CITY COUNCIL MEETING AGENDA

March 28, 2011	**City Council Chambers** **12000 Findley Road, Suite 300** **http://www.JohnsCreekGA.gov**	**7:00pm**

A) CALL TO ORDER

B) ROLL CALL

C) PLEDGE OF ALLEGIANCE

D) OPENING REMARKS

E) MINUTES

- Consideration of March 14, 2011 Work Session Summary and Council Meeting Minutes

F) APPROVAL OF MEETING AGENDA – Add/Remove Agenda Items

G) PUBLIC COMMENT

H) CONSENT AGENDA –Consent Agenda Items

I) ANNOUNCEMENTS

J) REPORTS AND PRESENTATIONS

K) OLD BUSINESS

L) NEW BUSINESS

1. **O2011-03-06** Consideration of an Ordinance to Amend Chapter 113 of the Code of the City of Johns Creek, Georgia (Development Regulations) to add provisions to comply with the Metropolitan North Georgia Water Planning District Requirements; to add provisions regarding maintenance of private fire hydrants; to amend provisions regarding drainage easements; and for other purposes.

2. **O2011-03-07** **PUBLIC HEARING** and Consideration of Ordinance to Amend Article IV of Chapter 22 of the Code of the City of Johns Creek, Georgia (Licenses) by creating additional Licensing Requirements for Secondhand Dealerships within the City.

3. **ACTION ITEM** Review of the Citizen Participation Process for the 2011 Action Plan for the Community Development Block Grant.

M) OTHER BUSINESS

N) PUBLIC COMMENT

O) MAYOR'S COMMENTS

P) EXECUTIVE SESSION (If Needed)

Q) ADJOURNMENT

CITY OF JOHNS CREEK
WORK SESSION SUMMARY
March 14, 2011, 5:00pm

The City of Johns Creek Mayor and Council held a Work Session on Monday, March 14, 2011 at 5:00pm. The Work Session was held in the Taylor Farms Conference Room at City Hall, located at 12000 Findley Road, Suite 300 in Johns Creek, Georgia 30097. In attendance were Council Members R. Johnson, B. Miller, I. Figueroa, K. Richardson, K. Stewart and Mayor M. Bodker. Council Member D. McCabe was absent. City Manager J. Kachmar, Attorney B. Riley and other Department Heads were present.

Mayor Bodker opened the meeting with the Pledge of Allegiance.

Land Development Manager Seth Yurman reviewed the **Amendments to Chapter 113: Development Regulations**. He explained the amendments include language to clarify existing regulations with regard to easements and add three provisions to comply with the Metropolitan North Georgia Water Planning District regulations which are: sub meter requirements for multifamily units, rules for commercial car wash water recycling and rain sensor shut off switches on new irrigation systems. There was clarification on which new multi units would require the sub meter, and why golf courses are exempt from the irrigation provision. In addition, Fire Marshall McGiboney informed Council as part of this new provision to the development regulation there is a requirement for reporting on private (these are hydrants with a dedicated loop) fire hydrant maintenance, i.e., annual flow testing, proper functioning water pressure, etc. He explained Fulton County does not maintain private community hydrants and the City of Johns Creeks needs documentation that all hydrants are in working order. As a side note, he informed council, fire hydrants are being painted red along with a three foot strip curb in order to locate the hydrants faster. There was no objection to moving this item to the March 28th Council Meeting Agenda.

City Manager Kachmar reviewed the proposed **Community Grant Process** outlining the criteria, rules and procedures, and the types of groups/organization Council may choose to fund for community arts program. Council discussed timeline to call for grants, level of service delivery, the need for a scoring process and city limit restrictions. There was a discussion to create a council committee to recommend specific guidelines of the grant based on the outlined provided by City Manager. Mayor Bodker called for committee volunteers; Council Member Richardson was the only one able to serve at this time.

Mayoral Aide Patty Hansen reviewed the **Community Development Block Grant 2011 Action Plan Dates** and outlined the timeline for the 2011 program. There will be a public hearing at the March 28th Council Meeting and a calendar for the citizen participation process will be submitted for consideration. Mrs. Hansen informed Council due to the economy there is speculation the federal CDBG grant may be cut and/or the amount could be substantially reduced. However, until a final decision is made the city has to begin the process as to be in place should the grant be offered. Mrs. Hansen also mentioned the city has paid forward to establish the senior center, funded though CDBG and would recommend that any future award reimburse the city first.

Traffic Engineer Cindy Jenkins reviewed the **Trail Amenities** and presented a PowerPoint outlining the project schedule and the types of materials that will be used for bench groupings, corner treatments, pavilions and trial enhancements. There was some discussion about the roofing for the pavilion with Council recommending materials with minimal maintenance such as metal and a color which blends into the natural environment.

Mayor Bodker provided a legislative update on bills pending in the State Legislature including several dealing with immigration issues, addressing the carrying of fire arms in public building, a bill to freeze property tax assessments and a bill to eliminate the ad valorem.

There being no further business Mayor Bodker adjourned the Work Session.

Approved,

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Michael E. Bodker, Mayor

Attest,

_____

Joan C. Jones, City Clerk

CITY OF JOHNS CREEK
COUNCIL MEETING
March 14, 2011 @ 7:00pm

The City of Johns Creek Mayor and Council held a monthly meeting on Monday, March 14, 2011. The meeting was held at 7:00pm in the City Hall Council Chambers located at 12000 Findley Road, Suite 300 in Johns Creek, Georgia.

COUNCIL PRESENT: Post 1-Randall Johnson
Post 2-Dan McCabe-**Absent**
Post 3-Karen Richardson
Post 4-Ivan Figueroa
Post 5 Kelly Stewart
Post 6-Bev Miller
Mayor Mike Bodker

STAFF PRESENT: City Clerk Joan Jones
City Manager, John Kachmar
City Attorney Bill Riley

PLEDGE OF ALLEGIANCE: Led by City Manager Kachmar.

OPENING REMARKS: Mayor Bodker welcomed everyone to the meeting and mentioned the Police Department is looking for sponsors for their third annual Special Olympics Golf Tournament, to be held at the Standard Club on April 11th and will also hold a fundraiser on March 28th at St. Ives Country Club to benefit the family of recently deceased Police Officer Greg Whitaker. The Mayor invited citizens to sign-up to participate in the Newtown Community Garden and issued a reminder to register for their homestead exemptions before the April 1st deadline; he added this information and other city news and events are available on the city's website. Mayor Bodker mentioned he and other members of the council, visited several local schools recently, reading to students at four schools for "Read-Across America Day", and addressing 8th graders at Taylor Road Middle School about local government. He remarked he was honored to throw out the first pitch at the Johns Creek High School vs. Chattahoochee High School Varsity baseball teams. In closing, the Mayor congratulated Country Club of the South on the recent renovations to their golf course and all the work they do to improve the City.

MINUTES: Council Member Miller motioned to approve the February 28, 2011 Work Session Summary as presented and the Council Meeting Minutes as amended to have item #4 of Ordinance 2011-01-01 to read as follows: "*A 25 foot buffer adjacent to the east and west property lines, a 50 foot buffer along the rear property line. The 10 foot improvement setback may be eliminated.*" Ms. Miller noted this is just for better clarification purposes. Council Member Richardson seconded this motion and confirmed this was the intent. There being no discussion, the motion passed unanimously.

MEETING AGENDA APPROVED: Council Member Johnson motioned, seconded by Council Member Figueroa to approve the meeting agenda as presented. There being no discussion, the motion passed unanimously.

PUBLIC COMMENT: No public comment

CONSENT AGENDA: No Consent Agenda

ANNOUNCEMENTS: City Clerk Jones announced the following meetings:

- *Tuesday, 3/15/11 @7:00pm-BZA Meeting*
- *Thursday, 3/17/11 @9:00am-Special Called CVB Meeting*
- *Friday, 3/25-26/11 @ Council Strategic Planning Session*
- *Monday, 3/28/11 @5:00pm-Work Session, followed by 7:00pm-City Council Meeting*

REPORTS & PRESENTATIONS: None

OLD BUSINESS: No Old Business.

NEW BUSINESS:

ASSIGNMENT OF HTE CONTRACT: Council Member Figueroa recused himself prior to the HTE discussion, as his wife works for a division of the company. As this item was discussed at the previous Work Session, Council had no additional questions for staff. Council Member Johnson motioned, seconded by Council Member Miller to approve the Action Item Approving the Assignment of the HTE Contract to the City of Johns Creek. There being no discussion, the motion passed unanimously. ***(ACTION ITEM).*** Council Member Figueroa returned to the dais.

RZ 11-001 3303 JAMONT BLVD/9600 BLOCK OF BRUMBELOW RD: A Public Hearing on Ordinance 2011-03-05 to amend the Zoning Map for Zoning Case RZ-11-001 – John Jamont - 3303 Jamont Blvd, 9600 Block of Brumbelow Road - CUP Conditional to CUP Conditional - Change in conditions to reduce the lot size adjacent to Brumbelow Road from 18,000 square feet to 14,000 square feet was held.

Planning and Zoning Administrator Justin Kirouac reviewed the rezoning case informing Council this property is located in the Estates at Deer Chase in Newtown, Character Area 6, and was re-zoned in 1996 with the restricted lot size. The applicant is asking for the reduction in order to allow for a larger and more symmetrical adjacent lot. Mr. Kirouac said although the proposed residential use is consistent with the use for this area, all the properties approved fronting Brumbelow Road have this lot size restriction. Therefore staff recommends, as well as the Planning Commission recommends denial of this request.

City Clerk Jones read the zoning public hearing procedures into the record.

Mayor Bodker opened the public hearing for Ordinance 2011-03-05 to amend the Zoning Map for Zoning Case RZ-11-001 – John Jamont - 3303 Jamont Blvd, 9600 Block of Brumbelow Road - CUP Conditional to CUP Conditional - Change in conditions to reduce the lot size adjacent to Brumbelow Road from 18,000 square feet to 14,000 square feet and called for those wishing to speak in support of the application.

The applicant, Mr. John Jamont addressed Council and stated the lot reduction from 18,000 to 14,000 is needed to balance the size of an adjacent 9000 sq. ft., odd-shaped lot, saying the size and shape of the smaller lot was due to the road widening which occurred after the development had begun.

Mr. Nasser Golshani a resident of Country Club of the South spoke in support of the applicant saying he has building experience and agrees it will be difficult to build on the smaller lot because of the odd shape. Mr. Shahab Khatami, a structural engineer spoke, in support of the

application saying he has known Mr. Jamont for 20 years and Mr. Jamont builds quality products and agrees it would be difficult to build on the smaller lot. He said allowing the lot reduction will allow the squaring up of the second lot and pointed out the house is already built and complies with the setback requirements.

During discussion, Council inquired on the number of homes currently constructed and the minimum size of the homes. Mr. Jamont responded there are currently about two completed and three homes in the process, with proposal for a minimum size home of 3,200 sq. ft. There was also discussion about staff's position in opposing, with Mr. Kirouac informing Council it is a policy decision to deviate from consistency, which he leaves to Council, and approval may set a precedent. There was further discussion that although there are similarly sized lots in the subdivision, because of the shape of this lot and location, the size becomes restrictive in developing.

Council Member Richardson motioned, seconded by Council Member Figueroa to approve Ordinance 2011-03-05 subject to the following conditions as amended.

1. The property shall be limited to a maximum of 30 (overall development) single family detached dwellings and accessory uses and structures.
2. The minimum heated floor area shall be ***3,000*** square feet for Lot 2.
3. The minimum lot size shall be 12,000 square feet along the south property line adjacent to the Queensbury East Subdivision. The minimum lot size shall be **14,000** square feet along Brumbelow Road. The minimum lot size for all remaining lots shall be 9,000 square feet.
4. The site shall be developed in general accordance with the site plan submitted October 12, 2010.
5. Lots shall have the following development standards:
   Height: 40 feet
   Minimum Perimeter Setback: 20 feet along Brumbelow Road; 30 feet along remaining property lines
   Minimum front yard: 10 feet
   Minimum side yard: 5 feet
   Minimum rear yard: 30 feet
6. Direct lot access to Brumbelow Road shall be prohibited.
7. Owner/developer shall provide no more than one (1) exit/entrance on Brumbelow Road.

During discussion, Council Member Richardson commented the lot change would benefit the look and feel of this community; Council Member Miller and Council Member Johnson, indicated they were inclined to support the recommendations of staff and the planning commission; Mayor Bodker raised the issue that a home is already built on the lot, the setback requirements have been met and changing the lot size and imposing the conditions as amended would allow continuity in the quality of homes being proposed for this subdivision. There being no further discussion, Mayor Bodker called the question and the motion passed 4 to 2, with Council Members Richardson, Figueroa, Stewart and Mayor Bodker voting in favor and Council Members Miller and Johnson opposing the motion. ***(ORDINANCE 2011-03-05)***

OTHER BUSINESS: None

PUBLIC COMMENT: No public comment.

MAYOR'S COMMENT: The Mayor thanked everyone for attending the meeting and wished them a good evening.

EXECUTIVE SESSION: No Executive Session.

There being no further business, Council Member Richardson made a motion to adjourn the meeting, Council Member Miller seconded this motion. The motion carried unanimously and the meeting was adjourned.

Approved: Attest:

_____ _____

Michael E. Bodker, Mayor Joan C. Jones, City Clerk

AGENDA REPORT

To: Honorable Mayor and City Council Members

From: John Kachmar, City Manager

By: Mike Williams, Department of Community Development Director

Date: February 28, 2011

Agenda: March 14, 2011 – WORK SESSION AGENDA**: AN ORDINANCE TO AMEND CHAPTER 113 OF THE CODE OF THE CITY OF JOHNS CREEK, GEORGIA (DEVELOPMENT REGULATIONS) TO ADD PROVISIONS TO COMPLY WITH THE METROPOLITAN NORTH GEORGIA WATER PLANNING DISTRICT REQUIREMENTS; TO ADD PROVISIONS REGARDING MAINTENANCE OF PRIVATE FIRE HYDRANTS; TO AMEND PROVISIONS REGARDING DRAINAGE EASEMENTS; AND FOR OTHER PURPOSES—*MOVED TO MARCH 28TH COUNCIL AGENDA***

Recommendation:
Approve the subject ordinance and direct staff to implement its provisions.

Issue:
The Metropolitan North Georgia Water Planning District (MNGWPD) requires that local governments adopt water conservation measures that comply with the District's Water Supply and Water Conservation Plan. These regulations include requiring sub meters for multi-family units, commercial car wash recycling and rain sensor shut off switches on new irrigation systems. Other items were added to clarify existing regulations.

The easement section is being revised to clarify the maintenance responsibility for drainage easements as well as to clarify procedures to allow fences across drainage easements.

Currently, fire hydrants in Johns Creek are inspected annually by the fire department. If the City becomes aware of a problem with the fire hydrant and it needs repair, we notify the North Fulton Water Authority to make whatever repairs are needed. However, this can only be completed on what is commonly referred to as a public hydrant. If we find a problem with a private hydrant, then we have nobody to notify. However, the fire code requires that all private fire lines get inspected annually and after each use, the code also requires that a flow test and maintenance work be done annually. If this work is done correctly, and copies of the work are sent to the Fire Marshal's Office, we would feel more confident that all of our citizens are safer by knowing that all of our hydrants are working.

Another problem that we are coming across is that citizens call the Fire Marshal's Office and tells us that their hydrant has been damaged, is leaking or various other problems and they want us to repair them. If the hydrant is considered public, then we can get it fixed. However, if it is private, we have to tell the caller that the hydrant is the owner's responsibility. We have no way of verifying that the repairs have been made, or when the last time it was inspected. The code will require them to repair the hydrants as well as provide the fire department with documentation to support code compliance.

Basis for Recommendation:
Adoption of these revisions will allow for compliance with the MNGWPD and clarify other existing regulations.

Financial Impact:
N/A

Background:
The MNGWPD was created by the Georgia General Assembly in 2001 to establish policy, create plans and promote intergovernmental coordination of all water issues in the District from a regional perspective. The District includes fifteen counties and over ninety cities within the metro Atlanta region. The primary purpose of the District is to develop regional and watershed-specific plans for stormwater management, wastewater treatment and water supply and conservation. These

plans, which were updated in 2009, contain a number of requirements that each local government within the District must meet. Failure to comply with the District requirements may result in denial of future Phase 2 General Stormwater Permits (MS4) or ineligibility for state grants or loans for stormwater related projects.

Alternative Approaches:
Adopt as presented or approve the ordinance with revisions.

Concurrent Review:
Fire Department
Legal

Attachment(s):
Proposed Land Development Regulations Revisions Chapter 113. Additions are shown in **bold, underline** and deletions are shown as ~~**bold strikethrough**~~. FINAL Ordinance 2011-03-06 ATTACHED:

STATE OF GEORGIA **ORDINANCE 2011-03-06**
COUNTY OF FULTON

AN ORDINANCE TO AMEND CHAPTER 113 OF THE CODE OF THE CITY OF JOHNS CREEK, GEORGIA (DEVELOPMENT REGULATIONS) TO ADD PROVISIONS TO COMPLY WITH THE METROPOLITAN NORTH GEORGIA WATER PLANNING DISTRICT REQUIREMENTS; TO ADD PROVISIONS REGARDING MAINTENANCE OF PRIVATE FIRE HYDRANTS; TO AMEND PROVISIONS REGARDING DRAINAGE EASEMENTS; AND FOR OTHER PURPOSES

WHEREAS, the Mayor and City Council of the City of Johns Creek find that from time to time it is necessary to amend sections of the Code of the City of Johns Creek, Georgia to correct, clarify, and update the provisions provided therein; and

WHEREAS, the Mayor and City Council desire to comply with the requirements of the Metropolitan North Georgia Water Planning District; and

WHEREAS, regulations and policies pertaining to land development are outlined in the Code of the City of Johns Creek; and

WHEREAS, the Mayor and City Council desire to clarify provisions relating to fire hydrants and drainage easements; and

NOW, THEREFORE, the Council of the City of Johns Creek hereby ordains that Chapter 113 of the Code of the City of Johns Creek, Georgia, Development Regulations, is amended as follows:

Section 1: Chapter 113 (Development Regulations), Article IV (Definitions), Sec. 113-42 of the Code of the City of Johns Creek is hereby revised to read as follows:

Sec. 113-42. - Definitions of words and phrases.

Certain words or phrases in these regulations are defined for their use herein as follows:

AASHTO. The American Association of State Highway Transportation Officials.

Alley or *service drive.* A minor permanent, public service-way which is used primarily for vehicular service access to the back or the side for properties otherwise abutting on a street.

Access improvement. Any improvement or facility that is planned and designed to provide service or access for a particular project and which is necessary for the use and convenience of the occupants or users of the project and is not a system improvement. A project access improvement includes but is not limited to: pedestrian access improvements; site driveways; new streets; median cuts; right turn lanes, left turn lanes, acceleration lanes, and deceleration lanes made necessary to serve site driveways or new streets leading to or from the project; traffic control measures made necessary to serve site driveways or new streets; intersection improvements whose primary purpose at the time of construction is to provide access to the project; and, necessary right-of-way dedications required for any project access improvement.

Applicant. A person, either the owner or the bona fide representative of the owner of land or structures governed by these regulations, who seeks authority to use, develop, construct upon or otherwise enjoy the use of property through any of the procedures established under these regulations.

Arterial. A principal arterial, major arterial, or minor arterial street as defined and designated in the comprehensive plan of the city.

"As-built" survey. See Public record drawing.

Base flood. A flood which has a one percent probability of occurring in any calendar year. (i.e., the 100-year frequency flood).

Base flood elevation. The highest water surface elevation anticipated at any given point during the base flood.

Bike paths. These paths serve to separate bicycle riders from vehicle and pedestrian traffic. Bike paths can meander through wooded areas, traverse the edge of open areas, and may parallel existing roadways or walks.

Block. A piece or parcel, or several parcels of land comprising an area entirely surrounded by public streets, other than alleys.

Buffer:

a. *State waters buffer.* An area along the course of any state waters to be maintained in an undisturbed and natural condition.

b. *Stream buffer.* An area along the course of any conveyance which is determined to be a stream, as defined in the stream buffer regulations, which is to be maintained in an undisturbed and natural condition.

c. *Tributary buffer.* A protection area adjoining the tributaries of the Chattahoochee River.

d. *Zoning buffer.* See zoning ordinance.

Buildable area. That portion of a lot where buildings and specified structures may be located after all minimum yards, buffers, landscape strips, and other setbacks have been met.

Buildable lot of record. A lot that has been lawfully divided under the regulations in place at the time of filing and appears on a deed or plat recorded in the official records of the clerk of the superior court.

Building setback line. A line across a lot parallel to a street right-of-way or other property line establishing the minimum open space to be provided between any principal building and the street or other property line. All building setback lines shall be at least as restrictive as the corresponding minimum yard setbacks required in the zoning ordinance or as approved by the city council or other governing board.

Certificate of development conformance. Final approval issued by the department for completion of land development activities for a subdivision or development project for which a land disturbance permit was issued.

Certificate of occupancy. Final approval by the department for the use or occupancy of a structure for which a building permit was issued.

City. City of Johns Creek, Georgia.

City arborist. The agent(s) of the city having the primary responsibilities of administration and enforcement of the tree preservation ordinance.

City council. The mayor and city council of Johns Creek, Georgia.

City of Johns Creek Comprehensive Plan 2009—2030. A plan summarizing and illustrating the adopted goals and objectives of the city regarding the future location and character of anticipated land uses, transportation, and other public facilities in the city. The term "comprehensive plan" includes component or functional plans for the city, including but not limited to a plan for land use (i.e., land use plan) or a plan for transportation facilities, and includes the classification of streets and thoroughfares as shown on the adopted long range road classification map.

Clearing. The removal of trees or other vegetation, but not including grubbing activities.

Collector. A through street having the primary function of connecting subdivisions or other areas to arterial streets or other major thoroughfares, or functioning as a central route within a subdivision channeling traffic from the local streets to an abutting major thoroughfare or another collector street. For the purposes of these regulations, a central but non-through route within a subdivision or other project will be considered as a collector, if the average daily traffic generated by the development on the route will exceed 4,000 trips.

Completed application. An application shall be deemed complete when all application or reviews fees have been paid, application forms completed and all necessary documentation has been submitted in order to determine compliance with these regulations and all other codes and ordinances adopted by the city.

Conceptual plan. A drawing which shows the overall concept (e.g., a conceptual plan) of a proposed development, and which may include lots and streets in a subdivision or the general location of buildings and improvements for a multi-family or non-residential project. As it relates to the platting process a conceptual plan shall include a drawing in sufficient detail to indicate its workability and feasibility, but is not in final form for recording, pursuant to these regulations.

Condominium. A form of property ownership in which the buildings or portions of the buildings, whether residential or non-residential in use, are owned by individuals separate from the lands which surround the buildings, said lands held in common ownership by the owners of the several buildings.

Conveyor car wash. A commercial car wash where the car moves on a conveyor belt during the wash. The driver of the vehicle can remain in the vehicle or wait outside of the vehicle.

County. Fulton County, Georgia.

Crosswalk. A right-of-way dedicated to public use, four feet or more in width, that crosses a street and furnishes a specific area for pedestrian movements at an intersection.

Cul-de-sac. A street having one end open to traffic and being permanently terminated by a vehicular turnaround. For the purpose of designation, a cul-de-sac street shall be interpreted to begin at the intersection of two or more streets nearest to the vehicular turnaround.

Department. The community development department for the city.

Developer. Any person, individual, firm, partnership, association, corporation, estate, trust, or any other group or combination acting as a unit who directs the undertaking or purposes to undertake development activities as herein defined, whether the development involves the subdivision of the land for sale to individual users, the construction of buildings or other improvements on a single land ownership, or both.

Development. All activities associated with the conversion of land or the expansion or replacement of an existing use to any new use intended for human operation, occupancy or habitation, other than for agricultural purposes devoted strictly to the cultivation of the land. Such activities include land disturbance (clearing and grubbing the land of vegetation and stumps, and grading) and the construction of improvements such as, but not limited to, streets, driveways or parking areas, water or sewer mains, stormwater drainage facilities, sidewalks or other structures permanently placed on or in the property.

Where appropriate to the context, the term "development" also may be used to denote a specific subdivision or project which is a single entity or intended to be constructed as an interrelated whole, whether simultaneously or in phases.

Development agreement. A written contract between the city and a property owner or developer, that specifies the system improvements to be provided by the developer for a specific project.

Development plans. The detailed and professional plans showing the layout and design, site work and construction activities proposed for a project (other than architectural building plans) and including the preliminary plat or site plan (as applicable), grading plan, tree preservation/replacement plan, erosion and sediment control plan, buffer and landscape plan, and construction drawings for streets, stormwater drainage facilities, sanitary sewers, water supply facilities, and other site improvements.

Director. The director of the community development department or his/her designee, except where specifically noted otherwise.

Drainage improvements. Those facilities and structures intended to control and direct the passage of stormwaters and other surface water flows from and across or under a property; including, but not limited to, swales and ditches, cross drains and other piping systems, catch basins, detention ponds, and velocity dissipation devices.

Driveway. A vehicular access way in private ownership, other than a private street, which provides access primarily to only one property or project, or to no more than three single-family detached residences.

Easement. Recorded authorization for a specified purpose by a property owner for the use of any designated part of the real property by another entity.

Erosion and sedimentation control ordinance. The ordinance adopted by the city that regulates soil erosion and its conveyance to state waters.

Excavation. Any manmade cavity or depression in the earth's surface, including its sides, walls, or faces, formed by earth removal and producing unsupported earth conditions as results of the excavation. If installed forms or similar structures reduce the depth to width relationship, an excavation may become a trench.

Fee simple. Absolute title to land, free of any other claims against the title, which one can sell or pass to another by will or inheritance.

Federal Emergency Management Agency (FEMA). The federal agency which administers the National Flood Insurance Program. This agency prepares, revises and distributes the maps and studies referenced in these regulations.

Final plat. A finished drawing of a subdivision showing completely and accurately all legal and boundary information and certifications required by these regulations.

Fire marshal's office. A section of the fire department charged with the responsibility of enforcing the city's fire prevention and protection code, the standard fire prevention code, the national fire prevention code and Georgia Accessibility Code.

Freeboard. The distance between the base flood elevation and the top of a stormwater detention structure.

GDOT. The Department of Transportation of the State of Georgia.

Grading. The movement, removal or addition of earth on site by the use of mechanical equipment.

Grubbing. The removal of stumps or roots from a property.

Fulton County Health Department. The Environmental Health Services Division of the Georgia Department of Human Resources for Fulton County, Georgia.

Hotspot. An area where the use of the land has the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater or to violate water quality standards.

Impervious surface. Any paved, hardened or structural surface, including but not limited to, buildings, dams, decks, driveways, parking areas, patios, streets, swimming pools, tennis courts, walkways, and other structures.

In-bay automatic car wash. A commercial car wash where the driver pulls into the bay and parks the car. The vehicle remains stationary while a machine moves back and forth over the vehicle to clean it, instead of the vehicle moving through the tunnel.

Land disturbing activity. Any activity which may result in soil erosion from water or wind and movement of sediments into state water or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in the city's soil erosion and sedimentation control ordinance.

Land disturbance permit. Any permit issued by the city that authorizes land disturbing activities on a site or portion of a site.

Lot. The basic lawful unit of land, identifiable by a single deed established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed or built upon. In determining the area and dimensions of a lot, no part of the right-of-way of a road or crosswalk may be included.

Lot, corner. A lot abutting upon two or more streets at their intersection.

Lot, double/multiple frontage. A lot other than a corner lot abutting upon two or more streets that may or may not intersect at that lot.

Lot, minimum lot size. The smallest permissible lot area established by the zoning ordinance or conditions of zoning.

Major intersection. The intersection of two or more public streets in which at least one of the streets is an arterial or collector as designated by the comprehensive plan.

Major thoroughfare. Any public street, existing or proposed, which is shown in the comprehensive plan as an arterial or collector.

Minor plat. A finished drawing of a subdivision of no more than three lots that, at the time of subdivision, does not necessarily, but may involve a land disturbance permit, new streets, the extension of a utility or other municipal facility and depicts all legal and engineering information required by these regulations.

MUTCD. The Manual for Uniform Traffic Control Devices, latest edition.

OSHA. The U.S. Department of Labor, Occupational Safety and Health Administration, or successor agency.

Owner. A person having a majority fee simple interest in real property, or a majority interest through any other form of ownership.

Pedestrian way. A right-of-way within a block dedicated to public use, intended primarily for pedestrians and from which motor propelled vehicles are excluded.

Person. An individual, firm, partnership, corporation, joint venture, association, social club, fraternal organization, estate, trust, business trust, receiver, syndicate, or other group or combination acting singly or collectively for a common purpose, and the duly authorized agents thereof.

Plat. A map indicating the subdivision, re-subdivision, or recombination of land.

Preliminary plat. A drawing which shows the perimeter boundary, topography, lot arrangements, street layout, and other features of a proposed subdivision, as specified in these regulations.

Project. A principal building or structure, or group of buildings or structures, planned and designed as an interdependent unit together with all accessory uses or structures, utilities, drainage, access, and circulation facilities, whether built in whole or in phases. Examples include: a principal building on a lot, a residential subdivision, a multi-family development, a shopping center or an office park.

Public record drawing. A survey or other drawing based on a field survey which shows existing features/components and horizontal or vertical information (grades or location of improvements).

Public works director. The director of the department of public works or his/her designee, except where specifically noted otherwise

Rain sensor shut off switch. An electric device that detects and measures rainfall amounts and overrides the cycle of an irrigation system so as to turn off such system when a predetermined amount of rain has fallen.

Recycled water system. A water system that captures and reuses water previously used in wash or rinse cycles.

Redevelopment. Development on a previously developed site; but excludes ordinary maintenance activities, remodeling of existing building interiors, resurfacing of paved areas, and exterior building changes or improvements which do not materially increase or concentrate stormwater runoff, or cause additional non-point source pollution.

Residential site plan. A drawing showing lot information and all improvements, as outlined in article X.

Responsible party. In the context of enforcement procedures, a person (as defined above) who is alleged to have committed, caused, continued or created a violation of the terms, requirements, regulations, or provisions of these regulations whether as a direct act, through lack of action or neglect, or at the direction of or on behalf of others. A responsible party may be the owner of a premises where a violation has occurred; an occupant whether through ownership, lease or other tenancy; a contractor, builder or developer; an agent of or person otherwise acting on behalf of the aforementioned parties; or other person acting in violation of these regulations.

Road. See "Street, public".

Roadway. The paved portion of a street from back of curb to back of curb (or edge to edge of pavement for streets not having curbs) but excluding driveway aprons, bridges, and large single and multi-cell culverts which in a hydrologic sense can be considered to function as a bridge.

Self-service car wash. A commercial car wash where the customers wash their cars themselves with spray wands and brushes.

Sheet flow. Diffused water running overland to a defined watercourse.

Site work. Development activity to prepare a property for construction of buildings or finished structures, including clearing, grubbing, grading, and installation of soil sedimentation and erosion control facilities.

Standard details. Illustrative minimum standards for land development activities authorized under these regulations or other codes of the city. These standards shall not supersede more restrictive or prudent design requirements or good engineering practices as applied to specific situations on a case-by-case basis.

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

Street, private. An access way similar to and having the same function and design as a public street, providing access to more than one property, but held in private ownership(as distinct from a "driveway").

Street, public. A right-of-way dedicated to and accepted by the city for vehicular traffic or over which the city may hold a prescriptive easement for public access, and including designated and numbered U. S. and state highways. For the purposes of these regulations, the term "public street" shall be limited to those which afford or could afford a direct means of vehicular access to abutting property, and exclude limited access roadways which abut a property but from which direct access may not be allowed under any circumstances.

Street, local nonresidential. A surface street intended primarily to provide local access to adjacent existing or planned commercial or industrial development and not for through traffic.

Street, local residential. A surface street intended primarily to provide local access to adjacent residential development and not for through traffic.

Street, marginal access. A local street which is parallel to and adjacent to a major thoroughfare and which provides access to adjacent properties and protection from through traffic.

Stub-out street. A street having one end open to traffic and being temporarily terminated at the other. Stub-outs generally do not have, but may be required to have, a temporary vehicular turn-around. This temporary termination is to provide connectivity to future developments and may be constructed without curb and gutter provided such stub-out street meets the standards of the fire department.

Sub-divider. Any person, individual, firm partnership, association, corporation, estate, trust, or any other group or combination acting as a unit dividing or proposing to divide land so as to constitute a subdivision as herein defined, including an agent of the sub-divider.

Subdivision. Any division or re-division of a lot, tract or parcel, regardless of its existing or future use, into two or more lots, tracts or parcel. The term, "subdivision" shall mean the act or process of dividing property. Lots that do not abut or are not directly across a public street from other sub-divided lots shall be considered a separate distinct sub-division with a separate name.

Where appropriate to the context, the term "subdivision" also may be used in reference to the aggregate of all lots held in common ownership at the time of division.

Subdivision entrance. A public street, or publicly approved private street, that provides access to subdivided lots.

System improvement. Any improvement or facility such as streets, bridges, or rights-of-ways identified on the long range road classification map (i.e. "the system"),and any traffic control measures, landscaping or other features to the same, that is included in the comprehensive plan and which is further designed to provide service to the community at large.

Thoroughfare. See "Major thoroughfare".

Trails, pedestrian or others. Extended and usually continuous strips of land established independently of other routes of travel and dedicated, through fee simple ownership or easement, to recreational travel including, but not limited to, hiking, horseback riding.

Trench. A narrow excavation made below the surface of the ground. In general, the depth is greater than the width, but the width of the trench is not greater than 15 feet.

Watercourse. A channel with a defined bed and banks, including lakes, ponds and marshes.

Wetlands. Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. The ecological parameters for designating wetlands include hydric-soils, hydrophytic vegetation, and hydrological conditions that involve a temporary or permanent source of water to cause soil saturation.

Zoning ordinance. The adopted zoning ordinance of the City of Johns Creek, Georgia, as amended from time-to-time.

Section 2: Chapter 113 (Development Regulations), Article XII (Utilities and Easements), Sec. 113-143 of the Code of the City of Johns Creek, Georgia is hereby revised to read as follows:

Sec. 113-143. - Water system and fire hydrants.

(1) *Installation required.* The developer shall install or have installed a system of water mains connected to a public water supply system in accordance with these requirements and those of the authority having jurisdiction to provide water service within the city, herein referred to as the water authority.

(2) *Design policy.* All water mains, fire hydrants and appurtenances shall be designed in accordance with the policies, standards, plans and specifications of the city and the water authority.

(3) *Installation timing.* Water mains and appurtenances shall be installed after installation of the curbs and gutters and before paving, or as approved by the city and the water authority.

(4) *Fire hydrant requirements.* Fire hydrants shall conform to AWWA C502-85 for dry-barrel fire hydrants and the following requirements:

a. Hydrants shall be traffic type with safety flange that allows the valve to remain closed when the hydrant is broken or damaged above or near grade level.

b. The design of hydrant shall be of the compression type with main valves and "O" ring seal between the operating nut and the bonnet.

c. Hydrant color shall be silver.

d. Hydrant inlet shall be six-inch, mechanical joint with harnessing lugs.

e. Hydrant main valve opening shall be five and one-quarter-inch.

f. Valve seats shall be bronze to bronze.

g. Operating nut shall be solid Pentagon, one and one-half inches measured flat at point (31/32 on side). Operating nut shall turn counter clockwise to open.

h. Hydrant shall have two, two and one-half-inch diameter and one, four and one-half-inch diameter nozzle. Nozzles threads shall be the standard adopted by NBFU. Nozzles shall all have gasketed caps fitted with chain.

i. The following fire hydrants are approved for installation on development projects within the city, other models may be acceptable when dedicated to and approved by the utility provider:

Table 12.3-1
Acceptable Fire Hydrant Models

Manufacturer	Model
American AVK	2700 and 2780
Mueller	Centurion and Improved
Kennedy	K81-A
M&H	129 and 929
Clow	Medallion
American-Darling	B-62B
U.S.	M-94

j. Materials shall conform to AWWA Standard C-502, latest revision.

(5) *Water mains and fire hydrants on private property and subdivisions.* In addition to the other requirements of these regulations water mains installed on private property and within subdivisions shall also comply with the following requirements:

a. *Water main size.*

1. Water mains of at least eight-inch pipe shall be installed; six-inch pipe may be used only where it completes a gridiron and then only up to 600 feet in length between interconnecting mains of approved diameter, unless otherwise approved by the public works director and the fire marshal.

2. No main line smaller than eight inches shall serve more than one fire hydrant and automatic extinguishing system or one fire hydrant on any dead-end main more than 300 feet in length. All water mains shall be sized in accordance with NFPA 24, as adopted by the State of Georgia.

b. *Fire hydrant spacing.* Fire hydrants shall be spaced not more than 500 feet apart, with additional fire hydrants located as necessary to comply with the requirements of the International Fire Code and Appendices as adopted by the city and approved by the fire marshal.

c. *Private fire hydrants.* Hydrants that are not maintained by Atlanta-Fulton County Water Department and on a dedicated meter or loop system shall be considered private fire hydrants. These private hydrants shall have general maintenance performed annually in accordance with the currently adopted edition of NFPA 25. These maintenance records shall be maintained on the premises for inspection, or sent directly to the Johns Creek Fire Marshal's Office for review and filing. All maintenance shall be performed by a qualified company that is familiar with NFPA 25's guidelines. These private hydrants shall also be painted red and a three foot perimeter shall be maintained free and clear at all times.

d. *Clearance around fire hydrants.* A minimum of three feet of clearance shall be provided around all fire hydrants.

e. *Water main material.* Water mains shall be of ductile iron or copper or a type listed for this service by a nationally recognized testing laboratory and approved for use by the water authority.

f. *Minimum cover.* Water mains shall be installed at least 12 inches below the frost depth. In areas where frost is not a factor the water main shall be installed to a minimum depth of 42 inches below grade. When the water main is installed under a driveway or roadway it shall be installed 48 inches below grade or 48 inches below railroads.

g. *Hydrostatic testing.* Water mains shall be hydrostatically tested at not less than 200-psi or 50-psi greater than the system working pressure, whichever is greater, and shall maintain that pressure, ± five-psi, for two hours in the presence of a representative of the city. Pressure loss shall be determined by a loss in gauge pressure or visual leakage.

h. *Fittings and valves.* Hydrants, fittings, valves and fire department connections shall be approved by the fire department. Fire department connections shall be not less than 18 inches or more than 36 inches above the level of the adjoining ground or paving. The thread of such connections shall be uniform with that used by the fire department.

i. *Timing of installation.* Water mains and fire hydrants shall be installed, under water pressure and ready for fire fighting before any construction with combustible material begins on-site.

j. *Dead end mains.* In no case shall dead end mains exceed 600 feet in length for main sizes less than ten inches.

(6) *Sub meters required* The Fulton County Water Department provides water service to residential multi-unit buildings. These services are billed by the utility on a master meter basis and the landlord or property owner is responsible for paying the utility for all charges contained in such bills. All new multi-family buildings shall be billed by the owner or landlord or by a third party based on sub-unit meters which will be installed at the time of construction.

(7) *Commercial Car Wash Water Recycling.* All new commercial conveyor car washes, permitted and constructed after January 1, 2011, must install operational recycled water systems, regardless of the water source. A minimum of 50% of water utilized will be recycled. This regulation does not apply to self-service car washes or in-bay car washes.

(8) *Rain Sensor Shut Off Switches on New Irrigation Systems.* Pursuant to O.C.G.A. § 12-5-6, all new landscape irrigation systems for both residential and non-residential properties will require rain sensor shut off switches. This regulation does not apply to either landscape irrigation systems installed on golf courses, or any system dependent upon a non-public water source.

Section 3: Chapter 113 (Development Regulations), Article XII (Utilities and Easements), Sec. 113-146 of the Code of the City of Johns Creek, Georgia is hereby revised to read as follows:

Sec. 113-146. - Easements.

The following applies only to easements which have been expressly dedicated to and accepted by to the city.

(1) *Drainage easements.*

a. Temporary construction easements and permanent easements for drainage shall be dedicated to the city in accordance with these regulations when said easement is deemed to be in the best interest of the public health, safety or welfare. The city shall not be responsible for any easements that are not: (i) expressly dedicated to the city by execution of an easement agreement filed and recorded with the county superior court which (ii) has been accepted by the city through ratification of the city council. All easements shall be stabilized in accordance with the manual for erosion and sediment control in Georgia.

b. Drainage easements are required for any part of the drainage system which is designed to carry stormwater runoff from more than one parcel, existing or proposed.

c. Drainage easements for improved ditches, pipe construction, and detention facilities shall be cleared, opened, and stabilized at the time of development to control surface water run-off. Run-off slope and side slopes shall be specified by the developer's engineer, according to good engineering practice,

these regulations and the applicable provisions provided in the stormwater management design manual.

d. Drainage easements for storm drain pipes shall be provided according to the minimum requirements found in the table below. The minimum easement width shall be 20 feet when no other parallel utilities are located therein. For pipe sizes not shown on the table below the easement width shall be based on the pipe diameter (span) plus two feet, plus two times the pipe invert depth. This value shall be rounded up to the nearest five feet. For pipes exceeding 16 feet in depth, a pre-submittal conference shall be held with the city to determine what additional requirements may be required.

Table 12.6-1
Easements for Storm Drain Pipes

Pipe Size (In)	Minimum Easement Width (Ft)												
Invert Depth (Ft)	4	5	6	7	8	9	10	11	12	13	14	15	16
15	20	20	20	20	20	25	25	30	30	30	35	35	40
18	20	20	20	20	20	25	25	30	30	30	35	35	40
24	20	20	20	20	20	25	25	30	30	30	35	35	40
30	20	20	20	20	25	25	25	30	30	35	35	35	40
36	20	20	20	20	25	25	25	30	30	35	35	35	40
42	NA	20	20	20	25	25	30	30	30	35	35	40	40
48	NA	20	20	20	25	25	30	30	30	35	35	40	40
54	NA	NA	20	25	25	25	30	30	35	35	35	40	40
60	NA	NA	20	25	25	25	30	30	35	35	35	40	40
66	NA	NA	NA	25	25	30	30	30	35	35	40	40	40
72	NA	NA	NA	25	25	30	30	30	35	35	40	40	40

(2) *Common easements.* A common easement for sanitary sewer and drainage purposes may be allowed if the pipes are parallel and at least ten feet is provided between pipes (outside of pipe to outside of pipe). The easement width shall be equal to the width shown in the table in subsection (1) of this section plus the distance separating the pipes (minimum of ten feet).

(3) *Drainage easements for surface drainage.* Drainage easements shall be provided where a development is traversed by or contains a water course, impoundment, detention facility, improved channel, floodplain, natural stream or channel. It shall conform substantially to the flooding limits of the 100-year storm based on fully developed conditions per the land use plan, but shall be no less than 20 feet in width.

(4) *Obstruction of drainage easements.*

a. The property owner will be required to keep the easement free of obstruction in such a way as to assure the maximum designed flow at all times. The property owner shall not alter any drainage improvements. Structures, except driveways, shall not be constructed or erected in an easement. Driveways shall cross an easement as close to perpendicular as practical. Fences in drainage easements may be accepted with approval from the public works director as long as the fence makes a perpendicular crossing of the easement and there are gates or removable panels within the easement. Property owners may plant landscaping in an easement that is piped with the approval of the city. Some landscape materials, such as large trees or shrubs, may not be appropriate for use within an easement.

b. No structure whatsoever shall be constructed in storm sewer easements that have been expressly dedicated to and accepted by the city, including vehicular easements around facilities without approval from the public works director. No planting shall take place within the easement that will impede access along the easement or endanger any infrastructure therein. No other pipeline or utility shall be placed in the easement without approval by the public works director.

(5) *Stabilization of drainage easements.* All drainage, sewer, access or other easements which were required to be cleared shall be fine graded, seeded and mulched immediately upon the completion of construction work or if any significant delay is anticipated in the completion of the work. The use of sediment control measures may be required to protect the area until a comprehensive vegetative cover is obtained.

(6) *Placement of fill in drainage easements.* No fill shall be placed on a storm sewer easement that have been expressly dedicated to and accepted by the city without approval from the public works director. All manholes must extend to the ground surface but shall not impede access where the drainage easement is intended to provide for vehicular access. All easements terminating on a parcel shall extend to the property line.

(7) *Sanitary sewer easements.* Permanent sanitary sewer easements shall be no less than 20 feet in width when no other parallel utilities are located therein or as required by the sanitary sewer authority. When warranted, temporary construction easement widths shall be determined by the county.

(8) *Potable water easements.* Permanent water easements shall be as required by the water authority.

Section 4. This Ordinance shall be effective immediately upon its adoption by the City Council and its provisions appropriately incorporated into the Code of the City of Johns Creek, Georgia. This Ordinance repeals any and all conflicting ordinances and amendments.

SO ORDAINED AND EFFECTIVE, this 28th day of March, 2011.

Approved:

_____
Michael Bodker, Mayor

Attest:

_____
Joan Jones, City Clerk

Approved as to Form:

_____
William F. Riley, City Attorney

(Seal)

STATE OF GEORGIA
COUNTY OF FULTON **ORDINANCE 2011-03-07**

AN ORDINANCE TO AMEND ARTICLE IV OF CHAPTER 22 OF THE CITY CODE BY CREATING ADDITIONAL LICENSING REQUIREMENTS FOR SECONDHAND DEALERSHIPS WITHIN THE CITY

WHEREAS, the City Council is charged with the responsibility to preserve the health, safety and welfare of the citizens of the City; and

WHEREAS, the City is authorized to regulate the activities of pawnshops and secondhand dealers within the geographic boundaries of the City pursuant to its Charter and State law; and

WHEREAS, the City Council desires to include additional regulations for secondhand dealerships by creating a required licensing scheme in order to make sure such businesses are operating within the boundaries of the law and to assist the Police Department in locating stolen property which may have been inadvertently acquired by secondhand dealers; and

WHEREAS, a duly advertised public hearing has been held in accordance with state law on March 17, 2011 to allow the public to speak in regards to this proposed ordinance.

THEREFORE, the Mayor and City Council of the City of Johns Creek hereby ordain as follows:

Section 1. Chapter 22 (Licenses, Permits and Miscellaneous Regulations), Article IV (Pawnshops, Pawnbrokers and Secondhand Dealers) of the Code of the City of Johns Creek, Georgia is hereby amended to read as follows:

ARTICLE IV. PAWNSHOPS, PAWNBROKERS AND SECONDHAND DEALERS

Sec. 22-86. Applicability of Article provisions.

Every person, whether a licensed junk dealer or pawnbroker, or any other secondhand dealer, who, exclusively or as incidental to or in connection with other businesses, purchases, sells or acquires in trade used or secondhand jewelry, flat silver, gold and silver objects of every kind and description, including watches and clocks, any of which is made in whole or in part of gold, silver, platinum or other precious metals; diamonds, emeralds, rubies, or other precious stones; pistols or guns; musical instruments, bicycles or accessories, and other items as defined in this Article, shall, for the purpose of this Article, be a secondhand dealer. Any person who shall purchase any article of the kinds herein described from any person other than a bona fide dealer in those articles shall, for the purpose of making the reports required herein, also be a secondhand dealer and subject to all the provisions of this Article relating to those records and reports.

Sec. 22-87. Penalty.

Any person violating any of the provisions of this Article shall be punished as provided in

section 1-7.

Sec. 22-88. Definitions.

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

Accepted identification means an official document, most commonly in the form of a plastic coated/sealed card, issued for purposes of identification or driver's license. These documents must be issued by one of the 50 states or a branch of the U.S. military, i.e. Army, Navy, Air Force, Marines, Coast Guard, or current State of Georgia and counties of Georgia probation and parole cards. The identification must at a minimum bear a true photograph of the person presenting it, date of birth, and description of the person, and an address for the person.

Acquire means buying, exchanging, transferring, collecting, or otherwise receiving physical possession of regulated secondhand items from another person or entity not a secondhand dealer, for resale, exchange, or transfer by the purchaser.

Dealer in precious metals and gems means:

(1) Any person engaged in the business of purchasing precious metals or gems or goods made from precious metals or gems from persons or sources other than manufacturers, manufacturers' representatives, or other dealers in precious metals or gems; or

(2) A person engaged in any other business if, in conjunction with such business, precious metals or gems or goods made from precious metals or gems are purchased from persons or sources other than manufacturers, manufacturers' representatives, or other dealers in precious metals or gems where such purchase is for resale in its original form or as changed by remounting, melting, re-forming, remolding, or recasting or for resale as scrap or in bulk.

Deceptive business practice means:

(1) Any use or possession of a false weight or measurement, or any other device for falsely determining or recording any quality or quantity in connection with any scale or service;

(2) Any sale of, offer to sell or delivery of less than the represented quality or quantity;

(3) Any attempts to take more than the represented quantity of any commodity, when as buyer or broker, he furnishes the weight or measure;

(4) Any service which is of an unreasonably lesser quality than the service offered or represented;

(5) Any other practice designated as unlawful by O.C.G.A. section 10-1-300, et. seq.;

(6) Any other fraudulent business transaction which is made punishable by the laws of the State of Georgia.

Good moral character means a person who has not been convicted of any felony or any crime involving theft, fraud or a crime against property in the past ten (10) years.

Employee means any person who works for a secondhand dealer, whether on a part-time or full-time basis, regardless of whether remuneration is received or not, and regardless of whether such person is treated as a W-2 employee or a Form 1099 contractor.

Interest in a secondhand dealership means any full or part ownership is the person involved, or any member of his or her family, is the outright owner of the secondhand dealership; a co-owner of the secondhand dealership; a stockholder in any corporation organized for pecuniary gain which owns all or part of the secondhand dealership; a stockholder in any corporation organized for pecuniary gain which owns all or any part of the secondhand dealership.

Minor means any person who has not attained the age of 18 years.

Non-regulated secondhand items means real property, visual fine art other than jewelry, motor vehicles, motorized water craft, waste paper, tires, lumber or raw wood products, industrial machinery, an any fungible goods held for mass recycling.

Occupation tax certificate means permission to operate a business pursuant to Chapter 50, Article I of the Code of the City of Johns Creek, Georgia.

Permit means permission to be employed or work in a secondhand dealership or to be a secondhand dealer.

Person means an association, firm, partnership and body politic and corporate, or any combination thereof, as well as an individual.

Regulated secondhand items means used goods of any kind other than non-regulated secondhand items defined in this Section, and includes but is not limited to the following: hand tools, power tools, sporting equipment, electronic equipment, watches, jewelry, precious stones, precious metals, scrap gold, numismatic coins, musical instruments, electrical appliances, washers, dryers, clothing, music and video compact disks and similar media, furniture, refrigerators, books and magazines, furniture and home furnishings, home appliances, automobile parts, watercraft parts, firearms and other goods that have been previously sold or put into action or service and held for sale.

Secondhand dealer means any person whose business, in whole or in part, is dealing in purchasing, selling, or trading regulated secondhand items.

Seller means the person from whom a secondhand dealer or employee acquired secondhand items.

Sec. 22-89. Annual permit required; other violations

No person shall acquire or transfer any previously acquired regulated secondhand items as a secondhand dealer or become an employee of a secondhand dealer without a secondhand dealer permit. It shall be unlawful for any secondhand dealer or employee to:

(1) Make any false statement in an application for a permit required by this Article; or

(2) Make a false entry in any record book, ledger or form required by this Article.

Sec. 22-90. Exemptions

The following are exempt from the provisions of this Article:

(1) Tax-exempt entities;

(2) One-day auctions and permitted yard sales.

Sec. 22-91. Fixed physical location

No secondhand dealer or employee may operate except at a fixed permanent physical business location with an occupation tax certificate from the City; no dealer or employee may operate as a peddler or transient merchant. Permits acquired under this Article are valid only for the location stated on the permit and said permit is not transferable from one location to another.

Sec. 22-92. Secondhand dealer and employee permits

(a) Qualifications. All secondhand dealers and employees, as defined herein, shall be not less than 18 years of age, and must be of good moral character as defined by this Article. Any person who has been convicted of any felony under the laws of this state or any other state of the United States shall not be eligible for a secondhand dealer or employee permit under this Articled until ten (10) years after the completion by said person of his felony sentence.

(b) Disclosure. Every secondhand dealer and employee must disclose any ownership or interest in any other secondhand dealership, whether it is located locally or out-of-state and must disclose the nature of such ownership or interest.

(c) Approval of employment. Before any person may work on the premises of a secondhand dealership, he shall file an application with the City finance department setting out the information required in subsections (a) and (b) of this Section and submit an application fee as approved by Resolution of City Council. Each applicant must be fingerprinted by the Johns Creek Police Department. The City shall have 45 days to investigate the information submitted by the applicant. If the application information conforms to the requirement of this Article, the City shall approve the applicant for a permit authorizing the person to be employed at a secondhand dealership. Upon such approval, the applicant may begin working on the regulated premises. It shall be the duty of the secondhand dealer to assure compliance with the provisions of this Section. Every permit holder is required to notify the City of any change in information or circumstances which occurs after the original approval was granted. If approval is denied, the applicant may, within fifteen (15) days of the denial, appeal in writing to the City Manager for reconsideration pursuant to the provisions of this

Article.

(d) Suspension, revocation of the occupation tax certificate or permit. Conviction of violating the provisions of this Article or any other ordinance of the City, rules or regulations of the City, or conviction of any felony or any crime involving theft, drugs, fraud or a crime against property shall subject the employee to suspension or revocation of the permit, and in the case of an owner or secondhand dealer, shall subject to party to suspension or revocation of any permit authorized under this Article and the occupation tax certificate for the secondhand dealership. Suspension and revocation procedures shall be in accordance with the rules and regulations established by this Article.

(e) Independent contractors. For the purpose of this Article, independent contractors shall be considered as employees and shall be permitted as employees, regardless of the business relationship with the owner or occupation tax certificate holder of any secondhand dealership.

Sec. 22-93. Application for permit.

(a) Any person, association, partnership, corporation, trust or joint venture desiring to obtain a permit to operate, engage in, conduct or carry on a secondhand dealership as required by this Article shall make application to the City through its designated representative.

(b) Each application for a secondhand dealership or employee permit shall contain the following information:

(1) The applicant's full true and legal name(s) and any other aliases or name changes used in the last five (5) years.

(2) The present address and telephone number of the applicant.

(3) Acceptable written proof that the individual applicant is at least 18 years of age.

(4) Business, occupation or employment history of the applicant for the five (5) years immediately preceding the date of the application.

(5) The secondhand dealership permit history of the applicant and whether, in previous operations in this or any other City, state or territory, the applicant has had such permit revoked or suspended. If such permit has been revoked or suspended, the applicant must state the reason, and the business activity or occupation subsequent to such action of suspension or revocation.

(6) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with place and date of incorporation, and the names and addresses of each of its current officers and directors. If the applicant is a partnership, the application shall set forth the name, residence address and dates of birth of the partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate filed with the Secretary of State. If one or more of the partners is a corporation, the provisions of this

subsection pertaining to corporations shall apply. The applicant corporation(s) or partnership(s) shall designate one of its officers or general partners to act as its responsible managing officer. Such designated applicants shall complete and sign all application forms required of an individual owner under this Article, but only one application fee shall be charged. No secondhand dealership shall operate under any name other than the name of the applicant and the name of the business as specified on the permit.

(7) If any applicant has been convicted of any crime involving moral character in the past ten (10) years, the applicant must provide a complete description of any such crime, including date of violation, date of conviction, jurisdiction and any disposition, including any fine or sentence imposed and whether the terms of the disposition have been fully completed.

(8) If the applicant is doing business under a trade name, a copy of the trade name, properly recorded, must be provided. If the applicant is a corporation, a copy of authority to do business in Georgia, including articles of incorporation, trade name and the last annual report, if any, must be provided.

(9) Address of secondhand dealership to be regulated.

(10) Whether the premises are owned or rented.

(11) Nature and character of the business to be conducted.

(12) Each application for a secondhand dealership permit or employee permit shall be verified and acknowledged under oath to be true and correct by the applicant and all ownership if for a secondhand dealership permit.

(13) Any ownership interest in any other secondhand dealership, whether it is located locally or out-of-state and the nature of such ownership interest.

(14) Statement that there are no fees, taxes, fines, utilities or other charges due to the City from the applicant.

(15) Any other information that may be required by the City, including any information required by State law, including, but not limited to, the source of financing for the business operation and proof of legal residence.

(c) Proof of an existing and valid occupation tax certificate from the City for the location of the proposed secondhand dealership, if not applied for concurrently.

(d) The City shall have 45 days to investigate the application and background of the applicant.

(e) Upon completion of the review of the application by the City, the permit shall be granted by the City Manager or designee if the application conforms to all the requirements of this Article. If the application does not conform to all the requirements of this Article, the City Manager or designee shall deny said application by sending a written denial to the

applicant(s) by certified mail, return receipt requested, stating the reasons for same and informing the applicant(s) of their right to appeal said denial within thirty (30) days of the denial letter pursuant to the terms of this Article.

Sec. 22-94. Reasons for denial, suspension or revocation of the permit.

The City Manager or designee may reject an application for a permit, or suspend or revoke a permit for the following reasons:

(1) The required fees or taxes have not been paid.

(2) The secondhand dealership is, or will be, located within 2,500 feet, front door to front door, by the shortest walking route, of another secondhand dealership.

(3) Application does not conform to all the provisions required by the Article.

(4) The owner/employee has failed to fully cooperate with the investigation required by this Article.

(5) Any owner/employee has had any license or occupation tax certificate issued under the Police Powers of any County or other governmental subdivision involuntarily suspended or revoked within the last ten (10) years for any reason whatsoever.

(6) The owner/employee, as a previous holder of a license or occupation tax certificate to operate a secondhand dealership has violated any law, regulation or ordinance relating to the business within a ten (10) year period immediately preceding the date of the application.

(7) Any owner/employee has been convicted or pled guilty in a court of competent jurisdiction within the last ten (10) years of an offense involving any felony or any crime of theft, fraud or against property. A pleading of nolo contendere shall be considered as a conviction for the purposes of this provision.

(8) Any owner/employee has engaged in any deceptive business practice.

(9) Any owner/employee is less than 18 years of age.

(10) Any owner/employee has failed to obtain any paper or document necessary in pursuance of this business or this application as may be required by any officer, agency or department of the City, County, State or United States under authority of any law, ordinance or resolution of the City, State or United States or has failed to be properly eligible for legal residence in this State or the United States.

(11) Any owner/employee has made any false statements in the application.

Sec. 22-95. Renewal of permits.

Permits for secondhand dealers and employees may be renewed on a calendar year basis

provided that the applicants continue to meet the requirements set out in this Article. Each secondhand dealer must file a verified annual report showing the person's gross receipts from the business and the amounts paid to the employees for the preceding calendar year and such shall be submitted with the renewal applications. Renewal applications shall be submitted by January 1 of the year for which such permit is requested along with a fee to be set by Resolution of the City Council.

Sec. 22-96. Permit nontransferable.

No secondhand dealer permit or employee permit may be sold, transferred or assigned to any other person or persons. Any such sale, transfer or assignment, or attempted sale, transfer or assignment, shall be deemed to constitute a voluntary surrender of such permit and such permit shall thereafter be null and void; provided and excepting, however, that if the permit holder is a partnership and one or more of the partners should die, one or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without affecting a surrender or termination of such permit, and in such case, the permit upon notification to the City shall be placed in the name of the surviving partner(s).

Sec. 22-97. Recordkeeping.

(a) *Contents of record book.* All secondhand dealers shall keep a book wherein shall be entered an accurate description of all property of the kinds specified in section 22-86 which they acquire by purchase, pledge, pawn, exchange or trade, including, to the extent possible, the manufacturer, model, serial number, style, material, kind, color, design, number of stones if jewelry, and all other identifying names, marks and numbers, and the name, address, and date of birth of the person from whom purchased or acquired and the date and hour of the purchase. These entries shall be made as soon as possible after the transaction is had, in no case more than one hour thereafter.

(b) The secondhand dealer shall require all persons selling secondhand items to him to show proper identification prior to conducting a secondhand dealership transaction. Proper identification is defined as a government-issued photo identification card such as a driver's license, military identification card, state identification card, or passport. The secondhand dealer shall make a digital photograph of the identification and maintain in the same manner as other digital photographs required under this section.

(c) A digital photograph shall be made by the dealer or employee at the time of acquisition of any regulated secondhand item of the item's serial number, which number shall be clearly visible and readable in the photograph if imprinted on the item. If the item was never imprinted with any type of serial number, then the photograph shall show the entire item. All such digital photographs shall be submitted to the automated reporting system as indicated below. Further, a digital photograph of the seller's face, similar to those on accepted identification, shall be made at the time of each and every acquisition and submitted to the automated reporting system. The photograph shall clearly show a frontal view of the seller's face along with the secondhand dealer's ticket transaction number. Digital images shall be labeled and stored in such a manner that they are safe from corruption, readily identifiable, and readily available for review.

(d) The secondhand dealer shall obtain from each seller the fingerprint of the right hand index finger, unless such finger is missing, in which the event the print of the next finger in existence on the right hand shall be obtained with a notation as to the exact finger printed. The electronic digital fingerprint scanner will be the primary method of entry required. The fingerprint shall be imprinted onto the transaction form in the designated area along with the signature of the seller. The fingerprint must be clear and legible. In the event that more than one transaction form is required, a fingerprint and signature shall be obtained for each form. Fingerprints and the information required herein shall be obtained upon each occasion of acquisition.

(e) *Inspection.* The secondhand dealer shall store the above records, digital images, and fingerprints for a period of four (4) years, and make them available for inspection and examination by the police department upon request.

(f) Every secondhand dealership shall enter each transaction as it occurs into the electronic automated reporting system via the internet to the administrator of the electronic automated reporting system, who will, in turn, electronically transmit all transactions to the City Police Department.

Sec. 22-98. Entries to be numbered serially; property to be tagged.

Every entry required to be made in the secondhand dealer's book required by section 22-97 shall be numbered serially, and the property described in the entry shall have attached to it a tag bearing the same serial number until the property is disposed of by sale, trade or other lawful means. This paragraph does not apply to the purchase of property from licensed wholesale distributor businesses for the purpose of retail sales; however, the secondhand dealer shall be required to maintain all purchasing records for property exempted from this paragraph.

Sec. 22-99. Acquiring articles with serial number mutilated or altered.

It shall be unlawful for any secondhand dealer to purchase or acquire in trade any watch, clock, pistol, gun, automobile tire or battery or any other article commonly branded with a serial number upon which the number has been mutilated or altered.

Sec. 22-100. Daily reports to police; form and contents.

Every secondhand dealer identified in section 22-86 shall make a daily report in such form as may be prescribed by the chief of police, of all property purchased or acquired by the dealer during the 24 hours ending at 12:00 midnight on the date of the report. The reports shall be made as follows:

(1) Daily reports shall list all secondhand items acquired, the transaction number for each transaction, and a description of the secondhand items including, to the extent possible, the manufacturer, model, serial number, style, material, kind, color, design, number of stones if jewelry, and any other identifying names, marks and numbers. The daily report shall also list the name, address, race, sex, height, weight, driver's license number, date of birth, and social security number of the seller of the items, along with the date and time of the transaction. Unless otherwise stated, an electronic automated reporting system shall be utilized to transmit said reports. The

secondhand dealer shall be required to register with the designated system within one week of receipt of a permit under this Article.

(2) In the event that the electronic automated reporting system becomes temporarily or permanently disabled, secondhand dealerships and secondhand dealers will be notified as soon as possible. Secondhand dealerships that incur electronic system failures or other events that would cause partial or complete loss of electronic reporting should notify the Police Department forthwith with the reason for the failure. In this event, the secondhand dealers will be required to make records of transactions on paper forms. A digital camera will be used to collect the required pictures and transferred to a CD for submittal. The paper forms must include information as enumerated in this Article. Secondhand dealers shall maintain a minimum three-day supply of these paper forms. On a daily basis, all transactions not reported in electronic automated reporting system, will be delivered to the Police Department by the secondhand dealership within two hours of the end of the business day for every day until the event has been corrected.

(3) The Chief of Police or his designee shall designate the required automated reporting system and required equipment needed, and any fee for use of same shall be collected by the Chief of Police or the third party administrator of the automated reporting system.

Sec. 22-101. Examination and inspection of articles by police; segregation of suspicious articles.

All property purchased or acquired by a secondhand dealer shall at all times be subject to examination and inspection by the police department. If, upon the inspection, a police officer shall have reasonable cause to believe that any of the property is stolen, he shall segregate it. It shall thereafter be unlawful for the person in possession of the property to dispose of it, or in any manner mutilate, melt or disfigure it, until 15 days have elapsed from the date of the inspection.

Sec. 22-102. Property to be held after acquisition.

All property purchased or acquired by a secondhand dealer shall be held for not less than 15 days, or longer if directed by the Police Department, before disposing of same by sale, transfer, shipment or otherwise. All property and/or titles must be kept on the premises. These secondhand items will be maintained in an area not accessed by customers.

Sec. 22-103. Dealing with minors.

It shall be unlawful for any secondhand dealer to buy or receive any property of the kinds described in section 22-86 from any person under the age of 18 years, provided that any secondhand dealer will not be held subject to the provisions of this section if is the person produces a valid identification, as defined in this Article, showing he/she is at least 18 years of age.

Sec. 22-104. Restrictions regarding sale or pledge of building glass or plumbing material.

(a) *Generally*. It is unlawful for secondhand dealers to acquire secondhand items taken from buildings, such as mantel mirrors, art glass and the like, or copper wire, copper linings of

bathtubs, lead pipes or any kind of plumbing materials sold as junk, where same is offered for sale by other than persons of good moral character.

(b) *Duties of Secondhand Dealer*. It is unlawful for secondhand dealers or employees thereof to acquire any secondhand items where their appearance indicates they have been tampered with, or there is an effort to conceal identity, or same are mutilated, or otherwise show an effort to destroy evidence of the former location of the items.

(c) *Inspection*. While the items are being kept for fifteen (15) days before being disposed of, they shall be so arranged that they can be inspected by members of the police department on demand and the items shall be annotated in records readily available for inspection by the police department.

Sec. 22-105. Suspensions, revocations and appeals of permit denials.

(a) The City Manager may suspend or revoke a secondhand dealer or employee permit pursuant to the reasons stated in this Article. If the City Manager or designee intends to suspend or revoke said permit(s), the City Manager or designee shall send a written notice of suspension or revocation, by certified mail, return receipt requested, to the permit holder at the address for the secondhand dealership stated on the permit and, if an employee permit, to the address stated on the employee's application. The written notification shall inform the permit holder of the reason for the suspension or revocation and shall inform the permit holder of his/her right to appeal said determination to the City Council or designated hearing officer within thirty (30) days of the suspension or revocation letter, pursuant to the procedures stated herein.

(b) If the applicant chooses to appeal a denial of a permit by the City Manager, or suspension or revocation of a permit by the City Manager, pursuant to this Article, the applicant/permittee shall do so in writing to the City Manager within the thirty-day period following the denial, suspension or revocation letter. Upon receipt of the request to appeal, the City shall schedule a hearing in front of the City Council or designated hearing officer within sixty (60) days of the receipt of the appeal request. The City shall inform applicant/permitee of said hearing no less than fourteen (14) days prior to the hearing, in writing, of the location and time of the hearing.

(c) The hearing shall be conducted in accordance with the Administrative Hearing Procedures as established by Resolution of City Council. The City Council or designated hearing officer shall render a decision to affirm or reverse the City Manager's decision to deny, suspend or revoke the permit in writing within five (5) business days from the date of the hearing, by certified mail, return receipt requested, to the applicant/permitee. The decision of the City Council or designated hearing officer shall be final.

(d) The applicant/permitee may appeal an adverse decision of the City Council or Hearing Officer by filing a Petition for Writ of Certiorari with the County Superior Court in accordance with state law within thirty (30) days of the Council or Hearing Officer's decision.

Section 2. All applicants already engaging in the business of operating a secondhand dealership in the City prior to the effective date of this Ordinance shall file an application in accordance with the terms of this Ordinance within sixty (60) days of the effective date of the

Ordinance, which shall be renewed each year the business is in operation in accordance with this Ordinance, and shall have a valid permit for all parties required to have same by this Ordinance within 105 days of the effective date of this Ordinance, unless a denial of same has been appealed in accordance with this Ordinance.

Section 3. The City Council hereby reaffirms and re-adopts the remaining Articles of Chapter 22 of the Code of the City of Johns Creek, Georgia as attached hereto and as they currently exist, being Article II: Escort Services, Article III: Massage Establishments and Spas, Article V: Door-to-Door Salesmen, Article VI: Solicitation on Roadways, Article VII: Taxicabs, and Article VIII: Sexually Oriented Businesses.

Section 4. This Ordinance shall be effective immediately upon its adoption by the City Council and its provisions appropriately incorporated into the Code of the City of Johns Creek, Georgia. This Ordinance repeals any and all conflicting ordinances and amendments.

SO ORDAINED AND EFFECTIVE, this 28th day of March, 2011.

Approved:

_____
Michael Bodker, Mayor

Attest:

_____
Joan Jones, City Clerk

Approved as to Form:

_____
William F. Riley, City Attorney

(Seal)

AGENDA REPORT

To: Honorable Mayor and City Council Members

From: Patty Hansen, Mayoral Aide

CC: Monte Vavra, John Kachmar

Date: March 24, 2011

Agenda: March 28, 2011 Council Meeting Agenda Item: **Community Development Block Grant 2011 Action Plan**

Background: On April 13, 2009 the City of Johns Creek Council and Mayor adopted a Citizen Participation Plan setting forth the city's policies for attaining citizen input, participation and comment on the federally funded Community Development Block Grant Program (CDBG).

Review/Description: Attached is outlining the process for drafting and adoption of the 2011 CDBG Action Plan.

Financial Impact:
Current estimated amount of the City's 2011 CDBG award is $190,000

Staff Recommendation: Review and approve attached calendar for posting on City Web site March 29, 2011

Concurrent Review:
City Manager John Kachmar, Finance Director Monte Vavra

Attachment(s):
Calendar

2011 Community Development Action Plan
Citizen Participation Plan Calendar

City Council Meeting, Calendar Presentation	March 28, 2011
Post calendar and estimated CDBG Award to City Web site	March 29, 2011
Start of required 30-day comment period	April 7, 2011
April 25 Required Public Hearing on use of 2011 CDBG Funds	April 25, 2011
Start of 15-day outreach period	April 11, 2011
2011 Action Plan Community Workshop	April 27, 2011
Close of required 30-day comment period	May 7, 2011
Draft 2011 Action Plan Presented to City Council	May 9, 2011
Draft 2011 Action Plan Posted to City Web site	May 11, 2011
Start of required 30-day comment period	May 16, 2011
Close of required 30-day comment period	June 14, 2011
2011 CDBG Action Plan Public Hearing and final adoption	June 20, 2011
2011 CDBG Plan Posted to City Web site	June 29, 2011