



October 01, 2013 9:00 am

1. Call to Order by Mayor Joe Brannen
2. Invocation and Pledge of Allegiance by Councilman Travis Chance
3. Recognitions/Public Presentations
 - A) "Recognition of the City of Statesboro 3rd Quarter Biggest Loser Winner"
4. Public Comments (Agenda Item):
5. Consideration of a Motion to approve the Consent Agenda
 - A) Approval of Minutes
 - a) 09-17-2013 Council Minutes
 - B) Notification of alcohol license application:
 - a) Licensee: Justin Wayne Driskell
DBA: Two Guys Beverage & Tobacco
Location: 8 B College Plaza
Type of Alcohol License: Packaged – Beer & Wine
Type of Business: Packaged Sales
 - C) Consideration of a Motion to approve "Vehicle for Hire"
 - a) Supreme Taxi – Osagie Atekha (Owner/Driver)
 - D) Consideration of a Motion and 1st reading to approve **Ordinance 2013-18**: An Ordinance amending Chapter 2 Section 2-1 of the Statesboro Georgia Code of Ordinances regarding "Meetings of Council".
 - E) Consideration of a Motion and 1st reading to approve **Ordinance 2013-19**: An Ordinance to adopt bona fide coin operated amusement machines.
 - F) Consideration of a Motion and 1st reading to approve **Ordinance 2013-20**: An Ordinance Amending Chapter Ninety of the Statesboro Code of Ordinances (Vehicles for Hire)
6. Public Hearing and Consideration of a Motion to approve the following: APPLICATION # V 13-08-01: Whitfield Holdings, LLC, requests a variance from Article X of the Statesboro Zoning Ordinance to reduce the side yard setback for property located at 41 Bernard Lane (Tax Parcel Number MS84000102016).
7. Other Business from City Council
8. Public Comments (General)
 - A) Mr. Bill Thomas request to speak to Council
9. Consideration of a Motion to Adjourn



**CITY OF STATESBORO
CITY COUNCIL MINUTES
September 17, 2013**

A regular meeting of the Statesboro City Council was held on September 17, 2013 at 6:00 pm in the Council Chambers at City Hall. Present were Mayor Joe R. Brannen, Council Members: Will Britt, Phil Boyum, John Riggs, Gary Lewis and Travis Chance. Also present were City Manager Frank Parker, City Clerk Sue Starling, City Attorney Alvin Leaphart, City Engineer Robert Cheshire and Director of Community Development Mandi Cody.

The meeting was called to order by Mayor Joe Brannen

The Invocation and Pledge of Allegiance was given by Councilman Gary Lewis

Recognitions/Public Presentations

- A) Proclamation presented to the Averitt Center for the Arts for their 10th anniversary and a performance by youths from the Averitt Center**

- B) Swearing In of Three New Firefighters**
 - a) Joseph Glenn**
 - b) Spencer Rowe**
 - c) Nathaniel Janney**

- C) Swearing In and Badge Pinning of Four New Company Officers**
 - a) Captain Ricky Hutchinson**
 - b) Lieutenant Jamie Strosnider**
 - c) Lieutenant Jason Gammon**
 - d) Lieutenant Brent Conner**

Tim Chapman, Executive Director of the Averitt Center for the Arts was presented a proclamation by Mayor Brannen for the Arts Center 10th anniversary. President of the Arts Council, Dr. Francys Johnson gave some history behind the organization as he updated Council of the Centers accomplishments and future plans. He also thanked Council for their support in the success of the organization. The 4th and 5th graders of the Statesboro Youth Corrale sang a song and 2 of the ballet students performed a snippet of one of the plays that will be performed at the Arts Center.

Chief Commander Tim Grams introduced the newest firefighters and company officers of the Statesboro Fire Department. Mayor Brannen swore in the firefighters and officers. The officers were then pinned by members of their family. Lieutenant Brent Conner was not present for the event.

Public Comments (Agenda Item): None

Consideration of a Motion to approve the Consent Agenda

- A) Approval of Minutes**
 - a) 08-29-2013 Public Hearing Minutes**
 - b) 09-04-2013 Council Meeting Minutes**
 - c) 09-04-2013 Council Work Session Minutes**
 - d) 09-12-2013 Called Council Meeting Minutes**
- B) Notification of alcohol license application:**
 - a) Licensee: Heath Charles Robinson**
DBA: The Hall by 40 East Grill
Location: 19 East Vine Street
Type of Alcohol License: Pouring – Beer, Wine & Liquor
Type of Business: Restaurant
 - b) Licensee: Deng Feng Huang**
DBA: Chow Time Buffet
Location: 408 Northside Drive East
Type of Alcohol License: Pouring-Beer & Wine
Type of Business: Restaurant
- C) Consideration of a Motion to approve “Vehicle for Hire”**
 - a) Spells Taxi Service – Cathy Dianne McDonald (Driver)**
- D) Consideration of a Motion to approve Resolution 2013-33: A Resolution Authorizing the Hedging of Natural Gas Through the Municipal Gas Authority of Georgia**
- E) Consideration of a Motion to approve Resolution 2013-34: A Resolution Authorizing the Opening of a Separate Bank Account for the FY2013 Community Development Block Grant**

Councilman Chance made a motion, seconded by Councilman Boyum to approve the consent agenda in its entirety. Councilman Boyum, Riggs, Lewis and Chance voted in favor of the motion. The motion carried by a 4-0 vote.

Public Hearing and Consideration of a Motion to approve the following:

- A) APPLICATION # V 13-08-01: Whitfield Holdings, LLC, requests a variance from Article X of the Statesboro Zoning Ordinance to reduce the side yard setback for property located at 41 Bernard Lane (Tax Parcel Number MS84000102016).**

John Dotson of Maxwell Reddick representing Whitfield Holdings spoke in favor of the request. Jim Anderson representing Janice Gray, owner of Customer First, a lube center, spoke against the request. He stated they were hoping to talk with Whitfield Holdings about a land swap. Councilman Chance asked if they had done so. Mr. Anderson said the time was too short and they had not had the opportunity to talk at length. Councilman Chance then asked John Dotson if the Whitfield Company would be interested in the land swap. Mr. Dotson referred to one of the owners, John Whitfield, who stated they were not interested in the swap. Janice Gray then spoke against the request and asked Council to give her time to negotiate with the Whitfield Holdings Company. Councilman Riggs made a motion, seconded by Councilman Chance to table this item until the next Council meeting. Councilman Boyum, Riggs, Lewis and Chance voted in favor of the motion. The motion carried by a 4-0 vote.

Consideration of a Motion to approve the donation of K-9 Max and vehicle transport cage to the Bulloch County Sheriff's Office

Councilman Chance made a motion, seconded by Councilman Lewis to approve the donation of K-9 Max and vehicle transport cage to the Bulloch County Sheriff's Office. Councilman Boyum, Riggs, Lewis and Chance voted in favor of the motion. The motion carried by a 4-0 vote.

Councilman Phil Boyum left the meeting. He did not return.

Comprehensive Storm-water Management Program Assessment presentation by the Ecological Planning Group

Courtney Reich, AICP of the storm water management program gave a presentation of some of the findings within the City of Statesboro concerning the drainage problems. The company will work with the City to find ways to correct some of the issues and help with the storm water run-off.

Consideration of a Motion to award a contract to purchase four trucks to Wade Ford in the total amount of \$102,396.00

Councilman Riggs made a motion, seconded by Councilman Lewis to award a contract to purchase four trucks to Wade Ford in the total amount of \$102,396.00 for the Statesboro Gas Department. Councilman Riggs, Lewis and Chance voted in favor of the motion. The motion carried by a 3-0 vote.

Other Business from City Council

City Manager Frank Parker asked Council to appoint Parker Engineering to continue as the engineer of record for the CDBG. Councilman Riggs, Lewis and Chance voted in favor of the motion. The motion carried by a 3-0 vote.

Mayor Brannen asked for Council's opinion on holding the December 3rd Council meeting at the Statesboro High School. Council was in favor of the request.

Public Comments (General)

A) Mr. Bill Thomas request to speak to Council

Mr. Thomas stated he did not understand why Council was not required to pay their utility bills on time. He also talked about the called council meeting that was held on Thursday to approve a special event held at the University Plaza on Saturday. He stated that bar owners seem to make a habit of assuming they will get their way even before a permit is approved. He also stated the event was advertised before the approval from Council.

Consideration of a Motion to Adjourn

Councilman Chance made a motion, seconded by Councilman Riggs to adjourn. Councilman Riggs, Lewis and Chance voted in favor of the motion. The motion carried by a 3-0 vote. The meeting was adjourned at 7:20 pm.

Justin Filout

CITY OF STATESBORO, GEORGIA

APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

DATE OF APPLICATION 9-11-2013 NEW [checked] RENEWAL _____

TYPE OF BUSINESS TO BE OPERATED:

- RETAIL BEER & WINE PACKAGED ONLY \$1,250.00
- RETAIL BEER & WINE BY THE DRINK \$1,250.00
- BEER, WINE & LIQUOR BY DRINK \$3,750.00
- WHOLESALE LICENSE \$1,000.00
- APPLICATION FEE - PACKAGED SALES \$ 150.00
- APPLICATION FEE - POURING SALES \$ 150.00

APPLICANTS FULL NAME Justin Wayne Driskell

OWNERS NAME [X] MICHAEL S KAY

DBA (BUSINESS NAME) [X] TWO GUYS DISCOUNT DBA TWO GUYS BEVERAGE + TOBACCO

CHECK THE TYPE OF ALCOHOL LICENSE YOU ARE APPLYING FOR:

RESTAURANT _____ SPORTS RESTAURANT _____ PRIVATE CLUB _____ PACKAGE [checked]

BUSINESS ADDRESS 8B college Plaza, Statesboro, GA., 30458

BUSINESS MAILING ADDRESS 8B college plaza, statesboro, GA, 30458

BUSINESS TELEPHONE # (912) 681-9780

ARE YOU A CITIZEN OF THE UNITED STATES? [checked] YES _____ NO

HAVE YOUR EVER BEEN ARRESTED FOR ANYTHING? _____ YES [checked] NO

IF YES, WHEN AND WHY _____

IS THE APPLICANT THE OWNER OF THE BUSINESS? _____ YES [checked] NO

IF NO, WHAT IS YOUR TITLE IN THE BUSINESS? manager

HOW MANY PARTNERS, SHAREHOLDERS, ETC. ARE INVOLVED IN THE BUSINESS 2

PLEASE LIST BELOW:

Jason G. Palmer Michael Kay



P.O.Box 348
50 East Main St.
Statesboro, Ga. 30458

(912) 764-5468
(912) 764-4691(fax)

Occupational Tax Application

BLACK INK MUST BE USED

YOU CANNOT OPEN FOR BUSINESS WITHOUT AN OCCUPATION TAX CERTIFICATE
I understand all applicants will be required to provide a photo ID when this application is returned

Date of Application: 8-22-2013

Business Trade Name: SUPREME TAXI

Business Location: 204 WILDWOOD DRIVE

Business Mailing Address: 264 WILDWOOD DRIVE

City: STATESBORO State: GA Zip: 30458

Business Owner: DSAGIE ATEKHA Business Telephone: 912-541-0566

Email: dsagiatekha@yahoo.com

Property Owner: Courage Atekh

Georgia Sales Tax #: NA Federal Tax ID#: SS#

State Board Certificate #: — Expiration Date: —

Dominant Line of Business: TAXI
(DESCRIBE THE NATURE OF YOUR BUSINESS)

Most Recent Business at This Location: _____

Is this an ownership change only? NO Are alcohol sales proposed? NO

Have you ever owned or operated a similar type business? Yes No _____

If yes, please list the name of the business and the City & State the business was located:

Name of Business Supreme Taxi

City Statesboro State GA

Is your business a home occupation? Yes No _____

Response Body

Registration ID:	GA138M818585801
Applicant Name:	OSAGIE ATEKHA
Applicant Address:	
Applicant Phone No.:	
Applicant email:	
LS TCN:	9133Z19059
Response Type:	STATE RESPONSE
Response Time:	2013-08-22 09:53:04
FBI Number:	
GBI TCN:	32341623089992
SAN:	
RCode:	
RLiteral:	
IDent:	NO GEORGIA CRIMINAL HISTORY IS
Name:	ATEKHA, OSAGIE
OCA:	
SID:	NoRecord
ORI:	GA923004Z
Reason:	GA Check Only
Agency Name:	CITY OF STATESBORO
Agency Address:	50 East Main Street, Statesboro, GA, 30458
Agency Phone:	(912)764-0625
Response Body:	TYPE:mid LSTCN:9139115529 GBITCN:32341623089992 DATE/TIME:2013-08-22 13:07:13 NAME:ATEKHA, OSAGIE

SID:NoRecord
OTN:
OCA:
IDENT:NO GEORGIA CRIMINAL HISTORY IS AVAILABLE FOR
THIS REQUEST

Printed:

No

Ordinance 2013-18

An Ordinance Amending Certain Sections of Chapter Two, Section 2-1 of the Statesboro Code of Ordinances (Meetings of Council)

WHEREAS, the City has previously adopted an ordinance setting the time and place of meetings of council; and

WHEREAS, the Mayor and City Council has determined there is sufficient reason and need to amend certain parts of Section 2-1 of the Code of Ordinances, City of Statesboro, Georgia;

NOW THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Statesboro, Georgia, in regular session assembled as follows:

SECTION 1:

Section 2-1 of the Code of Ordinances, City of Statesboro, Georgia is hereby amended by replacing it in full, and shall read as follows:

Sec. 2-1. Meetings of council.

(a) The city council shall hold regular meetings on the first Tuesday of each month at 9:00 a.m. and on the third Tuesday of each month at 5:15 p.m. in Council Chambers located on the 2nd Floor of City Hall, 50 East Main Street, Statesboro, GA 30458.

(b) Special meetings of council may be held at times and locations different from regular meetings of council upon call by the mayor or any two councilmembers. Notice of such meetings shall be provided in accordance with O.C.G.A. § 50-14-1 et seq..

SECTION 2. All other sections of the Code of Ordinances, City of Statesboro, Georgia not here expressly amended here remain in full force and effect.

SECTION 3. Should any section, subsection, or provision of this ordinance be ruled invalid by a court of competent jurisdiction, then all other sections, subsections, and provisions of this ordinance shall remain in full force and effect.

SECTION 4. This Ordinance shall be and remain in full force and effect from and after its adoption on two separate readings.

THE MAYOR AND CITY COUNCIL OF THE CITY OF STATESBORO, GEORGIA

By: Joe R. Brannen, Mayor

Attest: Sue Starling, City Clerk

ORDINANCE- 2013-19

AN ORDINANCE BY THE MAYOR AND CITY COUNCIL FOR THE CITY OF STATESBORO RELATING TO COIN OPERATED AMUSEMENT DEVICES, PROMOTIONS, AND LOTTERIES; RELATING TO OFFENSES AGAINST PUBLIC HEALTH AND MORALS; TO PROVIDE FOR THE APPLICABILITY OF CERTAIN PROVISIONS TO CERTAIN GAMES AND DEVICES; TO PROVIDE FOR A LIMITATION ON THE ALLOWABLE NUMBER OF SUCH MACHINES AT ONE LOCATION; TO REQUIRE OWNERS AND OPERATORS OF SUCH MACHINES TO COMPLY WITH CERTAIN REGULATIONS; TO PROVIDE FOR THE SUSPENSION AND REVOCATION OF LICENSES; TO PROVIDE FOR FINES; TO MANDATE REPORTING REQUIREMENTS; TO MANDATE SIGN POSTING; TO PROVIDE FOR MINIMUM DISTANCE RESTRICTIONS; TO PROVIDE REQUIREMENTS FOR PLACEMENT OF MACHINES; TO REQUIRE DISCLOSURE OF CERTAIN CONTACT INFORMATION OF THE OWNER AND/OR OPERATOR OF MACHINES; TO PROVIDE FOR LICENSE POSTING; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

WHEREAS, the duly elected governing authority of the City of Statesboro, Georgia is authorized by O.C.G.A. § 48-17-17 to adopt ordinances regarding bona fide coin operated amusement machines; and

WHEREAS, the City of Statesboro, Georgia (the "City") did, on the ____ day of _____, 20____, adopt an moratorium on the issuance of any license or occupational tax certificate for the operation of a business that contains more than SIX (6) Class B coin operated amusement machines; and

WHEREAS, the City has now conducted analysis on the matter and desires to adopt further and more effective regulatory provisions in regard to amusement game rooms in the City.

WHEREAS, this ordinance is adopted to address the interests of public health, welfare, and safety of the citizens of the City of Statesboro.

NOW THEREFORE, the Mayor and City Council find that in the interests of the public safety the immediate enactment of this ordinance by reasonable means, as allowed under state law, and not unduly oppressive is necessary to protect the health, safety, morals, and general welfare of the citizens of the city.

SECTION ONE

The Code of Ordinances of the City of Statesboro, Georgia is hereby amended to add a new Article to Chapter 18, thereof, which shall be titled Article IX and which shall read in words as follows:

Article IX

Secs. 18-252 thru 259. Reserved.

Sec. 18-260. Short Title.

This Article shall be known as the "City of Statesboro's Bona Fide Coin Operated Amusement Machine Ordinance."

Sec. 18-261. Gambling Devices Prohibited.

Gambling Devices, as that term is defined in O.C.G.A. § 16-12-20(2) are prohibited in the City, and the ownership, use, or transport thereof shall be a misdemeanor pursuant to state law, except as exempted pursuant to O.C.G.A. § 16-12-35(a) through (k).

Sec. 18-262. Gambling Places Prohibited.

Gambling Places, as that term is defined in O.C.G.A. § 16-12-20(3) are prohibited in the City, and the operation thereof shall be a misdemeanor pursuant to state law.

Sec. 18-263. Definitions.

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

(a) Amusement Game Room means any location as provided in O.C.G.A. § 16-12-35(b), (c) or (d) where one or more Bona Fide Coin Operated Amusement Machines are operated that permit non-cash redemption as provided in O.C.G.A. § 16-12-35(d)(1)(B), (C), or a combination thereof.

(b) Bona Fide Coin Operated Amusement Machine means the same as this term is defined in O.C.G.A. § 50-27-70(b)(2)(A) and (B) and any applicable regulations of the State of Georgia. Examples of Bona Fide Coin Operated Amusement Machines include, but are expressly not limited to, the following:

- 1) Pinball machines;
- 2) Console machines;

- 3) Video games;
- 4) Crane machines;
- 5) Claw machines;
- 6) Pusher machines;
- 7) Bowling machines;
- 8) Novelty arcade games;
- 9) Foosball or table soccer machines;
- 10) Miniature racetrack, football or golf machines;
- 11) Target or shooting gallery machines;
- 12) Basketball machines;
- 13) Shuffleboard machines;
- 14) Kiddie ride games;
- 15) Skee-Ball[®] machines;
- 16) Air hockey machines;
- 17) Roll down machines;
- 18) Trivia machines;
- 19) Laser games;
- 20) Simulator games;
- 21) Virtual reality machines;
- 22) Maze games;
- 23) Racing games;
- 24) Coin operated pool table or coin operated billiard table as defined in paragraph (3) of O.C.G.A. § 43-8-1; and
- 25) Any other similar amusement machine which can be legally operated in Georgia.

The term "coin operated amusement machine" does not include the following:

- 1) Coin operated washing machines or dryers;
- 2) Vending machines which for payment of money dispense products or services;
- 3) Gas and electric meters;
- 4) Pay telephones;
- 5) Pay toilets;
- 6) Cigarette vending machines;
- 7) Coin operated vending machines;
- 8) Coin operated scales;
- 9) Coin operated gumball machines;
- 10) Coin operated television sets which provide cable or network programming;
- 11) Coin operated massage beds; and
- 12) Machines which are not legally permitted to be operated in Georgia.

(c) Class B coin operated amusement machine means a bona fide coin operated amusement machine that allows a successful player to accrue points on the machine and carry over points won on one play to subsequent play or plays in accordance with

paragraph (2) of subsection (d) of O.C.G.A. § 16-12-35 and (A) rewards a successful player in compliance with the provisions of paragraphs (1) and (2) of subsection (d) of O.C.G.A. § 16-12-35; and (B) does not reward a successful player with any item prohibited as a reward in subsection (i) of O.C.G.A. § 16-12-35 or any reward redeemable as an item prohibited as a reward in subsection (i) of O.C.G.A. § 16-12-35;

(d) Location means a business within the City that has complied with the provisions of the ordinances of the City relating to occupation taxes and business licenses and the entire office or area of the business in any one location owned or leased by the same proprietor or proprietors where the Lessor or Lessors allow the space to be used for business purposes.

(e) Location owner or location operator means an owner or operator of a business where one or more bona fide coin operated amusement machines are available for commercial use and play by the public, or shall have the same definition as found in the Official Code of Georgia, Annotated, Section 50-27-70, should that definition differ.

Sec. 18-264. License Required.

No person, firm or corporation shall engage in the business of an owner or proprietor of an Amusement Game Room, as the term is herein defined, without first having obtained an Amusement Game Room license, without first having paid the applicable occupation tax and obtained an occupational tax certificate required under this article. A separate Amusement Game Room license must be obtained for each location in the jurisdiction which bona fide coin operated amusement machines are operated.

Sec. 18-265. Issuance of License.

Application for a license for operating an Amusement Game Room within the corporate limits of the City shall be made to the City Clerk upon a form to be supplied by the City Clerk for this purpose. The license application shall include the following information:

- (a) Name, address, and age of the applicant and the date of the application;
- (b) Address or place where the bona fide coin operated amusement machine or machines are to be offered to the public for play and the other business or businesses operated at that place or places;
- (c) Name and address of the owner of the machine or machines and a copy of the owner's master license;
- (d) Name and address of any other business owned or operated by applicant within the corporate limits of the City; and

- (e) List of any other licenses or permits from the City held by the applicant.

Upon issuing a license for an Amusement Game Room, the City official or employee shall provide the license with a copy of this Ordinance. The City shall not require a fee for an Amusement Game Room license or registration. A license issued in accordance with this Ordinance shall be valid until December 31st of the year in which the license was issued. The owner or operator of an Amusement Game Room shall be required to pay occupation taxes in accordance with Article V of Chapter 18 of the Code of Ordinances of the City.

Sec. 18-266. Occupation Tax Required.

No person, firm or corporation shall engage in the business of an owner or proprietor of Amusement Game Room, as the term is herein defined, without first having completed the occupation tax certificate application form, paid the required occupational tax and obtained an occupational tax certificate.

Sec. 18-267. Minimum Distance Requirements.

(a) Every Amusement Game Room containing a Class B coin operated amusement machine in the City shall comply with the proximity provision for business licensed to sell alcohol set out in O.C.G.A. § 3-3-21. At a public meeting, the Mayor and Council may waive the application of this provision to an individual location if no alcohol is served or sold at such Location.

(b) Every Amusement Game Room containing a Class B coin operated amusement machine in the City shall comply with the proximity provision for businesses licensed to sell alcohol as set out in Section 6-57 of the Code of Ordinances of the City. At a public meeting, the Mayor and Council may waive the applicability of this provision to an individual Location if no alcohol is served at such Location.

Sec. 18-268. Number of Class B Coin Operated Amusement Machines at a Location.

No Amusement Game Room in the City shall offer to the public more than six (6) Class B coin operated amusement machines at the same Location.

Sec. 18-269. Gross Receipts from Bona Fide Coin Operated Amusement Machines and from Business.

(a) Every Amusement Game Room shall keep records available for inspection by City officials that set out separately annual gross receipts for the Class B coin operated amusement machine and the other products and services sold at the Location.

(b) Any location owner or location operator subject to Official Code of Georgia, Section 50-27-84(b)(1) is hereby required to provide a monthly report to the City Clerk of the city. Such report shall indicate the monthly gross retail receipts for each business location located within the jurisdiction of the city and shall be due by the twentieth day of each month, subsequent to the month in which the sales have taken place. In addition, each owner or operator must allow the local government an annual audit of the reports from the owner or operator to the Lottery Corporation.

(c) No location owner or location operator may derive more than 50 percent of such location owner's or location operator's monthly gross retail receipts for this business location in which the Class B coin operated amusement machines are situated from such and any location owner or location operator found in violation of such provision may be fined and may have any city issued license suspended or revoked as allowed under this article. Compliance with this section requires both the availability of records for inspection and compliance with the fifty (50%) percent of gross retail receipts requirement. Any violations of this provision shall be reported to the Georgia Lottery Corporation.

Sec. 18-270. Notice Requirements.

(a) Every Amusement Game Room containing a Class B coin operated amusement machine shall post a conspicuous sign with the following or substantially similar language:

'GEORGIA LAW PROHIBITS GIVING OR RECEIPT OF ANY MONEY FOR WINNING A GAME OR GAMES ON AN AMUSEMENT MACHINE; GIVING OR RECEIPT OF MONEY FOR FREE REPLAYS WON ON AN AMUSEMENT MACHINE; GIVING OR RECEIPT OF MONEY FOR ANY MERCHANDISE, PRIZE, TOY, GIFT CERTIFICATE, OR NOVELTY WON ON ANY AMUSEMENT MACHINE; OR AWARDING ANY MERCHANDISE, PRIZE, TOY, GIFT CERTIFICATE, OR NOVELTY OF A VALUE EXCEEDING \$5.00 FOR A SINGLE PLAY OF AN AMUSEMENT MACHINE.'

(b) Every Amusement Game Room containing a Class B coin operated amusement machine shall post the license issued by the City conspicuously and permanently.

(c) The owner or proprietor of each Amusement Game Room containing a Class B coin operated amusement machine shall inform every employee of the acts and omissions prohibited by O.C.G.A. § 16-12-35 and by this Ordinance, and of the penalties for violation of O.C.G.A. § 16-12-35 and this Ordinance.

Sec. 18-271. Compliance with O.C.G.A. Provisions Relating to Master Licenses, Location Licenses, and Stickers for

Individual Machines.

Bona Fide Coin Operated Amusement Machines may be used in an Amusement Game Room within the City only if the machines are owned by a person who holds a valid master license in accordance with O.C.G.A. § 50-27-71, and each machine offered to the public for play has a valid permit sticker in accordance with O.C.G.A. § 50-27-78. In addition, the business owner where the machines are available for play by the public must pay a location license fee in order to obtain a valid location license in accordance with O.C.G.A. § 50-27-71 (a.1) and (b). The City official in charge of issuing business licenses shall notify the State Commissioner of Revenue of any observed violation of O.C.G.A. § 50-27-71 or § 50-27-78.

Sec. 18-272. License Suspension and Revocation.

- (a) The city may suspend or revoke the city issued license of any location owner or location operator to manufacture, distribute, or sell alcoholic beverages as a penalty for the conviction of the business owner or business operator of a violation of the Official Code of Georgia, Section 16-12-35, subsection (e), (f), or (g).
- (b) The city may suspend or revoke the license of any location owner or location operator of any other license, including an Amusement Game Room license, granted by the municipality as a penalty for the conviction of the business owner or business operator of a violation of the Official Code of Georgia, Section 16-12-35, subsection (e), (f), or (g), or for "due cause" as defined in subparagraph (c)(2) below.
- (c) The suspension or revocation of licenses under this Code section shall be in accordance with the following guidelines of due process:
 - (1) No license which has been issued or which may be issued pursuant to this Article shall be suspended or revoked except for due cause and after hearing and upon prior three-day written notice to the holder of the license of the time, place and purpose of the hearing and a statement of the charges upon which the hearing shall be held.
 - (2) The term "due cause" for the purposes of this section shall include, but not be limited to:
 - (A) Conviction of, or the entering of a plea of guilty or nolo contendere by, the licensee or any of his employees or any person holding an interest in the license for any felony, misdemeanor, or any law, administrative regulation or local ordinance involving alcoholic beverages, gambling or narcotics, tax laws, or the operation of an amusement game room,

(B) Conviction of, or the entering of a plea of guilty or nolo contendere by, the licensee or any of his employees or any person holding an interest in the license for any sex offense when the licensed business is for on-premises consumption.

(C) Suspension or revocation of any state license required as a condition for the possession, sale or distribution of alcoholic beverages.

(D) Material falsification of any fact given in an application for a license issued under this chapter or bearing upon the licensee's qualification therefor. Any act which may be construed as a subterfuge in an effort to circumvent any of the qualifications for a license under this chapter shall be deemed a violation of the requirement attempted to be circumvented.

(E) Failure to meet or maintain any standard prescribed by this Article as a condition or qualification for holding a license.

(F) Any other factor known to or discovered by the city whereby it is objectively shown the licensee, any of the licensee's employees or any person holding an interest in a license, has engaged in conduct at or involving the licensed business or has permitted conduct on the licensed premises that constitutes a violation of federal or state law, local ordinance or administrative regulations involving alcoholic beverages, gambling or narcotics for all alcohol licensed businesses and including any sex offense under state law or local ordinances with respect to businesses licensed for on-premises consumption. With respect to this section, it shall be rebuttably presumed that the violative act was done with the knowledge or consent of the licensee; provided, however, that such presumption may be rebutted only by evidence which precludes every other reasonable hypothesis save that such licensee did not know, assist or aid in such occurrence, or in the exercise of full diligence that such licensee could not have discovered or prevented such activity.

(3) Notice of suspension or revocation proceedings shall be served on the person named as licensee in the application. Notice shall be in writing. The notice may be served personally or by first class mail. If by mail, the notice shall be addressed to the licensee at its address as provided by the licensee to the municipality. The burden shall be on the licensee to provide notice, in writing, of any change of address for service of notices and process. In the case of service by mail of any notice required by this chapter, the service is complete at the time of deposit in the United States Postal Service.

(4) The hearing shall be conducted by a hearing officer appointed by the mayor of the city council. The hearing officer shall be an attorney licensed to practice in the state who is disinterested in the proceeding.

- (5) Hearings shall be only as formal as necessary to preserve order and shall be compatible with the principles of justice. The city attorney shall present the city's case and bear the burden of proving by a preponderance of the evidence that due cause exists to suspend or revoke the license. At the hearing the licensee shall have the right to represent itself or be represented by counsel, may cross examine all witnesses offered by the city, and may call witnesses and present evidence in its own behalf. Formal rules of evidence shall not apply to hearings under this section, although the hearing officer shall have the right to exclude evidence which carries no indicia of reliability. All testimony shall be offered under oath or affirmation.
- (6) The hearing officer shall make his final determination within ten business days of the completion of the hearing. The decision shall be placed in writing and contain the hearing officer's findings of fact, conclusions of law, and decision as to sanction, if any. Such sanction may include one or more of the following: revocation of the license, suspension of the license for no more than 12 months, imposition of a probationary period not to exceed 12 months, and/or a civil monetary penalty not to exceed the amount allowed under the city charter. Progressive sanctions, depending on the severity of the violation, are encouraged but not required. Where the remaining term of the license is less than 12 months, imposition of suspension or probation for a period in excess of the term of the existing license shall be applied to any renewal license. A subsequent violation within a probationary period shall be cause for revocation and/or denial of license renewal. A total of three separate and unrelated violations within 24 months, whether or not within a probationary period, shall be grounds for permanent revocation.
- (7) The hearing officer's decision shall be personally served or mailed by certified mail, return receipt requested to the licensee and his attorney, with a copy to the city attorney, within ten business days of the close of the hearing. The decision of the hearing officer shall constitute final action by the city, subject to review upon petition for certiorari to the superior court.
- (8) Upon receipt of notice of adverse action against the licensee under this section, the licensee may waive its right to a hearing and stipulate to a sanction, as recommended by the city manager, in consultation with the Director of Public Safety or his designee. Any stipulation entered under this subsection shall be in writing, signed by the licensee, and non-appealable.

Sec. 18-273. Criminal Penalties for Ordinance Violations by Owners or Operators of Amusement Game Rooms.

- (a) Penalties for violation of the provisions of Sections 18-264 thru 18-271, and Sections 18-274 and 18-275 of this Ordinance by the owner or operator an agent of an

owner or operator of an Amusement Game Room, after conviction in the Municipal Court of the City, or other court of competent jurisdiction are as follows:

(1) First Offense: For a first offense in five years as measured from the dates of the issuance of the citation to the date of issuance for the current citation for which a conviction was obtained or a plea of nolo contendere was accepted a fine not to exceed Five Hundred (\$500.00) Dollars for each violation shall be imposed.

(2) Second Offense: For a second offense in five years as measured from the dates of the issuance of previous citations to the date of issuance for the current citation for which a conviction was obtained or a plea of nolo contendere was accepted a fine not to exceed Seven Hundred Fifty (\$750.00) Dollars for each violation shall be imposed.

(3) Third Offense: For a third offense in five years as measured from the dates of the issuance of previous citations to the date of issuance for the current citation for which a conviction was obtained or a plea of nolo contendere was accepted a fine not to exceed One Thousand (\$1,000.00) Dollars for each violation shall be imposed.

(b) Suspension or revocation of the owner or operator's license for offering any amusement game at the Location where the violation occurred, and suspension of other permits and licenses granted by the City may be imposed by the Mayor and Council after a public hearing as described in Sec. 18-172 of this article.

(c) Offering one or more Bona Fide Coin Operated Amusement Machine games in violation of an order suspending or revoking the license for the offering of any amusement game at the Location is punishable, after conviction in the Municipal Court of the City, by a fine not to exceed One Thousand (\$1,000.00) Dollars, imprisonment not to exceed thirty (30) days, or both such fine and imprisonment.

Sec. 18-274. Operating Regulations.

All businesses operating as an Amusement Game Room hereunder shall be subject to the following regulations:

(a) Devices to Be Kept in Plain View; Gambling Devices Prohibited. All bona fide coin operated amusement machines shall at all times be kept and placed in plain view of and open and accessible to any person(s) who may frequent or be in any place of business where such machines are kept or used. Nothing in this section shall be construed to authorize, permit or license any gambling device of any nature whatsoever.

(b) Inspection. The Director of Public Safety or his designee may inspect or cause the inspection of any location in which any such bona fide coin operated amusement machine(s) are operated or set up for operating, and may inspect, investigate and test such machines as needed.

(c) Attendant Required. It shall be unlawful for any location owner or location operator to open the location to the public unless an attendant is present. Said attendant shall be of sufficient mental and physical capacity so as to be able to provide aid to patrons if needed or desired. Said attendant shall not be less than 18 years of age.

Sec. 18-275. Licenses and Permits Nontransferable.

(a) Licenses required in this article are nontransferable. All businesses that have bona fide coin operated amusement machines on the premises shall display, in plain view, the current Amusement Game Room license and occupational tax certificate issued by the City.

(b) The issued license shall not be transferred to another owner at the same site within the City. A new owner or proprietor must first obtain a new license if they are going to operate in the same or different location in the City.

Sec. 18-276. Enforcing Officer.

The Director of Public Safety or his designee is hereby designated as the enforcement officer and shall execute all requirements of this article.

SECTION TWO

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION THREE

If any section, clause, sentence or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this ordinance.

SECTION FOUR

This ordinance shall become effective immediately upon its adoption by the City Council.

SO ORDAINED, this ____ day of _____, 2013

Joe R. Brannen, Mayor

ATTEST:

Sue Starling, City Clerk

(If the city has received the notice from the Lottery Corporation described in O.C.G.A. §50-27-103 whereby a final judgment or final order has been entered against at least 15 percent of master licensees and location owners and location operators in the city over any consecutive two-year period, then the city council shall be allowed, after providing no less than 60 days' notice to all master licensees and location owners and location operators located within the city, to vote to remove any Class B machines from the local jurisdiction.)

Ordinance 2013-20
An Ordinance Amending Chapter Ninety of the Statesboro Code of Ordinances
(Vehicles for Hire)

WHEREAS, the City has previously adopted an ordinance regulating vehicles for hire; and

WHEREAS, the Mayor and City Council has determined there is sufficient reason and need to amend Chapter 90 of the Code of Ordinances, City of Statesboro, Georgia to promote the general welfare of the citizens of Statesboro;

NOW THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Statesboro, Georgia, in regular session assembled as follows:

SECTION 1:

Chapter 90 of the Code of Ordinances, City of Statesboro, Georgia is hereby amended by replacing it in full, and shall read as follows:

CHAPTER 90: TAXI CABS

Sec. 90-1. - 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:

Company means the holder of a license to operate a taxicab business under the provisions of this article, whether a person, firm, partnership or corporation.

Driver means any person who drives or operates a taxicab on the streets of the city for a licensed taxicab company.

Driver's permit means the written authority granted by the city for an individual to drive or operate a taxicab within the city.

License means the right and privilege granted by the city for the operation of a taxicab business incorporating the use of one or more taxicabs within the corporate limits of the city.

City Marshal means the individual employed by the city whose primary responsibility is enforcement of the Code of Ordinances of the City of Statesboro.

Street means any street, alley, lane, avenue, court or public place in the city.

Taxicab means a motor vehicle engaged in the business of carrying passengers for hire, or offering to carry persons for hire, except motor vehicles used as ambulances, buses, limousines, or any vehicle subject to regulation by the Motor Carrier Compliance Division of the Georgia Department of Public Safety.

Sec. 90-2. - Indemnity for benefit of city.

Any taxicab company operating under this article shall hold the city harmless against any and all liability, loss, costs, damages or expenses which may accrue to the city by reason of the negligence, default or misconduct of the company in connection with the rights granted to such company under this article. Nothing in this article shall be considered to make the city liable for damages because of any negligent act or omission or commission by any taxicab company, its servants, agents, drivers or other employees, during the operation by the company of a taxicab business or service, either in respect to injuries to persons or with respect to damage to property which may be sustained.

Sec. 90-3. - Identification and markings generally.

Every taxicab shall have a sign plainly indicating on the door on each side of the vehicle, in letters not less than four inches high, the full name and telephone number of the taxicab company operating the vehicle, including words such as "Taxicab," "Taxi," or "Cab." Such sign shall be professionally applied and shall be either painted or magnetically affixed to each side of the vehicle in clearly visible colors. There shall be no outside advertising of any kind on taxicabs.

Sec. 90-4. - Safe mechanical condition of taxicabs required.

Every taxicab operated on the streets of the city shall be maintained in a safe mechanical condition, with all safety and pollution control equipment remaining intact and operative, at all times when the taxicab is in service.

Sec. 90-5. - Cleanliness of taxicabs required.

Each vehicle operating under this article shall be kept painted, and in a clean, sanitary condition, free of litter and debris, and at all times suitable for public transportation of passengers. The city marshal, upon observing violations of this section or any other provision of this article which deals with the physical condition of taxicabs, shall place a deadline decal on the windshield of the vehicle, such decal to list all violations. No driver or other unauthorized person shall remove or deface a deadline decal. No driver shall use a vehicle to transport passengers for hire while a deadline decal is in place. The deadline decal will be removed by City Marshal only after correction of all listed violations.

Sec. 90-6. - Authority for removal of taxicabs from streets.

The City marshal shall have the authority to remove from operation on the streets of the city any vehicle used as a taxicab which is in violation of this article and to prohibit operation of such taxicab until all deficiencies have been corrected. An order of the City marshal to remove a vehicle from the city streets may be appealed to the city manager through the administrative hearing process provided in this article.

Sec. 90-7. - Required.

No person shall operate a business involving the use of one or more taxicabs on the streets of the city unless a license for such business has first been granted by the city.

Sec. 90-8. - Application.

Application for a license required by this division shall be made on the form provided by the city clerk and shall provide for such information as is required for other business license applicants.

Sec. 90-9. - Fee.

Each person operating a taxicab shall pay an annual license fee to the city as set forth in the schedule of fees and charges on file in the office of the city clerk. Such annual license fee shall be prorated for the remainder of the initial year.

Sec. 90-10. - Duration.

For purposes of this section, the license year shall begin on January 1 of each calendar year and end December 31 next following. Each license issued under this division shall be effective only for the calendar year stated in the license unless sooner suspended or revoked.

Sec. 90-11. - Issuance.

Upon the payment of the required license fee and the filing of the proper application, the city clerk shall issue to the applicant named in the application a license for each vehicle described in such application and with respect to which such tax has been paid, which license shall describe the vehicle for which it is issued and state for what license year it is issued.

Sec. 90-12. - Display.

It shall be unlawful to operate or drive any taxicab for hire in the city without having conspicuously displayed on the taxicab a valid current license accurately describing the taxicab in which it is displayed.

Sec. 90-13. - Fixed place of business required.

Each taxicab company, as a condition for holding a city business license, shall establish and maintain a fixed headquarters on private property for the operation of the company's business. Such headquarters shall conform to the requirements of the city zoning ordinances and other applicable ordinances of the city or county (if located in the unincorporated area of the county), and shall provide adequate off-street parking space for all taxicabs not in service. Such company headquarters shall not be moved except by the approved transfer of the company's business license to another location.

Sec. 90-14. - Coverage required.

Any taxicab company desiring to do business within the city shall give and maintain a policy of indemnity insurance with an indemnity insurance company authorized to do business in the state for each vehicle in use as a taxicab, or a self-insurance certificate issued under state guidelines and regulated by the state insurance commission. The minimum coverage shall be \$25,000.00 for bodily injury to any one person, \$50,000.00 for injury to more than one person which is sustained in the same accident, and \$10,000.00 for property damage resulting from one accident, or whatever minimum insurance coverage is required by State law, whichever is greater. Such indemnity insurance shall inure to the benefit of any person who is injured or who sustains

damage to property caused by the negligence of a taxicab company, its servants or agents.

Sec. 90-15. - Blanket policy.

Any company or person operating a taxicab in the city shall give a separate policy of indemnity insurance or certificate of self-insurance for each separate taxicab for hire, except where such company or person actually owns or holds legal title to more than one taxicab, in which event, such company or person may give one policy of indemnity insurance covering all the taxicabs actually owned. This latter provision, however, shall not apply to any group of persons separately owning taxicabs who may be jointly operating or doing business under a licensed taxicab company name. The taxicab company is responsible for ensuring that individual persons operating taxicabs under such license shall comply with all state laws and local ordinances governing insurance coverage.

Sec. 90-16. - Notice when voided.

Before any policy of insurance or certificate of self-insurance required by this article is voided for any cause, nonpayment of premium or otherwise, notice shall be given, in writing, to the city marshal at least 30 days before it shall be effective.

Sec. 90-17. - Required.

No person shall operate a taxicab for hire upon the streets of the city, and no person who owns or operates a taxicab company shall permit a taxicab to be driven, and no taxicab operating under a taxicab company licensed by the city shall be driven at any time for hire, unless the driver of such taxicab shall have first obtained and shall have then in force a taxicab driver's permit issued under the provisions of this division.

Sec. 90-18. - Application.

Any person desiring a permit required by this article shall submit an application in writing on a form to be furnished by the city. Such application shall be made under oath and shall state, at minimum, the following:

- (1) The age of the applicant;
- (2) His address;
- (3) Length of time he has resided in the city;
- (4) Whether he has any physical infirmities; and
- (5) Whether he has been convicted of a violation of any of the laws of the state or of this Code or other ordinances of the city and, if so, when and of what offense, and the sentence of the court.
- (6) Whether the applicant consents to a criminal background check through the Georgia Crime Information Center (GCIC).

Sec. 90-19. - Qualifications of applicant.

An applicant for a driver's permit under this article must:

- (1) Not be less than 18 years of age.
- (2) Have no physical infirmity provided for in 49 CFR 391.41(b), as from time to time amended, which makes such applicant an unsafe taxicab driver.
- (3) Not have been convicted of operating a motor vehicle while under the influence of intoxicating beverages or drugs within two years or convicted of any drug violation within three years prior to the date of the application for such permit, or have been convicted of reckless driving or aggressive driving within one year prior to the date of the application for such permit, or been convicted of any of these offenses three or more times within three years prior to the date of the application for such permit. No permit shall be issued to any person who has been convicted of any crime relating to transporting persons for immoral purposes (prostitution, solicitation for prostitution, or any sex-related offense), or convicted of murder, rape, armed robbery, aggravated child molestation, aggravated sodomy, aggravated sexual battery and voluntary manslaughter, or who is listed as an offender in the Georgia Sexual Offender Registry maintained by the Georgia Bureau of Investigation. In regard to any other felony offense not listed above, no permit shall be issued to any person who has been convicted of any felony not listed above in the last three years. A plea of nolo contendere to any of the offenses set out in this section shall be deemed a conviction.
- (4) Be a citizen of the United States or an alien admitted for permanent residence or who has otherwise been granted employment authorization by the United States Immigration and Naturalization Services.
- (5) Be a resident of the state for at least three months immediately preceding the date of application.

Sec. 90-20. - Photographs of applicant.

Before any permit is granted under this division, the City Clerk shall take two photographs of the applicant. One photograph shall be attached permanently to the driver's permit for display in the vehicle which the applicant is to drive, and the second photograph shall be filed for record by the City Clerk.

Sec. 90-21. - Current state driver's license required.

Any person applying for a taxicab driver's permit under this division must show that he has a current motor vehicle operator's license issued or approved by the state, and that the license is not under suspension or revocation.

Sec. 90-22. - Police investigation of applicant.

The City Clerk shall conduct an investigation of each applicant for a taxicab driver's permit; and a report of such investigation and a copy of the traffic and police record of the applicant, if any, shall be attached to the application.

Sec. 90-23. - Examination of applicant; issuance or denial of permit.

(a) Upon proper completion of the application and payment of fees, the City Clerk shall review the application and conduct such investigation and hearings as deemed necessary. After investigation, the City Clerk shall grant or deny the permit. If the City Clerk denies the permit, the reasons for the denial shall be reduced to writing and mailed to the applicant via certified mail as notice of the denial of the permit.

(b) If the City Clerk denies the license the applicant shall have the right to appeal the denial of the license to the Mayor and City Council by filing a written notice of appeal with the City Clerk within FORTY-FIVE (45) days of the City Clerk mailing notice of the denial of the license.

(c) Upon the applicant filing a timely notice of appeal, the City Clerk shall place the matter on the agenda for the next available City Council meeting for hearing.

(d) Upon a finding by clear and convincing evidence of rehabilitation from prior criminal conduct referenced in Section 90-19(3), the Mayor and City Council are authorized to reverse the decision of the City Clerk's denial of the license and grant the applicant a license.

(e) Upon a finding by clear and convincing evidence that physical infirmity referenced in Section 90-19(2) does not render the applicant unsafe to drive a taxi, the Mayor and City Council are authorized to reverse the decision of the City Clerk's denial of the license and grant the applicant a license. In making this determination the Mayor and City Council shall be guided by the physical qualification requirements contained *49 CFR 391.41(b)* as from time to time amended.

Sec. 90-24. - Permit to be displayed.

The permit issued under the provisions of this division shall be placed on display in the taxicab to be operated by the holder of the permit in a display case or holder designed for that purpose on the dashboard or on the sun visor facing the passenger compartment, in the clear view of the passengers at all times when the taxicab is for hire.

Sec. 90-25. - Alteration of permits prohibited.

It shall be unlawful for any person willfully to alter, deface, obliterate or destroy a taxicab driver's permit or cause or allow such behavior.

Sec. 90-26. - Not transferable.

Any taxicab driver's permit issued under this division is not transferable from one company to another and is to be used solely by the person to whom it is issued.

Sec. 90-27. - Duration; renewal.

Any taxicab driver's permit issued under this division shall be in effect for 12 months from the date of issue. Permits may be renewed, upon application and payment of the annual fee as set on the schedule of fees, for each 12-month period thereafter unless the permit for the preceding period has been revoked or is under suspension.

Sec. 90-28. - Suspension.

(a) The City marshal shall have the authority to suspend a taxicab driver's permit for the following reasons:

- (1) The driver is charged with operating a motor vehicle while under the influence of intoxicating beverages or drugs, reckless driving, aggressive driving, or any felony.
- (2) Making any false statement in the application for the permit; or
- (3) Operating a taxicab in violation of any provisions of this article or applicable state law.

(b) The suspension of a taxicab driver's permit for the above reasons, may be appealed to the city manager as provided for in section 90-37.

Sec. 90-29. - Revocation.

If any driver holding a permit under this division at any time ceases to meet the qualifications described in this division, or fails to correct satisfactorily any false statement made in the application for the permit, or fails to operate his taxicab in accordance with the provisions of this article, he may have his permit permanently revoked by the city manager or temporarily suspended by the city marshal.

Sec. 90-30. - Driving after suspension or revocation prohibited.

It shall be unlawful for any person to operate a motor vehicle for hire or taxicab for the carriage of passengers during any period in which his permit to do so is suspended or revoked in accordance with the provisions of this division.

Sec. 90-31. - Administrative hearing.

(a) The city marshal shall have authority to suspend a taxicab driver's permit up to six months. The city marshal may recommend revocation of a permit to the city manager.

(b) Any decision of the city marshal to suspend a taxicab driver's permit may be immediately appealed within ten days by the taxicab driver in writing to the city manager.

(c) Any appeal of a suspension or recommendation for revocation by the city marshal shall require an administrative hearing. Such hearing shall be informal and shall be presided over by the city manager or his designee. The decision of the city manager shall be provided to the taxicab driver in writing within ten days of the hearing. The decision of the city manager shall be final unless appealed to the Mayor and City Council by filing a Notice of Appeal with the city clerk within ten days of the city manager's issuance of his written decision. If the city manager affirms the suspension or approves the recommendation of revocation, and the licensee files a timely Notice of Appeal to the City Council, the Mayor and City Council shall hear the appeal at a regular or special meeting of the City Council as soon as reasonably possible but not later than THIRTY (30) days from the filing of the Notice of Appeal. The City Council shall have authority to reverse the city manager's suspension or revocation. The license shall remain suspended during the pendency of the appeal.

(d) If a taxicab driver is suspended three times within any three-year period, and if each appealed suspension is upheld, the fourth such suspension with such three-year period shall be for a period of one year.

SECTION 2. The above amendments to Chapter 90 of the Statesboro Code of Ordinances shall be effective for all taxi cab licenses issued for the 2014 calendar year, and all following years.

SECTION 3. All licenses for vehicles for hire valid for calendar year 2013 shall be governed by the Vehicles for Hire Ordinance contained in Chapter 90 of the Statesboro Code of Ordinances in effect as of January 1, 2013.

SECTION 4. All other sections of the Code of Ordinances, City of Statesboro, Georgia not here expressly amended here remain in full force and effect.

SECTION 5. Should any section, subsection, or provision of this ordinance be ruled invalid by a court of competent jurisdiction, then all other sections, subsections, and provisions of this ordinance shall remain in full force and effect.

SECTION 6. This Ordinance shall be and remain in full force and effect from and after its adoption on two separate readings.

THE MAYOR AND CITY COUNCIL OF THE CITY OF STATESBORO, GEORGIA

By: Joe R. Brannen, Mayor

Attest: Sue Starling, City Clerk



City of Statesboro – Department of Community Development

P.O. Box 348
Statesboro, Georgia 30458

» (912) 764-0630
» (912) 764-0664 (Fax)

**V 13-08-01
VARIANCE REQUEST
41 Bernard Lane**

LOCATION: 41 Bernard Lane

REQUEST: Variance from Article X of the Statesboro Zoning Ordinance to reduce side yard setbacks to add on to the existing building.

APPLICANT: Whitfield Holdings, LLC

OWNER(S): Josh Whitfield & Lauren Bell

LAND AREA: .73 acres

PARCEL TAX MAP #s: MS84000102016

COUNCIL DISTRICT: District 5 (Chance)



PROPOSAL:

The applicant is requesting a variance from Article X, of the *Statesboro Zoning Ordinance* to reduce the side yard setback from the required 15' to 7' for the expansion of the existing building currently being utilized for a sign company located at 41 Bernard Lane. (See **Exhibit A** – Location Map, **Exhibit B** – Sketch Plan)

BACKGROUND:

The subject site is currently zoned CR (Commercial Retail) and fronts Veterans Memorial Bypass and Bernard Lane.

SURROUNDING LAND USES/ZONING:

	ZONING:	LAND USE:
NORTH:	CR (Commercial Retail)	Automotive & Allied Sales and Services
SOUTH:	CR (Commercial Retail)	Retail establishments
EAST:	CR (Commercial Retail)	Retail establishments
WEST	CR (Commercial Retail)	Retail establishments

The subject property is located in a commercial retail area surrounded by multiple types of businesses ranging from restaurants and shopping centers to automotive sales and services with the most immediate being Lowe's and an automotive service.

COMPREHENSIVE PLAN:

The subject site lies within the "Activity Centers" character area as identified by the City of Statesboro Future Development Map within the *City of Statesboro Comprehensive Plan*. The "Activity Centers" character areas are

identified as areas that incorporate (or will incorporate) a wide range of land uses, but have historically developed in a manner that is auto-oriented with an abundance of large surface parking lots. The long-term development pattern preferred for Activity Centers is to incorporate features that mitigate these expanses of surface parking by incorporating new landscaping, framing parking areas with street-oriented infill construction, and including features that support other transportation options.

Appropriate land uses for the established character area are: Retail, shopping centers, office, medical, services, multifamily and mixed use. The utilization of this existing business as a sign installation company is compatible with appropriate land uses recognized by the comprehensive plan.

The *Statesboro Comprehensive Plan* also lists strategies, which should be considered throughout the city, regardless of character area. One of those strategies is to encourage infill, new, and redevelopment close to the street. Additionally, the *Statesboro Comprehensive Plan* indicates that "development decisions should be fair and predictable, relying on well-crafted development regulations."

As illustrated in the *Comprehensive Plan*, the recently permitted retail use in this area is favorable and compatible permitting a reduction in side yard setbacks would allow the applicant to expand an existing business that is compatible with this character area. Other factors of the plan are reflected in the analysis of this report.

COMMUNITY FACILITIES (EXCEPT TRANSPORTATION):

The subject site is currently serviced by city utilities including water and sewer, sanitation, and public safety services.

ENVIRONMENTAL:

The subject property does contain wetlands and is not located in a special flood hazard area. Any potential issues will be resolved during the permitting phase.

ANALYSIS:

The subject site, currently zoned CR (Commercial Retail), consists of an existing building being utilized as a sign company. The property owner intends to add 625 square foot to the existing 3125 square foot building. Currently, the existing building is approximately 19' from the side property line abutting the automotive service business, as required by section 1003 of the *Statesboro Zoning Ordinance*. The proposed expansion of the building would encroach the required setback by 8'; thus, necessitating the request to reduce the required setback to 7'.

Granting the proposed set back variance is not expected to have negative impact on traffic in this area. The existing parking exceeds the number of spaces required for the use and total square footage; therefore, no additional parking spaces will be required as a result of the additional proposed square footage.

In addition, Section 1801 of the *Statesboro Zoning Ordinance* lists the following four (4) factors that the Mayor and Council [could] consider to be true in its consideration of a variance request:

- (1) There are special conditions pertaining to the land or structure in question because of its size, shape, topography, or other physical characteristic and that condition is not common to other land or buildings in the general vicinity or in the same zoning district;**
 - o The subject site is small and irregularly shaped.
- (2) The special conditions and circumstances do not result from the actions of the applicant;**
 - o The Bernard Lane right of way intercepted a larger parcel that currently houses Lowe's, leaving a small irregularly shaped lot (the subject site). As such, the size and shape of the lot does not result from actions of the applicant.
- (3) The application of the ordinance to this particular piece of property would create an unnecessary hardship; and**
 - o The application of the ordinance to this property would deny the applicant the opportunity to expand upon their existing business.
 - o Given the small size and shape of the lot, the setback forces the building to the center of the lot, leaving very little room for reasonably sized building to conduct business and store materials.
- (4) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the zoning regulations.**
 - o This request, if granted, would not cause substantial detriment to the public good.
 - o Permitting this variance promotes storage of materials inside of the building rather than exterior of the building.

STAFF RECOMMENDATION:

Based on the factors of consideration for a variance given in Section 1801 and *the Comprehensive Plan*, approval of the requested variance is recommended with the following conditions:

- All accessory buildings must be removed and will be prohibited from the site.
- Outside storage is prohibited from the site.

PLANNING COMMISSION RECOMMENDATION:

Planning Commission voted 6-0 to recommend approval of the variance requested by Application V 13-08-01 with the following staff recommended conditions:

- All accessory buildings must be removed and will be prohibited from the site.
- Outside storage is prohibited from the site.

CITY COUNCIL:

September 17, 2013, City Council tabled the request to give the applicant and adjacent property owner time to resolve current issues.

(Please note: Unless otherwise stated in any formal motion by City Council, staff considers the conceptual site plan (Exhibit B) submitted on behalf of the applicant for this request to be illustrative only. Approval of the application does not constitute approval of any final building or site plan).

EXHIBIT A: LOCATION MAP

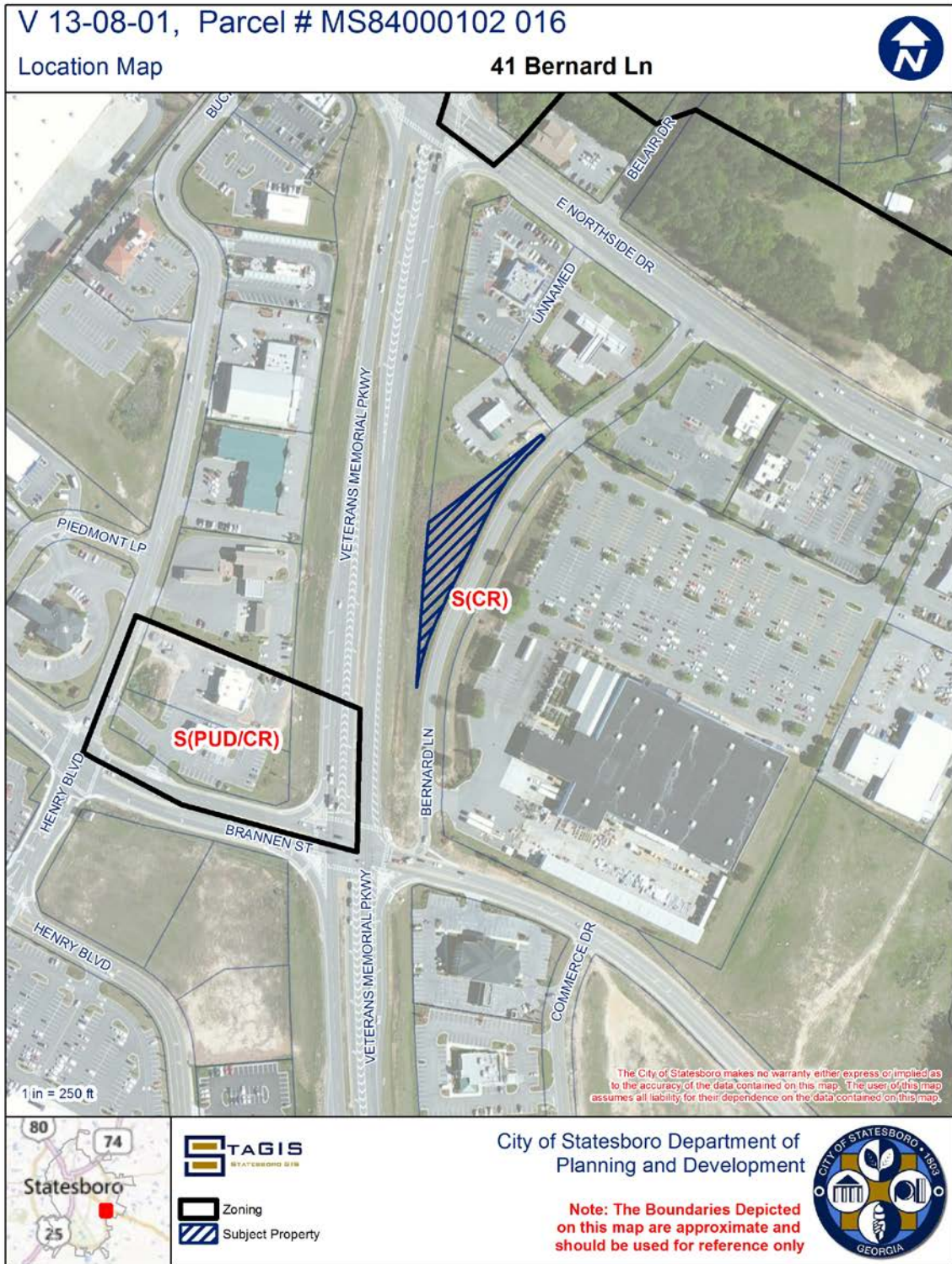
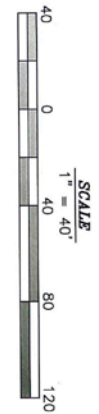
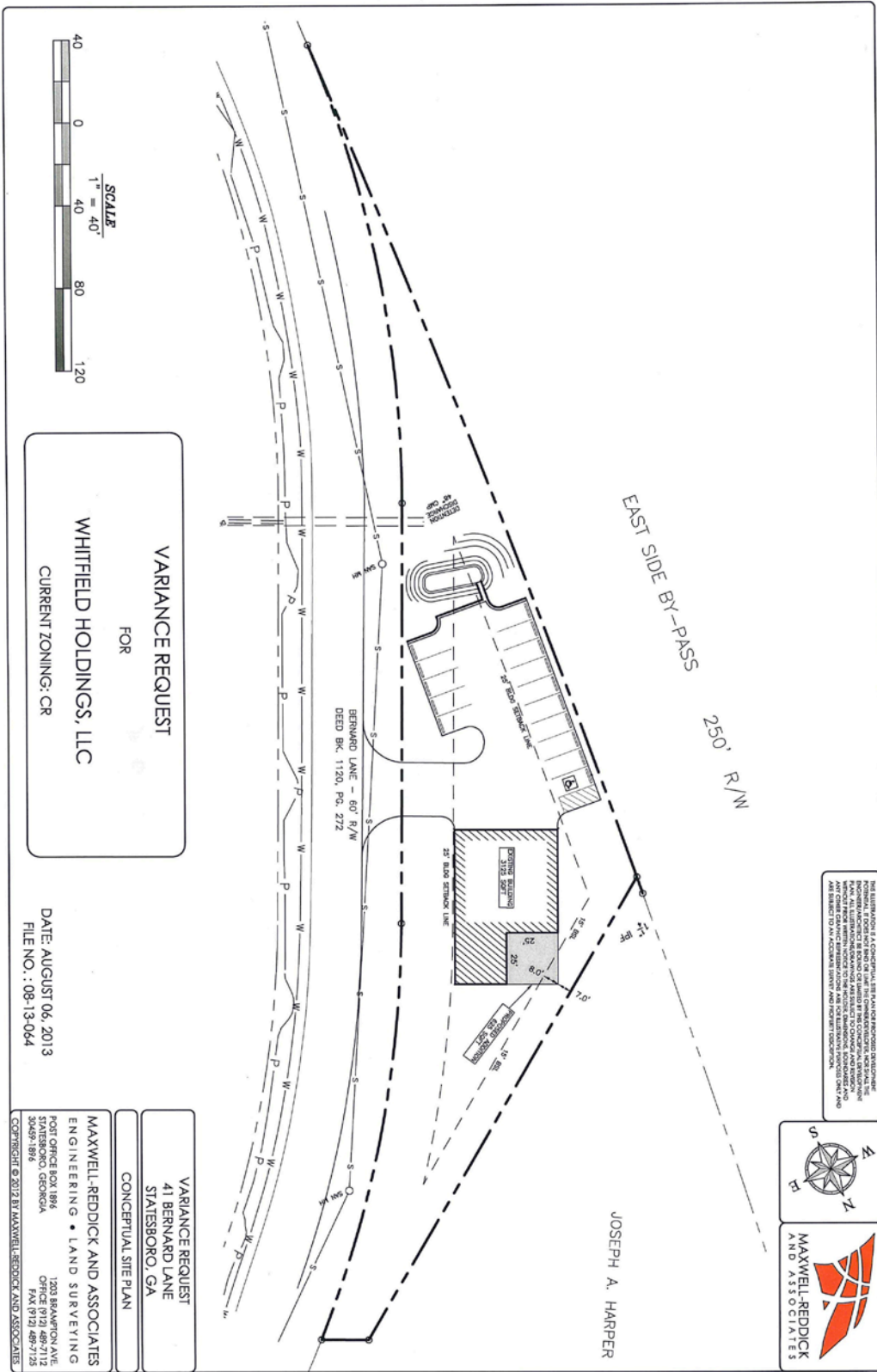


EXHIBIT B: SKETCH PLAN



VARIANCE REQUEST
FOR
WHITFIELD HOLDINGS, LLC
CURRENT ZONING: CR

DATE: AUGUST 06, 2013
FILE NO. : 08-13-064

VARIANCE REQUEST
41 BERNARD LANE
STATESBORO, GA

CONCEPTUAL SITE PLAN

MAXWELL-REDDICK AND ASSOCIATES
ENGINEERING • LAND SURVEYING

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JOSEPH A. HARPER

EXHIBIT C: PHOTOS OF THE SUBJECT PROPERTY AND YARD SETBACK



Figure 1: Subject Site. Rear of side setback.



Figure 2: Subject Site rear northwestern view.

EXHIBIT C: PHOTOS OF THE SUBJECT PROPERTY (CONT.)



Figure 3: Eastern view from back of lot (Lowes parking lot).



Figure 4: Western view from back of lot (Veteran's Memorial & strip mall)

EXHIBIT C: PHOTOS OF THE SUBJECT PROPERTY (CONT.)



Figure 5: Back of lot.



Figure 6: South view from front of property