contrary, for the purposes of this ordinance, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually oriented business licensee for purposes of finding a violation of this ordinance, or for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

Section 19. - Failure of City to meet deadline not to risk applicant/licensee rights.

In the event that a City official is required to act or to do a thing pursuant to this ordinance within a prescribed time, and fails to act or to do such thing within the time prescribed, said failure shall not prevent the exercise of constitutional rights of an applicant or licensee. If the act required of the City official under this ordinance, and not completed in the time prescribed, includes approval of condition(s) necessary for approval by the City of an applicant or licensee's application for a sexually oriented business license or a sexually oriented business employee's license (including a renewal), the license shall be deemed granted and the business or employee allowed to commence operations or employment the day after the deadline for the City's action has passed.

Section 20. - Location of sexually oriented businesses.

- (a) It shall be unlawful to establish, operate, or cause to be operated a sexually oriented business in Peachtree Corners, unless said sexually oriented business is at least:
- (1) 1,000 feet from any parcel zoned RA-200, R-140, R-LL, R-100, R-75, R-60, R-TH, R-ZT, R-SR, RM, RMD, RM-6, RM-8, RM-10, RM-13, HRR, RL, MH, or MHS;
 - (2) 1,000 feet from any parcel occupied by a house of worship, public or private elementary or secondary school, college campus, public park, children's day care facility, or any residence;
 - (3) 500 feet from any parcel occupied by an establishment licensed to sell alcoholic beverages or malt beverages or wine for consumption on the premises; and
 - (4) 1,000 feet from any parcel occupied by another sexually oriented business.

- (b) For the purpose of this section, measurements shall be made in a straight line in all directions from the structure or tenant space of the applicable sexually oriented business to the closest property line of the zoned property or uses outlined in subsection (a), above. Where property conditioned for residential purposes is part of a mixed use development, the distance shall be measured to the closest boundary of the area shown on the approved site plan as conditioned for residential purposes. Where a use listed in subsection (a) is located in a structure or tenant space in a multi-tenant development, the distance shall be measured to the structure or tenant space of that use rather than the property line of the overall development, so as to maximize the number of locations available to sexually oriented businesses. The zoning and/or use of land in adjacent jurisdictions shall not disqualify any location within the City of Peachtree Corners from being available to a sexually oriented business.

Section 21. - Severability.

This ordinance and each section and provision of said ordinance hereunder, are hereby declared to be independent divisions and subdivisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said ordinance, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid. Should any procedural aspect of this ordinance be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this ordinance.

Section 22. - Conflicting code provisions repealed.

Any provision(s) in the Peachtree Corners Code of Ordinances specifically in conflict with any provision in this ordinance is hereby deemed inoperative and repealed.

SO ORDAINED AND EFFECTIVE, this _____ day of _____, 2012

Seal

Approved:

Michael Mason, Mayor

Attest:

Approved as to Form and Content:

Joan C. Jones, Acting City Clerk

William F. Riley, Acting City Attorney