

**THE CODE
OF THE CITY OF
STATHAM, GEORGIA**

Published in 2022 by Order of the City Council

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OFFICIALS

of the

CITY OF

STATHAM, GEORGIA

AT THE TIME OF THIS RECODIFICATION

Joe Piper
Mayor

Deborah Krause
Lee Patterson
Scott Penn
Hattie Thrasher
Gary Venable
City Council

Jody Campbell
City Attorney

Sandra Bennett
City Clerk

PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the City of Statham, Georgia.

Source materials used in the preparation of the Code were the 2006 Code, as supplemented through April 20, 2021, and ordinances subsequently adopted by the City Council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 2006 Code, as supplemented, and any subsequent ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately

to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

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SPECIAL ACTS	SA:1
CHARTER COMPARATIVE TABLE	CHTCT:1
RELATED LAWS COMPARATIVE TABLE	RLCT:1
SPECIAL ACTS COMPARATIVE TABLE	SACT:1
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STATE LAW REFERENCE TABLE	SLT:1
CHARTER INDEX	CHTi:1
RELATED LAWS INDEX	RLi:1
SPECIAL ACTS INDEX	SAi:1
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Indexes

The indexes have been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the indexes themselves which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up to date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up to date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions.

It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Mary Margaret Bielby, Code Attorney, and Ashlea Hernandez, Editor, of Municode, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Jody Campbell, City Attorney, and April Plank, City Accountant, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the City readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the City's affairs.

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PART I

CHARTER*

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***Editor's note**—Printed in this part is the City Charter, being 1967 Ga. Laws (Act No. 590), page 3326. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of citations to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. A consistent scheme of capitalization has also been used. Additions for clarity are indicated by brackets.

State law references—Home rule for municipalities, Ga. Const. art. IX, § II, ¶ II; Home Rule Act of 1965, O.C.G.A. § 36-35-1 et seq.

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ARTICLE I. CHARTER, DEFINITIONS, CITY LIMITS AND CORPORATE POWERS**Sec. 1.01. Charter.**

This Act shall constitute the whole Charter of the City of Statham, Georgia, repealing and replacing the Charter provided by an Act approved August 12, 1910 (1910 Ga. Laws, page 1165), as amended by an Act approved August 8, 1916 (1916 Ga. Laws, page 967) and an Act approved August 15, 1922 (1922 Ga. Laws, page 977). The City of Statham, Georgia, in the County of Barrow, and the inhabitants thereof, are hereby constituted and declared a body politic and corporate by the name and style of City of Statham, Georgia, and by that name shall have perpetual succession, may sue and be sued, plead and beimpleaded, in all the courts of law and equity, and in all actions whatsoever, and may have and use a common seal and change it at pleasure.

Sec. 1.02. Definitions.

As used in this Act, the following words and terms shall have the following meanings:

- (a) "City" shall mean the City of Statham, Georgia.
- (b) "Councilman" shall mean a person elected to the City Council as provided in this Act. "Member of the Council" shall mean the Mayor and each Councilman.
- (c) "Nonpartisan" shall mean without any designation of candidates and members or candidates of any state or national political party or organization.
- (d) "At large" shall mean the entire City, as distinguished from representation by wards or other districts.
- (e) "Public way" shall mean any land used by the public as a passageway, including, but not limited to, streets, roads, highways, expressways, freeways, boulevards, avenues, parkways, alleys, lanes, sidewalks, walks, bridges, viaducts, subways, underpasses, tunnels, and other thoroughfares, and including the rights-of-way of such public ways.
- (f) "Code" shall mean any publication or compilation of rules, regulations, specifications, standards, limitations, or requirements by an agency of the federal or State government, or by a municipality, or by a trade association or other organization generally recognized as an authority in its field of activity.
- (g) "Agency" shall mean any office, court, utility, board, commission, institution, or other organization in charge of or administering any public function or municipal affair of the City.
- (h) "Officer" shall mean and include the Mayor, Councilmen, members of boards and commissions, and any other persons classified as public officers by the laws or judicial decisions of this State. An "officer" as herein defined shall fill an "office," and an "employee" shall fill a "position of employment."
- (i) "Elector" shall mean a person residing within the City who is qualified to vote therein.
- (j) The masculine shall include the feminine, and the singular shall include the plural and vice versa.
- (k) The word "shall" is mandatory; "may" is permissive.

Sec. 1.03. City limits.

The boundaries of the City shall be as follows: "Beginning at a concrete marker located at what was the center of the old Seaboard Airline Railway depot and extending one mile in all directions."

Sec. 1.04. Corporate powers.

The corporate powers of the City, to be exercised by the City Council, shall include the following:

- (a) To levy and to provide for the assessment and collection of taxes on all property subject to taxation.
- (b) To levy and to provide for the collection of license taxes on privileges, occupations, trades, and professions. A collection fee of \$1.00 may be added to each such license tax.
- (c) To levy and to provide for the collection of registration fees on automobiles and trucks owned by residents of the City, and also on automobiles and trucks owned by nonresidents and operated within the City with any regularity. Such registration fees on trucks or automobiles may be graduated according to their tonnage capacities, weight or horsepower.
- (d) To appropriate and borrow money to provide for payment of the debts of the City, and to authorize the expenditure of money for any municipal purpose or matter of national or State interest.
- (e) To acquire, dispose of, and hold in trust or otherwise any real, personal or mixed property, inside or outside the City.
- (f) To condemn property, inside or outside the City, for present or future use under the applicable provisions of Title 36 of the Code of Georgia, 1933, or under other applicable public acts.
- (g) To acquire, operate and dispose of public utilities, subject to the provisions of applicable general laws.
- (h) To grant franchises or make contracts for public utilities and public services. The Council may prescribe the rates, fares, regulations, and standards and conditions of service applicable to the service to be provided by the franchise grantee or contractor; provided, however, nothing in this subsection shall be construed to apply to public utility companies regulated by the Public Service Commission.
- (i) To regulate the rates and services of public utilities in so far as not in conflict with such regulation by the Public Service Commission or other similar State or federal agency having jurisdiction in such matters.
- (j) To provide for the acquisition, construction, building, operation and maintenance of public ways, parks, public grounds, cemeteries, markets and market houses, public buildings, libraries, sewers, drains, sewage treatment, airports, hospitals, and charitable, educational, recreational, sport, curative, corrective, detentional, penal and medical institutions, agencies and facilities, and any other public improvements, inside or outside the City, and to regulate the use thereof, and for such purposes property may be taken under the applicable provisions of Title 36 of the Code of Georgia of 1933 or other applicable public acts.

- (k) To require real estate owners to repair and maintain in a safe condition the sidewalks adjoining their lots of lands. A real estate owner shall be liable for any injury or damage sustained by reason of a defective sidewalk adjoining his lot or land and the City shall not be liable for any such injury or damage, if a City officer or employee, authorized to do so by the City Council, at least ten days prior to occurrence of the injury or damage served him with personal notice or sent a notice by ordinary mail to the owner of record that the sidewalk should be repaired and placed in a safe condition.
- (l) To prescribe standards of health and sanitation and to provide for the enforcement of such standards.
- (m) To provide for the collection and disposal of garbage, rubbish and refuse. Charges may be imposed to cover the costs of such services which, if unpaid, shall constitute a lien against any property of persons served, which lien shall be second in priority only to liens for County and City property taxes and shall be enforceable in the same manner and under the same remedies as a lien for City property taxes.
- (n) To define, regulate and prohibit any act, practice, conduct, or use of property, detrimental, or likely to be detrimental, to the health, morals, safety, security, peace, convenience, or general welfare of inhabitants of the City.
- (o) To establish minimum standards for and to regulate building construction and repair, electrical wiring and equipment, gas installation and equipment, plumbing, and housing for the health, sanitation, cleanliness and safety of inhabitants of the City, and to provide for the enforcement of such standards; provided, however, no electrical standards or regulations shall be construed to apply to communications equipment installations made by or for a utility rendering common carrier communication services and required by it to be utilized as a part of its plant in the rendition of its duly authorized services to the public.
- (p) To regulate and license weights and measures.
- (q) To provide that persons given jail sentences in the Mayor's Court shall work out such sentences on the streets or any public works of the City or in a City workhouse established for this purpose, as provided by ordinance; or the Council may provide for the commitment of City prisoners to the County workhouse or jail by agreement with the appropriate County officers.
- (r) To regulate and license or prohibit the keeping or running at large of animals and fowls and to provide for the impoundment of same in violation of any ordinance or lawful order and for their disposition, by sale, gift, or humane killing, when not redeemed as provided by ordinance.
- (s) To order any railroad operating within the City to construct viaducts or underpasses to eliminate grade crossings or to pave and maintain grade crossings in a smooth and safe condition. The City shall pay the costs of constructing approaches to the railroad's right-of-way line. Each day's failure of the railroad to comply with such an order after a reasonable time has elapsed shall be a misdemeanor and a separate offense and shall be punished by a fine not to exceed \$50.00 in the Mayor's Court for each offense. If the railroad refuses to do such work, the City may have the work done and may collect the costs thereof from the railroad by the use of all legal and equitable remedies available under the law.

- (t) To regulate and license vehicles operated for hire in the City, to limit the number of such vehicles, to require the operators thereof to be licensed, to require public liability insurance of such vehicles in amounts prescribed by ordinance, and to regulate and rent parking spaces in public ways for the use of such vehicles.
- (u) To levy and provide for the collection of special assessments for public improvements.
- (v) To provide that the violation of any ordinance, rule, regulation or order shall be punishable as a misdemeanor.
- (w) To exercise and enjoy all other powers, functions, rights, privileges and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, morals, and general welfare of the City and its inhabitants, and all implied powers necessary to carry into execution all powers granted in the Act as fully and completely as if such powers were fully enumerated herein. No enumeration of particular powers in this Act shall be held to be exclusive of others nor restrictive of general words and phrases granting powers but shall be held to be in addition to such powers unless expressly prohibited to cities under the constitution or applicable public acts of the State.
- (x) To relocate public ways and streets by ordinance or resolution.
- (y) To vacate and convey, by sale or exchange, all that property which is described as follows:
 "All that tract or parcel of land lying and being in the City of Statham, 1742nd Militia District, G. M., County of Barrow, and more particularly described as follows:

Beginning at the northwestern intersection of the right-of-way of Railroad Street (formerly Third Avenue) and the right-of-way of Fourth Street (formerly Chase Street) and running thence along the western right-of-way of said Fourth Street north 34 degrees 45 minutes east 150 feet to a point; thence south 55 degrees 41 minutes east 100 feet to an iron pin; thence south 34 degrees 45 minutes west 150 feet to a point; thence north 55 degrees 41 minutes west 100 feet to the point of beginning, 'in exchange for all that property which is described as follows: 'All that tract or parcel of land lying and being in the City of Statham, 1742nd Militia District G. M., Barrow County, Georgia, and more particularly described as follows: Beginning at a point located south 55 degrees 41 minutes east 100 feet from the northwestern intersection of the right-of-way of Railroad Street and Fourth Street and from said point of beginning running thence south 34 degrees 45 minutes west 74 feet to a point; thence south 55 degrees 41 minutes east 68 feet to a point; thence north 34 degrees 45 minutes east 24 feet to a point; thence south 55 degrees 41 minutes east 82 feet to a point; thence south 34 degrees 45 minutes west 8 feet to a point; thence south 55 degrees 41 minutes east 25 feet to a point; thence north 34 degrees 45 minutes east 8 feet to a point; thence south 55 degrees 41 minutes east 7 feet to an iron pin on the existing northern right-of-way of Railroad Street; thence north 34 degrees 45 minutes east 50 feet to a point; thence north 55 degrees 41 minutes west 180 feet to the point of beginning."

(1969 Ga. Laws (Act No. 114), page 2237, § 1; 1969 Ga. Laws (Act No. 82), page 2240, § 1)

Sec. 1.05. Ordinances.

All ordinances, by-laws, rules and regulations now in force in said City, not inconsistent with this Act, are hereby declared valid and of force until amended or repealed by said Mayor and Councilmen of said City.

ARTICLE II. REGISTRATION OF ELECTORS; MAYOR AND COUNCIL**Sec. 2.01. Registration of electors.**

Any qualified and registered elector of Barrow County who has resided within the corporate limits of the City of Statham at least six months immediately preceding any City election shall be deemed to be a qualified and registered elector of the City of Statham for any such election; provided, however, that any such elector must have registered to vote in Barrow County at least 30 days prior to the date of any such City election in order to be eligible to vote in such election.

Sec. 2.02. Voting list.

To carry out the provisions of Section 2.01, the City Clerk of the City of Statham, or in his absence or disqualification for any reason, any City official or employee so designated by the City Council shall be responsible for obtaining a voting list of qualified and registered electors of the City of Statham from the Board of Registrars of Barrow County. Said voting list shall be obtained by said City Clerk or other such City officials or employee from said Board of Registrars within 20 days immediately preceding any City election and shall be complete and accurate as of the 30th day preceding such election.

Sec. 2.03. Compensation to County.

The City of Statham shall compensate Barrow County for the work of the Board or [of] Registrars of said County in preparing the voting list for the City of Statham in accordance with the provisions of Code Section 34-636, Subsection (b), of the Code of Georgia of 1933.

Sec. 2.04. Election of Mayor and Councilmen.

On the second Monday in June 1967, a nonpartisan election shall be conducted by the City Election Managers, at the same hours and places for holding general elections, to elect a Mayor and five Councilmen from the City at large. Any elector, who is 21 years of age or over, may be qualified as a candidate for Mayor or Councilman by submitting to the City Clerk a notice of his candidacy at least 15 days prior to said election and by the payment of a qualifying fee [equal to three percent of the total gross salary of the office paid in the preceding calendar year including all supplements authorized by law in the case of candidates for Mayor and candidates for Councilman] of \$25.00 in the case of candidates for Mayor and \$10.00 in the case of candidates for Councilman. Said qualifying fees shall be paid to the City Clerk at the time the notice of candidacy is filed, and said City Clerk shall issue a receipt therefor. Said qualifying fees shall be paid into the general funds of the City by said City Clerk.

Editor's note—Qualifying fee established by O.C.G.A. § 21-2-131(a) overrules prior Charter provisions. Qualifying fee mandated by State law has been substituted in its place.

At said election held on the second Monday in June 1967, each elector shall be entitled to vote for one candidate for Mayor and five candidates for Councilman. The candidate for Mayor receiving the highest number of votes, and the two candidates for Councilman receiving the highest number of votes shall be elected for terms of four years. The three candidates for Councilman receiving the next highest number of votes shall be elected for initial terms of two years, but all subsequent terms shall be four years as hereinafter provided.

On the second Monday in June 1969, and each four years thereafter, an election shall be held for the election of three Councilmen, and on the second Monday in June 1971, and each four years thereafter, an election shall be held for the election of the Mayor and two Councilmen. Said elections shall be held in the same manner and under the same conditions as the election held on the second Monday in June 1967, except that each elector shall vote for three Councilmen or for Mayor and two Councilmen, as the case may be, in such future elections. No informality shall invalidate any such election provided it is conducted fairly and in substantial conformity with the requirements of this Act and the general laws of the State.

The terms of office of the Mayor and Councilmen shall begin at 12:01 a.m. on the first Monday in July following their election, and they shall serve until their successors have been elected and qualified. The terms of office of the present Mayor and all Councilmen of the City shall end at 12:01 a.m. on the first Monday in July 1967.

Editor's note—This schedule has been overruled by O.C.G.A. § 21-2-541.1, which provides that the terms of office shall begin at the first organization meeting of the new year following their election.

Sec. 2.05. Restrictions on candidates and their supporters.

If a candidate or any person in his behalf directly or indirectly gives or promises to any person or persons any office, employment, money, benefit, or anything of value in connection with his candidacy, upon conviction thereof he shall be punished by a fine of not more than \$100.00, or by imprisonment not to exceed one year, or by both such fine and imprisonment, and shall thereafter be ineligible to hold any office or position of employment in the City government for a period of five years.

Sec. 2.06. City Council.

The Mayor and five Councilmen shall compose the City Council, in which is vested all corporate legislative and other powers of the City, except as otherwise provided in this Act. The Council shall be the final judge of the election and qualifications of its members. The Council shall hold regular public meetings at a stated time and place, as provided by ordinance. The Council shall meet in special session on written call of the Mayor or any two Councilmen and served on the other members personally or left at their residences at least 12 hours in advance of the meeting, but such notice of a special meeting shall not be required if the Mayor and all Councilmen are present when the special meeting is called. Only the business stated in the written call may be transacted at a special meeting, except by unanimous consent of all members of the Council. The Council shall exercise its powers only in public meetings. A majority of the Council shall constitute a quorum. The Council may by ordinance adopt rules and by-laws to govern the conduct of its business, including procedures and penalties for compelling the attendance of absent members. The Council may subpoena and examine witnesses, to order the production of books and papers, and to have the same powers as a Circuit Court to punish for refusal to obey such an order or subpoena, or for disorderly or contemptuous behavior in the presence of the Council.

Sec. 2.07. Compensation; expenses.

The Council may determine by ordinance the annual salary of the Mayor and Councilmen, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of

the Mayor and Councilmen following the next regular election, provided that such regular election follows the adoption of such ordinance by at least six months. The Mayor and Councilmen shall receive their actual and necessary expenses incurred in the performance of their duties of office.

Sec. 2.08. Powers and duties of Mayor.

(a) *Mayor as presiding officer.* The Mayor shall preside at meetings of the Council, shall have a vote only in case of a tie, shall be the ceremonial head of the City, shall sign ordinances and resolutions on their final passage, shall sign deeds, bonds and contracts when authorized by the Council to do so, shall be the officer to accept process against the City, and shall perform other duties imposed by this Act and ordinances not inconsistent with this Act.

(b) *Mayor's power to veto legislation.* Within 96 hours after the adjournment of any Council meeting, the City Clerk shall present to the Mayor the record of proceedings of the meeting and all ordinances and resolutions adopted at the meeting. The Mayor, within seven days of receipt of an ordinance or resolution, shall return it to the City Clerk with or without his approval, or with his veto. If an ordinance or resolution is vetoed, the Mayor shall attach a written statement explaining the reasons for his veto. Ordinances or resolutions vetoed by the Mayor shall be considered at the next regular meeting of the Council, and the Council may pass the ordinance over the veto by the affirmative vote of four of its members. The effective date of an ordinance passed over the Mayor's veto shall not be less than 15 days after the date of final passage. The Mayor's veto power shall extend to disapproving or reducing individual appropriation items in the budget or any ordinance or resolution, except appropriations for auditing or investigating any part of the executive branch. The Mayor shall not have the power to veto any emergency ordinance.

(c) *City Administrator.* The Mayor may appoint a City Administrator who shall be approved by the Council. The City Administrator may only be removed upon recommendation of the Mayor by a vote of the Council. Said City Administrator shall be the principal managerial aide to the Mayor and shall perform such duties as may be assigned by the Mayor.

(Home Rule Amendment, 6-18-2019)

Sec. 2.09. Vice-Mayor.

The Council at the first regular meeting, after the newly elected Councilmen have taken office following each election, shall elect from its membership a Vice-Mayor for a term of two years. In the event that no decision is reached at such first regular meeting, the Council shall, within five ballots to be taken within ten days following such meeting, elect the Vice-Mayor; otherwise, the Councilman who received the highest number of votes when he was last elected shall become Vice-Mayor. The Vice-Mayor shall perform the duties of the Mayor during his absence or inability to act and shall fill out any unexpired term in the office of Mayor, in which case a new Vice-Mayor shall be elected by majority vote of the Council.

Sec. 2.10. Vacancy in office of Mayor or Councilman.

A vacancy shall exist if the Mayor or a Councilman resigns, dies, moves his residence from the City, has been continuously disabled for a period of six months so as to prevent him from discharging the

duties of his office, or is convicted of malfeasance or misfeasance in office, or felony, a violation of the Act or a violation of the election laws of the State. The Council shall appoint a qualified person to fill such a vacancy for the remainder of the unexpired term, provided such unexpired term does not exceed six months. If a tie vote by the Council to fill a vacancy is unbroken for 15 days, the Mayor, or Vice-Mayor in case of a vacancy in the office of Mayor, shall appoint a qualified person to fill the vacancy. If a vacancy occurs in the office of Mayor or Councilman more than six months before the expiration of the term of office, a special election shall be held by the City Election Managers on the third Tuesday following occurrence of the vacancy, at which election a Mayor or Councilman, as the case may be, shall be elected to serve the remainder of the unexpired term of the vacant office. Candidates in such a special election shall be nominated as provided in Section 2.04 of this Act.

Sec. 2.11. Restrictions on Councilmen.

The Council shall act in all matters as a body, and no member shall seek individually to influence the official acts of the Mayor or any other officer or employee of the City, or to direct or request the appointment of any person to, or his removal from, any office or position of employment, or to interfere in any way with the performance of duties by the Mayor or any other officer or employee. The Council shall deal with the various agencies, officers and employees of the City, except boards or commissions authorized by this Act, solely through the Mayor, and shall not give orders to any subordinates of the Mayor, either publicly or privately. Nothing herein contained shall prevent the Council from conducting such inquiries into the operation of the City government and the conduct of the City's affairs as it may deem necessary. The office of any Councilman violating any provision of this section shall immediately become vacant upon his conviction in a court of competent jurisdiction.

Sec. 2.12. City Clerk.

The Mayor shall appoint a City Clerk who shall be approved by the Council. The City Clerk shall be responsible for keeping and preserving the City seal and all records of the Council; attending meetings of the Council and keeping a journal of its proceedings at such meetings, including the names of members present and absent, the vote of each member on each question, each motion considered, and the title of each resolution or ordinance considered; preparing the certifying copies of official records in his office, for which fees may be prescribed by ordinances; and performing such other duties as may be required by the Council or Mayor. The City Clerk may only be removed upon recommendation of the Mayor by a vote of the Council.

(Home Rule Amendment, 6-18-2019)

Sec. 2.13. City legislation.

Any action of the Council having a regulatory or penal effect, relating to revenue or the expenditure of money, or required to be done by ordinance under this Act, shall be done only by ordinance. Each motion, resolution and ordinance shall be in written form before being introduced. The affirmative vote of at least three members of the Council shall be required to pass any motion, resolution or ordinance, including two readings in the case of an ordinance. Each ordinance, before being adopted, shall be read at two meetings not less than one week apart, and shall take effect ten days after its adoption, except that, where an emergency exists and the public safety and welfare require it, an ordinance containing a full

statement of the facts and reasons for the emergency may be made effective upon its adoption if approved by at least four members of the Council. No ordinance relating to a franchise, exclusive contract, or other special privilege shall be passed as an emergency ordinance. Amendments of ordinances and resolutions or parts thereof shall be accomplished only by setting forth the complete section, sections, [or] subsections in their amended form. A code may be adopted by an ordinance which contains only a reference to its title, date and issuing organization, and the City Clerk shall file a copy of the code in his office. The City shall furnish a copy of any such code to any person for a reasonable fee. After adoption of a code or ordinance, as provided in this section, the City Clerk shall number ordinances consecutively in the order of their final adoption and shall copy them into a permanent record book used solely for this purpose and the City Clerk shall do likewise for resolutions, using a separate series of numbers and a separate record book. The original copies of all ordinances, resolutions and motions shall be filed and preserved by the City Clerk. An abstract of the essential provisions of each ordinance shall be posted in a public place within ten days after its adoption, except that only the title shall be so posted of a code adopted by reference as provided in this section.

Sec. 2.14. Rules and regulations.

The Council may by ordinance authorize officers and agencies of the City to promulgate formal rules and regulations within their respective jurisdictions, subject to such restrictions and standards of guidance as the Council may prescribe. No such formal rule or regulation shall take effect until it is filed with the City Clerk, who shall file and preserve the original copy in his office. Amendments of such rules and regulations shall be accomplished only by setting forth complete sections or subsections in their amended form.

ARTICLE III. ORGANIZATION AND PERSONNEL

Sec. 3.01. Organization.

The City government shall be organized into a Department of General Government, Department of Parks and Recreation, Police Department, Fire Department, Department of Public Works and Planning Department as provided in Section 3.02, unless and until otherwise provided by ordinance, but no such ordinance shall be adopted until after the Council has received and considered the written recommendations of the Mayor. The Council by such ordinances may establish, abolish, merge, or consolidate offices, positions or employment, departments, and agencies of the City, may provide that the same person shall fill any number of offices and positions of employment, and may transfer or change the functions and duties of offices, positions of employment, departments, and agencies of the City, subject to the following exceptions: all officers and employees of the City, except as otherwise specifically provided in this Act, shall be appointed and removed by and shall be under the direction and control of the Mayor.

(2019 Ga. Laws, page 18)

Sec. 3.02. Planning.

(a) *Planning Director.* There shall be a Planning Department headed by a director who shall be appointed by the Mayor with the approval of the Council. The Planning Director shall have the following responsibilities:

- (1) To advise the Mayor and Council on any matter affecting the physical development of the City;
- (2) To formulate and recommend to the Mayor and Council a comprehensive plan and modifications thereof;
- (3) To review and make recommendations regarding proposed Council action implementing said comprehensive plan pursuant to Subsection (d) of this section; and
- (4) To advise the City Planning Board in the exercise of its responsibilities and in connection therewith to provide necessary staff assistance.

(b) *City Planning Board.* There shall be a City Planning Board consisting of five members appointed by the Council for terms of three years from among the qualified voters of the City. Members of the Board shall hold no other City office. The board may make recommendations to the Mayor and the City Council on all matters affecting the physical development of the City, shall be consulted on the comprehensive plan and the implementation thereof as provided in Subsections (c) and (d) of this section, and shall exercise all other responsibilities as may be provided by law.

(c) *Comprehensive plan.* The Council shall adopt, and may from time to time modify, a comprehensive plan setting forth in graphic and textual form policies to govern the future physical development of the City. Such plan may cover the entire City and all of its functions and services or may consist of a combination of plans governing specific functions and services or specific geographic areas which together cover the entire City and all of its functions and services.

Upon receipt from the Mayor of a proposed comprehensive plan or proposed modification of the existing plan, the Council shall refer such proposal to the City Planning Board, which shall within a time specified by the Council report its recommendations thereon. After receipt of the recommendations of the Planning Board, the Council shall hold a public hearing on the proposed comprehensive plan or modification thereof and shall thereafter adopt it by resolution with or without amendment.

The comprehensive plan shall serve as a guide to all future Council action concerning land use and development regulations, urban renewal programs and expenditures for capital improvements.

(d) *Implementation of the comprehensive plan.* The Council may by ordinance adopt land use and development regulations, including, but not limited to, an official map and zoning and subdivision regulations.

The Council may by ordinance provide for redevelopment, rehabilitation, conservation and renewal programs for: (1) the alleviation or prevention of slums, obsolescence, blight or other conditions of deterioration, and (2) the achievement of the most appropriate use of land.

Before acting on any proposed ordinance concerning land use and development regulations, urban renewal or expenditures for capital improvements, where such ordinance refers to a matter covered by the comprehensive plan, the Council shall refer the proposal to the City Planning Board, which shall within

a time specified by the Council and prior to the public hearing on the proposed ordinance report its recommendations thereon. Upon adopting any such ordinance, the Council shall make findings and report on the relationship between the ordinance and the comprehensive plan and, in the event that the ordinance does not accord with the comprehensive plan, the plan shall be deemed to be amended in accordance with such findings and report.

(e) *Board of adjustment.* The Council shall by ordinance establish a Board of Adjustment and shall provide standards and procedures for such board to hear and determine appeals from administrative decisions, petitions for variances in the case of peculiar and unusual circumstances which would prevent the reasonable use of land and such other matters as may be required by the Council or by law.

(Ord. No. 19917-1, § 1, 9-17-2019)

Sec. 3.03. Administrative duties of Mayor.

The Mayor shall:

- (a) Be the executive head of the City government, responsible for the efficient and orderly administration of the City's affairs.
- (b) Be responsible for the enforcement of laws, rules and regulations, ordinances and franchises in the City, and the City Attorney shall take such legal actions as the Mayor may direct for such purposes.
- (c) Have the authority with the approval of Council to appoint and remove department heads; provided, however, that if the Mayor fails to appoint a department head, the Council may vote to appoint that department head.
- (d) Have authority to appoint, promote, demote, transfer, suspend and remove all officers and employees, except department heads, and to direct and control their work, except as otherwise provided in the Act.
- (e) Submit to the Council annual budgets, reports, and such other information as the Mayor may deem necessary or the Council may require. The Mayor shall have authority to make allotments of funds within the limits of appropriations and no expenditure shall be made without the Mayor's approval.
- (f) If no other employee is designated as purchasing agent, to act as purchasing agent for the City.

He may conduct inquiries and investigations into the conduct of the City's affairs and shall have such other powers and duties as may be provided by ordinances not inconsistent with this Act.

(Home Rule Amendment, 6-18-2019)

Sec. 3.04. City Attorney.

The Mayor shall appoint a City Attorney with the approval of Council, together with such Assistant City Attorneys as may be authorized by ordinance. The City Attorney shall be responsible for repre-

senting and defending the City in all litigation in which the City is a part, shall be the prosecuting officer in the Mayor's Court, and shall advise the Council, Mayor and other officers and employees of the City concerning legal aspects of the City's affairs.

(Home Rule Amendment, 6-18-2019)

Sec. 3.05. Mayor's Court.

A Mayor's Court, presided over by the Mayor, or in his absence, by the Vice-Mayor, is hereby established, which shall have jurisdiction over violations of this Act and ordinances of the City. The Mayor's Court shall also have concurrent jurisdiction with that of a justice of the peace over offenses against the criminal laws of the State committed within the City. The Mayor, in his capacity as judge of said court, shall have authority to impose fines, costs, forfeitures, and imprisonment in a jail or workhouse, as provided in this Act and by ordinance, and except as provided in this Act, his authority and powers and the procedure in the Mayor's Court shall be the same as provided by State law for a justice of the peace. Appeals from the Mayor's Court shall be to the Superior Court of Barrow County in the same manner as appeals from the courts of ordinary. Warrants, subpoenas and other processes of the Mayor's Court shall be executed by police officers of the City, who for such purposes shall have the same powers and authority of a Sheriff in executing process of a Superior Court. The City Clerk shall act as Clerk of the Mayor's Court.

Sec. 3.06. Other officers and employees.

After receiving the written recommendations of the Mayor, the Council may establish by ordinance offices and positions of employment and may abolish, combine or modify them in accordance with such recommendations. The powers and duties of such offices and positions of employment may be defined by ordinance, and if not defined by ordinance shall be defined in formal rules and regulations issued by the Mayor as provided in Section 2.14 of this Act, but in any event the Mayor may require officers and employees of the City, except those appointed by and accountable to the Council, to perform such additional duties as may be considered necessary by him for the proper and efficient conduct of the City's affairs. Public utilities owned or operated by the City may be under the supervision of the Mayor and employees appointed by him or may be under boards or commissions appointed by and answerable to the Council, as provided by ordinance. The salaries of all employees of the City shall be fixed by ordinance under a pay plan applying uniformly to all employees having similar responsibilities and doing like work.

Sec. 3.07. Appointment, suspension and removal of employees.

All employees of the City, except as otherwise provided in this Act, shall be appointed, promoted, demoted, transferred, suspended and removed by the Mayor. During a suspension an employee's salary may be reduced or eliminated, as determined by the Mayor. Before suspending for more than 30 days or removing an employee, the Mayor shall serve the employee with a written notice of intention to suspend or remove him, containing a clear statement of the grounds for such proposed action and notification that the employee may appeal to the City Council by filing, within ten days, with the City Clerk written notice of his intention to do so. The decisions of the City Council in cases of such appeals by employees shall be final.

Sec. 3.08. Oath of office.

Before a person takes any office in the City government, he shall take, subscribe to, and file with the City Clerk the following oath or affirmation:

"I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of Georgia; that I will, in all respects, observe the provisions of the Charter and ordinances of the City of Statham, and that I will faithfully discharge the duties of the office of _____."

Sec. 3.09. Official bond.

The Mayor and every officer, agent, and employee of the City having duties embracing the receipt, disbursement, custody, or handling of money, and other officers and employees as may be required by ordinance, shall give a fidelity bond or faithful performance bond, as provided by ordinance, with some surety company authorized to do business in the State of Georgia as surety, in such amount as shall be prescribed by ordinance. All such bonds and sureties thereto shall be subject to approval by the Council. The cost of such bonds shall be paid by the City. All such bonds shall be kept in the custody of the City Clerk, except that the City Clerk's bond shall be in the custody of the Mayor.

Sec. 3.10. Political activity prohibited.

No officer or employee of the City, other than the Mayor and Councilmen, shall continue in the employment of the City after becoming a candidate for nomination or election to any public office. No person shall directly or indirectly give, render, or pay any money, service or other valuable consideration to any person for or on account of or in connection with any test, appointment, proposed appointment, promotion, or proposed promotion to any office or position of the City government. No person shall orally, by letter, or otherwise solicit or be in any manner concerned in soliciting any assessment, subscription or contribution for any political party or political purpose from any officer or employee of the City. An officer or employee of the City, other than the Mayor and Councilmen, shall not make any contribution to the campaign funds of any candidate in any City election, and shall not take any part in the management, affairs or political campaign of any City election, other than in the exercise of his rights as a citizen to express his opinions and to cast his vote. Any person who by himself or with others willfully or corruptly violates any provision of this section shall be guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not more than \$50.00, or by imprisonment for not more than one year, or by both such fine and imprisonment. Any person who is convicted under this section shall be ineligible to hold any office or position of employment in the City government for a period of five years thereafter, and if he be an officer or employee at the time of conviction, shall immediately forfeit and vacate the office or position he holds.

ARTICLE IV. FISCAL ADMINISTRATION

Sec. 4.01. Fiscal year.

The fiscal year of the City government shall begin on July 1 and shall end on June 30 of the succeeding year, but another fiscal year may be fixed by ordinance for the entire City government or for any utility.

Sec. 4.02. Mayor to submit annual budget.

On or before a date fixed by the Council but not later than 45 days prior to the beginning of each fiscal year, the Mayor shall submit to the Council a proposed budget for the next fiscal year, showing separately for the general fund, each utility, and each other fund the following: (a) revenue and expenditures during the preceding fiscal year, (b) appropriations and estimated revenue and expenditures for the current fiscal year, (c) estimated revenue and recommended expenditures for the next fiscal year, (d) a comparative statement of the assets, liabilities, reserves, and surplus at the end of the preceding year and estimated assets, liabilities, reserves and surplus at the end of the current fiscal year, and (e) such other information and data, such as work programs and unit costs, in justification of recommended expenditures, as may be considered necessary by the Mayor or requested by the Council. The Mayor may recommend and estimate additional revenue measures, providing such estimates are separated clearly from normal revenue estimates. The budget shall be accompanied by a message from the Mayor containing a statement of the general fiscal policies of the City, the important features of the budget, explanations of major changes recommended for the next fiscal year, a general summary of the budget and such other comments and information as he may deem pertinent. A sufficient number of copies of the Mayor's message shall be reproduced to furnish a copy to any person desiring one, at cost of reproduction, and a copy of the budget in full shall be filed with the Council and furnished to each Councilman.

Sec. 4.03. Public hearing.

After receiving the budget from the Mayor, the Council shall fix a time and place for a public hearing thereon and shall cause a public notice thereof to be posted at a public place designated by the Council at least ten days in advance of the date of the hearing. The public hearing shall be held before the Council at the stated time and place, and all persons present shall be given an opportunity to be heard.

Sec. 4.04. Action by Council on budget.

After the public hearing and before the beginning of the ensuing fiscal year the Council shall adopt an appropriation ordinance, based on the Mayor's budget with such modifications as the Council considers necessary or desirable. Appropriations need not be in more detail than a lump sum for each department and agency. The Council shall not make any appropriations in excess of estimated revenue, except to provide for an actual emergency threatening the health, property or lives of the inhabitants of the City; providing the Council unanimously agrees there is such an emergency. If emergency conditions prevent the adoption of an appropriation ordinance before the beginning of the new fiscal year, the appropriations for the last fiscal year shall become the appropriations for the new fiscal year, subject to amendment as provided in this section. Amendments may be made to the original appropriation ordinance at any time during a current fiscal year after a public hearing before the Council on five days' notice posted at a public place designated by the City Council, provided that increased appropriations may be made only after the Mayor has certified in writing that a sufficient amount of unappropriated revenue will be available, except for emergency appropriations as provided above. Any portion of an annual appropriation remaining unexpended and unencumbered at the close of a fiscal year shall lapse and be credited to the general fund, except that any balance remaining in any other fund at the end of a fiscal year may remain to the credit of that fund and be subject to further appropriation. At the end of each month, the Mayor shall submit a detailed budget report to the Council, showing estimated and actual receipts and

expenditures or encumbrances for that month and the fiscal year to the end of that month, as well as the amount encumbered or expended in excess of any of the itemized estimates of expenditures supporting the appropriations.

Sec. 4.05. Allotments.

The Mayor shall have authority to make periodic allotments of appropriated funds, and no contracts or purchases, except those made by the Council, may be made in excess of the amount allotted by the Mayor for any allotment period. In no event may contracts or purchases be made in excess of appropriations. Any expenditures except for salaries and wages may be reduced or eliminated through such allotment control.

Sec. 4.06. Centralized purchasing.

The City Council may by ordinance establish contracting and purchasing procedures; provided, however, that no contract with the City shall be binding on the City unless:

1. It is in writing;
2. It is drawn by or submitted and reviewed by the City Attorney, and as a matter of course, is signed by the City Attorney to indicate approval of the form;
3. It is reviewed as to substance by the Mayor (or the Mayor's designee) and the director of the department most affected by the contract, signed by such director to indicate approval as to substance, and signed by the Mayor;
4. If it involves the expenditure of more than \$25,000.00, it is authorized by the City Council, and such approval is entered in the minutes; and
5. It is attested to by the City Clerk.

(Ord. No. 150217-1, § 4.06, 2-17-2015)

Sec. 4.07. Sale of City property.

The Mayor may sell any City property which is obsolete, surplus or unusable, if the acquisition cost of such property did not exceed \$500.00, without taking bids, but sealed bids shall be taken or a public auction shall be held for any sale of property having an acquisition cost of more than \$500.00, provided that any sale of real estate shall be subject to approval by the Council.

Editor's note—Although not specifically overruled, there are additional requirements imposed upon the City of property valued above \$500.00 pursuant to O.C.G.A. § 36-37-3.

Sec. 4.08. Annual audit.

The Council shall employ a certified public accountant to make an annual audit of all financial books and records of the City. The accountant shall file his report with the Council, at a time agreed to between him and the Council, and shall prepare a summary of the report which shall be posted in a public place designated by the City Council.

Sec. 4.09. Property taxes.

All property subject to taxation for State or County purposes, including the capital stock of merchants and public service companies, assessed as of January 10 in each year, shall be subject to the property tax levied by the City. The Council by ordinance may elect to use the County assessment or may provide for an independent City assessment as provided by Georgia law. If an independent City assessment is made, a Board of Equalization, consisting of three persons appointed by the Council, with compensation fixed by ordinance, shall hear appeals of taxpayers taken within ten days after the City assessor has sent a notice by ordinary mail of a new or increased assessment; provided that such notice shall not be required nor may appeals to be taken in the case of initial City assessments that are the same as County assessments. Except as otherwise provided in this section, appeals involving City property assessments may be taken as provided by general law. The Board of Equalization may increase or decrease the assessment of all property of the same class by a uniform percentage, in which case individual notices shall not be mailed but a notice of such action shall be published once in the official City newspaper; such a blanket increase or decrease shall not be subject to appeal. The authority and duties of such City assessing personnel shall be the same as those provided by general law for County assessing personnel. The City Assessor shall meet with and assist the Board of Equalization. The Board of Equalization, upon completion of its work, shall submit a written report to the Council, including total increases and decreases made by it and the final total assessment of each class of property.

Sec. 4.10. Tax levy.

The Council shall make a tax levy, expressed as a fixed rate per \$100.00 of assessed valuation, and if no tax levy is made within 90 days prior to the tax due date, or within 90 days prior to the due date of a second installment if two installments are authorized by ordinance, the property tax rate in effect the last fiscal year shall continue in effect as the tax rate for the new fiscal year.

Sec. 4.11. Tax due dates and tax bills.

The due dates of property taxes shall be fixed by ordinance and provision may be made for equal semi-annual installments. The City shall send tax bills to taxpayers, showing the assessed valuations, amounts of taxes due, tax due dates, and information as to delinquency dates and penalties. Failure to send tax bills shall not, however, invalidate any tax. Property taxes shall become delinquent 30 days after a due date, and after 120 days, a penalty of five percent with an additional five percent assessed after each successive 120 days to a maximum penalty of no more than 20 percent of the original principal amount due, and thereafter such taxes shall be subject to interest at the rate equal to the then existing Federal Prime Rate plus three percent. On and after the date when such taxes become delinquent, the tax records of the City shall have the force and effect of a judgment of a court of record.

(HB 960, eff. 7-1-2016)

Sec. 4.12. Collection of delinquent taxes.

The Council may provide by ordinance for the collection of delinquent taxes by distress warrants issued by the Mayor for the sale of goods and chattels to be executed by any police officer of the City under the laws governing execution of such process from a justice of the peace, or by the County trustee as provided by general law, or by the City Attorney acting in accordance with general laws providing for

the collection of delinquent City or County taxes, or by any two or more of the foregoing methods, and by the use of any available legal process and remedies. A lien shall exist against all property on which City property taxes are levied, as of the assessment date of January 10 of each year, which shall be superior to all other liens except that it shall have equal dignity with those for federal, State or County taxes.

Sec. 4.13. Special assessments.

The City may assess all or part of the cost of constructing, reconstructing, widening, or improving any public way, sewers, or other utility mains and appurtenances, against the abutting property owners, under such terms and conditions as may be prescribed by ordinance. Such special assessments shall become delinquent 30 days after their due dates (after the due date of each installment if paid on an installment basis), shall thereupon be subject to a penalty of seven percent, and shall thereafter be subject to interest at the rate of one percent for each month or fraction thereof until paid. A lien shall exist against the abutting property superior to all other liens, except that it shall be of equal dignity with liens for County and City property taxes, and said lien shall be enforceable by the same procedures and under the same remedies as provided in this article for City property taxes.

Sec. 4.14. Disbursements by checks.

All disbursements shall be made by checks signed by the City Clerk.

Sec. 4.15. Official depository.

The Council shall designate an official depository or depositories for deposit and safekeeping of the funds of the City and may require such collateral security as it deems necessary.

ARTICLE V. MISCELLANEOUS

Sec. 5.01. Restriction on actions for damages against City.

No action shall be maintained against the City for damages unless a written statement by the claimant or by his agent, attorney or representative, setting forth the basis for his claim, shall have been filed with the Mayor within 60 days after such cause of action shall have occurred, except that when the claimant is an infant or non compos mentis, or an injured person died within 60 days, the time limit for filing a claim shall be 120 days. No officer or employee of the City may waive this requirement.

Sec. 5.02. General laws may be used.

The Council in its discretion may elect to use the provisions of any general laws of the State in addition to or instead of the provisions of this Act.

Sec. 5.03. Penalties.

The violation of any provision of this Act, for which a penalty is not specifically provided herein, is hereby declared to be a misdemeanor and shall be punished by a fine of not more than \$50.00, or by imprisonment not to exceed one year, or by both such fine and imprisonment.

Sec. 5.04. Severability.

If any article, section, subsection, paragraph, sentence, or part thereof, of this Act shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair other parts of this Act unless it clearly appears that such other parts are wholly and necessarily dependent upon the part or parts held to be invalid or unconstitutional, it being the legislative intent in enacting this Act that each article, section, subsection, paragraph, sentence, or part thereof, be enacted separately and independently of each other.

Sec. 5.05. Referendum.

Not less than ten nor more than 30 days after the approval of this Act by the Governor, or after it otherwise becomes law, it shall be the duty of the Mayor and Council of the City of Statham to issue the call for an election for the purpose of submitting this Act to the voters of said City for approval or rejection. The Mayor and Council shall set the date of such election for a day not more than 45 days after the date of the issuance of the call. The Mayor and Council shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of Barrow County. The ballot shall have written or printed thereon the following words:

"For approval of the Act providing a new Charter for the City of Statham."

"Against approval of the Act providing a new Charter for the City of Statham."

All persons desiring to vote in favor of the Act shall vote for approval, and those persons desiring to vote for rejection of the Act shall vote against approval. If more than one-half of the votes cast on such question are for approval of the Act, it shall become of full force and effect; otherwise, it shall be void and of no force and effect. The expense of such election shall be borne by the City of Statham. It shall be the duty of the Mayor and Council to hold and conduct such election. They shall hold such election under the same laws and rules and regulations as govern general elections, except as otherwise provided herein. It shall be the duty of the Mayor and Council to canvass the returns and declare and certify the result of the election. It shall be their further duty to certify the result thereof to the Secretary of State.

Sec. 5.06. Certain laws repealed.

All laws and parts of laws in conflict with this Act are hereby repealed.

Approval Date: Approved April 21, 1967.

CHARTER COMPARATIVE TABLE

GEORGIA LAWS

This table shows the location of the sections of the basic Charter and the Acts of the General Assembly amending the Charter.

Ga. Laws Year	Act No.	Page	Section	Section this Charter
1967	590	3326	—	Char. (note)
1969	82	2240	1	1.04
	114	2237	1	1.04
2019		18	—	3.01

CHARTER COMPARATIVE TABLE

LEGISLATION

This table shows the location of the sections of the basic Charter and any amendments thereto.

Legislation	Date	Section	Section this Charter
Ord. No. 150217-1	2-17-2015	4.06	4.06
HB 960	7-1-2016(eff.)	—	4.11
Home Rule Amend. 6-18-2019	6-18-2019	—	2.08
		—	2.12
		—	3.03, 3.04
Ord. No. 19917-1	9-17-2019	—	3.02

PART II

CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

- Sec. 1-1. How Code designated and cited.
- Sec. 1-2. Definitions and rules of construction.
- Sec. 1-3. Altering Code.
- Sec. 1-4. Interpretation of Code.
- Sec. 1-5. Substantive compliance with Code.
- Sec. 1-6. Catchlines of sections; effect of history notes; references in Code.
- Sec. 1-7. Effect of repeal of ordinances.
- Sec. 1-8. Amendments to Code; effect of new ordinances; amendatory language.
- Sec. 1-9. Supplementation of Code.
- Sec. 1-10. General penalty; continuing violations.
- Sec. 1-11. Severability of Code.
- Sec. 1-12. Provisions considered as continuations of existing ordinances.
- Sec. 1-13. Prior offenses, penalties, contracts or rights not affected by adoption of Code.
- Sec. 1-14. Certain ordinances not affected by Code.
- Sec. 1-15. Rates, charges, and fees established.

Sec. 1-1. How Code designated and cited.

The ordinances embraced in this Code and the following chapters shall constitute and be designated "The Code of the City of Statham, Georgia," and may be so cited. This Code may also be cited as the "Statham City Code."

(Code 2001, § 1-101; Code 2006, § 1-1)

State law reference—Codification requirements, O.C.G.A. § 36-80-19.

Sec. 1-2. Definitions and rules of construction.

In the construction of this Code and of all ordinances, the rules of construction and definitions set out in this section shall be observed. The rules of construction and definitions set out in this section shall not be applied to any section of this Code which shall contain any express provisions excluding such construction or where the subject matter or context of such section may be repugnant thereto.

Generally. The ordinary signification shall be applied to all words, except words of art or words connected with a particular trade or subject matter when they shall have the signification attached to them by experts in such trade or with reference to such subject matter. In all interpretations the courts shall look diligently for the intention of the Mayor and Council, keeping in view, at all times, the old law, the evil and the remedy. Grammatical errors shall not vitiate, and a transposition of words and clauses may be resorted to when the sentence or clause is without meaning as it stands.

As soon as possible. The term "as soon as possible" means within a reasonable time, having due regard to all the circumstances.

City. The term "City" means the City of Statham, Georgia.

City Council, Council, Governing Body, Governing Authority. The terms "City Council," "Council," "governing body," and/or "governing authority" mean the City Council of the City of Statham, Georgia.

Code. The term "Code" means The Code of the City of Statham, Georgia, as designated in Section 1-1.

Computation of time. When a number of days is prescribed for the exercise of any privilege or the discharge of any duty, only the first or last day shall be counted. If the last day shall fall on Saturday or Sunday, the party having such privilege or duty shall have through the following Monday to exercise such privilege or to discharge the duty. When the last day prescribed for such action shall fall on a public or legal holiday as set forth in State law, the party having such privilege or duty shall have through the following business day to exercise such privilege or to discharge the duty. When the period of time prescribed is less than seven days, an intermediate Saturday, Sunday and legal holiday shall be excluded in the computation.

Conjunctions. Where a provision involves two or more items, conditions, provisions or events connected by the conjunction "and," "or," or "either ... or," the conjunction shall be interpreted as follows, provided in appropriate cases the terms "and" and "or" are interchangeable:

- (1) The term "and" indicates that all the connected items, conditions, provisions or events shall apply.

- (2) The term "or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
- (3) The term "either ... or" indicates that the connected items, conditions, provisions or events shall apply singly, but not in combination.

Corporate limits. The term "corporate limits" means the corporate limits of the City of Statham.

County. The term "County" means Barrow County, Georgia.

Delegation of authority. Whenever a provision appears requiring a City officer or City employee to do some act, it is to be construed to authorize the officer or employee to designate, delegate and authorize subordinates to perform the required act.

Following. The term "following" means next after.

Gender. Words of one gender include all other genders.

Joint authority. A joint authority given to any number of persons or officers may be executed by a majority of them, unless it is otherwise declared.

Judge. The term "judge" means the municipal judge.

Keeper and proprietor. The terms "keeper" and "proprietor" mean persons, whether acting by themselves or acting as a servant, agent or employee.

Liberal construction; minimum requirements; overlapping provisions. All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the Mayor and Council may be fully carried out. In the interpretation and application of any provision of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this Code imposes greater restrictions upon the subject matter than the other provisions of this Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling. The specific controls over the general.

May. The term "may" is to be construed as being permissive.

State law reference—Definition of "may," O.C.G.A. § 1-3-3(10).

Month. The term "month" means a calendar month.

Must. The term "must" is to be construed as being mandatory.

Names of officers, departments. The name or title of any officer or department shall be read as though the words "of the City of Statham" were added thereto.

Nontechnical and technical words. The ordinary significance shall be applied to all words, except words of art, or words connected with a particular trade or subject matter, in which case they shall have the significance attached to them by experts in such trade, or with reference to such subject matter.

Number. The singular and plural number includes the other, unless expressly excluded.

Oath. The term "oath" includes an affirmation.

O.C.G.A. The abbreviation "O.C.G.A." means the Official Code of Georgia Annotated, as amended.

Officials, employees, boards, commissions or other agencies. Whenever reference is made to officials, employees, boards, commissions or other agencies by title only, the reference refers to the officials, employees, boards, commissions or other agencies of the City.

Ordinance. The term "ordinance" means a legislative act of the municipal governing body of a general and permanent nature.

Owner. The term "owner," as applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership or joint tenant of the whole or of a part of the building or land.

Person. The term "person" includes any association, club, society, firm, corporation, limited liability company, partnership or body politic and corporate, as well as an individual.

Personal property. The term "personal property" includes every species of property except real property.

Preceding. The term "preceding" means next before.

Property. The term "property" includes real and personal property.

Public place. The term "public place" includes any place that the public is invited or permitted to go or congregate.

Real property. The term "real property" includes lands, tenements and hereditaments.

Shall. The term "shall" is to be construed as being mandatory.

Sidewalk. The term "sidewalk" means any portion of a street between the curblin and the adjacent property line, intended for the use of pedestrians, excluding parkways.

Signature or subscription. The term "signature" or "subscription" includes the mark of an illiterate or infirm person.

State. The term "State" means the State of Georgia.

Street or road. The term "street" or "road" includes any street, avenue, boulevard, road, alley, lane, viaduct and any other public highway in the City, including, but not limited to, the paved or improved surfaces thereof.

Substantial compliance. A substantial compliance with any requirement of this Code or ordinances amendatory thereof, especially on the part of public officers, shall be deemed and held sufficient; and no proceeding shall be declared void for want of such compliance, unless expressly so provided.

Tenant or occupant. The term "tenant" or "occupant," applied to a building or land, includes any person holding a written or oral lease of or who occupies the whole or a part of a building or land, either alone or with others.

Tense. Words used in the past or present tense include the future, as well as the past and present.

Week. The term "week" means seven days.

Will. The term "will" is to be construed as being mandatory.

Writing. The term "writing" includes printing and all numerals.

Year. The term "year" means a calendar year.
(Code 2001, §§ 1-102, 1-103; Code 2006, § 1-2)

State law reference—Similar provisions, O.C.G.A. §§ 1-3-1, 1-3-3.

Sec. 1-3. Altering Code.

It shall be unlawful for any person to change or amend by additions or deletions any part or portion of this Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever, except by ordinance or resolution or other official act of the Mayor and City Council.

Sec. 1-4. Interpretation of Code.

In all interpretations of this Code and ordinances, the courts shall look diligently for the intention of the City Council, keeping in view, at all times, the old law, the evil, and the remedy. Grammatical errors shall not vitiate, and a transposition of words and clauses may be resorted to when the sentence or clause is without meaning as it stands.

State law reference— Similar provisions as to State laws, O.C.G.A. § 1-3-1.

Sec. 1-5. Substantive compliance with Code.

Substantive compliance with any requirement of the Code, or ordinances, especially on the part of public officers, shall be deemed and held sufficient, and no proceeding shall be declared void for want of such compliance, unless expressly so provided by the enactment.

Sec. 1-6. Catchlines of sections; effect of history notes; references in Code.

(a) The catchlines of the several sections of this Code in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections nor as any part of such sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(b) The history or source notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section. Editor's notes, cross references, and State law references which appear after sections or subsections of this Code or which otherwise appear in footnote form are provided for the convenience of the user of this Code and have no legal effect.

(c) All references to chapters, articles, divisions, subdivisions or sections are to chapters, articles, divisions, subdivisions or sections of this Code, unless otherwise specified.
(Code 2001, § 1-104; Code 2006, § 1-3)

Sec. 1-7. Effect of repeal of ordinances.

(a) The repeal of a code section or ordinance, or its expiration by virtue of any provision contained therein, shall not affect any right accrued or any offense committed, any penalty or punishment incurred, or any proceeding commenced before the repeal took effect or the ordinance expired.

(b) When any ordinance repealing a former code section, ordinance, clause, or provision, shall be itself repealed, such repeal shall not be construed to revive such former code section, ordinance, clause, or provision, unless it shall be expressly so provided.

(c) An ordinance which is in conflict in its entirety with a subsequent ordinance shall be deemed to be repealed in its entirety, even if no specific repealer is stated. If an ordinance is only partially in conflict with a subsequent ordinance, only the portion of the previous ordinance in conflict with the subsequent ordinance shall be deemed to have been repealed, even if a specific repealer is not stated.

(Code 2001, § 1-105; Code 2006, § 1-4)

Sec. 1-8. Amendments to Code; effect of new ordinances; amendatory language.

(a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code. The subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of these subsequent ordinances or resolutions until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code.

(b) Amendments to any of the provisions of this Code may be made by amending those provisions by specific reference to the section number of this Code in the following language: "Section ____ of The Code of the City of Statham, Georgia, is hereby amended to read as follows:...." The new provisions may then be set out in full as desired.

(c) If a new section (or chapter, article, division or subdivision, as appropriate) not heretofore existing in the Code is to be added, the following language may be used: "The Code of the City of Statham, Georgia, is hereby amended by adding a section (or chapter, article, division or subdivision, as appropriate) to be numbered ____, that reads as follows:...." The new material may then be set out in full as desired.

(d) All sections, subdivisions, divisions, articles or chapters desired to be repealed should be specifically repealed by section, subdivision, division, article or chapter number, as the case may be, or by setting them out at length in the repealing ordinance.

(Code 2001, § 1-106; Code 2006, § 1-5)

Sec. 1-9. Supplementation of Code.

(a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the City. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where

necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, non-substantive changes in ordinances or resolutions and parts of ordinances or resolutions included in the supplemental, insofar as it is necessary to do so to embody them into a unified Code. For example, the person may:

- (1) Organize the ordinance material into appropriate subdivisions.
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement and make changes in such catchlines, headings and titles.
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers.
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections ____ through ____" (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated into the Code).
- (5) Make other non-substantive changes necessary to preserve the original meaning of ordinances inserted into the Code.

(d) In no case shall the person make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

(Code 2006, § 1-6)

Sec. 1-10. General penalty; continuing violations.

(a) In this section, the term "violation of this Code" means:

- (1) Doing an act that is prohibited or made or declared unlawful, an offense or a misdemeanor by ordinance or by rule or regulation authorized by ordinance;
- (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance; or
- (3) Failure to perform an act if the failure is declared a misdemeanor or an offense or unlawful by ordinance or by rule or regulation authorized by ordinance.

(b) In this section, the term "violation of this Code" does not include the failure of a City officer or City employee to perform an official duty, unless it is provided that failure to perform the duty is to be punished as provided in this section or it is clear from the context that it is the intent to impose the penalty provided for in this section upon the officer or employee.

(c) Except as otherwise provided:

- (1) A person convicted of a violation of this Code shall be punished by a fine not exceeding \$1,000.00, imprisonment for a term not exceeding six months, or compulsory labor on the public works, not to exceed three months, or any combination thereof.
- (2) With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense.
- (3) With respect to violations of this Code that are not continuous with respect to time, each day the violation continues is a separate offense.

(d) The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise or other administrative sanctions.

(e) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief and by such other means as are provided by law. The imposition of a penalty does not prevent equitable relief.

(Code 2001, § 1-109; Code 2006, § 1-7)

State law reference—Limitations on penalties, O.C.G.A. § 36-35-6(a)(2).

Sec. 1-11. Severability of Code.

The sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, invalid or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, that unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Code, since they would have been enacted without the incorporation in this Code of the unconstitutional, invalid or unenforceable phrase, clause, sentence, paragraph or section.

(Code 2001, § 1-107; Code 2006, § 1-8)

Sec. 1-12. Provisions considered as continuations of existing ordinances.

The provisions appearing in this Code, insofar as they are the same as those of ordinances and resolutions existing at the time of adoption of this Code, shall be considered as continuations thereof and not as new enactments.

(Code 2006, § 1-9)

Sec. 1-13. Prior offenses, penalties, contracts or rights not affected by adoption of Code.

(a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.

(b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance or resolution in effect on the date of adoption of this Code.

(Code 2006, § 1-10)

Sec. 1-14. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code affects the validity of any the following ordinances or portions of ordinances, which ordinances or portions of ordinances continue in full force and effect to the same extent as if published at length in this Code:

- (1) Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.
 - (2) Authorizing or approving any contract, deed, or agreement.
 - (3) Granting any right or franchise.
 - (4) Making or approving any appropriation or budget.
 - (5) Providing for salaries or other employee benefits not codified in this Code.
 - (6) Adopting or amending the comprehensive plan.
 - (7) Levying or imposing any special assessment.
 - (8) Dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any street, sidewalk or alley.
 - (9) Providing for subdivision regulations or dedicating, accepting or vacating any plat or subdivision.
 - (10) Levying, imposing or otherwise relating to taxes not codified in this Code.
 - (11) Pertaining to zoning.
 - (12) That is temporary, although general in effect.
 - (13) That is special, although permanent in effect.
 - (14) The purpose of which has been accomplished.
- (Code 2006, § 1-11)

Sec. 1-15. Rates, charges, and fees established.

(a) Unless otherwise provided for, all rates, charges, or fees necessary for the administration and enforcement of the provisions of this Code shall be as currently established or as hereafter adopted by motion, resolution or ordinance of the City Council, from time to time. Any rates, charges, or fees established by the City pursuant to the regulations or requirements established herein may be changed from time to time by the City Council, and such changes shall both be considered an amendment to this Code.

(b) Whenever any provision of this Code provides that a rate, charge, or fee shall be established by the City Council, from time to time, and the amount of such rate, charge, or fee is not expressed in this Code in any dollar amount, then the amount of such rate, charge, or fee shall be the most recent and latest amount established, set or fixed by the City Council by ordinance, resolution or motion.

Chapter 2

ADMINISTRATION

Article I. In General

- Sec. 2-1. James Hammond Day, February 1.
Secs. 2-2—2-20. Reserved.

Article II. City Council

Division 1. Generally

- Sec. 2-21. Meetings.
Sec. 2-22. Rules of procedure.
Sec. 2-23. Disruption of meetings prohibited.
Sec. 2-24. Legal actions.
Secs. 2-25—2-51. Reserved.

Division 2. Mayor

- Sec. 2-52. Duties.
Sec. 2-53. Powers.
Sec. 2-54. Acting Mayor.
Secs. 2-55—2-74. Reserved.

Article III. City Departments

Division 1. Generally

- Secs. 2-75—2-90. Reserved.

Division 2. Police Department

- Sec. 2-91. Department created.
Sec. 2-92. Director—Position created; appointment.
Sec. 2-93. Director—Powers and functions.
Sec. 2-94. Functions of Department.
Secs. 2-95—2-113. Reserved.

Division 3. Administrator/Accountant and City Clerk

- Sec. 2-114. Positions to serve in administration and clerical functions.
Sec. 2-115. Administrator/Accountant; appointment and functions.
Sec. 2-116. City Clerk—Appointment and functions.
Sec. 2-117. City Clerk—Other functions.
Secs. 2-118—2-147. Reserved.

Division 4. Public Works Department

- Sec. 2-148. Department created.

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- Sec. 2-149. Director—Position created; appointment.
- Sec. 2-150. Director—Powers and functions.
- Sec. 2-151. Functions of Department.
- Secs. 2-152—2-170. Reserved.

Division 5. Water Department

- Sec. 2-171. Department created.
- Sec. 2-172. Director—Position created; appointment.
- Sec. 2-173. Director—Powers and functions.
- Sec. 2-174. Functions of Department.
- Secs. 2-175—2-201. Reserved.

Division 6. Building Department

- Sec. 2-202. Department created.
- Sec. 2-203. Director—Position created; appointment.
- Sec. 2-204. Director—Powers and functions.
- Sec. 2-205. Functions of Department.
- Secs. 2-206—2-233. Reserved.

Division 7. Immunities

- Sec. 2-234. No limits on immunity.
- Secs. 2-235—2-261. Reserved.

Article IV. Finance

- Sec. 2-262. Purchasing.
- Sec. 2-263. Returned check charge.
- Sec. 2-264. Community Greenspace Trust Fund.
- Secs. 2-265—2-291. Reserved.

Article V. Identity Theft Prevention Program

- Sec. 2-292. Purpose.
- Sec. 2-293. Definitions.
- Sec. 2-294. Findings.
- Sec. 2-295. Process of establishing a covered account.
- Sec. 2-296. Access to covered account information.
- Sec. 2-297. Credit card payments.
- Sec. 2-298. Sources and types of red flags.
- Sec. 2-299. Prevention and mitigation of identity theft.
- Sec. 2-300. Updating the program.
- Sec. 2-301. Program administration.
- Sec. 2-302. Outside service providers.
- Secs. 2-303—2-322. Reserved.

ADMINISTRATION

Article VI. Officers and Employees

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- Sec. 2-323. Administrative policy and procedures.
- Sec. 2-324. Municipal personnel policy.
- Sec. 2-325. Workers' compensation.
- Sec. 2-326. Duties of City Treasurer.
- Secs. 2-327—2-355. Reserved.

Division 2. City Administrator

- Sec. 2-356. Office created; appointment.
- Sec. 2-357. Duties, responsibilities.
- Sec. 2-358. Supervision.
- Secs. 2-359—2-389. Reserved.

Division 3. Code of Ethics

- Sec. 2-390. Intent.
- Sec. 2-391. Definitions.
- Sec. 2-392. Prohibitions.
- Sec. 2-393. Disclosure of conflicts of interest.
- Sec. 2-394. Disqualification.
- Sec. 2-395. Prohibited contracts.
- Sec. 2-396. Restrictions on contracts with former members of the Governing Authority.
- Sec. 2-397. Board of Ethics.
- Sec. 2-398. Receipt of complaints.
- Sec. 2-399. Additional regulations.
- Sec. 2-400. Penalty and member rights.
- Sec. 2-401. Right to appeal.
- Secs. 2-402—2-430. Reserved.

Article VII. Open Records

- Sec. 2-431. State Open Records Act adopted by reference.

ARTICLE I. IN GENERAL**Sec. 2-1. James Hammond Day, February 1.**

It is hereby ordained by the Mayor and Council of the City that February 1, 2014, and February 1 of each year thereafter shall be designated as James Hammond Day in the City.
(Ord. No. 131217-7, § 2-2, 12-17-2013)

Secs. 2-2—2-20. Reserved.**ARTICLE II. CITY COUNCIL****DIVISION 1. GENERALLY****Sec. 2-21. Meetings.**

(a) *Regular and convened meetings.* The City Council shall hold regular meetings on the third Tuesday at 7:00 p.m. at the City Hall unless otherwise ordered by the City Council, provided that the Mayor may convene the City Council whenever, in the Mayor's opinion, the public business requires it, and the Mayor shall do so upon the application of three members of the City Council. All meetings at which official actions are to be taken shall be open to the public.

(b) *Duty to attend.* It shall be the duty of each member of the City Council to attend each meeting of the City Council, unless each member is prevented by some unavoidable circumstance.
(Code 2001, § 3-204; Code 2006, § 2-19)

Sec. 2-22. Rules of procedure.

Except as otherwise provided in this section, the most recent edition of New Roberts' Rules of Order shall govern the conduct of the City Council meetings.

- (1) *Call to order.* All meetings of the City Council shall be open to the public. The Mayor or, in the Mayor's absence, the Mayor pro tempore shall take the chair at the hour appointed for any regular, temporarily adjourned, special, or called meeting; and shall immediately call the City Council meeting to order.
- (2) *Roll call.* Before proceeding with the business of the City Council, the City Clerk or the Clerk's deputy shall call the roll of the members, and the names of those present shall be entered in the minutes.
- (3) *Quorum.* An affirmative vote of a majority of the Councilmembers attending a Council meeting shall be sufficient to permit the conduct of all business except that for which a larger vote has been mandated by this Code.
- (4) *Reading of minutes.* Unless a reading of the minutes of a City Council meeting is requested by a member of the City Council, such minutes may be approved without a reading if the City Clerk has previously furnished each member with a copy thereof.

- (5) *Reports by committees.* Any business coming before the City Council concerning the subject matter of which any standing or special committee has jurisdiction may be referred to the proper committee for investigation and report. It shall be the duty of each standing or special committee, whenever required by the Mayor or by the City Council, or any member of the City Council, to examine any matter referred to such committee, and make a report thereof at the next regular meeting of the City Council, or show good cause why no report is made, such reports shall not be in writing unless so directed by the presiding officer. Each standing committee shall examine the matters within its jurisdiction and make such reports and recommendations from time to time as may be necessary.
- (6) *Manner of addressing Council.* No member, while the City Council is in session, shall speak on any subject unless recognized by the presiding officer. Every speaker shall address the chair, and no member shall interrupt anyone who is speaking, except to call the speaker to order or for explanation.
- (7) *Limitations on addressing City Council.* Any person not a member of the City Council who desires to address the City Council shall first secure the permission of the presiding officer, and then shall stand in front of the rail, give, in an audible tone, said person's name and address for the record, and direct said person's remarks to the City Council as a body rather than to any particular member, limiting such remarks to five minutes unless additional time is granted by the City Council.
- (8) *Ordinances generally.*
 - a. *Introduction and adoption.*
 1. Every proposed ordinance shall be introduced in the form required for final adoption. No ordinance shall contain a subject which is not expressed in its title. The enacting clause shall be "The Council of the City of Statham hereby ordains ...," and every ordinance shall so begin.
 2. An ordinance may be introduced by any member of the City Council and be read at a regular or special meeting of the City Council. Upon introduction of any ordinance, the City Clerk shall, as soon as possible, distribute a copy to the Mayor and to each member of the City Council and shall file a reasonable number of copies in the office of the City Clerk and at such other public places as the City Council may designate.
 3. All ordinances shall have three separate readings, but the second and third readings shall never take place on the same day.
 4. No ordinance shall relate to more than one subject, which shall be clearly expressed in its title, and no ordinance, or section thereof, shall be amended or repealed unless the new ordinance contains the title of the ordinance or section amended or repealed, and when practicable, all ordinances shall be introduced as amendments to this Code.
 5. An ordinance, resolution, or contract shall be deemed, adopted, or rejected by the City Council in accordance with the rules which the City Council shall establish. Such ordinances adopted by the City Council shall have the full force and effect of law.

- b. *Effective date.* All ordinances shall take effect according to the Charter.
- (9) *Recording vote.* Whenever any member shall request it, the yeas and nays of the members present shall be recorded on the minutes on any question taken.
- (10) *Questions of order.* The presiding officer shall decide all questions of order, but any Councilmember who is dissatisfied with the decision may appeal to the City Council in the manner provided by Roberts' Rules of Order for appealing from decisions of presiding officers.
- (11) *Elections.* All elections by the City Council shall be by ballot, and a majority vote of the whole City Council shall be necessary to an election.
- (12) *Executive session.* The City Council may, at any time, upon call therefor by the presiding officer or upon motion duly carried by a Councilmember, meet in executive session. Attendance at such sessions shall be limited to the Mayor and members of the City Council and such invitees as shall be invited with the unanimous consent of the Mayor and City Council.
- (Code 2001, § 3-206; Code 2006, § 2-20)

Sec. 2-23. Disruption of meetings prohibited.

- (a) It is unlawful for any person or group of persons to willfully and knowingly:
- (1) Utter loud, threatening or abusive language, or to engage in any disorderly or disruptive conduct in the presence of any City employee engaged in their official duties;
 - (2) Enter a meeting room of the Mayor and Council, Planning and Zoning Board, Zoning Board of Appeals or the Parks and Recreation Board, which has been set aside or designated by the City for a public meeting or an executive session with the intent to disrupt the orderly conduct of the official business of the City;
 - (3) Utter loud, threatening or abusive language, or to engage in any disorderly or disruptive conduct at any place at which the Mayor and Council, Planning and Zoning Board, Zoning Board of Appeals or the Parks and Recreation Board is meeting in a public meeting or an executive session;
 - (4) Disturb or interrupt any meeting of the Mayor and Council, Planning and Zoning Board, Zoning Board of Appeals or the Parks and Recreation Board;
 - (5) Cause a disturbance at a public meeting of the Mayor and Council, Planning and Zoning Board, Zoning Board of Appeals or the Parks and Recreation Board.
- (b) For purpose of this section, the use of obscene or profane language, physical violence or the threat thereof, or any other loud or boisterous behavior which the presiding officer or the majority of the Council shall determine is causing a disruption of the Council meeting and a subsequent failure to comply with any lawful decisions of the presiding officer or of a majority of the City Council, shall constitute a disturbance.

(c) Enforcement. The City Police Department or any POST-certified peace officer designated by the City, in attendance, is charged with the enforcement of this section. The City Police Department or POST-certified peace officer, at the direction of the presiding officer or a majority of the City Councilmembers, shall enforce the provisions of this section against any person violating this section. All citations issued shall be to the Municipal Court.

(d) Violation. Any person violating any provision of this section may be subject to ejection from the meeting room for the remainder of the meeting, citation to the Municipal Court, or arrest, or any combination thereof.

(Ord. No. 170117-2, § 1(2-20.5), 1-17-2017)

Sec. 2-24. Legal actions.

(a) The City pledges that it will protect and defend its personal assets in any claims or actions brought against its Mayor and Council in either official or individual capacities or both and further indemnify them against loss or expense from any action or cause of action arising out of their service as Mayor and Councilmember. The City will provide competent defense counsel and fund the costs of defense of any lawsuit involving the Mayor and Council and will provide public funds to meet any deductible or uninsured cost or expense.

(b) Upon service of an ad litem notice to the City or the City Attorney, the City Clerk shall send a copy of the notice to the Mayor and each member of the City Council.

- (1) As soon as possible after receiving a complaint or a petition filed with a court against the City, the City Clerk shall notify the Mayor and members of the City Council of such filing, and shall have a copy of such document available for review by the Mayor and Council.
- (2) When a hearing or conference with a judge has been scheduled in a case, the City Attorney shall promptly notify the Mayor and City Clerk of the date, time, place, and subject. The City Clerk is to notify any Councilmember who has expressed an interest in being notified of such hearings or conferences. This provision also applies if a hearing or a conference before a judge takes place after service of an ad litem notice and prior to formal filing of a case with a court.
- (3) When the case is disposed of by the court, the City Attorney will promptly notify the Mayor and City Clerk of the outcome, and the City Clerk will then notify each member of the Council of the outcome.

(Code 2001, § 3-208; Code 2006, § 2-21)

Secs. 2-25—2-51. Reserved.

DIVISION 2. MAYOR

Sec. 2-52. Duties.

The Mayor shall have the following duties:

- (1) *Appointment of standing committees.* To appoint at the first meeting each year, or as soon thereafter as expedient, standing committees for that year; but the Mayor may at any time alter the committees and make such changes as the interest of the City may require;

- (2) *Dismissal, suspension, and discipline of officers and employees.* To dismiss, suspend, or discipline for cause all officers and employees appointed or elected by the Mayor and City Council, provided that for the purposes of this section, the term "cause" shall be construed to mean:
- a. Negligence or inefficiency in performing the duties of the position held;
 - b. Unfitness to perform assigned duties;
 - c. Insubordination;
 - d. Misconduct;
 - e. Conduct reflecting discredit on the department;
 - f. Failure to report for work without justifiable cause;
 - g. Chronic absenteeism; or
 - h. Political activity in violation of municipal regulations;
- (3) *Preparation of annual report.* To prepare and present to the City Council an annual report of the City's affairs including a summary of reports of department heads, and such other reports as the City Council shall require; and
- (4) *Executing legal documents.* To sign on behalf of the City all contracts, deeds, codes, ordinances, and other instruments executed by the City that by law are required to be in writing.
- (Code 2001, § 3-302; Code 2006, § 2-46)

Sec. 2-53. Powers.

The Mayor shall have the following powers:

- (1) *Rulemaking.* To prescribe such rules and regulations as may be deemed necessary or expedient for the conduct of administrative agencies subject to the Mayor's authority, and to revoke, suspend or amend any rule or regulation of the administrative service by whomever prescribed;
 - (2) *Investigation.* To investigate and to examine or inquire into, either by the Mayor or by any officer or person designated for the purpose by the Mayor, the affairs or operation of any department, including the power to employ consultants and professional counsel when so authorized by the City Council to aid in such investigations, examinations, or inquiries;
 - (3) *Overriding.* To set aside any action taken by a department head and to supersede the Mayor in the functions of the Mayor's office; and
 - (4) *Delegation.* To direct any department to perform the work for any other department, and to authorize any department head or officer responsible to the Mayor to appoint and remove subordinates serving under such person.
- (Code 2001, § 3-303; Code 2006, § 2-47)

Sec. 2-54. Acting Mayor.

In the event of a vacancy in the office of Mayor, the City Council may appoint one of its members as acting Mayor to serve until the vacancy is filled at a regular or special election as provided by law.

(Code 2001, § 3-305; Code 2006, § 2-48)

Secs. 2-55—2-74. Reserved.

ARTICLE III. CITY DEPARTMENTS

DIVISION 1. GENERALLY

Secs. 2-75—2-90. Reserved.

DIVISION 2. POLICE DEPARTMENT

Sec. 2-91. Department created.

There shall be a Police Department of the City.
(Ord. No. 19820-3, exh. A, 8-20-2019)

Sec. 2-92. Director—Position created; appointment.

There shall be the position of Chief of Police, who shall be a Department head and appointed as provided by the Charter. Except as provided or limited by the City Charter, the Chief of Police shall mean the Chief or the Chief's designee.
(Ord. No. 19820-3, exh. A, 8-20-2019)

Sec. 2-93. Director—Powers and functions.

The Chief of Police shall perform all functions and have all the powers and responsibilities allowed by the law and such other functions and powers as may be assigned by the Mayor.
(Ord. No. 19820-3, exh. A, 8-20-2019)

Sec. 2-94. Functions of Department.

The Police Department and such employees of the Department as are assigned to it shall have the following general functions:

- (1) To enforce, as may be appropriate, federal and State laws and the Codes, ordinances and regulations of the City;
- (2) To investigate crimes and violations;
- (3) To preserve the public peace;
- (4) To see to the proper service of all summonses, subpoenas, citations, executions, attachments, and rules of the City Council; and
- (5) To discharge such other functions as may be required of such office by the Mayor or the City Council.

(Ord. No. 19820-3, exh. A, 8-20-2019)

Secs. 2-95—2-113. Reserved.

DIVISION 3. ADMINISTRATOR/ACCOUNTANT AND CITY CLERK

Sec. 2-114. Positions to serve in administration and clerical functions.

The administration and clerical functions of the City shall be carried out by the Administrator/Accountant and City Clerk as provided by the Charter and this Code.
(Ord. No. 19820-3, exh. A, 8-20-2019)

Sec. 2-115. Administrator/Accountant; appointment and functions.

In addition to other functions as set forth in the policies of the City, the City Administrator/Accountant shall oversee and manage the day-to-day operations of the City's various departments. The City Administrator/Accountant shall also look after the finances of the City, including budgeting, revenues and expenditures. The City Administrator/Accountant shall be appointed as provided by the Charter. Except as provided or limited by the City Charter, the Administrator shall mean the City Administrator or the Administrator's designee.
(Ord. No. 19820-3, exh. A, 8-20-2019)

Sec. 2-116. City Clerk—Appointment and functions.

In addition to other functions as set forth in the policies of the City, the City Clerk shall maintain the books and records of the City; provide for taking and maintaining the minutes of City proceedings; and, except as otherwise provided by law or intergovernmental agreement, carry out functions associated with elections. The City Clerk shall be appointed as provided by the Charter. Except as provided or limited by the City Charter, the Clerk shall mean the Clerk or the Clerk's designee.
(Ord. No. 19820-3, exh. A, 8-20-2019)

Sec. 2-117. City Clerk—Other functions.

The Administrator/Accountant and the City Clerk, or their designees, shall perform and discharge such other functions as may be required by the Mayor or the City Council.
(Ord. No. 19820-3, exh. A, 8-20-2019)

Secs. 2-118—2-147. Reserved.

DIVISION 4. PUBLIC WORKS DEPARTMENT

Sec. 2-148. Department created.

There shall be a City Public Works Department.
(Ord. No. 19820-3, exh. A, 8-20-2019)

Sec. 2-149. Director—Position created; appointment.

There is hereby created the position of Director of the Public Works Department, who shall be appointed as provided by the Charter. Except as provided or limited by the City Charter, the Director of the Public Works Department shall mean the Director or the Director's designee.
(Ord. No. 19820-3, exh. A, 8-20-2019)

Sec. 2-150. Director—Powers and functions.

The Director of the Public Works Department shall perform all functions and have all the responsibilities required by this Code and such other functions and powers as may be assigned by the Mayor.
(Ord. No. 19820-3, exh. A, 8-20-2019)

Sec. 2-151. Functions of Department.

The Public Works Department and such employees of the Department as are assigned to it shall have the following general functions:

- (1) To maintain and repair the streets, alleys and rights-of-way of the City;
 - (2) To maintain and repair the other structures and facilities of the City;
 - (3) To assist other departments as may be directed by the Mayor; and
 - (4) To discharge such other functions as may be required by the Mayor or the City Council.
- (Ord. No. 19820-3, exh. A, 8-20-2019)

Secs. 2-152—2-170. Reserved.

DIVISION 5. WATER DEPARTMENT

Sec. 2-171. Department created.

There shall be a City Water Department.
(Ord. No. 19820-3, exh. A, 8-20-2019)

Sec. 2-172. Director—Position created; appointment.

There is hereby created the position of Director of the Water Department, who shall be appointed as provided by the Charter. Except as provided or limited by the City Charter, the Director of the Water Department shall mean the Director or the Director's designee.
(Ord. No. 19820-3, exh. A, 8-20-2019)

Sec. 2-173. Director—Powers and functions.

The Director of the Water Department shall perform all functions and have all the responsibilities required by this Code and such other functions and powers as may be assigned by the Mayor.
(Ord. No. 19820-3, exh. A, 8-20-2019)

Sec. 2-174. Functions of Department.

The Water Department and such employees of the Department as are assigned to it shall have the following general functions:

- (1) To maintain and repair all the pipes, fixtures, equipment and other structures of the City water system;
 - (2) To assist other departments as may be directed by the Mayor; and
 - (3) To discharge such other functions as may be required by the Mayor or the City Council.
- (Ord. No. 19820-3, exh. A, 8-20-2019)

Secs. 2-175—2-201. Reserved.

DIVISION 6. BUILDING DEPARTMENT

Sec. 2-202. Department created.

There is hereby created the City Building Department.
(Ord. No. 19820-3, exh. A, 8-20-2019)

Sec. 2-203. Director—Position created; appointment.

The Mayor and City Council may appoint a Director of the Building Department, as provided by the Charter. Except as provided or limited by the City Charter, the Director of the Building Department shall mean the Director or the Director's designee.
(Ord. No. 19820-3, exh. A, 8-20-2019)

Sec. 2-204. Director—Powers and functions.

The Director of the Building Department shall perform all functions and have all the responsibilities required by this Code and such other functions and powers as may be assigned by the Mayor.
(Ord. No. 19820-3, exh. A, 8-20-2019)

Sec. 2-205. Functions of Department.

The Building Department and such employees of the Department as are assigned to it, or contractors hired by the City, shall have the following general areas of responsibility:

- (1) Land planning;
 - (2) Zoning;
 - (3) Inspections;
 - (4) Code enforcement; and
 - (5) Discharge such other functions as may be required by the Mayor or the City Council.
- (Ord. No. 19820-3, exh. A, 8-20-2019)

Secs. 2-206—2-233. Reserved.

DIVISION 7. IMMUNITIES

Sec. 2-234. No limits on immunity.

Nothing in this Code or any other code, rule, regulation, ordinance or other law or resolution of the City shall limit in any way any immunity provided by federal, State or local law.
(Ord. No. 19820-3, exh. A, 8-20-2019)

Secs. 2-235—2-261. Reserved.

ARTICLE IV. FINANCE

Sec. 2-262. Purchasing.

If the City receives two consecutive bad checks for payment of services, the City's employee may refuse to accept further payment by check from the same individual or on the same account.
(Code 2001, § 4-322; Code 2006, § 2-139)

Sec. 2-263. Returned check charge.

The returned check charge shall be an amount as determined by the City Council by resolution from time to time.
(Code 2001, § 4-323; Code 2006, § 2-140)

Sec. 2-264. Community Greenspace Trust Fund.

The City Council authorizes and shall establish a Community Greenspace Trust Fund to accept grants from the Georgia Greenspace Trust Fund and to accept funds from any other sources consistent with the Georgia Greenspace Program; that such community fund shall be a special revenue fund as defined in O.C.G.A. § 36-81-2; and that such community fund shall be consistent with the provisions of O.C.G.A. §§ 36-22-4, 36-22-7 and 36-22-12 and with the Rules of the Georgia Department of Natural Resources, Ga. Comp. Rules and Regs. ch. 391-1-4, for administering the Georgia Greenspace Program.
(Code 2001, § 4-324; Code 2006, § 2-141)

Secs. 2-265—2-291. Reserved.

ARTICLE V. IDENTITY THEFT PREVENTION PROGRAM

Sec. 2-292. Purpose.

The purpose of this article is to comply with 16 CFR 681.2 in order to detect, prevent and mitigate identity theft by identifying and detecting identity theft red flags and by responding to such red flags in a manner that will prevent identity theft.
(Ord. No. 090721-6, § 1(602), 7-21-2009)

Sec. 2-293. 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:

Covered account means:

- (1) An account that a financial institution or creditor offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions, such as a credit card account, mortgage loan, automobile loan, margin account, cell phone account, utility account, checking account, or savings account; and
- (2) Any other account that the financial institution or creditor offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the financial institution or creditor from identity theft, including financial, operational, compliance, reputation, or litigation risks.

Credit means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefor.

Creditor means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit and includes utility companies and telecommunications companies.

Customer means a person who has a covered account with a creditor.

Identity theft means a fraud committed or attempted using identifying information of another person without authority.

Personal identifying information means a person's credit card account information, debit card information, bank account information and drivers' license information and, for a natural person, includes their social security number, mother's birth name, and date of birth.

Red flag means a pattern, practice, or specific activity that indicates the possible existence of identity theft.

Service provider means a person who provides a service directly to the City.
(Ord. No. 090721-6, § 1(603), 7-21-2009)

Sec. 2-294. Findings.

- (a) The City is a creditor pursuant to 16 CFR 681.2 due to its provision or maintenance of covered accounts for which payment is made in arrears.
- (b) Covered accounts offered to customers for the provision of City services include water, sewer, and garbage accounts.
- (c) The City has not had an instance of identity theft related to covered accounts.

(d) The processes of opening a new covered account, restoring an existing covered account, and making payments on such accounts have been identified as potential processes in which identity theft could occur.

(e) The City limits access to personal identifying information to those employees responsible for or otherwise involved in opening or restoring covered accounts or accepting payment for use of covered accounts. Information provided to such employees is entered directly into the City's computer system and is not otherwise recorded.

(f) The City determines that there is a very low risk of identity theft occurring in the following ways, if any:

- (1) Use by an applicant of another person's personal identifying information to establish a new covered account;
- (2) Use of a previous customer's personal identifying information by another person in an effort to have service restored in the previous customer's name;
- (3) Use of another person's credit card, bank account, or other method of payment by a customer to pay such customer's covered account; and
- (4) Use by a customer desiring to restore such customer's covered account of another person's credit card, bank account, or other method of payment.

(Ord. No. 090721-6, § 1(604), 7-21-2009)

Sec. 2-295. Process of establishing a covered account.

(a) As a precondition to opening a covered account in the City, each applicant shall provide the City with personal identifying information of the customer, to include either a valid government-issued identification card containing a photograph of the customer or, for customers who are not natural persons, a photograph of the customer's agent opening the account. Such information shall be entered directly into the City's computer system and shall not otherwise be recorded.

(b) Each account shall be assigned an account number and personal identification number (PIN) which shall be unique to that account. The City may utilize computer software to randomly generate assigned PINs and to encrypt account numbers and PINs.

(Ord. No. 090721-6, § 1(605), 7-21-2009)

Sec. 2-296. Access to covered account information.

(a) Access to customer accounts shall be password-protected and shall be limited to authorized City personnel.

(b) Such passwords shall be changed by the director of the department providing the service for which the covered account is created on a regular basis; shall be at least eight characters in length; and shall contain letters, numbers and symbols.

(c) Any unauthorized access to or other breach of customer accounts is to be reported immediately to the Mayor and City Clerk, and the password changed immediately.

(d) Personal identifying information included in customer accounts is considered confidential and any request or demand for such information shall be immediately forwarded to the Mayor and the City Attorney.

(Ord. No. 090721-6, § 1(606), 7-21-2009)

Sec. 2-297. Credit card payments.

(a) In the event that credit card payments that are made over the internet are processed through a third-party service provider, such third-party service provider shall certify that it has an adequate Identity Theft Prevention Program in place that is applicable to such payments.

(b) All credit card payments made over the telephone or the City's website shall be entered directly into the customer's account information in the computer database.

(c) Account statements and receipts for covered accounts shall include only the last four digits of the credit or debit card or the bank account used for payment of the covered account.

(Ord. No. 090721-6, § 1(607), 7-21-2009)

Sec. 2-298. Sources and types of red flags.

All employees responsible for or involved in the process of opening a covered account, restoring a covered account or accepting payment for a covered account shall check for red flags as indicators of possible identity theft and such red flags may include:

- (1) *Suspicious documents.* Examples of suspicious documents include:
 - a. Documents provided for identification that appear to be altered or forged;
 - b. Identification on which the photograph or physical description is inconsistent with the appearance of the applicant or customer;
 - c. Identification on which the information is inconsistent with information provided by the applicant or customer;
 - d. Identification on which the information is inconsistent with readily accessible information that is on file with the financial institution or creditor, such as a signature card or a recent check; or
 - e. An application that appears to have been altered or forged or that appears to have been destroyed and reassembled.
- (2) *Suspicious personal identification, such as suspicious address change.* Examples of suspicious identifying information include:
 - a. Personal identifying information that is inconsistent with external information sources used by the creditor. For example, the social security number (SSN) has not been issued or is listed on the Social Security Administration's Death Master File.
 - b. Personal identifying information provided by the customer that is inconsistent with other personal identifying information provided by the customer, such as a lack of correlation between the SSN range and date of birth.

- c. Personal identifying information or a phone number or address that is associated with known fraudulent applications or activities as indicated by internal or third-party sources used by the creditor.
 - d. Other information provided, such as fictitious mailing address, mail drop addresses, jail addresses, invalid phone numbers, pager numbers or answering services, that is associated with fraudulent activity.
 - e. The SSN provided is the same as that submitted by other applicants or customers.
 - f. The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of applicants or customers.
 - g. The applicant or customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.
 - h. Personal identifying information that is inconsistent with personal identifying information that is on file with the creditor.
 - i. The applicant or customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.
- (3) *Unusual use of or suspicious activity relating to a covered account.* Examples of suspicious activity include:
- a. Shortly following the notice of a change of address for an account, the City receives a request for the addition of authorized users on the account.
 - b. A new revolving credit account is used in a manner commonly associated with known patterns of fraud. For example, the customer fails to make the first payment or makes an initial payment but not subsequent payments.
 - c. An account is used in a manner that is inconsistent with established patterns of activity on the account. There is, for example:
 - 1. Nonpayment when there is no history of late or missed payments;
 - 2. A material change in purchasing or spending patterns.
 - d. An account that has been inactive for a long period of time is used (taking into consideration the type of account, the expected pattern of usage and other relevant factors).
 - e. Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's account.
 - f. The City is notified that the customer is not receiving paper account statements.
 - g. The City is notified of unauthorized charges or transactions in connection with a customer's account.
 - h. The City is notified by a customer, law enforcement or another person that it has opened a fraudulent account for a person engaged in identity theft.
- (4) *Notice from reliable sources.* Notice from customers, law enforcement, victims or other reliable sources regarding possible identity theft or phishing relating to covered accounts.
- (Ord. No. 090721-6, § 1(608), 7-21-2009)

Sec. 2-299. Prevention and mitigation of identity theft.

(a) In the event that any City employee responsible for or involved in restoring an existing covered account or accepting payment for a covered account becomes aware of red flags indicating possible identity theft with respect to existing covered accounts, such employee shall use such employee's discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in the employee's discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the Mayor. If, in the employee's discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to the Mayor, who may, in the Mayor's discretion, determine that no further action is necessary. If the Mayor, in the Mayor's discretion, determines that further action is necessary, a City employee shall perform one or more of the following responses, as determined to be appropriate by the Mayor:

- (1) Contact the customer;
- (2) Make the following changes to the account if, after contacting the customer, it is apparent that someone other than the customer has accessed the customer's covered account:
 - a. Change any account numbers, passwords, security codes, or other security devices that permit access to an account; or
 - b. Close the account;
- (3) Cease attempts to collect additional charges from the customer and decline to sell the customer's account to a debt collector in the event that the customer's account has been accessed without authorization and such access has caused additional charges to accrue;
- (4) Notify a debt collector within 24 hours of the discovery of likely or probable identity theft relating to a customer's account that has been sold to such a debt collector in the event that a customer's account has been sold to a debt collector prior to the discovery of the likelihood or probability of identity theft relating to such account;
- (5) Notify law enforcement, in the event that someone other than the customer has accessed the customer's account causing additional charges to accrue or accessing personal identifying information; or
- (6) Take other appropriate action to prevent or mitigate identity theft.

(b) In the event that any City employee responsible for or involved in opening a new covered account becomes aware of red flags indicating possible identity theft with respect to an application for a new account, such employee shall use such employee's discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in such employee's discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the Mayor. If, in such employee's discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to the Mayor, who may, in the Mayor's discretion, determine that

no further action is necessary. If the Mayor in the Major's discretion determines that further action is necessary, a City employee shall perform one or more of the following responses, as determined to be appropriate by the Mayor:

- (1) Request additional identifying information from the applicant;
 - (2) Deny the application for the new account;
 - (3) Notify law enforcement of possible identity theft; or
 - (4) Take other appropriate action to prevent or mitigate identity theft.
- (Ord. No. 090721-6, § 1(609), 7-21-2009)

Sec. 2-300. Updating the program.

The City Council shall annually review and, as deemed necessary by the City Council, update the Identity Theft Prevention Program along with any relevant red flags in order to reflect changes in risks to customers or to the safety and soundness of the City and its covered accounts from identity theft. In so doing, the City Council shall consider the following factors and exercise its discretion in amending the program:

- (1) The City's experiences with identity theft;
 - (2) Updates in methods of identity theft;
 - (3) Updates in customary methods used to detect, prevent, and mitigate identity theft;
 - (4) Updates in the types of accounts that the City offers or maintains; and
 - (5) Updates in service provider arrangements.
- (Ord. No. 090721-6, § 1(610), 7-21-2009)

Sec. 2-301. Program administration.

The City Clerk is responsible for oversight of the program and for program implementation. The Mayor is responsible for reviewing reports prepared by staff regarding compliance with red flag requirements and with recommending material changes to the program, as necessary in the opinion of the Mayor, to address changing identity theft risks and to identify new or discontinued types of covered accounts. Any recommended material changes to the program shall be submitted to the City Council for consideration by the City Council.

- (1) The City Clerk will report to the Mayor, at least annually, on compliance with the red flag requirements. The report will address material matters related to the program and evaluate issues such as:
 - a. The effectiveness of the policies and procedures of the City in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts;
 - b. Service provider arrangements;
 - c. Significant incidents involving identity theft and management's response; and
 - d. Recommendations for material changes to the program.

- (2) The City Clerk is responsible for providing training to all employees responsible for or involved in opening a new covered account, restoring an existing covered account or accepting payment for a covered account with respect to the implementation and requirements of the Identity Theft Prevention Program. The City Clerk shall exercise the Clerk's discretion in determining the amount and substance of training necessary.

(Ord. No. 090721-6, § 1(611), 7-21-2009)

Sec. 2-302. Outside service providers.

In the event that the City engages a service provider to perform an activity in connection with one or more covered accounts, the City Clerk shall exercise the Clerk's discretion in reviewing such arrangements in order to ensure, to the best of the Clerk's ability, that the service provider's activities are conducted in accordance with policies and procedures, agreed upon by contract, that are designed to detect any red flags that may arise in the performance of the service provider's activities and take appropriate steps to prevent or mitigate identity theft.

(Ord. No. 090721-6, § 1(612), 7-21-2009)

Secs. 2-303—2-322. Reserved.

ARTICLE VI. OFFICERS AND EMPLOYEES

DIVISION 1. GENERALLY

Sec. 2-323. Administrative policy and procedures.

- (a) *Department heads.* All department heads shall:
 - (1) Be immediately responsible to the Mayor for the effective administration of their respective departments and all activities assigned thereto;
 - (2) Keep informed as to the latest practices in their particular fields and inaugurate, with the approval of the Mayor, such new practices as appear to be of benefit to the service and to the public;
 - (3) Submit quarterly and annual reports of the activities of their respective departments to the Mayor;
 - (4) Establish and maintain a system of filing and indexing records and reports in sufficient detail to furnish all information necessary for proper control of departmental activities and to form a basis for the periodic reports to the Mayor;
 - (5) Have power, when authorized by the Mayor, to appoint and remove, subject to personnel regulations, all subordinates under the Mayor; and
 - (6) Be responsible for the proper maintenance of all City property and equipment used in their respective departments.

(b) *Interdepartmental cooperation.* Each department shall cooperate with every other department and shall furnish, upon the direction of the Mayor, or any other department, such service, labor, and materials as may be requisitioned by the head of each department, as its own facilities permit.

(c) *Operation of administrative service.* All units in the administrative service shall:

(1) Make a daily deposit with the City Treasurer of any monies received directly from the public.

(2) Pay out monies belonging to the City only in the manner prescribed herein.

(Code 2001, § 3-103; Code 2006, § 2-70)

Sec. 2-324. Municipal personnel policy.

The City of Statham Personnel Policy Handbook, as adopted and as may be amended, is incorporated by reference as if fully set out herein.

(Code 2001, § 3-604; Code 2006, § 2-71)

Sec. 2-325. Workers' compensation.

The City shall provide workers' compensation insurance coverage for the Mayor.

(Code 2001, § 3-606; Code 2006, § 2-72)

Sec. 2-326. Duties of City Treasurer.

The City Clerk or the Clerk's designee shall have the following duties in the Clerk's capacity as City Treasurer to:

(1) Receive all money due the City Council, including taxes, licenses, fees, and other monies belonging to the City, and pay out the same only upon orders passed by the City Council and signed by the Mayor, or in the Mayor's absence, the Mayor Pro Tem;

(2) Keep a book of accounts showing all monies received on behalf of the City and the source and disposition thereof, which book shall be open for inspection by the public and members of the City Council;

(3) Maintain a uniform system of accounts and keep such other records and accounts as may be required by statute or ordinance;

(4) Furnish the City Council with quarterly statements detailing all receipts and payments of funds for the quarter; and

(5) Enforce all laws of the State relating to the collection of delinquent taxes and sale or foreclosure for nonpayment of taxes to the City.

(Code 2001, § 3-405; Code 2006, § 2-73)

Secs. 2-327—2-355. Reserved.

DIVISION 2. CITY ADMINISTRATOR

Sec. 2-356. Office created; appointment.

(a) There is hereby created for the City the office of City Administrator. The Administrator, at the discretion of the Mayor, shall be vested with the authority and responsibility to oversee and supervise the regular business affairs of the City. Except as otherwise provided by general or local State law, the Administrator shall be the Chief Administrative Officer of the City and shall exercise executive supervision over all City employees and departments. The Administrator may further have such other duties as the Mayor may delegate, and which are not inconsistent with this Code, or any general or local State law. The City Administrator need not be a resident of the City.

(b) The City Administrator shall be appointed by the Mayor. The compensation and term of office of the City Administrator shall be established by the Mayor and Council.
(Ord. No. 141010-3, § 1(2-191), 10-10-2014)

Sec. 2-357. Duties, responsibilities.

(a) The City Administrator shall be responsible for supervising all paid employees of the City other than the City Attorney, the City Judge, and the City Solicitor. The City Administrator's authority to supervise employees under the Administrator's control shall include the ability to discipline any such employee. Decisions of the City Administrator shall be subject to the approval of the Mayor, or the Mayor and Council as provided by the Charter, and the City Administrator shall keep the Mayor informed of the City Administrator's activities on a regular basis. The City Administrator shall have the authority to make recommendations regarding the hiring and dismissal of such employees, such recommendations to be approved as provided by the Charter or this Code.

(b) The City Administrator shall have the authority to adopt and implement personnel policies and procedures for the orderly administration of personnel matters within the City which shall apply to all employees under the control of the City Administrator, subject to the approval of the Mayor and City Council. The City Administrator shall not adopt or implement any personnel policies pursuant to the authority granted in this section which would have the effect of changing the status of any City employee to any designation other than an employee at-will. In addition, no personnel policies or procedures shall be adopted by the City Administrator pursuant to the authority granted in this section which would limit or prohibit the Mayor and City Council from exercising the legal authority granted to the Mayor and City Council pursuant to Article II or III of the Charter, which authorize the Mayor and Council to exercise ultimate final authority over the administrative affairs of the City.

(c) The City Administrator shall have such other and further duties, responsibilities and authority as may be delegated to the City Administrator by the Mayor.
(Ord. No. 141010-3, § 1(2-192), 10-10-2014)

Sec. 2-358. Supervision.

The City Administrator shall be responsible for overseeing and supervising the regular business affairs of the City and shall report directly to the Mayor.
(Ord. No. 141010-3, § 1(2-193), 10-10-2014)

Secs. 2-359—2-389. Reserved.

DIVISION 3. CODE OF ETHICS

Sec. 2-390. Intent.

It is essential to the proper administration and operation of the City that the members of its Governing Authority are, and give the appearance of being, independent and impartial; that public office is not used for private gain; and that there is public confidence in the integrity of the Governing Authority. The Governing Authority finds that the public interest requires that they protect against such conflicts of interest by establishing appropriate ethical standards with respect to the conduct of the members of the Governing Authority in situations where a conflict may exist.

(Code 2006, § 2-105; Ord. of 8-17-2004, § 2.5-101)

Sec. 2-391. Definitions.

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

Complaint means a written sworn statement filed with the Mayor or Mayor Pro Tem, containing specific allegations of misconduct by a member; provided, however, such allegations must be filed within six months of discovery of the alleged misconduct.

Governing Authority or *member of the Governing Authority* means the Mayor or any Councilmember of the City and any member appointed to any board or commission of the City.

Interest means any direct pecuniary benefit, which is not a remote interest held by or accruing to a member of the Governing Authority as a result of a contract or transaction that is or may be the subject of an official act or action by or with the City. A member of the Governing Authority shall be deemed to have an interest in transactions involving any:

- (1) Person in the member's immediate family;
- (2) Person with whom a contractual relationship exists whereby the member may receive any payment or other benefits unless the member is receiving a benefit for goods or services in the normal course of business for which the member has paid a commercially reasonable rate;
- (3) Business in which the member is a director, officer, employee, agent, or shareholder, except as otherwise provided herein; or
- (4) Person of whom the member is a creditor, whether secured or unsecured.

(Code 2006, § 2-106; Ord. of 8-17-2004, § 2.5-102)

Sec. 2-392. Prohibitions.

(a) No member of the Governing Authority shall:

- (1) By conduct, give reasonable basis for the impression that any person can improperly influence said member or unduly enjoy said member's favor in the performance of official acts;

- (2) Directly or indirectly request, exact, receive, or agree to receive a gift, loan, favor, promise, or thing of value for themselves or another person if it could reasonably be considered to influence the member in the discharge of official duties;
 - (3) Disclose or otherwise use confidential information acquired by virtue of the member's official position for said member's or another person's private gain;
 - (4) Use the member's official position to attempt to secure privileges that are not available to the general public;
 - (5) Engage in, accept employment with, or render services for any private business or professional activity when such employment or rendering of services is adverse to and incompatible with the proper discharge of official duties;
 - (6) Engage in any activity or transaction that is prohibited by law now existing or hereafter enacted which is applicable to said member by virtue of being a member of the Governing Authority;
 - (7) Use the member's position to request or require an employee to:
 - a. Do clerical work on behalf of the member's family, business, social, church or fraternal interest when such work is not furthering a City interest;
 - b. Perform any work outside the employee's normal course of municipal employment;
 - c. Purchase goods or services to be used for personal, business, or political purposes; and
 - d. Work for the member personally without paying the employee just compensation;
 - (8) Use government property of any kind for other than officially approved activities, nor shall the member's direct employees use such property for any purposes other than those officially approved;
 - (9) Use the member's position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to themselves or persons having an interest.
- (b) Subsection (a)(2) of this section shall not apply in the case of:
- (1) An occasional nonpecuniary gift of insignificant value;
 - (2) An award publicly presented in recognition of public service;
 - (3) A commercially reasonable loan or other financial transaction made in the ordinary course of business by an institution or individual authorized by State laws to engage in the making of such a loan or financial transaction;
 - (4) Campaign contributions made and reported in accordance with State law.
- (Code 2006, § 2-107; Ord. of 8-17-2004, § 2.5-103)

Sec. 2-393. Disclosure of conflicts of interest.

An appointed member of the Governing Authority who has an interest that the member has reason to believe may be affected by the member's official acts or actions or by the official acts or actions of the Governing Authority shall disclose the precise nature of such interest by written or verbal statement 30 days prior to the Governing Authority's taking official action on a matter affecting such interest and

abstain from discussion and voting. An elected member of the Governing Authority shall disclose the nature of any interest the member has at the time such matter is presented to Mayor and Council for discussion. Such written or verbal statements shall be recorded into the minutes of the meeting and thus become part of the public record. Following any disclosure made pursuant to this section, the member shall refrain from all ex parte communications with other members regarding the application in which the member has an interest.

(Code 2006, § 2-108; Ord. of 8-17-2004, § 2.5-104)

Sec. 2-394. Disqualification.

A member of the Governing Authority shall disqualify themselves from participating in any official act or action of the City which results in a pecuniary benefit to the member or a business or activity in which the member has an interest when such benefit is not available to the public at large.

(Code 2006, § 2-109; Ord. of 8-17-2004, § 2.5-105)

Sec. 2-395. Prohibited contracts.

The City shall not enter into any contract involving services or property with a member of the Governing Authority or with a business in which a member of the Governing Authority has an interest. This section shall not apply in the case of:

- (1) The designation of a bank or trust company as a depository for City funds;
- (2) The borrowing of funds from any bank or lending institution which offers the lowest available rate of interest in the community for such loan;
- (3) Contracts entered into in accordance with O.C.G.A. § 16-10-6;
- (4) Contracts entered into under circumstances that constitute an emergency situation, provided that the Mayor prepares a written record explaining the emergency;
- (5) Contracts entered into with a member of the Governing Authority, or with a business in which a member of the Governing Authority has an interest, provided that such contract is the result of a competitive bid, disclosure of the nature of such member's interest is made prior to the time any bid is submitted, and a waiver of the prohibition contemplated by this section is issued by the City Manager following disclosure.

(Code 2006, § 2-110; Ord. of 8-17-2004, § 2.5-106)

Sec. 2-396. Restrictions on contracts with former members of the Governing Authority.

The City shall not enter into any contract with any person or business represented by such person, who has been within the preceding 12-month period a member of the Governing Authority, unless the contract is awarded by a competitive bid.

(Code 2006, § 2-111; Ord. of 8-17-2004, § 2.5-107)

Sec. 2-397. Board of Ethics.

The Board of Ethics shall consist of three persons, one appointed by the Mayor, one appointed by the Council, and the third appointed by those appointed members subject to approval by the City Council. All members shall be residents of the City and shall serve a two-year term.

(Code 2006, § 2-112; Ord. of 8-17-2004, § 2.5-108)

Sec. 2-398. Receipt of complaints.

(a) All complaints against City Councilmembers shall be filed in writing with the Mayor or Mayor Pro Tem who shall refer such complaint to the Board of Ethics.

(b) Upon receipt of a complaint in proper form, the Board of Ethics shall review it to determine whether the complaint is unjustified, frivolous, patently unfounded or fails to state facts sufficient to invoke the disciplinary jurisdiction of the City Council. The Board of Ethics shall be empowered to collect evidence and information concerning any complaint and to add the findings and results of its investigations to the file containing such complaint.

(c) Upon completion of its investigation of a complaint, the Board of Ethics shall be empowered to dismiss those complaints which are unjustified, frivolous, patently unfounded or which fail to state facts sufficient to invoke the disciplinary jurisdiction of the City Council; provided, however, that a rejection of such complaint by the Board of Ethics shall not deprive the complaining party of any action the party might otherwise have at law or in equity against the respondent government servant. If the Board of Ethics finds said complaint to be valid, it shall forward its findings to the Mayor and Council for whatever action or penalty it deems appropriate.

(d) The Board of Ethics shall be empowered to conduct probable cause investigations, to take evidence and to hold hearings where provided for in the rules.

(e) The Board of Ethics shall be empowered to adopt forms for formal complaints, subpoenas, notices, applications for reinstatement and any other written instruments necessary or desirable under these rules.

(f) The members of the Board of Ethics shall serve without compensation. The Governing Authority of the City shall provide meeting space for the Board of Ethics. Subject to budgetary procedures and requirements of the City, the City shall provide the Board of Ethics with such supplies and equipment as may be reasonably necessary for it to perform its duties and responsibilities.

(Code 2006, § 2-113; Ord. of 8-17-2004, § 2.5-109)

Sec. 2-399. Additional regulations.

This division shall be cumulative to any other Charter provision, ordinance, resolution or Act now existing.

(Code 2006, § 2-113; Ord. of 8-17-2004, § 2.5-110)

Sec. 2-400. Penalty and member rights.

(a) Any member of the Governing Authority who knowingly violates any provision of the Code of Ethics provided in this division shall be subject to public reprimand or censure by the Governing Authority of the City.

(b) At any hearing held by the Board of Ethics, the member of the Governing Authority who is the subject of inquiry shall have the right to written notice of the allegations at least ten business days before a hearing, to be represented by counsel, to hear and examine the evidence and witnesses, and to present evidence and witnesses in opposition or in extenuation.

(Code 2006, § 2-115; Ord. of 8-17-2004, § 2.5-111)

Sec. 2-401. Right to appeal.

Any final decision by the City Council pursuant to this division for City Councilmembers shall be reviewable by the County Superior Court. The review by the Superior Court shall be by writ of certiorari and shall be limited to an inquiry of whether there was any evidence before the City Council which supported the decision of the Council; provided, however, that no action of the City Council refusing or failing to take action pursuant to this division shall be reviewable by the Superior Court.

(Code 2006, § 2-116; Ord. of 8-17-2004, § 2.5-112)

Secs. 2-402—2-430. Reserved.

ARTICLE VII. OPEN RECORDS

Sec. 2-431. State Open Records Act adopted by reference.

The City hereby adopts the Georgia Open Records Act, O.C.G.A. § 50-18-70 et seq., as amended from time to time.

Chapter 3

RESERVED

Chapter 4

ALCOHOLIC BEVERAGES

Article I. In General

- Sec. 4-1. Malt beverage excise tax.
- Sec. 4-2. Wine excise tax.
- Secs. 4-3—4-22. Reserved.

Article II. Alcohol

- Sec. 4-23. License is a privilege.
- Sec. 4-24. Definitions.
- Sec. 4-25. Licenses generally.
- Sec. 4-26. Types of licenses to be issued.
- Sec. 4-27. Sale or possession for sale without license or beyond boundaries of premises covered by license; penalties.
- Sec. 4-28. Penalties for violation of chapter.
- Sec. 4-29. Location of licensed operation; distance requirements from schools and church buildings.
- Sec. 4-30. Separate application and separate license for each location of sale.
- Sec. 4-31. Qualifications of licensee.
- Sec. 4-32. Application forms.
- Sec. 4-33. License fee scale.
- Sec. 4-34. Fee schedule.
- Sec. 4-35. Withdrawal of application.
- Sec. 4-36. Collection of fees or taxes sums due.
- Sec. 4-37. Granting of application.
- Sec. 4-38. Transferability of license/change in ownership.
- Sec. 4-39. Display of license at place of business.
- Sec. 4-40. Expiration; renewal of license.
- Sec. 4-41. Automatic license forfeiture for non-use.
- Sec. 4-42. Revocation or non-renewal of license.
- Sec. 4-43. Suspension of license.
- Sec. 4-44. Hearings.
- Sec. 4-45. Notice.
- Sec. 4-46. Audits of licensees.
- Sec. 4-47. Retail consumption dealers to store inventory only on premises.
- Sec. 4-48. Poured alcohol to be transported by employees.
- Sec. 4-49. Employee regulations.
- Sec. 4-50. Employee regulations; hearings on adverse actions.
- Sec. 4-51. Licensees to maintain a copy of this chapter; employees to be familiar with terms; licensee responsible for violations.
- Sec. 4-52. Employment of underage persons prohibited; exceptions.
- Sec. 4-53. Failure to require and properly check identification.
- Sec. 4-54. Sales to underage person prohibited.
- Sec. 4-55. Purchase or possession of alcoholic beverages by underage persons.
- Sec. 4-56. Open area and patio sales.
- Sec. 4-57. No consumption outside premises.

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- Sec. 4-58. Specification of premises.
- Sec. 4-59. Solicitation prohibited.
- Sec. 4-60. Prohibited noise from establishments.
- Sec. 4-61. Inspection of licensed establishments by the Police Department.
- Sec. 4-62. Establishment can be closed in cases of emergency.
- Sec. 4-63. Sale on election days.
- Sec. 4-64. Bring your own bottle (brown bagging) prohibited.
- Sec. 4-65. Types of entertainment, attire and conduct prohibited.
- Secs. 4-66—4-88. Reserved.

Article III. Beer and Wine by the Drink

- Sec. 4-89. Type of retail establishment where permitted.
- Sec. 4-90. License fee and amount to defray investigative and administrative costs to accompany application.
- Sec. 4-91. Hours and days of sale.
- Secs. 4-92—4-110. Reserved.

Article IV. Excise Taxes

- Sec. 4-111. Per drink excise tax.
- Sec. 4-112. Excise tax and bond requirement on wholesalers.
- Secs. 4-113—4-137. Reserved.

Article V. Happy Hour

- Sec. 4-138. Promotions and sales.
- Secs. 4-139—4-159. Reserved.

Article VI. Retail Package Sales

- Sec. 4-160. Type of retail establishments.
- Sec. 4-161. Investigative and administrative costs.
- Sec. 4-162. Hours and days of sale.
- Secs. 4-163—4-192. Reserved.

Article VII. Retail Sales of Distilled Spirits for Consumption on the Premises

- Sec. 4-193. Locations where permitted.
- Sec. 4-194. Investigative and administrative costs.
- Sec. 4-195. Hours and days of sale.
- Sec. 4-196. Consumption sales only.

ARTICLE I. IN GENERAL**Sec. 4-1. Malt beverage excise tax.**

There is hereby imposed an excise tax, in addition to the excise taxes levied by the State, as follows:

- (1) Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of \$6.00 on each container sold containing not more than 15½ gallons, and a proportionate tax at the same rate on all fractional parts of 15½ gallons;
- (2) Where malt beverages are sold in bottles, cans, or other containers, except barrel or bulk containers, a tax of \$0.05 per 12 ounces, and a proportionate tax at the same rate on all fractional parts of 12 ounces.

(Code 2001, § 4-102; Code 2006, § 6-1)

State law reference—Similar provisions, O.C.G.A. § 3-5-80.

Sec. 4-2. Wine excise tax.

(a) There is hereby levied an excise tax on the first sale or use of wine by the package, which shall be \$0.22 per liter, and a proportionate tax at the same rate on all fractional parts of a liter. The tax shall be paid in the same manner as provided by law for the tax levied in Section 4-1.

(b) Wines which contain less than one-half of one percent alcohol by volume shall not be subject to the provisions of this section.

(Code 2001, § 4-103; Code 2006, § 6-2)

State law reference— Similar provisions, O.C.G.A. § 3-6-60.

Secs. 4-3—4-22. Reserved.**ARTICLE II. ALCOHOL****Sec. 4-23. License is a privilege.**

(a) Alcoholic beverages may be sold in the City under a license granted by the Mayor and City Council upon the terms and conditions provided in this chapter.

(b) All licenses issued pursuant to this chapter shall be a mere grant of privilege to carry on the business during the term of the license, subject to all terms and conditions imposed by this chapter and State law.

(c) All licenses pursuant to this chapter shall have printed on the front these words: "This license is a mere privilege subject to be revoked and annulled and is subject to any further ordinances that may be enacted."

(d) Any holder of a license issued in accord with this chapter is required to apply for and obtain an alcoholic beverage license from the State before any sales commence. Additionally, City licensees are required to abide by all applicable State regulations and laws.

(Ord. No. 08219-2, art. I(2), 2-19-2008)

Sec. 4-24. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed in this section, except if the context clearly indicates a different meaning:

Alcohol means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

Alcoholic beverage means and includes all alcohol, distilled spirits, beer, malt beverage, wine or fortified wine as defined in this section.

Beer or malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other product, or any combination of such products in water containing not more than 14 percent alcohol by volume, and including ale, porter, brown, stout, lager beer, small beer, and strong beer. Also, the term "beer" or "malt beverage" includes beverages known as non-alcoholic beer which is made by fermentation of any infusion or decoction of barley, malt, hops, or other products, and containing less than three percent, but more than 0.1 percent alcohol by volume. The term "malt beverage" does not include sake, known as Japanese rice wine.

Distilled spirits or spirituous liquor means any alcoholic beverage obtained by distillation or containing more than 24 percent alcohol by volume.

Eating establishment means any public place, including a place available for rental by the public, selling prepared food for consumption by the public on the premises with a full-service kitchen. A full-service kitchen shall consist of a three-compartment pot sink, a stove or grill permanently installed, and refrigerator, all of which must be approved by the Health and Fire Departments. An eating establishment shall be prepared to serve food every hour the establishment is open and shall derive at least 50 percent of the gross receipts annually from the sale of prepared meals or food.

Fortified wine means any alcoholic beverage containing more than 21 percent alcohol by volume made from fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added. Fortified wine includes, but is not limited to, brandy.

Hotel means any building or other structure providing sleeping accommodations for hire to the general public, either transient, permanent or residential. Such businesses shall have one or more public dining rooms with an adequate kitchen. Motels meeting the qualifications set out in this definition for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of any licensed establishment described in this chapter, and the holder of such franchise shall be included in the definition of a hotel pursuant to this definition.

House of worship means a building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

Indoor commercial recreational establishment means and is limited to an establishment that:

- (1) Regularly serves prepared food with a full-service kitchen (a full-service kitchen shall consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of

which must be approved by the Health and Fire Departments) prepared to serve food every hour the establishment is open and deriving at least 50 percent of its total annual gross sales from the sale of prepared meals or food and recreation activities; and

- (2) Wherein the sale of food and alcoholic beverages is incidental to its primary enterprise and activity on the premises. The primary activity on the premises of the indoor commercial recreational establishment shall be family-oriented in nature, generally meaning a use that attracts a range of individuals from all age groups. Uses may specifically include, but not be limited to, dinner theaters, bowling centers, and other similar uses. Outdoor commercial recreation is not included, nor shall concession sales of alcoholic beverages be permitted in an outdoor commercial recreational establishment. Bingo parlors, dance halls, nightclubs, taverns, billiard parlors, video arcades, adult entertainment and/or sexually related entertainment activities, and similar uses are specifically excluded from this definition of indoor commercial recreational establishments.

Licensee means the individual to whom a license has been granted for the sale or distribution of malt beverages or wine under this chapter. In the case of a partnership or corporation, all partners, officers, and directors of the partnership or corporation are licensees.

Liter means metric measurement currently used by the United States.

Manufacturer means any maker, producer, or bottler of an alcoholic beverage. The term "manufacturer" also means:

- (1) In the case of distilled spirits, any person engaged in distilling, rectifying, or blending any distilled spirits;
- (2) In the case of malt beverage, any brewer.

Package means a bottle, can, keg, barrel, or other original consumer container.

Package sales means the sale in packages or containers of malt or vinous beverages for consumption only off the premises.

Person means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political subdivision, whether public, private, or quasi-public.

Pouring permit means an authorization granted by the County to dispense, sell, serve, take orders, or mix alcoholic beverages in establishments licensed as a retail consumption dealer.

Retail consumption dealer means any person who sells alcoholic beverages for consumption on the premises, at retail, only to consumers and not for resale.

Retail package dealer means any person who sells unbroken packages, at retail, only to consumers and not for resale.

Tavern means a business location meeting all Health Department standards and Fire Codes which is operated for the purpose of selling malt beverages over the counter for consumption on the premises. No

tavern shall remain licensed which allows any customer to consume a sufficient volume of malt beverages on the premises or sold from the premises to attain a level of intoxication equal to blood alcohol levels established to define the State offense of driving under the influence.

Wholesaler or *wholesale dealer* means any person who sells alcoholic beverages to other wholesale dealers, to retail dealers, or to retail consumption dealers.

Wine means any alcoholic beverage containing not more than 24 percent alcohol made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. The term "wine" includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term "wine" does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at the point in the manufacturing process when it conforms to the definition of wine contained in this section.

(Ord. No. 08219-2, art. I(3), 2-19-2008)

Sec. 4-25. Licenses generally.

All licenses issued under this chapter shall:

- (1) Permit the licensees to sell or distribute the beverage for which the license is issued inside the City pursuant to the terms of this chapter and consistent with the State and federal laws;
- (2) Expire on December 31 of each year and an application for renewal shall be made annually on or before November 30 each year. Any licensee must annually meet the requirements set forth by the Mayor and City Council in order to obtain a renewal of any license. Any licensee making proper application with supporting documents for a license to operate during the following calendar year, and having filed such application before November 30, shall be permitted to continue to operate pending final approval of the licensee's application for the following year if final approval is not granted before January 1;
- (3) Not be transferred from one person to another or from one location to another without prior approval from the Mayor and City Council upon written application from the licensee; and
- (4) Permit the licensee to sell malt beverages, wines, or any combination thereof, depending upon the license issued, for beverage purposes by the drink for consumption only on the premises where sold.

(Ord. No. 08219-2, art. I(4), 2-19-2008)

Sec. 4-26. Types of licenses to be issued.

The following licenses may be issued under this chapter:

- (1) Combination licenses:
 - a. Malt beverages and/or wine to be served for consumption only on the premises.
 - b. Distilled spirits to be served for consumption on the premises.
 - c. Combined licenses for malt beverages, wine and distilled spirits to be served for consumption on the premises.

(2) Package sales.
(Ord. No. 08219-2, art. I(5), 2-19-2008)

Sec. 4-27. Sale or possession for sale without license or beyond boundaries of premises covered by license; penalties.

It shall be unlawful for any person to sell or possess for the purpose of sale any alcoholic beverage if the person does not have a license granted by the City to sell or possess for sale the alcoholic beverages or to sell or make deliveries beyond the boundaries of the premises covered by the license. Violations of this section shall be punished according to Section 1-10.

(Ord. No. 08219-2, art. I(6), 2-19-2008)

Sec. 4-28. Penalties for violation of chapter.

Any person who violates any provision of this chapter may, upon conviction, be punished according to Section 1-10.

(Ord. No. 08219-2, art. I(7), 2-19-2008)

Sec. 4-29. Location of licensed operation; distance requirements from schools and church buildings.

(a) Licenses shall be issued only for locations in areas zoned in the most recent version of the Statham Unified Development Code.

(b) No person may sell or offer to sell:

- (1) Any distilled spirits in or within 100 yards of any church building or within 200 yards of any school building, educational building, school grounds, or college campus;
- (2) Any wine or malt beverages within 100 yards of any school building, school grounds, or college campus. This subsection shall not apply at any location for which a new license is applied for if the sale of wine and beer was lawful at such location at any time during the 12 months immediately preceding such application.

(c) The school building referred to in this section shall apply only to State, County, City or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools and colleges of the State and which are public or private schools as defined in O.C.G.A. § 20-2-690(b). The term "school building" includes only those structures in which instruction is offered.

(d) The term "church building," as used in this section, shall mean the main structure used by any religious organization for purposes of worship.

(e) The term "alcohol treatment facility" shall include any alcohol treatment facility operated by the State or the County government.

(f) For purposes of this section, distance shall be measured by the most direct route of travel by vehicle on the ground and shall be measured in the following manner:

- (1) From the main entrance of the main structure of church building, school or alcohol treatment facility;

- (2) In a straight line to the nearest public sidewalk, walkway, street, road or highway by the nearest route;
- (3) Along such public sidewalk, walkway, street, road or highway by the nearest route in direction allowed for vehicular traffic;
- (4) To the main entrance of the establishment from which alcoholic beverages are sold or offered for sale.

(g) As to any location licensed in the future, if the distance requirements in this section are met at the time of issuance of any license, the subsequent opening and operation of a church or school or alcohol treatment facility within the distance prohibited in this section shall not prevent the continuance of an existing license or the renewal thereof or the issuance of a new license to any subsequent owner of such property.

(h) As to any location on City Square, the subsequent opening of a church, school or alcohol treatment facility within the distance prohibited in this section shall not prevent the issuance of a license to the current or subsequent owner of such property.

(i) Application for distance waiver permit for restaurant. The Mayor and Council, following application for a distance waiver permit for restaurants, notice and hearing as described herein, may in its discretion grant a distance waiver permit for a restaurant authorizing the issuance of a license to a licensee of a restaurant notwithstanding the distance requirements from school buildings, churches and/or property lines of a private dwelling located in a single-family residential zoning district for locations that sell alcohol for consumption on the premises only.

- (1) An application for a distance waiver permit for restaurant shall be on a form prescribed by the City. The applicant shall describe the proposed business in detail. A waiver shall not be granted to a business with outdoor seating or amplified outdoor music. A permit application fee in an amount as adopted by the City Council by resolution from time to time shall be submitted with the application. The Clerk shall give the applicant written notice of the date that such distance permit application will be heard by the Mayor and Council. The hearing required by this subsection shall not be set until the City determines that, excluding the distance requirements under application for waiver, all other requirements of this chapter for the type of alcoholic beverage license under consideration have been met. If all other requirements have been met, the Clerk will notify the applicant of the date set for the hearing in time for the applicant to meet the notice requirements in Subsections (i)(2)a and b of this section.
- (2) The applicant shall cause notice of such application containing the same information as required in this subsection for the sign to be advertised in the County legal organ for two consecutive weeks preceding the hearing date. The applicant shall cause the property designated for the operation of the business to be posted for 15 days preceding the date of the hearing with a sign.
 - a. The size of the sign to be posted on the property shall be no smaller than 18 inches by 24 inches. The size of the copy on the sign shall be large enough to be visible to pedestrians and motorists. The sign is to be conspicuously displayed on that portion of the property most visible to the public and shall not be removed prior to the conclusion of the public

hearing. At the hearing, the applicant shall provide proof to the Mayor and Council that the notice has been published as required herein and that the sign has been posted as required herein.

- b. In determining whether or not any distance waiver permit for restaurant applied for hereunder shall be granted or renewed, the following factors shall be considered by the Mayor and Council at the hearing in the public interest and welfare:
 1. Character of the location: The location for which the license is sought, as to traffic congestion, noise, general character of neighborhood, and the effect such an establishment would have on the use and property values of the adjacent and surrounding property.
 2. Number of licenses in area: The number of licenses already granted for similar business in the area of the place for which the license is sought.
 3. Congregation of minors: Any circumstances which may cause minors to congregate in the vicinity of the proposed location.
 4. Prior incidents: Evidence that a substantial number of incidents requiring police intervention have occurred within a square city block of the proposed location during the 12 months immediately preceding the date of application.
 5. Manner of conducting prior alcoholic beverage business: If the applicant is a previous holder of an alcoholic beverage license, the manner in which the applicant conducted the prior business, especially as to the necessity of unusual police observation and inspection in order to prevent the violation of any law, regulation, or ordinance relating to such business.
 6. Failure to satisfy notice requirements: If the applicant has failed to satisfy the notice provisions required hereinabove, the Mayor and Council shall deny the distance waiver permit.

(3) Hearings on applications.

- a. Hearings on the application for a distance waiver permit for restaurant shall be conducted informally but in such a manner as to preserve decorum at all times. The Council may administer oaths and compel the attendance of witnesses by subpoena. The applicant and interested parties shall have the right to appear before the Mayor and Council and present evidence. Following the hearing, the Mayor and Council may:
 1. Approve the application;
 2. Approve the application with conditions; or
 3. Deny the application.
- b. In considering a distance waiver permit for restaurant, the Mayor and Council may impose conditions, including limitations as to the days and hours that alcohol may be sold, to the extent necessary, to minimize any adverse effects the proposed restaurant may have on the adjoining properties if, after considering all of the factors required, the Mayor and Council decides conditions can reduce such adverse impacts upon adjoining properties to an acceptable and reasonable level. Applicant and owners of adjoining or affected parties

are encouraged to consider and attempt agreement as to conditions that minimize adverse impacts. The Mayor and Council will consider but shall not be bound by any such proposed agreement.

- (4) The holder of a distance waiver permit for restaurant shall apply for renewal of said permit each year upon application for renewal of the alcoholic beverage license on a form prescribed by the City and submitted simultaneously with an application for an alcoholic beverage license. A permit application fee in an amount as adopted by the City Council by resolution from time to time shall be submitted with the application. At the time of application, the applicant shall cause to be posted on the property a notice of the application for renewal of the distance waiver permit for restaurant.
- a. The sign's size, display and proof of posting shall be as set forth Subsection (i)(2) of this section.
 - b. If a written objection is filed, then the Clerk shall notify the applicant by providing copies of all written objections to the applicant. A hearing pursuant to the requirements of Subsections (i)(1) and (2) of this section shall be held. In the event that no objection is filed, then the Clerk is authorized to issue the renewal distance waiver permit without a hearing if all other requirements of this chapter for the type of alcoholic beverage license under consideration have been met.
- (5) Each distance waiver permit for restaurant is issued for a specific location and the specific restaurant's use only and may not be transferred to another location or another type of use at the same location. A new application is required for each licensed premises.
- (6) No distance waiver permit for restaurant shall be transferred from one person to another during the year in which the license was obtained, except in the case of the death of a person holding the permit, in which event said person's personal representative may continue to operate under the license for six months from the date of said person's qualification.
- (Ord. No. 08219-2, art. I(8), 2-19-2008; Ord. No. 180821-2, exh. A, 8-21-2018)

Sec. 4-30. Separate application and separate license for each location of sale.

Separate applications must be made for each location and separate licenses must be issued.
(Ord. No. 08219-2, art. I(9), 2-19-2008)

Sec. 4-31. Qualifications of licensee.

(a) No license for the sale of alcoholic beverages shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence. The applicant must not be less than 21 years of age and must be a resident of Barrow County for not less than six consecutive months before filing the application unless the applicant specifically designates a resident of Barrow County who has resided within the County for at least six months before filing the application, which resident shall be responsible for any matter relating to the license.

(b) If the applicant is a partnership or corporation, then the provisions of this section shall apply to all its partners, officers and majority stockholders. In the case of a corporation, the license shall be issued jointly to the corporation and the majority stockholder, if an individual. If the majority stockholder is not an individual, then the license shall be issued jointly to the corporation and its agent registered under the provisions of this chapter. In the case of a partnership, the license will be issued to all the partners owning at least 20 percent of the partnership; or if no partner owns 20 percent of the partnership, then the general partner, managing partner or the partner with the greatest ownership shall be licensed.

(c) If the applicant is a nonprofit club, then the managing agent may be an officer of the organization rather than a full-time employee if such managing agent is qualified in accord with this section.

(d) No person shall be granted any alcoholic beverage license unless proper information establishes to the satisfaction of the Mayor and City Council or its designee that such person, partners in the firm, officers and directors of the corporation have not been convicted or pled guilty or entered a plea of nolo contendere, and has been released from parole or probation, to any crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexually related crime within a period of five years immediately prior to the filing of such application. At the time an application is submitted for any alcoholic beverage license, the applicant shall, by a duly sworn affidavit, certify that neither the applicant, nor any of the other owners of the establishment, has been so convicted in the five years preceding the filing of the application. An applicant's first-time conviction for illegal possession of alcohol as a misdemeanor or violation of a County ordinance shall not, by itself, make an applicant ineligible for an alcohol license. If any applicant, partner, or officer used in the sale or dispensing of any alcoholic beverage, after a license has been granted, has been convicted or plead guilty or nolo contendere to a crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages, including sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime, then the license shall be immediately revoked and canceled.

(e) No license for the sale of alcoholic beverages shall be granted to any person convicted under any federal, State or local law of any felony, within five years prior to the filing of application for such license.

(f) It shall be unlawful for any City employee directly involved in the issuance of alcoholic beverage licenses under this chapter to have any whole, partial or beneficial interest in any license to sell alcoholic beverages in the County.

(g) No license for the sale of alcoholic beverages shall be granted to any person who has had any license issued under the police powers of the City or County previously revoked within two years prior to the filing of the application.

(h) The Mayor and City Council may decline to issue a license when any person having any ownership interest in the operation of such place of business or control over such place of business does not meet the same character requirements as set forth in this section for the licensee.

(i) All licensed establishments must have and continuously maintain in the County a registered agent as indicated in Subsection (a) of this section. The licensee shall file the name of such agent, along with the written consent of such agent, with the Mayor and City Council and shall be in such form as the Mayor and City Council may prescribe.

(j) All applicants for any alcoholic beverage license must be of good character, and all operators, managers, clerks, or other employees shall be of like character. Corporate or firm applicants shall be of good business reputation.

(k) A license application may be denied to any applicant for any alcoholic beverage license if the applicant lacks adequate financial participation in the proposed business to direct and manage its affairs, or if the application is intended to be a mere surrogate for a person who would not otherwise qualify for a license for any reason whatsoever.

(l) The Mayor and City Council may, in its discretion, consider any extenuating circumstances that may reflect favorably or unfavorably on the applicant, application or the proposed location of the business. If circumstances are such that granting of the license would not be in the best interest of the general public, then such circumstances may be grounds for denying the application.

(m) For purposes of this section, a conviction or plea of guilty or nolo contendere shall be ignored as to any offense for which a defendant who was allowed to avail themselves of the Georgia First Offender Act (1968 Ga. Laws, page 324), as amended; except, however, that any such offense shall not be ignored if the defendant violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentencing court entered an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.

(Ord. No. 08219-2, art. I(10), 2-19-2008)

Sec. 4-32. Application forms.

(a) All persons desiring to sell alcoholic beverages shall make application on the form prescribed by the Mayor and City Council.

(b) The application shall include, but shall not be limited to, the name and address of the applicant; the proposed business to be carried on; if a partnership, the names and resident address of the partners; if a corporation, the names of the officers; the names and address of the registered agent for service of process; the name of the manager; and the name of all shareholders holding more than 20 percent of any class of corporate stock, or any other entity having a financial interest in each entity that owns or operates the establishment for which a license is sought. If the manager changes, the applicant must furnish the City Clerk and Chief of Police the name and address of the new manager and other information as requested within ten days of such change.

(c) All applicants shall furnish data, fingerprints, financial responsibility and other records as set forth in Subsection (b) of this section to ensure compliance with the provisions of this chapter. The failure to furnish data pursuant to such request shall automatically serve to dismiss the application with prejudice.

(d) The fingerprints provided shall be forwarded to the Chief of Police and/or the Georgia Bureau of Investigation, as well as the Federal Bureau of Investigation, to search for any instance of criminal activity during the five years immediately preceding the date of the application.

(e) All applications shall be sworn to by the applicant before a notary public or other officer empowered by law to administer oaths.

(f) In all instances in which an application is denied under the provisions of this chapter, the applicant may not reapply for a license for at least one year from the final date of such denial.

(g) The Mayor and City Council shall provide written notice to any applicant whose application is denied under the provisions of this chapter. Such written notification shall set forth in reasonable detail the reasons for such denial and shall advise the applicant of the right to appeal under the provisions of this chapter.

(Ord. No. 08219-2, art. I(11), 2-19-2008)

Sec. 4-33. License fee scale.

Before a license shall be granted, the applicant therefor shall comply with all rules and regulations adopted by the Mayor and City Council regulating the sale of alcoholic beverages, and each applicant shall pay a license fee in accordance with the scale fixed, from time to time, by the Mayor and City Council and kept on file in City Hall. The full amount of the fee, plus the full amount of the investigative and administrative fee, shall be submitted with the application. If the application is denied, the funds submitted, less the investigative and administrative fee, will be refunded. Once a license has been issued, however, no portion of the application fee shall be refunded if the license is revoked, suspended, transferred or surrendered.

(Ord. No. 08219-2, art. I(12), 2-19-2008)

Sec. 4-34. Fee schedule.

License fees applicable to this chapter shall be established from time to time by resolution of Mayor and Council.

(Ord. No. 08219-2, art. I(13), 2-19-2008)

Sec. 4-35. Withdrawal of application.

Any license application made pursuant to this chapter may be withdrawn by the applicant at any time. If the application is withdrawn before the license is issued, any sums deposited as license fees will be refunded. After issuance of the license, no refunds will be made. No refunds shall be made under any circumstances for investigative and administrative expenses required in this chapter.

(Ord. No. 08219-2, art. I(14), 2-19-2008)

Sec. 4-36. Collection of fees or taxes sums due.

If any person shall fail to pay the sum due under this chapter, then the Mayor and City Council or its designee shall issue an execution against the delinquent person and such person's property for the amount of the fee or tax.

(Ord. No. 08219-2, art. I(15), 2-19-2008)

Sec. 4-37. Granting of application.

(a) If the applicant is an individual and the license is granted, then the license shall be issued in the individual's name.

(b) If the applicant is a partnership and the license is granted, then the license shall be issued in the name of a partner who is a resident of the County or in the name of the County resident who was designated as the agent for matters relating to the license and the name of the partnership, jointly.

(c) If the applicant is a corporation and the license is granted, then the license shall be issued in the name of the shareholder who is a resident of the County or in the name of the appointed agent doing business in the name of the corporation.

(d) In deciding whether or not an application will be granted or denied, the local government may consider not only the qualifications of the applicant, the location of the business and its proximity to other enterprises. The commission shall be authorized to and shall also consider:

- (1) The effect that the establishment would have on the neighborhood surrounding the establishment in terms of traffic congestion and the general character of the neighborhood, as well as the effect the establishment would have on the value of properties surrounding the site; and
- (2) The number of alcoholic beverage licenses already granted in the neighborhood, and whether granting the application would be contrary to the public interest or welfare.

(Ord. No. 08219-2, art. I(16), 2-19-2008)

Sec. 4-38. Transferability of license/change in ownership.

(a) Individuals. In the event of a change of ownership of a business for which an individual has been issued a license, the new owner, if desiring a license, must meet the qualifications specified in Section 4-31 and must file an application as provided in Section 4-32 and tender with the application the investigative and administrative fee as provided in Section 4-33 and any license fee that may be due.

(b) Partnerships or corporations. In the event of a change of any ownership interest in a business which is owned or operated by a partnership or corporation and for which a license has been issued, the licensee shall report such change to the County Commission in writing within five days. Change of ownership interest, as used herein, includes, but is not limited to, any change in:

- (1) Division of profits and/or losses;
- (2) Division of net gross or sales;
- (3) Method of paying or amount of rent paid;
- (4) Ownership of leased premises, or buildings or land used in the business;
- (5) Members of a partnership;
- (6) Stockholders of corporate stock; and
- (7) Management.

(c) If, as a result of any change of ownership interest, the licensee would not qualify under other provisions of this chapter for the issuance of a license, then the license issued to the licensee shall be subject to revocation and shall not be subject to renewal.

(d) Each application for transfer of a license shall have attached thereto a completed copy of the notice of change of interest required by the State Revenue Commissioner. After receipt of such application, the Mayor and City Council shall notify the applicant within 30 days of any objection to the transfer. The license shall remain in effect pending approval or disapproval of the transfer. If the transfer is approved, the Mayor and City Council shall permit the license to be transferred upon payment of a transfer fee equal to one-half of the annual license fee. All applications for transfer of a license shall be accompanied by the aforesaid transfer fee, together with an investigative and administrative fee in an amount as adopted by the City Council by resolution from time to time. If the transfer is not approved, then the transfer fee will be refunded, but the investigative and administrative fee will not be refunded. Renewal application requires an investigative and administrative fee in an amount as adopted by the City Council by resolution from time to time.

(e) Upon the death of a licensee, the executor or administrator of the licensee's estate may continue to operate under the license for the balance of the calendar year without payment of any additional fee or may delegate the operation of the business to another person if the person operating under the license, whether the executor, administrator, or delegatee would otherwise be qualified as a licensee under the provisions of this chapter.

(Ord. No. 08219-2, art. I(17), 2-19-2008)

Sec. 4-39. Display of license at place of business.

The alcoholic beverage license shall at all times be kept plainly exposed to view to the public at the place of the business of the licensee.

(Ord. No. 08219-2, art. I(18), 2-19-2008)

Sec. 4-40. Expiration; renewal of license.

(a) All licenses granted under this chapter shall expire on December 31 of each year. Licensees who desire to renew the license shall file applications, with the requisite fee enumerated in Section 4-34 and an administrative and investigation fee in an amount as adopted by the City Council by resolution from time to time, with the Mayor and City Council on the form provided for renewal of the license for the ensuing year. Applications for renewal must be filed before November 30 of each year. Any renewal applications received after November 30 shall pay, in addition to the annual fee, a late charge of 20 percent. If license application is received after January 1, such application shall be treated as an initial application, and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held. If a license application is received after January 1, full investigative and administrative costs will be assessed.

(b) All licenses granted under this chapter shall be for the calendar year, and the full license fee must be paid for a license application filed prior to July 1 of the license year. One-half of a license fee shall be paid for a license application filed after July 1 of the license year, except for applications for a temporary special event license which shall not be halved.

(c) Any person renewing any license issued under this chapter who shall pay the required fee, or any portion thereof, after January 1, shall, in addition to the annual fee and late charges, pay simple interest on the delinquent balance at the annual rate then charged by the Internal Revenue Service of the United States on unpaid Federal income taxes.

(Ord. No. 08219-2, art. I(19), 2-19-2008)

Sec. 4-41. Automatic license forfeiture for non-use.

A license issued pursuant to this chapter shall be valid only so long as the licensee is actually engaged in the business of sale of alcoholic beverages for consumption only on the premises where sold. Any holder of any license under this chapter who shall for a period of 60 days after the license has been issued cease to operate the business and sale of the products authorized shall, after the 60-day period, automatically forfeit the license without the necessity of any further action.

(Ord. No. 08219-2, art. I(20), 2-19-2008)

Sec. 4-42. Revocation or non-renewal of license.

(a) The Mayor and City Council may revoke any license issued under this chapter, or refuse to issue the same, if the licensee or applicant for renewal:

- (1) Is convicted of a felony or any crime involving moral turpitude;
- (2) Makes any false statement of a material fact on the application for license or renewal thereof, or on any document required to be filed with the Mayor and City Council;
- (3) Fails to timely give written notice of any change of ownership interest as required in Section 4-38;
- (4) Violates any rules or regulations promulgated by the Mayor and City Council under this chapter, of which the licensee has reasonable notice; or
- (5) Becomes disqualified under this chapter to hold a license.

(b) The Mayor and City Council shall revoke the license of any licensee whose license has been suspended three or more times in any consecutive 12-month period.

(c) The Mayor and City Council shall revoke the license for any premises where alcoholic beverages have been sold or distributed during a period of suspension.

(d) Whenever it can be shown that a licensee under this chapter no longer maintains adequate financial responsibility upon which issuance of the license was conditioned, or whenever the licensee has defaulted in any obligation of any kind whatsoever, lawfully owing to the City, the license shall be revoked.

(Ord. No. 08219-2, art. I(21), 2-19-2008)

Sec. 4-43. Suspension of license.

(a) The following shall be grounds for the suspension of a license issued under this chapter for such period of time as the Mayor and City Council shall, in its sole discretion, determine appropriate:

- (1) A violation by the licensee of any State or federal law or regulation, or any provision of this chapter or the regulations promulgated under its authority;
- (2) The failure of the licensee and employees or agents of the licensee to promptly report to the Chief of Police any violation of law/breach of peace, disturbance, or altercation occurring on or near the licensee's premises;
- (3) The violation of any law, regulation or ordinance pertaining to alcoholic beverages, malt beverages and wines by any employee or agent of the licensee in connection with the operation of the business of the licensee;
- (4) Operation of the business of the licensee in such a manner as to create a public nuisance, or in a manner contrary to public welfare, safety, health or morals;
- (5) Failure to furnish the Mayor and City Council on request any information or records that would be necessary or needed for use in determining the licensee's compliance and qualifications under this chapter; or
- (6) To knowingly sell malt beverages or wines to any person while such person is in an intoxicated condition.

(b) Wherever this chapter permits the Mayor and City Council to suspend any license issued under this chapter but does not mandate the period of such suspension, such discretion shall be exercised within the guidelines of this subsection.

- (1) No suspension shall be for a period of time longer than the time remaining on such license.
- (2) The following factors shall be considered on any suspension as set out above:
 - a. Consistency of penalties mandated by this chapter and those set by the Mayor and City Council.
 - b. Likelihood of deterring future wrongdoing.
 - c. Impact of the offense on the community.
 - d. Any mitigating circumstances or remedial or corrective steps taken by the licensee.
 - e. Any aggravating circumstances or failure by the licensee to take remedial or corrective steps.

(Ord. No. 08219-2, art. I(22), 2-19-2008)

Sec. 4-44. Hearings.

(a) No license shall be denied, suspended or revoked without the opportunity for a hearing as provided in this section.

(b) The Mayor and City Council shall provide written notice to the applicant or licensee of its intent to deny, suspend or revoke the license. Such written notification shall be hand-delivered or sent certified mail to the applicant at the address shown on the application, and the applicant shall be directed to show cause, if any, why the proposed action should not be taken by the Mayor and City Council. The notice shall:

- (1) Advise of the time and place specified for the hearing, which hearing shall be held not less than 20 days (if the notice is mailed) or 15 days (if the notice is hand-delivered), but not more than ten days from the date of the service of the notice;
- (2) Set forth in reasonable detail the grounds for such action and the factual basis supporting those grounds; and
- (3) Advise the applicant or licensee of the right to present evidence, witnesses or arguments and to be represented by counsel at the hearing.

(Ord. No. 08219-2, art. I(23), 2-19-2008)

Sec. 4-45. Notice.

For the purpose of this chapter, notice shall be deemed delivered when personally served or when served by certified mail, within three days after the date of deposit in the United States mail.

(Ord. No. 08219-2, art. I(24), 2-19-2008)

Sec. 4-46. Audits of licensees.

(a) If the Mayor and City Council or its designee deems it necessary to conduct an audit of the records and books of the licensee, it shall notify the licensee of the date, time and place of the audit. The licensee shall cooperate with the audit or forfeit any license issued under this chapter. The audit shall be conducted at the establishment during normal business hours, unless the licensee requests otherwise in writing.

(b) All licensed establishments must maintain the following records for a three-year period and make them available for audit at the licensed premises:

- (1) Monthly income or operating statements.
- (2) Daily sales receipts showing liquor, beer, wine and food sales separately (this requirement does not apply to package beer and wine licensees).
- (3) Daily cash register receipts such as Z tapes or guest tickets.
- (4) Monthly State sales and use tax reports.
- (5) Federal income tax return with all Form 1099s.

(c) The Mayor and City Council can waive all or some of the requirements of subsection (b) of this section if it finds that no such records exist, and it is not financially practical based on the net income of the licensed establishment to require them to keep such records.

(Ord. No. 08219-2, art. I(25), 2-19-2008)

Sec. 4-47. Retail consumption dealers to store inventory only on premises.

No retail consumption dealer licensed under this chapter shall keep any beer or wine or other alcoholic beverages at any place except the licensed place of business. No retail consumption dealer shall be permitted to enter into any type of arrangement whereby distilled spirits ordered by a licensee are stored by a licensed wholesaler.

(Ord. No. 08219-2, art. I(26), 2-19-2008)

Sec. 4-48. Poured alcohol to be transported by employees.

Poured alcoholic beverages shall be transported from the point of dispensing to the customer by permitted employees only. Permitted employees are those who have applied for and received a pouring license authorizing such employees to take orders and transport alcoholic beverages to customers.

(Ord. No. 08219-2, art. I(27), 2-19-2008)

Sec. 4-49. Employee regulations.

(a) The following regulations shall apply to all establishments holding a license for consumption of alcoholic beverages on the premises and for retail package stores for consumption off-premises:

- (1) No person shall be employed to dispense, sell, serve, take orders, mix alcoholic beverages, or in any managerial position, by an establishment holding a license hereunder until such person has been fingerprinted or cleared by the Chief of Police or the Chief's designee, indicating that the person is eligible for such permit.
- (2) No person shall be granted a pouring permit unless it appears, to the satisfaction of the Chief of Police or the Chief's designee, that such person has not been convicted or plead guilty or entered a plea of nolo contendere to any crime involving moral turpitude; illegal gambling; illegal possession or sale of controlled substances; illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law; driving while under the influence of alcohol and/or drugs; obstruction or hindering of law enforcement officers; riot; inciting to riot; giving false information to law enforcement officer; and/or hindering apprehension or punishment of a criminal within a period of five years immediately prior to such application, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime within a period of five years of the date of conviction and has been released from parole or probation. A person's first-time conviction for illegal possession of alcohol as a misdemeanor or violation of a City ordinance shall not, by itself, make a person ineligible for an alcohol pouring permit.

(b) For purposes of this chapter, a conviction or plea of guilt or nolo contendere shall be ignored as to any offense for which defendants were allowed to avail themselves of the Georgia First Offender Act (O.C.G.A. § 42-8-60 et seq.); except, however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentence in court entered an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.

(c) No permit shall be issued until such time as a signed application has been filed with the City Department of Public Safety and upon paying a fee which shall be established by the Mayor and Council from time to time and a search of the criminal record of the applicant completed. Said application shall include, but shall not be limited to, the name, date of birth, and prior arrest record of the applicant, though the fact of an arrest record shall be used for investigative purposes only and shall give rise to no presumption or inference of guilt. Due to the inclusion of arrest information, these applications shall not be produced for public inspection without a court order.

(d) The Chief of Police shall have a complete and exhaustive search made relative to any police record of the person fingerprinted or cleared. In the event there is no record of a violation of this chapter, the Chief of Police shall notify the Clerk who shall issue a permit to the employee, stating that the person is eligible for employment. If it is found that the person fingerprinted or cleared is not eligible for employment, the Chief of Police shall notify the employer that this person is not eligible for employment, the cause of such denial, and their right to appeal.

(e) It shall be the duty of all persons holding any license to sell alcoholic beverages to file with the Chief of Police the name of the establishment, the license number and a list of all employees, with their home addresses and home telephone numbers, twice annually on or before June 1 and again on or before December 1.

(f) All permits issued through administrative error or through an error in completion of a background investigation can be terminated by the Chief of Police.

(g) This section shall not be construed to include employees whose duties are limited solely to those of busboy, cook or dishwasher.

(h) No licensee shall allow any employee required to hold a permit to work on the licensed premises unless the licensee has the current, valid permit of each such employee on file, on the premises.

(i) In the event that any permit holder leaves the employ of a licensed establishment, the licensee shall immediately surrender the permit to the Department of Public Safety.

(j) All permits issued hereunder remain the property of the City and shall be produced for inspection upon the demand of any officer of the Department of Public Safety.

(k) Separate permits shall be required by the Department of Public Safety for each employee working in more than one establishment serving alcoholic beverages.

(l) No person shall be issued a permit if it is determined that the person knowingly and willfully falsified, concealed or covered up any material fact by any device, trick, or scheme while making application to the Department of Public Safety for an alcoholic beverage pouring permit under this section. Any person convicted of this offense shall be punished as according to Section 1-10.

(m) The following applies only to eating establishments as outlined in this chapter:

- (1) Each licensed eating establishment is required to have its servers to be certified as alcohol awareness servers. Each server's certificate will be posted in plain view to the public along with the license to operate the establishment.

- (2) Each eating establishment will be granted a maximum of 15 days from receipt of license to allow time for servers to complete the training course and receive certification. The cost of this course will be the responsibility of the eating establishment.
- (3) Each establishment will provide the Chief of Police a list of all servers that are employed and the certificate number of each "alcohol awareness server." This list is to be received no later than 20 days from receipt of license to operate and the first day of each calendar quarter thereafter.
- (4) Accepted course of this certification is "Training for Intervention Procedures for Servers of Alcohol (TIPS)." Any other program must be comparable, following the same guidelines, and approved by the Chief of Police.

(n) An alcohol pouring permit shall be issued for a period of one calendar year from the date of the original application. The alcohol pouring permit must be in the possession of the employee while the employee is working at the licensed establishment. This permit must be in the possession of the employee while the pouring permit holder is working and available for inspection by members of the City Police Department.

(Ord. No. 120717-3, exh. A(27.1), 7-17-2012)

Sec. 4-50. Employee regulations; hearings on adverse actions.

(a) No pouring permit shall be denied, suspended or revoked without the opportunity for a hearing as hereinafter provided.

(b) The Chief of Police shall provide written notice to the applicant/employee of the Chief's order to deny, suspend or revoke the employment. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the applicant/employee of the right to appeal under the provision of this chapter. Any applicant/employee who is aggrieved or adversely affected by a final action of the Chief of Police may have a review thereof by appeal to the Mayor and Council. Such appeal shall be by written petition, filed in the office of the City Clerk within 15 days after the final order or action of the Chief of Police.

(c) A hearing shall be conducted on each appeal at the next regularly scheduled meeting of the Mayor and Council, unless a continuance of such date is agreed to by the appellant and the Chief of Police.

(d) The City Clerk shall be authorized to issue no more than three subpoenas on behalf of each party regarding witnesses for said hearing, unless further subpoenas are approved in writing by the Mayor.

(e) At said hearing, the applicant/employee shall be allowed to present evidence to the Mayor and Council to show cause why the pouring permit should not be denied, and, if necessary, the Chief of Police or the Chief's designee shall be allowed to present evidence to the Mayor and Council as to why the license should be denied.

(f) Strict evidentiary rules shall not apply to said hearing.

(g) After said hearing, the Mayor and Council shall provide written notice to the applicant/employee and the Chief of Police of its decision. Such written notification shall set forth in reasonable detail the reasons for such decision and shall notify either party of the right to appeal under the provisions of this chapter.

(h) The findings of the Mayor and Council shall not be set aside unless:

- (1) Found to be contrary to law or ordinances; or
- (2) There is no evidence in the record to support the findings of the Alcohol Review Board (ARB).

(i) The findings of the Mayor and Council shall be final unless appealed within 30 days of the date of said findings by certiorari to the County Superior Court.

(Ord. No. 120717-3, exh. A(27.2), 7-17-2012)

Sec. 4-51. Licensees to maintain a copy of this chapter; employees to be familiar with terms; licensee responsible for violations.

Each alcoholic beverage dealer licensed under this chapter shall keep a copy of this chapter upon the licensed premises and shall instruct any person working there with respect to the terms of this chapter; and each licensee, the licensee's agents and employees selling alcoholic beverages shall at all times be familiar with the terms of this chapter.

(Ord. No. 08219-2, art. I(28), 2-19-2008)

Sec. 4-52. Employment of underage persons prohibited; exceptions.

(a) No person shall allow or require a person in the former's employment under 18 years of age to dispense, serve, sell, or take orders for any alcoholic beverage.

(b) It is unlawful for any person under 18 years of age to work as an entertainer in any establishment licensed under this chapter without written consent from their parents or guardian.

(Ord. No. 08219-2, art. I(29), 2-19-2008)

Sec. 4-53. Failure to require and properly check identification.

It shall be a violation not to require and properly check identification to ensure that an underage person is not sold, served, or does not have in said person's possession alcoholic beverages while in a licensed establishment. The term "identification," in this section, shall mean any document issued by a governmental agency containing a description of the person, such person's photograph, and giving such person's date of birth and shall include, without being limited to, a passport, military ID card, driver's license or State Department of Public Safety ID card.

(Ord. No. 08219-2, art. I(30), 2-19-2008)

Sec. 4-54. Sales to underage person prohibited.

(a) No holder or employee of the holder of a license authorizing the sale of alcoholic beverages shall do any of the following upon the licensed premises:

- (1) Sell or offer to sell any wine, malt beverage, or any other alcoholic beverage to any person under the age of 21 years.
- (2) Sell or offer to sell wine, malt beverage, or any other alcoholic beverage to any person unless such person has furnished proper identification showing that the person to whom the alcoholic beverages are being sold is 21 years of age or older. For the purposes of this subsection, the term

"proper identification" means any document issued by a government agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth, including, but not limited to, a passport, military identification card, driver's license, or identification card authorized under an act to require the Department of Public Safety to issue identification cards to persons who do not have a motor vehicle driver's license. Proper identification shall not include a birth certificate.

- (3) Sell or offer to sell any alcoholic beverages to any person who is noticeably intoxicated, who is of unsound mind, or who is a habitual drunkard whose intemperate habits are known to the licensee or the licensee's employees.
- (4) Sell alcoholic beverages upon the licensed premises or permit alcoholic beverages to be consumed thereon, on any day or at any time when the sale or consumption is prohibited bylaw.

(b) The penalty for violation of this section by an individual shall be according to Section 1-10.

(c) Any licensed establishment where three or more violations of this section, or O.C.G.A. § 3-3-23 of the Georgia Alcoholic Beverage Laws and Regulations, have occurred within any 36-month period shall be punished as follows:

- (1) For the third offense within any 36-month period, suspension of license for a period not to exceed 90 days.
- (2) For the fourth and any subsequent violation within any 36-month period, suspension of license for a period not to exceed one year.

(d) As to the penalties in Subsection (c) of this section, if there is a change in a majority of the licensed establishments' owners, partners or shareholders, the violations under the old ownership shall not count against the new owners; however, a different corporation, partnership or other association will be charged with the violations of its predecessor if a majority of the owners, partners or shareholders are the same.

(Ord. No. 08219-2, art. I(31), 2-19-2008)

Sec. 4-55. Purchase or possession of alcoholic beverages by underage persons.

(a) No person under 21 years of age shall purchase or possess any alcoholic beverage other than as set forth in Section 4-52.

(b) No person under 21 years of age shall attempt to purchase any alcoholic beverage or misrepresent said person's age in any manner whatever for the purpose of obtaining alcoholic beverages.

(Ord. No. 08219-2, art. I(32), 2-19-2008)

Sec. 4-56. Open area and patio sales.

(a) Alcoholic beverage sales can be made by a licensed consumption on-premises establishment in a patio/open area type environment if the establishment has been approved to do so by the Mayor and City Council.

(b) The requirement for approval is that the patio/open area be enclosed by some structure providing for public ingress/egress only through the main licensed premises. The purpose of this requirement is to prevent a customer from leaving the outside sales area with an open drink without the licensee's knowledge.

(c) The height of such structure shall be a minimum of 3½ feet above the patio floor, but the structure does not have to be solid or restrict visibility into or out of the patio/open sales area. It must be permitted and approved by the Inspection Department and the County's Fire Department as required by governing regulations or codes.

(d) The only exit from this area is to be through the licensed establishment's main premises and through an exit posted with a sign that reads "No Alcoholic Beverages Beyond This Point."

(e) If a licensee desires a patio/open sales area inside an existing structure, plans will be reviewed and approved on an individual basis by the Mayor and City Council. Interior type patio/open sales areas must also meet the requirements of the Development and Fire Codes.

(f) Nothing contained in this section shall prohibit a hotel or motel with a consumption on the premises license from making sales and allowing consumption of alcoholic beverages in ballrooms, meeting rooms, reception rooms, or patio areas of such hotel or motel, provided such functions are catered in connection with a meeting, conference, convention or similar type gathering at such hotel or motel. Patio areas, as the term is used in this subsection, do not have to conform to the standards in this section.

(Ord. No. 08219-2, art. I(34), 2-19-2008)

Sec. 4-57. No consumption outside premises.

(a) It is prohibited for customers to leave the premises with open alcoholic beverages, and it is the licensee's responsibility to ensure that no open beverages are sold and carried out. However, nothing in this section shall be construed to prohibit the carrying out of wine or malt beverages for consumption on a golf course or the sale of wine or malt beverages outside on a golf course to golfers.

(b) It is prohibited for customers to gather outside an alcoholic beverage establishment and consume alcoholic beverages.

(c) It is prohibited for the manager or any employee to allow persons to gather outside an alcoholic beverage establishment and consume alcoholic beverages.

(Ord. No. 08219-2, art. I(35), 2-19-2008)

Sec. 4-58. Specification of premises.

No alcoholic beverage license shall be issued to any person unless the building in which the business will be located is complete and detailed plans of the building and outside premises are attached to the application or unless proposed plans and specifications and a building permit of a proposed building to be built are attached to the application. The completed building or the proposed building shall comply with local ordinances, regulations of the State Revenue Commissioner, and the State. The proposed building shall also be subject to final inspection and approval when completed by the Building Inspector. Each building in which the business will be located shall contain sufficient lighting so that the building

itself and the premises on all sides of the building are readily visible at all times from the front of the street on which the building is located so as to reveal all of the outside premises of such building. Each applicant for an alcoholic beverage license shall attach to the application evidence of ownership of the building or proposed building or a copy of the lease if the applicant is leasing the building. If the applicant is a franchisee, then such applicant shall attach a copy of the franchise agreement or contract with the application. All premises for which an alcoholic beverage license shall be issued shall afford therein adequate sanitary toilet facilities and shall be adequately illuminated so that all hallways, passageways and open areas may be clearly seen by the customers therein.

(Ord. No. 08219-2, art. I(36), 2-19-2008)

Sec. 4-59. Solicitation prohibited.

No retail consumption dealers licensed under this chapter shall require, permit, suffer, encourage, or induce any employee or person to solicit in the licensed premises for themselves, or for any person other than the patron and guest of the patron, the purchase by the patron of any drink, whether alcoholic beverage or nonalcoholic beverage or money with which to purchase the beverage; nor shall any licensee pay a commission or any other compensation to any person frequenting the establishment or to an agent or manager to solicit for themselves or for the others, the purchase by the patron of any drink, whether alcoholic beverage or nonalcoholic beverage, or money with which to purchase the beverage.

(Ord. No. 08219-2, art. I(37), 2-19-2008)

Sec. 4-60. Prohibited noise from establishments.

It shall be unlawful for any establishment licensed under this chapter to make or cause to be made any loud, unnecessary or unusual sound or noise that unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, or safety of others in the County and that is audible to a person of normal hearing ability from the nearest property line of the business in question. In no event, however, shall any such loud, unnecessary or unusual sound or noise be made by an establishment licensed under this chapter after the hours of 11:00 p.m.

(Ord. No. 08219-2, art. I(38), 2-19-2008)

Sec. 4-61. Inspection of licensed establishments by the Police Department.

Sworn officers of the City Police Department shall have the authority to inspect establishments licensed under the alcoholic beverages ordinances of the City during any time in which any persons are located at the premises consuming alcohol. These inspections shall be made for the purpose of verifying compliance with the requirements of this chapter and State law. This section is not intended to limit the authority of any other official to conduct inspections authorized by other provisions of this chapter.

(Ord. No. 08219-2, art. I(39), 2-19-2008)

Sec. 4-62. Establishment can be closed in cases of emergency.

The Chief of Police or the Chief's designee may immediately close an establishment licensed under this chapter in case of emergency for the safety of the public or to investigate a crime for a period of time not to exceed 24 hours.

(Ord. No. 08219-2, art. I(40), 2-19-2008)

Sec. 4-63. Sale on election days.

Pursuant to the delegation of authority, granted to this Governing Authority by Act No. 750 (House Bill No. 247) approved April 10, 1985, amending O.C.G.A. § 3-3-20(b)(2)(B), the sale of wholesale and retail of alcoholic beverages, to wit: Wine and malt beverages shall be prohibited during the polling hours of any election; provided, however, nothing herein shall authorize the sale of alcoholic beverages within 250 feet of a polling place during such time as the polls are open.

(Ord. No. 08219-2, art. I(41), 2-19-2008)

Sec. 4-64. Bring your own bottle (brown bagging) prohibited.

It is prohibited for any person to bring in the person's own alcoholic beverage (brown bag) in any establishment either licensed or unlicensed to serve alcoholic beverages.

(Ord. No. 08219-2, art. I(42), 2-19-2008)

Sec. 4-65. Types of entertainment, attire and conduct prohibited.*(a) Preamble and purpose.*

- (1) Based upon the experiences of other counties and municipalities, including, but not limited to, Atlanta and Fulton County, Georgia; DeKalb County, Georgia; Austin, Texas; Seattle and Renton, Washington; New York, New York; Los Angeles, California; and Ft. Lauderdale and Palm Beach, Florida, which experiences the Mayor and City Council believe are relevant to the problems faced by the City and based upon the evidence and testimony of the citizens and experts who have appeared before such bodies, as well as the testimony of citizens and experts received by this commission, the Mayor and City Council takes note of the notorious and self-evident conditions attendant to the commercial exploitation of human sexuality, which do not vary greatly among generally comparable communities within our country.
- (2) Moreover, it is the finding of the Mayor and City Council that public nudity and semi-nudity, under certain circumstances, particularly circumstances relating to the sale and consumption of alcoholic beverages in so-called "nude bars" or establishments offering so-called "nude entertainment" or "erotic entertainment," begets criminal behavior and tends to create undesirable community conditions. Among the acts of criminal behavior identified with nudity and alcohol are disorderly conduct, prostitution, and drug trafficking and use. Among the undesirable community conditions identified with nudity and alcohol are depression of property values in the surrounding neighborhoods, increased expenditure for and allocation of law enforcement personnel to preserve law and order, increased burden on the judicial system as a consequence of the criminal behavior herein described, and acceleration of community blight by the concentration of such establishments in particular areas. Therefore, the limitation of nude or semi-nude conduct in establishments licensed to sell alcohol for consumption on the premises is in the public welfare and is a matter of governmental interest and concern to prevent the occurrence of criminal behavior and undesirable community conditions normally associated with establishments that serve alcohol and also allow and/or encourage nudity or semi-nudity.

(b) *Prohibited activities.* Any establishment licensed under the provisions of this chapter is prohibited from permitting or engaging in the following activities:

- (1) The employment or use of any person in any capacity in the sale or service of alcoholic beverages while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals;
- (2) Live entertainment that provides or features nude or semi-nude or erotic dancing or the performance of obscene acts that simulate:
 - a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts that are prohibited by law;
 - b. The touching, caressing or fondling of the breast, buttock, anus or genitals; or
 - c. The displaying of the pubic hair, anus, vulva or genitals;
- (3) The showing of any film, still pictures, electronic reproduction or other visual reproductions depicting any of the acts described in Subsection (b)(2) of this section, which are obscene under State law; or
- (4) The holding, promotion or allowance of any contest, promotion, special night or any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any of the above-prohibited conduct.

(c) *Mainstream activity excluded.* Notwithstanding the prohibitions in Subsection (b) of this section, nothing in this chapter shall be or is intended to apply to theatrical or motion picture performance houses, museums, or to restaurants or places set apart for traditional family-oriented naturism where the consumption or service of alcohol is not a primary purpose or the mainstream activity of such establishment. The phrase "places provided or set apart for nudity" means as follows: places provided or set apart for traditional family-oriented naturism including nudist parks, clubs, and resorts chartered by the American Association for Nude Recreation or affiliated with the Naturists Society or by traditional family-oriented naturists groups.

(Ord. No. 08219-2, art. I(43), 2-19-2008)

Secs. 4-66—4-88. Reserved.

ARTICLE III. BEER AND WINE BY THE DRINK

Sec. 4-89. Type of retail establishment where permitted.

No beer or wine shall be sold for consumption on the premises where sold except:

- (1) In sites in areas zoned in the most recent version of the Statham Unified Development Code and which are being used as one of the following:
 - a. Eating establishments regularly serving prepared food with a full-service kitchen. A full-service kitchen will consist of a three-compartment pot sink, a stove or grill perma-

nently installed, and a refrigerator, all of which must be approved by the Health and Fire Departments. Such eating establishment will regularly serve food every hour the eating establishment is open and shall derive at least 50 percent of sales from food;

- b. Indoor commercial recreation establishments regularly serving prepared food with a full-service kitchen. A full-service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the Health and Fire Departments. Such establishment will regularly serve food every hour the eating establishment is open and shall derive at least 50 percent of its total annual gross revenue from the sale of prepared meals or food and recreation activities;
- c. An indoor publicly owned civic and cultural center capable of serving prepared food, with a full-service kitchen (a full-service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the Health and Fire Departments); prepared to serve food every hour they are open and deriving at least 50 percent of its total annual gross sales from the sale of prepared meals or foods and recreation activities. When eating establishments are located in hotels or motels, every entrance to the establishment shall be from a public lobby, hallway, mall or other publicly used interior portion of the primary use structure;
- d. A golf course that derives at least 50 percent of its annual gross revenue from the sale of prepared meals or food and recreation activities (i.e., golf); or
- e. A tavern, provided that taverns may only sell malt beverages.

- (2) These eating establishments must be located in a zoning district which permits restaurants and drive-in restaurants as conforming uses or where these eating establishments are incidental to a hotel or motel.

(Ord. No. 08219-2, art. II(44), 2-19-2008)

Sec. 4-90. License fee and amount to defray investigative and administrative costs to accompany application.

Each application for a license under this article shall be accompanied by a certified check for the full amount of the license fee, together with a separate check or cash in an amount as adopted by the City Council by resolution from time to time to defray investigative and administrative costs. If the application is denied and the license refused, or if the applicant withdraws the applicant's application prior to its being issued, the license fee shall be refunded, but the cost paid for investigative and administrative fees shall be retained. However, any person applying for more than one license shall pay only one fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this chapter. Any applicant for a license under this article who has in existence at the time of making the new application an existing license under this article shall pay an amount as adopted by the City Council from time to time.

(Ord. No. 08219-2, art. II(45), 2-19-2008)

Sec. 4-91. Hours and days of sale.

(a) Beer and/or wine shall not be sold or distributed for consumption on the premises except between the hours of 10:00 a.m. and 11:00 p.m. Sunday through Saturday.

(b) No beer and/or wine shall be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the Governing Authority.
(Ord. No. 08219-2, art. II(46), 2-19-2008)

Secs. 4-92—4-110. Reserved.**ARTICLE IV. EXCISE TAXES****Sec. 4-111. Per drink excise tax.**

(a) Excise taxes received in the City after the 20th day of the month shall be charged a ten percent penalty.

(b) If the Mayor and City Council deems it necessary to conduct an audit of the records and books of the licensee, the Mayor and City Council will notify the licensee of the date, time and place of the audit.

(c) Any licensee who violates any provision of this article may, upon conviction, be punished according to Section 1-10, and the license of such location may be suspended or revoked.

(d) Every purchaser of distilled spirits by the drink shall be liable for a tax thereon at the rate of three percent of the retail price or charge for such drink. Such taxes shall be collected by the licensee licensed under this chapter, and such licensee shall remit the same to the County on or before the tenth day of the succeeding month along with a summary of the licensee's gross sales derived from the sale of distilled spirits by the drink, excluding malt beverages. Gross sales shall include all credit card sales and shall be reported, and taxes collected thereon shall be submitted to the licensing and revenue manager to the same extent as required of cash sales. Each licensee shall be allowed a deduction equal to that rate authorized for deductions from State tax under part V of the Georgia Retailer's and Consumer's Sales and Use Tax Act, O.C.G.A. § 48-8-50, as now written or hereafter amended, provided that the tax is not delinquent at the time of payment. It shall be the duty of every such licensee required to make a report and pay any tax levied pursuant to this article, to keep and preserve suitable records of the sales taxable pursuant to this article, and such other books or accounts as may be necessary to determine the amount of tax due. It shall be the duty of every licensee to keep and preserve such records for a period of three years.

(Ord. No. 08219-2, art. VI(49), 2-19-2008)

Sec. 4-112. Excise tax and bond requirement on wholesalers.

(a) There is hereby levied an excise tax computed at the rate of \$0.22 per liter or \$0.65 per ounce which shall be paid to the Governing Authority on all distilled spirits and wine sold by wholesalers to retailers in the City. Such tax shall be paid to the City Clerk by the wholesale distributor on all distilled spirits and wine sold to the licensees for the sale of distilled spirits and wine in the City as follows: each wholesaler selling, shipping, or in any way delivering distilled spirits or wine to any licensees hereunder shall collect

the excise tax at the time of delivery and shall remit the same together with a summary of all deliveries to each licensee on or before the tenth day of the month following. Excise taxes received in the Planning and Development Department after the 20th day of the month shall be charged a ten percent penalty. The \$0.22 per liter or \$0.65 per ounce shall be prorated so that all containers of distilled spirits and wine shall be taxed on the basis of \$0.22 per liter or \$0.65 per ounce. It shall be unlawful and a violation of this chapter for any wholesaler to sell, ship or deliver in any manner any distilled spirits or wine to a retail dealer without collecting said tax. It shall be unlawful and a violation of this chapter for any retail dealer to possess, own, hold, store, display or sell any distilled spirits or wine on which such tax has not been paid. Each wholesaler shall be paid three percent of the amount of taxes collected as reimbursement for collection of the said tax.

(b) There is hereby levied an excise tax on all beer and malt beverages sold by wholesalers to retailers in the City at the rate of \$0.22 per liter and \$6.00 for each container of tap or draft beer or malt beverage of 15½ gallons and in similar proportion for bottles, cans and containers of various sizes as follows:

Excise Tax On Beer/Malt Beverages
(Containers of Various Sizes)

<i>Size of container</i>	<i>Tax per container</i>
7 ounces	\$0.0291
8 ounces	\$0.0333
12 ounces	\$0.0500
14 ounces	\$0.0583
16 ounces	\$0.0666
32 ounces	\$0.1333
½ barrel (15½ gallon)	\$6.00
1 barrel (31 gallons)	\$12.00

(c) All provisions as to excise tax in this section shall apply to this tax on beer and malt beverages except the tax rate which is set out in this subsection and the reimbursement of three percent of the taxes collected which shall not apply to beer and malt beverage wholesalers.

(d) Each wholesale dealer prior to commencement of any business operation within the County shall post a performance bond with the City Clerk equal to 1½ times the estimated highest monthly payment to be made in a calendar year of the excise tax based on sales collected by the wholesaler dealer from the retailers to secure the payments for the tax imposed herein. These bonds shall be secured by cash which shall bear no interest or by a surety bond executed by a surety company licensed to do business in this State and approved by the designee of the Mayor and City Council.

(e) A wholesaler may be excused from posting the performance bond as provided herein after demonstrating full and satisfactory compliance with the provisions herein for a period of 12 months subsequent to the commencement of business operations within the County. Continued exemption from the requirement of posting the performance bond shall be conditioned upon continued compliance with the terms of this chapter and the payment of all sums as required by the provisions herein. (Ord. No. 08219-2, art. VI(50), 2-19-2008)

Secs. 4-113—4-137. Reserved.

ARTICLE V. HAPPY HOUR

Sec. 4-138. Promotions and sales.

(a) No licensee or employee or agent of a licensee, in connection with the sale or other disposition of alcoholic beverages for consumption on the premises, shall:

- (1) Offer or deliver any free alcoholic beverage to any person or group of persons;
- (2) Deliver more than one alcoholic beverage to one person at a time; however, nothing herein shall prohibit a brew pub from offering a sampler of malt beverages in containers not exceeding four ounces. Each sampler shall not exceed four different types of malt beverages;
- (3) Sell, offer to sell, or deliver to any person or group of persons any alcoholic beverage at a price less than the price regularly charged for such alcoholic beverage during the same calendar week, except at private functions not opened to the public;
- (4) Sell, offer to sell, or deliver to any person or group of persons an unlimited number of alcoholic beverages during any set period of time for a fixed price, except at private functions not opened to the public;
- (5) Sell, offer to sell, or deliver alcoholic beverages to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not opened to the public;
- (6) Sell, offer to sell, or deliver alcoholic beverages, including malt beverages, in any container which holds more than 32 fluid ounces (0.947 liters), except to two or more persons at any one time;
- (7) Increase the volume of alcohol contained in a drink without increasing proportionately the price regularly charged for such alcoholic beverage during the same calendar week; or
- (8) Encourage or permit on the licensed premises any game or contest which involves the drinking of alcoholic beverages or the awarding of alcoholic beverages as a prize.

(b) Each licensee shall maintain a schedule of the price charged for all alcoholic beverages to be served and consumed on the licensed premises or in any room or part thereof. The licensee shall not vary the schedule of prices from day to day or from hour to hour within a single day. The schedule of prices shall be posted in a conspicuous manner so as to be in view of the paying public, and the schedule shall be effective for not less than one calendar week.

(c) No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under Subsection (a) of this section.

(d) No provision of this section shall be construed to prohibit licensees from offering free food or entertainment at any time, to prohibit licensees from including an alcoholic beverage as part of a meal package, or to prohibit the sale or delivery of wine by the bottle or carafe when sold with meals or to more than one person.

(e) It is the intent of this section to prohibit activities typically associated with promotions referred to as happy hour or similarly designated promotions.

(f) The Chief of Police shall have responsibility for the enforcement of this section.

(g) No licensee may require the purchase of any alcoholic beverage as a part of or prerequisite to the purchase of any other product or service. If alcoholic beverages are included as part of a package of other goods and/or services, the alcoholic beverages must be priced separately, and all customers must be allowed to purchase the remaining goods and services without the alcoholic beverages at a price from which the full price of the alcoholic beverages has been deducted.

(h) Any person deemed guilty of violating this section may be punished according to Section 1-10. Licensees may further be subject to revocation proceedings.
(Ord. No. 08219-2, art. V(48), 2-19-2008)

Secs. 4-139—4-159. Reserved.

ARTICLE VI. RETAIL PACKAGE SALES

Sec. 4-160. Type of retail establishments.

Package sales licenses may be issued to package stores or to grocery stores or to convenience stores. Package sales licenses may be issued to taverns, provided that taverns may only sell malt beverages.
(Ord. No. 08219-2, art. IV(47.60), 2-19-2008)

Sec. 4-161. Investigative and administrative costs.

Each application for a license under this article shall be accompanied by cash or check for the full amount of the license fee, plus the amount of the administrative fee, as indicated on the fee schedule. The investigative fee shall be submitted to the Police Department. If the applicant is denied a State license, the deposit representing the license fee shall be refunded; but the fee paid for investigation and administrative cost shall be retained. However, any person applying for more than one license shall pay only one fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this Code.
(Ord. No. 08219-2, art. IV(47.61), 2-19-2008)

Sec. 4-162. Hours and days of sale.

(a) Retail package licensees shall not engage in the package sale of beer and/or wine except between the hours of 7:00 a.m. and 11:00 p.m. Monday through Saturday, and from 12:30 p.m. to 11:00 p.m. on Sunday. The hours within which business may be carried on shall be determined by the standard time in force at the time of the sale thereof.

(b) Retail package beer and/or wine shall not be sold at any time in violation of any local ordinance or regulation or of any special order of the Governing Authority. (Ord. No. 08219-2, art. IV(47.62), 2-19-2008; Ord. No. 120117-1, § 1, 1-17-2012; Ord. No. 130416-4, § 1, 4-16-2013)

Secs. 4-163—4-192. Reserved.**ARTICLE VII. RETAIL SALES OF DISTILLED SPIRITS FOR CONSUMPTION ON THE PREMISES****Sec. 4-193. Locations where permitted.**

No distilled spirits may be sold by the drink for consumption on the premises where sold except:

- (1) In sites in areas zoned in the most recent version of the Statham Unified Development Code which meet the following requirements: In eating establishments regularly serving prepared food, with a full-service kitchen (a full-service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the Health and Fire Departments), regularly serving food every hour they are open and deriving at least 50 percent of its gross receipts annually from the sale of prepared meals or food.
- (2) When eating establishments are located in hotels, motels, and high-rise office and apartment buildings, every entrance to the establishment shall be from a public lobby, hallway, mall or other publicly used interior portion of the primary use structure.

(Ord. No. 08219-2, art. III(47.51), 2-19-2008)

Sec. 4-194. Investigative and administrative costs.

Each application for a license under this article shall be accompanied by cash or check for the full amount of the license fee, plus the amount of the administrative fee, as indicated on the fee schedule. The investigative fee shall be submitted to the Police Department. If the applicant is denied a State license, the deposit representing the license fee shall be refunded; but the fee paid for investigation and administrative cost shall be retained. However, any person applying for more than one license shall pay only one fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this Code.

(Ord. No. 08219-2, art. III(47.52), 2-19-2008)

Sec. 4-195. Hours and days of sale.

(a) Distilled spirits may be sold for consumption on the premises between the hours of 10:00 a.m. to 11:00 p.m. Monday through Saturday.

(b) Distilled spirits shall not be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the governing authority.
(Ord. No. 08219-2, art. III(47.53), 2-19-2008)

Sec. 4-196. Consumption sales only.

Persons holding a license to sell distilled spirits for consumption on the premises shall not be permitted to sell any alcoholic beverage by the package or bottle.
(Ord. No. 08219-2, art. III(47.54), 2-19-2008)

Chapter 5

RESERVED

Chapter 6

ANIMALS

Article I. In General

- Sec. 6-1. County Animal Control Ordinance adopted.
- Secs. 6-2—6-20. Reserved.

Article II. Dogs

- Sec. 6-21. Tethering prohibited; adequate space or enclosure.
- Sec. 6-22. Kennels.
- Sec. 6-23. Appeals process.

ARTICLE I. IN GENERAL**Sec. 6-1. County Animal Control Ordinance adopted.**

The County Animal Control Ordinance as now or hereafter amended shall apply in the City, and such ordinance is hereby adopted by reference.

Secs. 6-2—6-20. Reserved.**ARTICLE II. DOGS****Sec. 6-21. Tethering prohibited; adequate space or enclosure.**

(a) No person shall, at any time, fasten, chain, or tie any dog or cause such dog to be fastened, chained or tied while such dog is on the dog owner's property or on the property of the dog owner's landlord, or on any property within the corporate limits of the City.

(b) Any dog confined within a fenced yard must have an adequate space for exercise based on a dimension of at least 150 square feet per dog. Where dogs are kept or housed on property without a fenced yard, the owner of such dogs or persons having custody of such dogs shall provide an enclosure for such dogs meeting the 150 square foot per dog dimension. Such enclosure shall be constructed of chain link or similar type materials with all four sides enclosed. The enclosure shall be of sufficient height to prevent the dog from escaping from such enclosure. The top of such enclosure shall be covered with materials so as to provide the dog with shade and protection from the elements.

(c) Nothing in this section shall be construed to prohibit owners from allowing dogs to be attached to overhead runs (i.e., leash or chain attached to an overhead wire at least 15 feet long, that allows the dog to move unhindered).

(Ord. No. 07918-3(b), 10-16-2007; Ord. No. 130716-5, 7-13-2013)

Sec. 6-22. Kennels.

(a) Where there are four or more domestic dogs, each over the age of six months, kept, maintained or harbored on an appropriately zoned premises, the premises shall be deemed to constitute a kennel, and every kennel shall be subject to regulation and inspection by the Code Enforcement Officer. Three domestic dogs or less, not including their issue, shall be allowed in every zoning district. Kennels shall only be allowed as approved under the Uniformed Development Code. Commercial sales may be allowed from a commercial kennel.

(b) Kennels, including, but not limited to, hobby kennels, shall be prohibited in residentially zoned areas.

(c) The breeding and sale of dogs or their issue for commercial purposes without adequate care and breeding and maintaining of the dogs, resulting in unhealthy or genetically inferior animals being offered for sale, shall be prohibited.

(d) All commercial kennels are subject to the requirements for and must obtain a business license from the City.

(Ord. No. 07918-3(b), 10-16-2007; Ord. No. 130716-5, 7-13-2013)

Sec. 6-23. Appeals process.

Appeals shall follow the process defined in Chapter 6.07 in the City's Unified Development Code.

(Ord. No. 07918-3(b), 10-16-2007; Ord. No. 130716-5, 7-13-2013)

Chapter 7

RESERVED

Chapter 8

BUILDINGS AND BUILDING REGULATIONS*

Article I. In General

- Sec. 8-1. Code compliance inspections.
- Sec. 8-2. Streets, sidewalks, and public places.
- Secs. 8-3—8-22. Reserved.

Article II. Water-Conserving Plumbing Fixtures

- Sec. 8-23. Definitions.
- Sec. 8-24. Residential building construction.
- Sec. 8-25. Exemptions.
- Sec. 8-26. Enforcement; penalty.
- Secs. 8-27—8-55. Reserved.

Article III. Construction Code

Division 1. Generally

- Sec. 8-56. Violations and penalties.
- Sec. 8-57. Adopted.
- Sec. 8-58. Posting floor loads.
- Secs. 8-59—8-89. Reserved.

Division 2. Administration and Enforcement

Subdivision I. In General

- Sec. 8-90. Purpose.
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- Sec. 8-123. Examination of documents.
- Sec. 8-124. Issuing permits.
- Sec. 8-125. Contractor responsibilities.
- Sec. 8-126. Conditions of the permit.
- Sec. 8-127. Fees.

*State law reference—Construction standards generally, O.C.G.A. § 8-2-1 et seq.

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- Sec. 8-128. Inspections.
- Sec. 8-129. Certificates.
- Sec. 8-130. Tests.
- Secs. 8-131—8-158. Reserved.

Article IV. Fences

- Sec. 8-159. Definitions.
- Sec. 8-160. Requirements; prohibited fences; exceptions.
- Sec. 8-161. Permit required.
- Sec. 8-162. Maintenance.
- Sec. 8-163. Solid fences.
- Sec. 8-164. Variations.
- Sec. 8-165. Elimination of nonconforming fences.
- Sec. 8-166. Penalty.

ARTICLE I. IN GENERAL**Sec. 8-1. Code compliance inspections.**

(a) If the Mayor and Council cannot provide inspection services within two business days of receiving a valid written request for inspection, then in lieu of inspection by inspectors or other personnel employed by such Governing Authority, any person, firm or corporation engaged in a construction project which requires inspection shall have the option of retaining, at its own expense, a professional engineer who holds a certificate of registration issued under O.C.G.A. Title 43, Ch. 15 (O.C.G.A. § 43-15-1 et seq.) and who is not an employee of or otherwise affiliated with or financially interested in such person, firm, or corporation, to provide the required inspection.

(b) Any inspection conducted by a registered professional engineer shall be no less extensive than an inspection conducted by a County or municipal inspector.

(c) The person, firm, or corporation retaining a registered professional engineer to conduct an inspection shall be required to pay to the County or municipality which requires the inspection the same permit fees and charges which would have been required had the inspection been conducted by a County or municipal inspector.

(d) The registered professional engineer shall be empowered to perform any inspection required by the Governing Authority of any county or municipality, including, but not limited to, inspections for footings, foundations, concrete slabs, framing, electrical, plumbing, heating ventilation and air conditioning (HVAC), or any and all other inspections necessary or required for the issuance of a certificate of occupancy by the Mayor and Council of any county or municipality, provided that the inspection is within the scope of such engineer's branch of engineering expertise.

(e) The registered professional engineer shall submit a copy of said engineer's inspection report to the County or municipality.

(f) Upon submission by the registered professional engineer of a copy of said engineer's inspection report to the Mayor and Council, the Mayor and Council shall be required to accept the inspection of the registered professional engineer without the necessity of further inspection or approval by the inspectors or other personnel employed by the Mayor and Council unless the Mayor and Council has notified the registered professional engineer, within two business days after the submission of the inspection report, that it finds the report incomplete or the inspection inadequate and has provided the registered professional engineer with a written description of the deficiencies and specific code requirements that have not been adequately addressed.

(g) The Mayor and Council may provide for the prequalification of registered professional engineers who may perform inspections pursuant to this section. No ordinance implementing prequalification shall become effective until notice of the Governing Authority's intent to require prequalification and the specific requirements for prequalification have been advertised in the newspaper in which the sheriff's advertisements for that locality are published. The ordinance implementing prequalification shall provide for evaluation of the qualifications of a registered professional engineer on the basis of the engineer's expertise with respect to the objectives of the inspection, as demonstrated by the engineer's experience, education, and training.

(h) Nothing in this section shall be construed to limit any public or private right of action designed to provide protection, rights, or remedies for consumers.

(Code 2001, § 36-108; Code 2006, § 14-1)

Sec. 8-2. Streets, sidewalks, and public places.

(a) *Duty to place street numbers on structures.* Any person owning a residence or other structure used for the housing of persons or property in the City shall secure and place upon said structure iridescent numbers indicating the correct number according to the Statham Property Numbering Map as prepared by Jeffrey R. Dobson for the Northeast Georgia Area Planning and Development Commission. Said base map, having been prepared June 1979, signed by the Mayor and City Clerk, and on file in the office of the City Clerk, is hereby incorporated by reference as fully as if set out at length herein.

(b) *Manner of placing street numbers on structures.* The street numbers to be placed as determined by the Fire Department shall be placed about the front entrance to said structure in a secure manner, and in such manner as to be conspicuous and readable from the street or other public way leading to said structure.

(c) *Penalties for failure to allow and maintain numbers.* Any person or company failing to allow the numbering placed upon their structure, who shall fail or refuse, after five days' notice from the Fire Chief, acting as inspector, to remove any incorrect number found unsuitable, erroneous or improperly located by the Chief, or the location of which the Chief shall require to be changed, shall, upon conviction, be punished as provided in Section 3.05 of the Charter, and the utilization or use of any numbers rejected or disapproved by said officer shall subject the offender, upon conviction, to a like penalty.

(Code 2001, § 10-103; Code 2006, § 14-2)

Secs. 8-3—8-22. Reserved.

ARTICLE II. WATER-CONSERVING PLUMBING FIXTURES

Sec. 8-23. 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:

Construction means the erection of a new building or the alteration of an existing building in connection with its repair or renovation or in connection with making an addition to an existing building and shall include the replacement of a malfunctioning, unserviceable, or obsolete faucet, showerhead, toilet, or urinal in an existing building.

Lavatory faucet means a faucet that discharges into a lavatory basin in a domestic or commercial installation.

Plumbing fixture means a device that receives water, waste, or both and discharges the water, waste, or both into a drainage system. The term "plumbing fixture" includes a kitchen sink, utility sink, lavatory, bidet, bathtub, shower, urinal, toilet, water closet, or drinking water fountain.

Plumbing fixture fitting means a device that controls and directs the flow of water. The term "plumbing fixture fitting" includes a sink faucet, lavatory faucet, showerhead, or bath filler.

Pressurized flushing device means a device that contains a valve that:

- (1) Is attached to a pressurized water supply pipe that is of sufficient size to deliver water at the necessary rate of flow to ensure flushing when the valve is open; and
- (2) Opens on actuation to allow water to flow into the fixture at a rate and in a quantity necessary for the operation of the fixture and gradually closes to avoid water hammer.

Toilet means a water closet.

Water closet means a fixture with a water-containing receptor that receives liquid and solid body waste and, on actuation, conveys the waste through an exposed integral trap into a drainage system and which is also referred to as a toilet.

WaterSenseTM means a voluntary program of the United States Environmental Protection Agency designed to identify and promote water efficient products and practices.

(Code 2001, § 38-101; Code 2006, § 14-23)

State law reference—Similar provisions, O.C.G.A. § 8-2-3(a).

Sec. 8-24. Residential building construction.

The standards related to high-efficiency plumbing fixtures shall include, without limitation, the following:

- (1) A water closet or toilet that:
 - a. Is a dual flush water closet that meets the following standards:
 1. The average flush volume of two reduced flushes and one full flush may not exceed 1.28 gallons;
 2. The toilet meets the performance, testing, and labeling requirements prescribed by the following standards, as applicable:
 - (i) American Society of Mechanical Engineers Standard A112.19.2-2008; and
 - (ii) American Society of Mechanical Engineers Standard A112.19.14-2006 "Six-Liter Water Closets Equipped with a Dual Flushing Device"; and
 3. Is listed to the WaterSenseTM Tank-Type High Efficiency Toilet specification; or
 - b. Is a single flush water closet, including gravity, pressure assisted, and electro-hydraulic tank types, that meets the following standards:
 1. The average flush volume may not exceed 1.28 gallons;
 2. The toilet must meet the performance, testing, and labeling requirements prescribed by the American Society of Mechanical Engineers Standard A112.192/CSA B45.1 or A112.19.14; and
 3. The toilet must be listed to the WaterSenseTM Tank-Type High Efficiency Toilet specification;

- (2) A showerhead that allows a flow of no more than an average of 2.5 gallons of water per minute at 60 pounds per square inch of pressure.
- (3) A urinal and associated flush valve that:
 - a. Uses no more than 0.5 gallons of water per flush;
 - b. Meets the performance, testing, and labeling requirements prescribed by the American Society of Mechanical Engineers Standard A112.19.2/CSA B45.1;
 - c. For flushing urinals, meets all WaterSense™ specifications for flushing urinals; and
 - d. Where nonwater urinals are employed, complies with American Society of Mechanical Engineers Standard A112.19.3/CSA B45.4 or American Society of Mechanical Engineers Standard A112.19.19/CSA B45.4. Nonwater urinals shall be cleaned and maintained in accordance with the manufacturer's instructions after installation. Where nonwater urinals are installed, they shall have a water distribution line roughed-in to the urinal location at a minimum height of 56 inches (1,422 mm) to allow for the installation of an approved backflow prevention device in the event of a retrofit. Such water distribution lines shall be installed with shut-off valves located as close as possible to the distributing main to prevent the creation of dead ends. Where nonwater urinals are installed, a minimum of one water-supplied fixture rated at a minimum of one water-supply fixture unit shall be installed upstream on the same drain line to facilitate drain line flow and rinsing;
- (4) A lavatory faucet or lavatory replacement aerator that allows a flow of no more than 1.5 gallons of water per minute at a pressure of 60 pounds per square inch in accordance with American Society of Mechanical Engineers Standard A112.18.1/CSA B.125.1 and listed to the WaterSense™ High-Efficiency Lavatory Faucet specification; and
- (5) A kitchen faucet or kitchen replacement aerator that allows a flow of no more than 2.0 gallons of water per minute.

(Code 2001, § 38-102; Code 2006, § 14-24)

State law reference—Similar provisions, O.C.G.A. § 8-2-3(b).

Sec. 8-25. Exemptions.

(a) New construction and the repair or renovation of an existing building shall be exempt from the requirements of Section 8-24 when:

- (1) The repair or renovation of the existing building does not include the replacement of the plumbing or sewage system servicing toilets, faucets or showerheads within such existing buildings;
- (2) Such plumbing or sewage system within such existing building, because of its capacity, design, or installation, would not function properly if the toilets, faucets or showerheads required by this article were installed;
- (3) Such system is a well or gravity flow from a spring and is owned privately by an individual for use in such individual's personal residence; or

(4) Units to be installed are:

- a. Specifically designed for use by persons with disabilities;
- b. Specifically designed to withstand unusual abuse or installation in a penal institution; or
- c. Toilets for juveniles.

(b) The owner, or the owner's agent, of a building undergoing new construction or repair or renovation who is entitled to an exemption as specified in Subsections (a)(2) through (4) of this section shall obtain the exemption by applying at the office of the Building Inspector for the City. A fee as determined by the Mayor and Council shall be charged for the inspection and issuance of such exemption.

(Code 2001, § 38-105; Code 2006, § 14-27)

State law reference—Similar provisions, O.C.G.A. § 8-2-3(e).

Sec. 8-26. Enforcement; penalty.

This article shall be enforced by the office of the City Building Inspector. Citations for violations may be issued by the City Building Inspector.

(Code 2001, § 38-106; Code 2006, § 14-28)

Secs. 8-27—8-55. Reserved.

ARTICLE III. CONSTRUCTION CODE

DIVISION 1. GENERALLY

Sec. 8-56. Violations and penalties.

Any person, firm, corporation or agent who shall violate a provision of the construction codes, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, install, demolish or move any structure, electrical, gas, mechanical or plumbing system, or has erected, constructed, altered, repaired, moved or demolished a building, electrical, gas, mechanical or plumbing system, in violation of a detailed statement or drawing submitted and permitted thereunder, shall be guilty of a misdemeanor. Each such person shall be considered guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of the construction codes is committed or continued, and upon conviction of any such violation such person shall be punished within the limits and as provided by State laws.

(Code 2006, § 14-60; Ord. of 6-15-2004(1), § 7)

Sec. 8-57. Adopted.

The codes adopted by the State Department of Community Affairs pursuant to O.C.G.A. § 8-2-20(9)(b)(i) and all State amendments and erratas to same are adopted by reference.

(Code 2006, § 14-61; Ord. of 6-15-2004(2))

State law reference—State Building Code, O.C.G.A. § 8-2-25.

Sec. 8-58. Posting floor loads.

(a) *Occupancy capacity.* An existing or new building shall not be occupied for any purpose which will cause the floors thereof to be loaded beyond their safe capacity. The Building Official may permit occupancy of a building for mercantile, commercial or industrial purposes, by a specific business, when the Official is satisfied that such capacity will not thereby be exceeded.

(b) *Storage and factory-industrial occupancies.* It shall be the responsibility of the owner, agent, proprietor or occupant of Group S and Group F occupancies, or any occupancy where excessive floor loading is likely to occur, to employ a competent architect or engineer in computing the safe load capacity. All such computations shall be accompanied by an affidavit from the architect or engineer stating the safe allowable floor load on each floor in pounds per square foot uniformly distributed. The computations and affidavit shall be filed as a permanent record of the Building Department.

(c) *Signs required.* In every building or part of a building used for storage, industrial or hazardous purposes, the safe floor loads, as reviewed by the Building Official on the plan, shall be marked on plates or approved design which shall be supplied and securely affixed by the owner of the building in a conspicuous place in each story to which they relate. Such plates shall not be removed or defaced, and if lost, removed or defaced, such plates shall be replaced by the owner of the building.

(Code 2006, § 14-62; Ord. of 6-15-2004(1), § 3.10)

Secs. 8-59—8-89. Reserved.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT

*Subdivision I. In General***Sec. 8-90. Purpose.**

The purpose of this division is to provide for the administration and enforcement of the State Minimum Standard Codes for Construction as adopted and amended by the State Department of Community Affairs. Hereinafter, the State Minimum Standard Codes for Construction shall be referred to as "the construction codes."

(Code 2006, § 14-83; Ord. of 6-15-2004(1), § 1.1)

Sec. 8-91. Code remedial.

(a) *Generally.* These construction codes are hereby declared to be remedial and shall be construed to secure the beneficial interests and purposes thereof, which are public safety, health, and general welfare, through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards attributed to the built environment including alteration, repair, removal, demolition, use and occupancy of buildings, structures, or premises, and by regulating the installation and maintenance of all electrical, gas, mechanical and plumbing systems, which may be referred to as service systems.

(b) *Quality control.* Quality control of materials and workmanship is not within the purview of the construction codes except as it relates to the purposes stated therein.

(c) *Permitting and inspection.* The inspection or permitting of any building, system or plan under the requirements of construction codes shall not be construed in any court as a warranty of the physical condition of such building, system or plan or their adequacy, the City, nor any employee thereof, shall be liable in tort for damages for any defect or hazardous or illegal condition or inadequacy in such building, system or plan, nor for any failure of any component of such, which may occur subsequent to such inspection or permitting.

(Code 2006, § 14-84; Ord. of 6-15-2004(1), § 1.2)

Sec. 8-92. Scope.

(a) *State Minimum Standard Codes adopted.* The City adopts and will enforce the latest edition of the following State Minimum Standard Codes, appendices thereto, as adopted and amended by the State Department of Community Affairs:

- (1) International Building Code, 2018 Edition, with Georgia Amendments (2020).
- (2) International Residential Code, 2018 Edition, with Georgia Amendments (2020).
- (3) International Fire Code, 2018 Edition (Contact State Fire Marshal).
- (4) International Plumbing Code, 2018 Edition, with Georgia Amendments (2020).
- (5) International Mechanical Code, 2018 Edition, with Georgia Amendments (2020).
- (6) International Fuel Gas Code, 2018 Edition, with Georgia Amendments (2020).
- (7) National Electrical Code, 2020 Edition (No Georgia Amendments).
- (8) International Energy Conservation Code, 2015 Edition, with Georgia Supplements and Amendments (2020).
- (9) International Swimming Pool and Spa Code, 2018 Edition, with Georgia Amendments (2020).
- (10) International Property Maintenance Code, 2018 Edition, with Georgia Amendments (2021).
- (11) International Existing Building Code, 2018 Edition, with Georgia Amendments (2021).
- (12) National Green Building Standard, 2008 Edition, with Georgia Amendments (2011).
- (13) 2012 International Gas Code.
- (14) 2012 International Code Council Performance Code (for buildings and facilities).
- (15) 2012 International Wildland Urban Interface Code.
- (16) 2012 International Private Sewage Disposal Code.
- (17) 2012 International Performance Code.
- (18) Standard Gas Code: All appendices.
- (19) CABO One- and Two-Family Dwelling Code: All appendices.
- (20) Standard Housing Code.

- (21) Standard Amusement Device Code.
- (22) Standard Excavation and Grading Code.
- (23) Standard Unsafe Building Abatement Code.

These Codes and appendices are adopted as if set forth fully herein.

(b) *1997 Uniform Code for the Abatement of Dangerous Buildings adopted.* In addition to other codes and standards listed herein, the City adopts and may enforce the following: 1997 Uniform Code for the Abatement of Dangerous Buildings.

(c) *Federal and State authority.* The provisions of the construction codes shall not be held to deprive any federal or State agency, or any applicable Governing Authority having jurisdiction, of any power or authority which it had on the effective date of the adoption of the construction codes or of any remedy then existing for the enforcement of its orders, nor shall it deprive any individual or corporation of its legal rights as provided by law.

(d) *Appendices.* Appendices referenced in the text of the construction codes shall be considered an integral part of the construction codes.

(e) *Referenced standards.* Standards referenced in the text of the construction codes shall be considered an integral part of the construction codes. If specific portions of a standard are denoted by code text, only those portions of the standard shall be enforced. Where construction code provisions conflict with a standard, the construction code provisions shall be enforced. Permissive and advisory provisions in a standard shall not be construed as mandatory.

(f) *Maintenance.* All buildings, structures, and electrical, gas, mechanical and plumbing systems, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards, which are required by the construction codes when constructed, altered, or repaired, shall be maintained in good working order. The owner, or the owner's designated agent, shall be responsible for the maintenance of buildings, structures, and electrical, gas, mechanical and plumbing systems. (Code 2006, § 14-85; Ord. of 6-15-2004(1), § 1.3; Ord. No. 07619-6, 6-19-2007; Ord. No. 130115-1, § 1, 1-15-2013; Ord. No. 170117-3, § 1, 1-17-2017; Ord. No. 170516-3, § 2, 5-16-2017)

Sec. 8-93. Existing buildings.

(a) *Generally.* Alterations, repairs or rehabilitation work may be made to any existing structure, building, and electrical, gas, mechanical or plumbing system without requiring the building, structure, and plumbing, electrical, mechanical or gas system to comply with all the requirements of the construction codes, provided that the alteration, repair or rehabilitation work conforms to the requirements of the construction codes for new construction. The Building Official shall determine the extent to which the existing system shall be made to conform to the requirements of the construction codes for new construction.

(b) *Change of occupancy.* If the occupancy classification of any existing building or structure is changed, the building, and electrical, gas, mechanical and plumbing systems shall be made to conform to the intent of the construction codes as required by the Building Official. (Code 2006, § 14-87; Ord. of 6-15-2004(1), § 1.5)

Sec. 8-94. Special historic buildings.

The provisions of the construction codes relating to the construction, alteration, repair, enlargement, restoration, relocation or moving of buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the State or local jurisdiction as historic buildings when such buildings or structures are judged by the Building Official to be safe and in the public interest of health, safety and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation or moving of buildings within fire districts.

(Code 2006, § 14-88; Ord. of 6-15-2004(1), § 1.6)

Sec. 8-95. Powers and duties of the Building Official.

(a) *Generally.* The Building Official is hereby authorized and directed to enforce the provisions of the construction codes. The Building Official is further authorized to render interpretations of the construction codes, which are consistent with its intent and purpose.

(b) *Right of entry.*

- (1) Whenever necessary to make an inspection to enforce any of the provisions of the construction codes or whenever the Building Official has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building, structure, premises, electrical, gas, mechanical or plumbing system unsafe, dangerous or hazardous, the Building Official may enter such building, structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Building Official by these construction codes, provided that, if such building or premises is occupied, the Building Official shall first present proper credentials and request entry. If such building, structure, or premises is unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other persons having charge or control of such and request entry. If entry is refused, the Building Official shall have recourse to every remedy provided by law to secure entry.
- (2) When the Building Official shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Building Official for the purpose of inspection and examination pursuant to the construction codes.

(c) *Stop-work orders.* Upon notice from the Building Official, work on any building, structure, and electrical, gas, mechanical or plumbing system that is being done contrary to the provisions of the construction codes or in a dangerous or unsafe manner, shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, the Building Official shall not be required to give a written notice prior to stopping the work.

(d) *Revocation of permits.*

- (1) *Misrepresentation of application.* The Building Official may revoke a permit or approval, issued under the provisions of the construction codes, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

(2) *Violation of code provisions.* The Building Official may revoke a permit upon determination by the Building Official that the construction, erection, alteration, repair, moving, demolition, installation or replacement of the building, structure, electrical, gas, mechanical or plumbing system for which the permit was issued is in violation of, or not in conformity with, the provisions of the construction codes.

(e) *Unsafe buildings or systems.* All buildings, structures, and electrical, gas, mechanical or plumbing systems which are unsafe, unsanitary, or do not provide adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use, constitute a hazard to safety or health, are considered unsafe buildings or service systems. All such unsafe buildings, structures or service systems are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the provisions of law.

(f) *Requirements not covered by Code.* Any requirements necessary for the strength, stability or proper operation of an existing or proposed building, structure, and electrical, gas, mechanical or plumbing system, or for the public safety, health and general welfare, not specifically covered by or the construction codes, shall be determined by the Building Official.

(g) *Alternate materials and methods.* The provisions of the construction codes are not intended to prevent the use of any material or method of construction not specifically prescribed by them, provided any such alternate has been reviewed by the Building Official. The Building Official shall approve any such alternate, provided the Building Official finds that the alternate for the purpose intended is at least the equivalent of that prescribed in the construction codes, in quality, strength, effectiveness, fire resistance, durability and safety. The Building Official shall require that sufficient evidence or proof be submitted to substantiate any claim made regarding the alternate.

(Code 2006, § 14-89; Ord. of 6-15-2004(1), §§ 2.1—2.7)

Sec. 8-96. Construction Board of Adjustments and Appeals; appeals and variances.

(a) *Appointment.* There is hereby established a Board to be called the Construction Board of Adjustments and Appeals, which shall consist of three members and one alternate. The Governing Body shall appoint the Board.

(b) *Membership and terms.*

(1) *Membership.* The Construction Board of Adjustments and Appeals should consist of three members. Such Board members should be composed of individuals with knowledge and experience in the construction codes, such as design professionals, contractors or building industry representatives. In addition to the regular members, there should be one alternate member. A Board member shall not act in a case in which said Board member has a personal or financial interest.

(2) *Terms.* The terms of office of the Board member shall be staggered so no more than one-third of the Board is appointed or replaced in any 12-month period. The one alternate, if appointed, shall serve one-year terms. Vacancies shall be filled for an unexpired term in the manner in which

original appointments are required to be made. Continued absence of any member from required meetings of the Board shall, at the discretion of the applicable Governing Body, render any such member subject to immediate removal from office.

- (3) *Quorum and voting.* A simple majority of the Board shall constitute a quorum. In varying any provision of the construction codes, the affirmative votes of the majority present shall be required. In modifying a decision of the Building Official, not less than two affirmative votes shall be required. In the event that regular members are unable to attend a meeting, the alternate members, if appointed, shall vote.
- (4) *Secretary of Board.* The Building Official shall act as Secretary of the Board and shall make a detailed record of all its proceedings, which shall set forth the reasons for its decision, the vote of each member, the absence of a member and any failure of a member to vote.

(c) *Powers.* The Construction Board of Adjustments and Appeals shall have the power, as further defined in Subsection (d) of this section, to hear the appeals of decisions and interpretations of the Building Official and consider variances of the construction codes.

(d) *Appeals.*

- (1) *Decision of the Building Official.* The owner of a building, structure or service system, or the owner's duly authorized agent, may appeal a decision of the Building Official to the Construction Board of Adjustments and Appeals whenever any one of the following conditions are claimed to exist:
 - a. The Building Official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure or service system.
 - b. The provisions of the construction codes do not apply to this specific case.
 - c. That an equally good or more desirable form of installation can be employed in any specific case.
 - d. The true intent and meaning of the construction codes or any of the regulations thereunder have been misconstrued or incorrectly interpreted.
- (2) *Variances.* The Construction Board of Adjustments and Appeals, when so appealed to and after a hearing, may vary the application of any provision of the construction codes to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this Code or the construction codes or public interest, and also finds all of the following:
 - a. That special conditions and circumstances exist which are peculiar to the building, structure or service system involved and which are not applicable to others.
 - b. That the special conditions and circumstances do not result from the action or inaction of the applicant.
 - c. That granting the variance requested will not confer on the applicant any special privilege that is denied by the construction codes to other buildings, structures or service system.

- d. That the variance granted is the minimum variance that will make possible the reasonable use of the building, structure or service system.
 - e. That the grant of the variance will be in harmony with the general intent and purpose of the construction codes and will not be detrimental to the public health, safety and general welfare.
- (3) *Condition of variances.* In granting the variance, the Board may prescribe a reasonable time limit within which the action for which the variance is required shall be commenced or completed or both. In addition, the Board may prescribe appropriate conditions and safeguards in conformity with the construction codes. Violation of the conditions of a variance shall be deemed a violation of the construction codes.
- (4) *Notice of appeal.* Notice of appeal shall be in writing and filed within 30 calendar days after the Building Official renders the decision. Appeals shall be in a form acceptable to the Building Official.
- (5) *Unsafe or dangerous buildings or service systems.* In the case of a building, structure, or service system which, in the opinion of the Building Official, is unsafe, unsanitary or dangerous, the Building Official may, in the Official's order, limit the time for such notice of appeals to a shorter period.

(e) *Rules and regulations.* The Board shall establish rules and regulations for its own procedure not inconsistent with the provisions of these procedures. The Board shall meet on call of the Chair. The Board shall meet within 30 calendar days after notice of appeal has been received. The Construction Board of Adjustments and Appeals shall, in every case, reach a decision without unreasonable or unnecessary delay. Each decision of the Board shall also include the reasons for the decision. If a decision of the Board reverses or modifies a refusal, order, or disallowance of the Building Official or varies the application of any provision of the construction codes, the Building Official shall immediately take action in accordance with such decision. Every decision shall be promptly filed in writing in the office of the Building Official and shall be open to public inspection. A certified copy of the decision shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly posted in the office of the Building Official for two weeks after filing. Every decision of the Board shall be final, subject, however, to such remedy as any aggrieved party might have at law or in equity.

(Code 2006, § 14-90; Ord. of 6-15-2004(1), §§ 5.1—5.5)

Secs. 8-97—8-120. Reserved.

Subdivision II. Permits, Inspections, Certificates and Tests

Sec. 8-121. Permit application.

(a) *When required.* Any owner, authorized agent, or contractor who desires to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by the construction codes, or to cause any such work to be done, shall first make application to the Building Official and obtain the required permit for the work.

(b) *Exceptions.* Permits shall not be required for the following mechanical work:

- (1) Any portable heating appliance;
- (2) Any portable ventilation equipment;
- (3) Any portable cooling unit;
- (4) Any steam, hot or chilled water piping within any heating or cooling equipment regulated by the construction codes;
- (5) Replacements of any part which does not alter its approval or make it unsafe;
- (6) Any portable evaporative cooler;
- (7) Any self-contained refrigeration system containing ten pounds (4.54 kg) or less of refrigerant and actuated by motors of one horsepower (746 W) or less.

(c) *Work authorized.* A building, electrical, gas, mechanical or plumbing permit shall carry with it the right to construct or install the work, provided the same are shown on the drawings and set forth in the specifications filed with the application for the permit. Where these are not shown on the drawings and covered by the specifications submitted with the application, separate permits shall be required.

(d) *Minor repairs.* Ordinary minor repairs may be made with the approval of the Building Official without a permit, provided that such repairs shall not violate any of the provisions of the construction codes.

(e) *Information required.* Each application for a permit, with the required fee, shall be filed with the Building Official on a form furnished for that purpose and shall contain a general description of the proposed work and its location. The application shall be signed by the owner, or the owner's authorized agent. The building permit application shall indicate the proposed occupancy of all parts of the building and of that portion of the site or lot, if any, not covered by the building or structure, and shall contain such other information as may be required by the Building Official.

(f) *Time limitations.* An application for a permit for any proposed work shall be deemed to have been abandoned six months after the date of filing for the permit, unless before then a permit has been issued. One or more extensions of time for periods of not more than 90 days each may be allowed by the Building Official for the application, provided that the extension is requested in writing and justifiable cause is demonstrated.

(Code 2006, § 14-109; Ord. of 6-15-2004(1), § 3.1)

Sec. 8-122. Drawings and specifications.

(a) *Requirements.* When required by the Building Official, two or more copies of specifications and of drawings drawn to scale with sufficient clarity and detail to indicate the nature and character of the work shall accompany the application for a permit. Such drawings and specifications shall contain information, in the form of notes or otherwise, as to the quality of materials, where quality is essential to conformity with the construction codes. Such information shall be specific, and the construction codes

shall not be cited as a whole or in part, nor shall the term "legal" or its equivalent be used, as a substitute for specific information. All information, drawings, specifications and accompanying data shall bear the name and signature of the person responsible for the design.

(b) *Additional data.* The Building Official may require details, computations, stress diagrams, and other data necessary to describe the construction or installation and the basis of calculations. All drawings, specifications and accompanying data required by the Building Official to be prepared by an architect or engineer shall be affixed with their official seal.

(c) *Design professional.* The design professional shall be an architect or engineer legally registered under the laws of the State regulating the practice of architecture or engineering and shall affix said professional's official seal to said drawings, specifications and accompanying data, for the following:

- (1) All Group A, E, and I occupancies.
- (2) Buildings and structures three stories or more high.
- (3) Buildings and structures 5,000 square feet (465 m²) or more in area.

For all other buildings and structures, the submittal shall bear the certification of the applicant that some specific State law exception permits its preparation by a person not so registered. Exception: Single-family dwellings, regardless of size, shall require neither a registered architect nor engineer, nor a certification that an architect or engineer is not required.

(d) *Structural and fire resistance integrity.* Plans for all buildings shall indicate how required structural and fire resistance integrity will be maintained where a penetration of a required fire resistance wall, floor or partition will be made for electrical, gas, mechanical, plumbing, signal and communication conduits, pipes and systems and also indicate in sufficient detail how the fire integrity will be maintained where required fire resistance floors intersect the exterior walls.

(e) *Site drawings.* Drawings shall show the location of the proposed building or structure and of every existing building or structure on the site or lot. The Building Official may require a boundary line survey prepared by a qualified surveyor.

(f) *Hazardous occupancies.* The Building Official may require the following:

- (1) *General site plan.* A general site plan drawn at a legible scale, which shall include, but not be limited to, the location of all buildings, exterior storage facilities, permanent accessways, evacuation routes, parking lots, internal roads, chemical loading areas, equipment cleaning areas, storm and sanitary sewer accesses, emergency equipment and adjacent property uses. The exterior storage areas shall be identified with the hazard classes and the maximum quantities per hazard class of hazardous materials stored.
- (2) *Building floor plan.* A building floor plan drawn to a legible scale, which shall include, but not be limited to, all hazardous materials storage facilities within the building and shall indicate rooms, doorways, corridors, exits, fire rated assemblies with their hourly rating, location of liquid tight rooms, and evacuation routes. Each hazardous materials storage facility shall be identified on the plan with the hazard classes and quantity range per hazard class or the hazardous materials stored.

(Code 2006, § 14-110; Ord. of 6-15-2004(1), § 3.2)

Sec. 8-123. Examination of documents.

(a) *Plan review.* The Building Official shall examine or cause to be examined each application for a permit and the accompanying documents, consisting of drawings, specifications, computations, and additional data and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of the construction codes and all other pertinent laws or ordinances.

(b) *Affidavits.* The Building Official may accept a sworn affidavit from a registered architect or engineer stating that the plans submitted conform to the construction codes. For buildings and structures, the affidavit shall state that the plans conform to the laws as to egress, type of construction and general arrangement and, if accompanied by drawings showing the structural design, that the plans and design conform to the requirements of the construction codes as to strength, stresses, strains, loads and stability. The Building Official may without any examination or inspection accept such affidavit, provided the architect or engineer who made such affidavit agrees to submit to the Building Official, copies of inspection reports as inspections are performed and upon completion of the structure, and electrical, gas, mechanical or plumbing systems a certification that the structure, and electrical, gas, mechanical or plumbing system has been erected in accordance with the requirements of the construction codes. Where the Building Official relies upon such affidavit, the architect or engineer shall assume full responsibility for the compliance with all provisions of the construction codes and other pertinent laws or ordinances.

(Code 2006, § 14-111; Ord. of 6-15-2004(1), § 3.3)

Sec. 8-124. Issuing permits.

(a) *Action on permits.* The Building Official shall act upon an application for a permit without unreasonable or unnecessary delay. If the Building Official is satisfied that the work described in an application for a permit and the contract documents filed therewith conform to the requirements of the construction codes and other pertinent laws and ordinances, the Official shall issue a permit to the applicant.

(b) *Refusal to issue permit.* If the application for a permit and the accompanying contract documents describing the work do not conform to the requirements of the construction codes or other pertinent laws or ordinances, the Building Official shall not issue a permit, but shall return the contract documents to the applicant with the Official's refusal to issue such permit. Such refusal shall, when requested, be in writing and shall contain the reason for refusal.

(c) *Special foundation permit.* When application for permit to erect or enlarge a building has been filed and pending issuance of such permit, the Building Official may, at the Official's discretion, issue a special permit for the foundation only. The holder of such a special permit is proceeding at the holder's own risk and without assurance that a permit for the remainder of the work will be granted nor that corrections will not be required in order to meet provisions of the construction codes.

(d) *Public right-of-way.* A permit shall not be given by the Building Official for the construction of any building, or for the alteration of any building where said building is to be changed and such change will affect the exterior walls, bays, balconies, or other appendages or projections fronting on any street,

alley or public lane, or for the placing on any lot or premises of any building or structure removed from another lot or premises, unless the applicant has made application at the office of the Director of Public Works for the lines of the public street on which the applicant proposes to build, erect or locate said building; and it shall be the duty of the Building Official to see that the street lines are not encroached upon except as provided for in Chapter 22 of the International Building Code.

(Code 2006, § 14-112; Ord. of 6-15-2004(1), § 3.4)

Sec. 8-125. Contractor responsibilities.

It shall be the duty of every contractor who shall make contracts for the installation or repairs of building, structure, and electrical, gas, mechanical, sprinkler or plumbing system, for which a permit is required, to comply with State or local rules and regulations concerning licensing which the applicable Governing Authority may have adopted. In such case that the State requires a contractor to have obtained a State license before they are permitted to perform work, the contractor shall supply the local government with their license number before receiving a permit for work to be performed.

(Code 2006, § 14-113; Ord. of 6-15-2004(1), § 3.5)

Sec. 8-126. Conditions of the permit.

(a) *Permit intent.* A permit issued shall be construed to be a license to proceed with the work and not as authority to violate, cancel, alter, or set aside any of the provisions of the construction codes, nor shall issuance of a permit prevent the Building Official from thereafter requiring a correction of errors in plans, construction, or violations of the construction codes. Every permit issued shall become invalid unless the work authorized by such permit is commenced within six months after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of six months after the time the work is commenced. One or more extensions of time, for periods not more than 90 days each, may be allowed for the permit. The extension shall be requested in writing and justifiable cause demonstrated. Extensions shall be in writing by the Building Official.

(b) *Permit issued on basis of an affidavit.* Whenever a permit is issued in reliance upon an affidavit or whenever the work to be covered by a permit involves installation under conditions which, in the opinion of the Building Official, are hazardous or complex, the Building Official shall require that the architect or engineer who signed the affidavit or prepared the drawings or computations shall supervise such work. In addition, they shall be responsible for conformity with the permit, provide copies of inspection reports as inspections are performed, and upon completion make and file with the Building Official written affidavit that the work has been done in conformity with the reviewed plans and with the structural provisions of the construction codes. In the event such architect or engineer is not available, the owner shall employ in the owner's stead a competent person or agency whose qualifications are reviewed by the Building Official.

(c) *Plans.* When the Building Official issues a permit, the Official shall enforce, in writing or by stamp, both sets of plans "Reviewed for Code Compliance." One set of drawings so reviewed shall be retained by the Building Official, and the other set shall be returned to the applicant. The permitted drawings shall be kept at the site of work and shall be open to inspection by the Building Official or the Official's authorized representative.

(Code 2006, § 14-114; Ord. of 6-15-2004(1), § 3.6)

Sec. 8-127. Fees.

(a) *Prescribed fees.* A permit shall not be issued until the fees prescribed by the Governing Body have been paid. Nor shall an amendment to a permit be released until the additional fee, if any, due to an increase in the estimated cost of the building, structure, electrical, plumbing, mechanical or gas system, etc., has been paid.

(b) *Work commencing before permit issuance.* Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system, etc., before obtaining the necessary permits, shall be subject to a penalty of 100 percent of the usual permit fee in addition to the required permit fees.

(c) *Accounting.* The Building Official shall keep a permanent and accurate accounting of all permit fees and other money collected, the names of all persons upon whose account the same was paid, along with the date and amount thereof.

(d) *Schedule of permit fees.* On all buildings, structures, and electrical, plumbing, mechanical and gas systems or alterations requiring a permit, a fee for each permit shall be paid as required at the time of filing application, in accordance with the fee schedules as set by the Governing Body.

(e) *Building permit valuations.* If, in the opinion of the Building Official, the valuation of a building, alteration, structure, electrical, gas, mechanical or plumbing system appears to be underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the Building Official. Permit valuations shall include total cost, such as electrical, gas, mechanical, plumbing equipment and other systems, including materials and labor.

(Code 2006, § 14-115; Ord. of 6-15-2004(1), § 3.7)

Sec. 8-128. Inspections.

(a) *Existing building inspections.* Before issuing a permit, the Building Official may examine or cause to be examined any building, electrical, gas, mechanical or plumbing system for which an application has been received for a permit to enlarge, alter, repair, move, demolish, install, or change the occupancy. The Building Official shall inspect all buildings, structures, electrical, gas, mechanical and plumbing systems, from time to time, during and upon completion of the work for which a permit was issued. The Building Official shall make a record of every such examination and inspection and of all violations of the construction codes.

(b) *Manufactures and fabricators.* When deemed necessary by the Building Official, the Official shall make, or cause to be made, an inspection of materials or assemblies at the point of manufacture or fabrication. A record shall be made of every such examination and inspection and of all violations of the construction codes.

(c) *Inspection service.* The Building Official may make, or cause to be made, the inspections required by Subsection (f) of this section. The Building Official may accept reports of inspectors of recognized inspection services, provided that after investigation the Official is satisfied as to their qualifications and reliability. A certificate called for by any provision of the construction codes shall not be based on such reports unless the same are in writing and certified by a responsible officer of such service.

(d) *Inspections prior to issuance of certificate of occupancy or completion.* The Building Official shall inspect or cause to be inspected at various intervals all construction or work for which a permit is required, and a final inspection shall be made of every building, structure, and electrical, gas, mechanical or plumbing system upon completion, prior to the issuance of the certificate of occupancy or completion.

(e) *Posting of permit.* Work requiring a permit shall not commence until the permit holder or the permit holder's agent posts the permit card in a conspicuous place on the premises. The permit shall be protected from the weather and located in such position as to permit the Building Official or representative to conveniently make the required entries thereon. This permit card shall be maintained in such position by the permit holder until the certificate of occupancy or completion is issued by the Building Official.

(f) *Required inspections.* The Building Official, upon notification from the permit holder or the permit holder's agent, shall make the following inspections and such other inspections as necessary and shall either release that portion of the construction or shall notify the permit holder or the permit holder's agent of any violations which must be corrected in order to comply with the Technical Code:

(1) *Building.*

- a. *Foundation inspection.* To be made after trenches are excavated and forms erected.
- b. *Frame inspection.* To be made after the roof, all framing, fireblocking and bracing are in place, all concealing wiring, all pipes, chimneys, ducts and vents are complete.
- c. *Final inspection.* To be made after the building is completed and ready for occupancy.

(2) *Electrical.*

- a. *Underground inspection.* To be made after trenches or ditches are excavated, conduit or cable installed, and before any backfill is put in place.
- b. *Rough-in inspection.* To be made after the roof, framing, fireblocking and bracing is in place and prior to the installation of wall or ceiling membranes.
- c. *Final inspection.* To be made after the building is complete, all required electrical fixtures are in place and properly connected or protected, and the structure is ready for occupancy.

(3) *Plumbing.*

- a. *Underground inspection.* To be made after trenches or ditches are excavated, piping installed, and before any backfill is put in place.
- b. *Rough-in inspection.* To be made after the roof, framing, fireblocking and bracing is in place and all soil, waste and vent piping is complete, and prior to this installation of wall or ceiling membranes.
- c. *Final inspection.* To be made after the building is complete, all plumbing fixtures are in place and properly connected, and the structure is ready for occupancy.

Note: See Section 311 of the Standard Plumbing Code for required tests.

- (4) *Mechanical.*
- a. *Underground inspection.* To be made after trenches or ditches are excavated, underground duct and fuel piping installed, and before any backfill is put in place.
 - b. *Rough-in inspection.* To be made after the roof, framing, fireblocking and bracing are in place and all ducting and other concealed components are complete, and prior to the installation of wall or ceiling membranes.
 - c. *Final inspection.* To be made after the building is complete, the mechanical system is in place and properly connected, and the structure is ready for occupancy.
- (5) *Gas.*
- a. *Rough piping inspection.* To be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been connected.
 - b. *Final piping inspection.* To be made after all piping authorized by the permit has been installed and after all portions which are to be concealed by plastering or otherwise have been so concealed, and before any fixtures or gas appliances have been connected. This inspection shall include a pressure test.
 - c. *Final inspection.* To be made on all new gas work authorized by the permit and such portions of existing systems as may be affected by new work or any changes in order to ensure compliance with all the requirements of the construction codes and to ensure that the installation and construction of the gas system is in accordance with reviewed plans.
- (6) *Energy.*
- a. *Foundation inspection.* To be made before slab concrete is poured in place. To verify that perimeter insulation has been installed correctly on any slab on grade foundations, if required.
 - b. *Frame inspection.* To be made before exterior wall insulation is concealed by wall board to check installation of exterior walls insulation and to inspect that all holes and cracks through the structure envelope have been sealed in an appropriate manner as to restrict air passage.
 - c. *Final inspection.* To be made after the building is completed and ready for occupancy. To verify installation and R-value of ceiling and floor insulation. To verify correct SEER ratings on appliances.
- (g) *Written release.* Work shall not be done on any part of a building, structure, and electrical, gas, mechanical or plumbing system beyond the point indicated in each successive inspection without first obtaining a written release from the Building Official. Such written release shall be given only after an inspection has been made of each successive step in the construction or installation as indicated by each of the foregoing three inspections.
- (h) *Reinforcing steel, structural frames, insulation, plumbing, mechanical, or electrical systems.* Reinforcing steel, structural frame, insulation, plumbing, work of any part of any building or structure shall not be covered or concealed without first obtaining a release from the Building Official.

(i) *Plaster fire protection.* In all buildings where plaster is used for fire protection purposes, the permit holder or the permit holder's agent shall notify the Building Official after all lathing and backing is in place. Plaster shall not be applied until the release from the Building Official has been received.

(Code 2006, § 14-116; Ord. of 6-15-2004(1), § 3.8)

Sec. 8-129. Certificates.

(a) *Certificate of occupancy.*

- (1) *Building occupancy.* A new building shall not be occupied or a change be made in the occupancy, nature or use of a building or part of a building until after the Building Official has issued a certificate of occupancy. Said Certificate shall not be issued until all required electrical, gas, mechanical, plumbing and fire protection systems have been inspected for compliance with the construction codes and other applicable laws and ordinances and released by the Building Official.
- (2) *Issuing certificate of occupancy.* Upon satisfactory completion of construction of a building or structure and installation of electrical, gas, mechanical and plumbing systems in accordance with the construction codes, reviewed plans and specifications, and after the final inspection, the Building Official shall issue a certificate of occupancy stating the nature of the occupancy permitted, the number of persons for each floor when limited by law, and the allowable load per square foot for each floor in accordance with the provisions of the construction codes.
- (3) *Temporary/partial occupancy.* A temporary/partial certificate of occupancy may be issued for a portion of a building, which may safely be occupied prior to final completion of the building.
- (4) *Existing building certificate of occupancy.* A certificate of occupancy for any existing building may be obtained by applying to the Building Official and supplying the information and data necessary to determine compliance with the construction codes for the occupancy intended. Where necessary, in the opinion of the Building Official, two sets of detailed drawings, or a general inspection, or both, may be required. When, upon examination and inspection, it is found that the building conforms to the provisions of the construction codes and other applicable laws and ordinances for such occupancy, a certificate of occupancy shall be issued.

(b) *Certificate of completion.* Upon satisfactory completion of a building, structure, and electrical, gas, mechanical or plumbing system, a certificate of completion may be issued. This certificate is proof that a structure or system is complete and for certain types of permits is released for use and may be connected to a utility system. This certificate does not grant authority to occupy or connect a building, such as a shell building, prior to the issuance of a certificate of occupancy.

(c) *Service utilities.*

- (1) *Connection of service utilities.* No person shall make connections from a utility, source of energy, fuel or power to any building or system which is regulated by the construction codes for which a permit is required, until released by the Building Official and a certificate of occupancy or completion is issued.

- (2) *Temporary connection.* The Building Official may authorize the temporary connection of the building or system to the utility source of energy, fuel or power for the purpose of testing building service systems or for use under a temporary certificate of occupancy.
- (3) *Authority to disconnect service utilities.* The Building Official shall have the power to authorize disconnection of utility service to the building, structure or system regulated by the construction codes in case of emergency where necessary to eliminate an immediate hazard to life or property. The Building Official shall notify the serving utility and, whenever possible, the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing as soon as practical thereafter.

(Code 2006, § 14-117; Ord. of 6-15-2004(1), § 3.9)

Sec. 8-130. Tests.

The Building Official may require tests or test reports as proof of compliance. Required tests are to be made at the expense of the owner, or the owner's agent, by an approved testing laboratory or other approved agency.

(Code 2006, § 14-118; Ord. of 6-15-2004(1), § 4)

Secs. 8-131—8-158. Reserved.

ARTICLE IV. FENCES

Sec. 8-159. 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:

Fence means a structure, including gates, or trees or shrub hedges, which is a barrier or used as a boundary or means of protection or confinement. Shrub fences will not be considered as fences when used as a buffer zone between commercial, industrial, and residential properties; a solid fence must be constructed where a screening is required.

Open fence means a fence which has over its entirety at least 50 percent of the surface area in open space as viewed at right angles from the fence, except that the required open space in louvered-type fences may be viewed from any angle.

Solid fence means a fence which conceals from view, from adjoining properties, streets, or alleys, activities conducted behind it.

(Ord. No. 08415-4, § 14-3(1), 4-15-2008; Ord. No. 08819-7, § 14-3(1), 8-19-2008)

Sec. 8-160. Requirements; prohibited fences; exceptions.

(a) Open fences shall not be more than six feet in height in any residential district, except that in the front yard the height shall not exceed 48 inches. Open fences in any business or manufacturing district shall not exceed eight feet in height. Heights of fences shall be measured by the natural average grade. Open fences may be set on the lot line.

(b) No fence shall be constructed within a public way or public utility easement.

(c) No fence shall be constructed of barbed wire, iron spikes, or other sharp pointed instruments or barbed plants; however, fences constructed in part of barbed wire shall be permitted if all of the barbed wire portion thereof is six feet or more from the ground. Barbed wire fences may be constructed on parcels three acres or larger on which livestock is maintained.

(d) No fence shall be erected which is connected in any way to any source of electricity; provided, however, electric fences may be constructed on parcels three acres or larger on which livestock is maintained.

(e) No snow fences, farm fences or chicken wire bag fences shall be allowed.

(f) All fence posts shall be decay resistant and shall be set in concrete bases.
(Ord. No. 08415-4, § 14-3(2), 4-15-2008; Ord. No. 08819-7, § 14-3(2), 8-19-2008)

Sec. 8-161. Permit required.

(a) No fence shall be constructed or erected until a building permit has been issued and the fee for said permit paid.

(b) An accurate sketch showing the proposed location of the fence on the premises shall be furnished to the Building Official at the time application is made for the permit to erect the fence. The sketch shall show the location of any utility easements on the property.
(Ord. No. 08819-7, § 14-3(3), 8-19-2008)

Sec. 8-162. Maintenance.

It shall be unlawful for the owner, occupant or person in custody of any premises in the City, having a fence thereon, to permit such fence to exist in a state or condition which is liable to cause injury to any person or to property, or which is liable to collapse, or which encroaches upon or leans upon the premises of another property.
(Ord. No. 08819-7, § 14-3(4), 8-19-2008)

Sec. 8-163. Solid fences.

Solid fences shall not be more than six feet high in any business or residential district and not more than eight feet in height in any manufacturing district. A solid fence shall not be erected in a front yard. A solid fence may be erected on a corner lot that abuts a street in a residential district, providing the fence is no closer than the side yard face of the principle building on the lot, but no closer than 12 feet to the side lot line. Solid fences are permitted on the lot line or along access strips backing thoroughfares providing written permission from the utility company and/or easement holder has first been obtained.
(Ord. No. 08415-4, § 14-3(2), 4-15-2008; Ord. No. 08819-7, § 14-3(5), 8-19-2008)

Sec. 8-164. Variations.

The City Council may authorize variations from the provisions of this article according to procedures delineated in the Unified Development Code.
(Ord. No. 08415-4, § 14-3(3), 4-15-2008; Ord. No. 08819-7, § 14-3(6), 8-19-2008)

Sec. 8-165. Elimination of nonconforming fences.

Any fence that does not conform to the provisions of this article must be removed, replaced or modified to conform to this article within six months of the effective date of the ordinance from which this article is derived or within six months of the effective date of an annexation of the property on which it exists.

(Ord. No. 08819-7, § 14-3(7), 8-19-2008)

Sec. 8-166. Penalty.

(a) Upon the first violation of any of the provisions of this article, a warning citation shall be issued.

(b) Upon the second violation of any of the provisions of this article, a citation shall be issued, and the individual will go before the City Court.

(c) Upon conviction, punishment shall be as set forth by the City Court. Such punishment may include the imposition of a fine not to exceed \$1,000.00, imprisonment for a period of time not to exceed 60 days, or by both such fine and imprisonment, or up to the limits of any penalty provided by State law for the ordinance, and as such State law may be amended from time to time.

(d) Nothing in this article shall restrict the City from pursuing other means of enforcement as it deems necessary, including instituting appropriate action or proceedings at law or equity with a court of competent jurisdiction. Any court of competent jurisdiction may have the right to issue restraining orders, temporary or permanent injunctions, and other appropriate forms of remedy or relief.

(e) Every violation and each day of noncompliance is considered a separate offense and shall be punishable as such.

(Ord. No. 08819-7, § 14-3(8), 8-19-2008)

Chapter 9

RESERVED

Chapter 10

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ARTICLE I. IN GENERAL

Secs. 10-1—10-18. Reserved.

ARTICLE II. BUSINESSES AND LICENSES**DIVISION 1. GENERALLY****Sec. 10-19. Insurance businesses.**

(a) *License required.* Each person, agency, firm, or company doing an insurance business within the municipal corporate limits shall be required to obtain a license from the City Clerk/Treasurer in the manner specified in this article.

(b) *Fee established.* The annual business license fee for each company authorized by the State to write life, and accident and sickness insurance, as such terms are defined in O.C.G.A. Title 33, Ch. 7 (O.C.G.A. § 33-7-1 et seq.), shall be in an amount as adopted by the City Council by resolution from time to time for each separate business location of such company in the City, and the business license fee for all other persons, agencies, firms, or companies doing an insurance business within the City shall be in an amount as adopted by the City Council by resolution from time to time.

(Code 2001, § 32-204; Code 2006, § 34-3)

Sec. 10-20. Overcharging prohibited.

(a) In order to preserve, protect or sustain the life, health or safety of persons, or their property, within the declared disaster area, it shall be unlawful, during the duration of the state of emergency or subsequent recovery period in which the City has been designated as a disaster area, for any person, firm or corporation located or doing business in the City to overcharge for any goods, materials, services, motel rooms, temporary lodging or houses, sold or rented, within the City.

(b) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Overcharging means charging prices for goods, materials, services or housing which are substantially in excess of the customary charges or, in applicable cases, substantially in excess of the suppliers' or providers' costs for such goods, materials, services or housing. The existence of overcharging shall be presumed from a substantial increase in the price at which the merchandise or cost/rental of housing was offered in the usual course of business immediately prior to the onset of the emergency but shall not include increases in cost to the supplier directly attributable to the higher cost of materials, supplies and labor costs resulting from the emergency.

State of emergency is defined pursuant to O.C.G.A. § 38-3-3(5) as a condition declared by the Governor when, in the Governor's judgment, the threat or actual occurrence of a disaster or emergency is of sufficient severity and magnitude as to warrant extraordinary efforts in preventing or alleviating the damage, loss, hardship or suffering threatened or caused thereby.

Subsequent recovery period means that period during which the disaster continues to cause disruptions in the disaster area, but shall not exceed six months after the emergency declaration has been terminated. (Code 2001, § 31-119; Code 2006, § 34-4)

Secs. 10-21—10-43. Reserved.

DIVISION 2. ADULT ENTERTAINMENT ESTABLISHMENTS

Sec. 10-44. Purpose.

The purpose of this division is to regulate certain types of businesses, including, but not limited to, adult entertainment establishments, to the end that the many types of criminal activities frequently engendered by such businesses will be curtailed. However, it is recognized that such regulation cannot de facto approach prohibition. Otherwise, a protected form of expression would vanish. As to adult dance establishments, this section represents a balancing of competing interests: reduced criminal activity and protection of the neighborhoods through the regulation of adult entertainment establishments versus the protected rights of adult entertainment establishments and patrons. (Code 2001, § 32-202(1); Code 2006, § 34-90)

Sec. 10-45. Definitions.

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

Adult bookstore means an establishment having a substantial or significant portion of its stock in trade in books, magazines or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising five percent of its net sales total floor space, devoted to the sale or display of such materials or five percent of its net sales consisting of printed materials which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult cabaret means an adult entertainment facility, or that part of an adult entertainment facility, which regularly features or otherwise offers to the public, customers or members, into a viewing area which is designed for occupancy by more than five persons, any live exhibition, performance or dance by a person whose exhibition, performance or dance is characterized by the exposure of any specified anatomical area, or by specified sexual activities, or who otherwise appears unclothed or in such attire, costume or clothing so as to expose to view specified anatomical areas.

Adult dancing establishment means a business that features dancers displaying or exposing specified anatomical areas.

Adult hotel or motel means a hotel or motel wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult massage parlor means a sexually oriented commercial enterprise whose major business is the offering, for any form of consideration, of a service of rubbing, kneading, or striking of the customer's body in a way which is intended to provide sexual stimulation or sexual gratification to the customer.

Adult mini-motion picture theater means an enclosed building with a capacity of less than 50 persons used for commercially presenting material distinguished or characterized by an emphasis on matter depicting or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult motion picture arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

Adult motion picture theater means an enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult video store means an establishment having a substantial or significant portion of its stock in trade in video tapes or movies or other reproductions, whether for sale or rent, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising five percent of its total floor space, devoted to the sale or display of such material or which derives more than five percent of its net sales from videos which are characterized or distinguished by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Encounter center means any business, agency or person who, for any form of consideration or gratuity, provides a place where two or more persons may congregate, assemble or associate for the primary purpose of engaging in, describing or discussing specified sexual activities, or exposing specified anatomical areas. The term "encounter center" does not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State engages in sexual therapy.

Erotic dance establishment means a nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers, go-go dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Escort bureau or introduction services means any business, agency or person who, for a fee, commission, hire, reward or profit, furnishes or offers to furnish the names of persons, or who introduces, furnishes or arranges for persons who may accompany other persons to or about social affairs, entertainments or places of amusement, or who may consort with other persons about any place of public resort or within any private quarters.

Good moral character. A person who is of good moral character according to this division if that person has not been convicted of a felony, or any crime not a felony if it involves moral turpitude, in the past five years. The City may also take into account such other factors as are necessary to determine the good moral character of the applicant or employee. Conviction shall include pleas of nolo contendere or bond forfeiture when charged with such crime.

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

Specified anatomical areas includes any of the following:

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

Specified sexual activities means and includes any of the following:

- (1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship and any of the following sexually-oriented acts or conduct: anilingus, buggery, caprifiq, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty;
 - (2) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence;
 - (3) Use of human or animal ejaculation, sodomy, or copulation, coitus or masturbation;
 - (4) Fondling or touching of nude human genitals, pubic region, buttocks or female breast;
 - (5) Masochism, erotic or sexually-oriented torture, beating or the infliction of pain;
 - (6) Erotic or lewd touching, fondling or other sexual contact with an animal by a human being; or
 - (7) Human excretion, urination, menstruation, vaginal or anal irrigation.
- (Code 2001, § 32-202(2); Code 2006, § 34-91)

Sec. 10-46. Erotic dance establishment regulations.

(a) No person, firm, partnership, corporation or other entity shall advertise or cause to be advertised an erotic dance establishment without a valid adult entertainment establishment license issued pursuant to this division.

(b) No later than March 1 of each year, an erotic dance establishment licensee shall file a verified report with the license officer showing the licensee's gross receipts and amounts paid to dancers for the preceding calendar year.

(c) An erotic dance establishment licensee shall maintain and retain for a period of two years the names, addresses and ages of all persons employed as dancers.

(d) No adult entertainment establishment licensee shall employ or contract with as a dancer a person under the age of 18 years or a person not licensed pursuant to this section.

- (e) No person under the age of 18 years shall be admitted to an adult entertainment establishment.
- (f) An erotic dance establishment may be open only between the hours of 8:00 a.m. and 2:00 a.m. Monday through Friday, and Saturday from 8:00 a.m. through 2:55 a.m. on Sunday. No licensee shall permit the licensee's place of business to be open on December 25.
- (g) No erotic dance establishment licensee shall serve, sell, distribute or suffer the consumption or possession of any malt or vinous beverages, intoxicating liquor or any other alcoholic beverage, or controlled substance upon the premises of the licensee.
- (h) An adult entertainment establishment licensee shall conspicuously display all licenses required by this division.
- (i) All dancing shall occur on a platform intended for that purpose which is raised at least two feet from the level of the floor.
- (j) No dancing shall occur closer than ten feet to any patron.
- (k) No dancer shall fondle or caress any patron, and no patron shall fondle or caress any dancer.
- (l) No patron shall directly pay or give any gratuity to any dancer.
- (m) No dancer shall solicit any pay or gratuity from any patron.
- (n) All areas of an establishment licensed hereunder shall be fully lighted at all times patrons are present. Full lighting shall mean illumination equal to 3½ footcandles per square foot.
- (o) If any portion or subsection of this section or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder or application to other persons or circumstances shall not be affected.

(Code 2001, § 32-202(3); Code 2006, § 34-92)

Sec. 10-47. Certain activities prohibited.

No person, firm, partnership, corporation or other entity shall publicly display or expose, or suffer the public display or exposure, with less than a full opaque covering, or any portion of a person's genitals, pubic area or buttocks in a lewd and obscene fashion.

(Code 2001, § 32-202(4); Code 2006, § 34-93)

Sec. 10-48. Permit required.

It shall be unlawful for any person, association, partnership or corporation to engage in, conduct or carry on in or upon any premises within the City any of the adult entertainment establishments defined in this division without a permit so to do. No permit so issued shall condone or make legal any activity thereunder if the same is deemed illegal or unlawful under the laws of the State or the United States.

(Code 2001, § 32-202(5); Code 2006, § 34-94)

Sec. 10-49. Operation of unlicensed premises unlawful.

It shall be unlawful for any person to operate an adult bookstore, adult motion picture theater, adult mini-motion picture theater, adult hotel or motel, adult motion picture arcade, cabaret, encounter center,

escort bureau or adult business or adult dancing establishment, unless such business shall have a currently valid license or shall have made proper application for renewal within the time required thereof under this division, which such license shall not be under suspension or permanently or conditionally revoked.

(Code 2001, § 32-202(6); Code 2006, § 34-95)

Sec. 10-50. Admission of minors unlawful.

It shall be unlawful for a licensee to admit or permit the admission of minors within a licensed premises.

(Code 2001, § 32-202(7); Code 2006, § 34-96)

Sec. 10-51. Sales to minor unlawful.

It shall be unlawful for any person to sell, barter or give, or offer to sell, barter or give, to any minor any service, material, device or thing sold or offered for sale by an adult bookstore, adult motion picture theater, adult massage parlor, or adult dancing establishment or other adult entertainment facility.

(Code 2001, § 32-202(8); Code 2006, § 34-97)

Sec. 10-52. Location restrictions.

(a) No adult business or use restricted hereunder shall be located:

- (1) Within 1,000 feet of any parcel of land which is either named or used for residential uses or purposes;
- (2) Within 1,000 feet of any parcel of land upon which a church, school, governmental building, library, civic center, public park or playground is located;
- (3) Within 1,000 feet of any parcel or land upon which another establishment regulated or defined hereunder is located;
- (4) Within 1,000 feet of any parcel of land upon which any other establishment selling alcoholic beverages is located;
- (5) On less than three acres of land containing at least 100 feet of road frontage.

(b) For the purposes of this section, distance shall be by airline measurement from property line, using the closest property lines of the parcels of land involved. The term "parcel of land" means any quantity of land capable of being described by location and boundary, designated and used or to be used as a unit.

(Code 2001, § 32-202(9); Code 2006, § 34-98)

Sec. 10-53. Adult entertainment establishment employees.

(a) *Qualifications.* Employees of an adult entertainment establishment shall not be less than 18 years of age. Every employee must be of good moral character as defined in this division. Any employee convicted of a crime constituting a felony or a crime not a felony involving moral turpitude while employed as an adult entertainment establishment employee shall not thereafter work on any licensed premises for a period of five years from the date of such conviction, unless a longer time is ordered by a

court of competent jurisdiction. The term "convicted" shall include an adjudication of guilt on a plea of guilty or nolo contendere or the forfeiture of a bond when charged with a crime, and the terms "employed on the licensed premises" and "work on any licensed premises" shall include as well work done or services performed while in the scope of employment elsewhere than on the licensed premises.

(b) *Approval for employment.* Before any person may work on a licensed premises, the person shall file a notice with the Licensing Officer of the person's intended employment on forms supplied by the Licensing Officer and shall receive approval of such employment from the Licensing Officer. The prospective employee shall supply such information as the Licensing Officer requires, including a set of fingerprints, on regular City or United States Department of Justice forms. Upon approval, the employee may begin working on the licensed premises. If approval is denied, the prospective employee may, within ten days of said denial, apply to the Licensing Officer for a hearing. The decision of the Licensing Officer after hearing may be appealed to the City Council which may issue such order as is proper in the premises. An investigation fee in an amount as adopted by the City Council by resolution from time to time shall accompany the notice of intended employment or a receipt of the Licensing Officer evidencing the payment of such fee at the time the notice is filed.

(c) *Suspension, revocation of license.* Violation of the provisions of this Code, the ordinances of the City, laws and regulations of the State, or the rules and regulations of the City shall subject an employee to suspension or revocation of license.

(d) *Independent contractors.* For the purpose of this section, independent contractors shall be considered as employees and shall be licensed as employees, regardless of the business relationship with the owner or licensee of any adult entertainment establishment.

(Code 2001, § 32-202(10); Code 2006, § 34-99)

Sec. 10-54. Application for permit.

(a) Any person, association, partnership or corporation desiring to obtain a permit to operate, engage in, conduct or carry on any adult entertainment establishment shall make application to the City Administrator or the Administrator's designated representative. Prior to submitting such application, a nonrefundable fee, established by resolution of the City Council, shall be paid to the City Clerk/Treasurer to defray, in part, the cost of investigation and report required by this division. The City Clerk/Treasurer shall issue a receipt showing that such application fee has been paid. The receipt or a copy thereof shall be supplied to the City Administrator at the time such application is submitted.

(b) The application for permit does not authorize the engaging in, operation of, conduct of or carrying on of any adult entertainment establishment.

(Code 2001, § 32-202(11); Code 2006, § 34-100)

Sec. 10-55. Application contents.

The adult entertainment establishment permit shall contain the information as adopted and amended by the City from time to time.

(Code 2001, § 32-202(12); Code 2006, § 34-101)

Sec. 10-56. Applicant to appear.

The applicant, if an individual, or designated responsible managing officer, if a partnership or corporation, shall personally appear at the City and produce proof that a nonrefundable application fee, established by resolution of the City Council, has been paid and shall present the application containing the aforementioned and described information.

(Code 2001, § 32-202(13); Code 2006, § 34-102)

Sec. 10-57. Investigation of application findings.

The City shall have 30 days to investigate the application and the background of the applicant. Upon completion of the investigation, the Mayor and City Council may grant the permit if it finds:

- (1) The required fee has been paid;
- (2) The application conforms in all respects to the provisions of this section;
- (3) The applicant has not knowingly made a material misrepresentation in the application;
- (4) The applicant has fully cooperated in the investigation of the applicant's application;
- (5) The applicant, if an individual, or any of the stockholders of the corporation, any officers or directors, if the applicant is a corporation, or any of the partners, including limited partner, if the applicant is a partnership, has not been convicted in a court of competent jurisdiction of an offense involving conduct or convicted of an attempt to commit any of the above-mentioned offenses, or convicted in any state of any offense which, if committed or attempted in this State, would have been punishable as one or more of the above-mentioned offenses, or any crime involving dishonesty, fraud, deceit or moral turpitude;
- (6) The applicant has not had an adult entertainment establishment permit or other similar license or permit denied or revoked for cause by this City or any other city located in or out of this State prior to the date of application;
- (7) The building, structure, equipment or location of such business as proposed by the applicant would comply with all applicable laws, including, but not limited to, health, zoning, distance, fire and safety requirements and standards;
- (8) The applicant is at least 21 years of age;
- (9) That the applicant, the applicant's employee, agent, partner, director, officer, stockholder or manager has not, within five years of the date of the application, knowingly allowed or permitted any of the specified sexual activities as defined herein to be committed or allowed in or upon the premises where such adult entertainment establishment is to be located or to be used as a place in which solicitations for the specified sexual activities as defined herein openly occur;
- (10) That on the date the business for which a permit is required herein commences, and thereafter, there will be a responsible person on the premises to act as manager at all times during which the business is open;
- (11) That the proposed premises is not to be located too close to any church, school, library, governmental building or site or any other business restricted hereunder;

- (12) That the grant of such license will not cause a violation of this division or any other ordinance or regulation of the City, State or the United States;
 - (13) Any other inquiry deemed necessary or desirable by the City to ensure the health, safety and welfare of the citizens of the City or the preservation of its neighborhoods.
- (Code 2001, § 32-202(14); Code 2006, § 34-103)

Sec. 10-58. Persons prohibited as licensees.

- (a) No license provided for by this division shall be issued to or held by:
- (1) An applicant who has not paid all required fees and taxes for a business at that location or property taxes;
 - (2) Any person who is not of good moral character;
 - (3) Any corporation, any of whose officers, directors or stockholders holding over five percent of the outstanding issued shares of capital stock are not of good moral character;
 - (4) Any partnership or association, any of whose officers or members holding more than five percent interest therein are not of good moral character;
 - (5) Any person employing, assisted by or financed in whole or in part by any person who is not of good moral character;
 - (6) Any applicant who is not qualified to hold and conduct a business according to the laws of the United States, the State or the City.
- (b) Should there be a sufficient number of current licenses to meet the needs and desires of the inhabitants of the City, no new licenses shall be issued. In determining the needs and desires of the inhabitants, the standard of review shall be that the market is virtually unrestrained as defined in *Young v. American Mini Theaters, Inc.*
- (Code 2001, § 32-202(15); Code 2006, § 34-104)

Sec. 10-59. Permit—Refusal; appeal.

If the City, following investigation of the applicant, deems that the applicant does not fulfill the requirements as set forth in this division, it shall notify the City Clerk/Treasurer of such opinion and, within 30 days of the date of application, provide copies of the investigation report to the City Clerk/Treasurer. The City Clerk/Treasurer shall, within ten days, notify the applicant by certified mail of such denial. Any applicant who is denied a permit may appeal such denial to the Mayor and City Council.

(Code 2001, § 32-202(16); Code 2006, § 34-105)

Sec. 10-60. Permit—Renewal.

Permits for adult entertainment establishments may be renewed on a year-to-year basis, provided that the permittees continue to meet the requirements set out in this division. The renewal fees for the adult entertainment establishment permits shall be established by resolution of the City Council.

(Code 2001, § 32-202(17); Code 2006, § 34-106)

Sec. 10-61. Permit—Nontransferable.

No adult entertainment establishment permit may be sold, transferred or assigned by a permittee, or by operation of law, to any other person. 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 permittee 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 without effecting 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. An adult entertainment establishment permit issued to a corporation shall be deemed terminated and void when either any outstanding stock of the corporation is sold, transferred or assigned after the issuance of a permit or any stock authorized but not issued at the time of the granting of a permit is thereafter issued and sold, transferred or assigned.

(Code 2001, § 32-202(18); Code 2006, § 34-107)

Sec. 10-62. Change of location or name.

(a) No adult entertainment establishment shall move from the location specified on its permit until a change of location fee, established by resolution of the City Council, has been deposited with the City and approval has been obtained from the City Administrator and the Zoning Department. Such approval shall not be given unless all requirements and regulations as contained in this Code have been met.

(b) No permittee shall operate, conduct, manage, engage in or carry on an adult entertainment establishment under any name other than the permittee's name and the name of the business as specified on the permittee's permit.

(c) Any application for an extension or expansion of a building or other place of business where an adult entertainment establishment is located shall require inspection and shall comply with the provisions and regulations of this division.

(Code 2001, § 32-202(19); Code 2006, § 34-108)

Sec. 10-63. Appeal—Procedure.

The permittee shall, within ten days after the permittee has been notified of an adverse determination, submit a notice of appeal to the City Clerk/Treasurer. The notice of appeal shall be addressed to the City Council and shall specify the subject matter of the appeal, the date of any original and amended application or requests, the date of the adverse decision (or receipt of notice thereof), the basis of the appeal, the action requested of the City Council and the name and address of the applicant. The Clerk shall place the appeal on the agenda of the next regular City Council meeting occurring not less than five days nor more than 30 days after receipt of the application for City Council action.

(Code 2001, § 32-202(20); Code 2006, § 34-109)

Sec. 10-64. Appeal—Council determination.

When an appeal is placed on the City Council agenda, the City Council may take either of the following actions:

- (1) Set a hearing date and instruct the City Clerk/Treasurer to give such notice of hearing as may be required by law;

- (2) Appoint a Hearing Officer and fix the time and place for hearing. The Hearing Officer may or may not be a City employee and may be appointed for an extended period of time. The Clerk shall assume responsibility for such publication of notice of the hearing as may be required by law. If a Hearing Officer is appointed, the hearing shall be conducted in accordance with the procedures set out in this division.

(Code 2001, § 32-202(21); Code 2006, § 34-110)

Sec. 10-65. City Council hearing.

Whenever the City Clerk/Treasurer has scheduled an appeal before the City Council, at the time and date set therefor, the City Council shall receive all relevant testimony and evidence from the permittee, from interested parties and from City staff. The City Council may sustain, overrule or modify the action complained of. The action of the City Council shall be final.

(Code 2001, § 32-202(22); Code 2006, § 34-111)

Sec. 10-66. Powers of Hearing Officer.

The Hearing Officer appointed pursuant to the procedure set out in this division may receive and rule on admissibility of evidence, hear testimony under oath and call witnesses as the officer may deem advisable with respect to the conduct of the hearing.

(Code 2001, § 32-202(23); Code 2006, § 34-112)

Sec. 10-67. Rules of evidence inapplicable.

The City Council and the Hearing Officer shall not be bound by the traditional rules of evidence in hearings conducted under this division. Rules of evidence as applied in an administrative hearing shall apply.

(Code 2001, § 32-202(24); Code 2006, § 34-113)

Sec. 10-68. Hearing Officer—Report.

The Hearing Officer shall, within a reasonable time not to exceed 30 days from the date such hearing is terminated, submit a written report to the City Council. Such report shall contain a brief summary of the evidence considered and state findings, conclusions and recommendations. All such reports shall be filed with the City Clerk/Treasurer and shall be considered public records. A copy of such report shall be forwarded by certified mail to the permittee/appellant the same day it is filed with the City Clerk/Treasurer, with additional copies furnished the City Administrator and Chief of Police. The City Clerk/Treasurer shall place the Hearing Officer's report on the agenda of the next regular meeting of the City Council occurring not less than ten days after the report is filed and shall notify the permittee/appellant of the date of such meeting at least ten days prior to the meeting unless the permittee/appellant stipulates to a shorter notice period.

(Code 2001, § 32-202(25); Code 2006, § 34-114)

Sec. 10-69. Hearing Officer—Action by Council.

The City Council may adopt or reject the Hearing Officer's decision in its entirety or may modify the proposed recommendation. If the City Council does not adopt the Hearing Officer's recommendation, it may:

- (1) Refer the matter to the same or another Hearing Officer for a completely new hearing or for the taking of additional evidence on specific points; in either of such cases, the Hearing Officer shall proceed as provided in this division;
- (2) Decide the case upon a review of the entire record before the Hearing Officer with or without taking additional evidence.

(Code 2001, § 32-202(26); Code 2006, § 34-115)

Sec. 10-70. Cleaning of licensed premises.

Each licensed premises shall be maintained in a clean and sanitary condition and shall be cleaned at least once daily and more frequently when necessary. This activity shall be supervised by the person in charge of the licensed premises. There shall be provided adequate facilities, equipment and supplies on the licensed premises to meet this requirement, and adequate ventilation and illumination shall be provided to permit thorough, complete cleaning of the entire licensed premises. Trash and garbage shall not be permitted to accumulate or to become a nuisance on or in the immediate vicinity of the licensed premises but shall be disposed of daily or as often as collections permit.

(Code 2001, § 32-202(29); Code 2006, § 34-116)

Sec. 10-71. Self-inspection of licensed premises.

The licensee of a licensed premises or the licensee's designated representative shall make sanitary inspections of the licensed premises at least once a month and shall record the licensee's findings on a form supplied by the Licensing Officer. Each licensed premises shall post and maintain in a readily accessible place a schedule for maintaining the sanitation of the premises.

(Code 2001, § 32-202(30); Code 2006, § 34-117)

Sec. 10-72. Sealing for unsanitary or unsafe conditions.

A licensed premises or any part thereof may be sealed by order of the Licensing Officer on the Officer's finding of a violation of this division resulting in an unsanitary or unsafe condition. Prior to sealing, the Licensing Officer shall serve on the licensee, by personal service on the licensee or by posting in a conspicuous place on the licensed premises, a notice of the violation and an order to correct it within 24 hours after service. If the violation is not so corrected, the Licensing Officer may physically seal that portion of the licensed premises causing the violation and order the discontinuance of use thereof until the violation has been corrected and the seal removed by the Licensing Officer. The Licensing Officer shall affix to the sealed premises a conspicuous sign labeled "unclean" or "unsafe," as the case may be.

(Code 2001, § 32-202(31); Code 2006, § 34-118)

Sec. 10-73. Unlawful operation declared nuisance.

Any adult entertainment establishment operated, conducted or maintained contrary to the provisions of this division shall be and the same is hereby declared to be unlawful and a public nuisance. The City may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action, proceeding for abatement, removal or enjoinder thereof in the manner provided by law. It shall take such other steps and shall apply to such court as may have jurisdiction to grant such relief as will abate or remove such adult entertainment establishment and restrain and enjoin any person from operating, conducting or maintaining an adult entertainment establishment contrary to the provisions of this division. In addition, violation of the provisions of this division shall be per se grounds for suspension or revocation of a license granted hereunder.

(Code 2001, § 32-202(28); Code 2006, § 34-119)

Sec. 10-74. Abatement as sanitary nuisance.

A licensed premises or any part thereof may be abated as a sanitary nuisance.

(Code 2001, § 32-202(32); Code 2006, § 34-120)

Secs. 10-75—10-91. Reserved.

DIVISION 3. BONA FIDE COIN-OPERATED AMUSEMENT MACHINES

Sec. 10-92. 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).

(Ord. No. 180518-1, exh. A(34-271), 5-18-2018)

Sec. 10-93. 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.

(Ord. No. 180518-1, exh. A(34-272), 5-18-2018)

Sec. 10-94. Definitions.

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

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.

Bona fide coin-operated amusement machine.

- (1) The term "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. Examples of bona fide coin-operated amusement machines include, but are expressly not limited to, the following:
 - a. Pinball machines;
 - b. Console machines;
 - c. Video games;
 - d. Crane machines;
 - e. Claw machines;
 - f. Pusher machines;
 - g. Bowling machines;
 - h. Novelty arcade games;
 - i. Foosball or table soccer machines;
 - j. Miniature racetrack, football or golf machines;
 - k. Target or shooting gallery machines;
 - l. Basketball machines;
 - m. Shuffleboard machines;
 - n. Kiddie ride games;
 - o. Skee-Ball[®] machines;
 - p. Air hockey machines;
 - q. Roll down machines;
 - r. Trivia machines;
 - s. Laser games;
 - t. Simulator games;
 - u. Virtual reality machines;
 - v. Maze games;
 - w. Racing games;
 - x. Coin-operated pool table or coin-operated billiard table as defined in O.C.G.A. § 43-8-1(3); and
 - y. Any other similar amusement machine which can be legally operated in the State.
- (2) The term "coin-operated amusement machine" does not include the following:
 - a. Coin-operated washing machines or dryers;
 - b. Vending machines which for payment of money dispense products or services;

- c. Gas and electric meters;
- d. Pay telephones;
- e. Pay toilets;
- f. Cigarette vending machines;
- g. Coin-operated vending machines;
- h. Coin-operated scales;
- i. Coin-operated gumball machines;
- j. Coin-operated television sets which provide cable or network programming;
- k. Coin-operated massage beds; and
- l. Machines which are not legally permitted to be operated in the State.

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 where the lessor allows the space to be used for business purposes.

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 O.C.G.A. § 50-27-70, should that definition differ.
(Ord. No. 180518-1, exh. A(34-273), 5-18-2018)

Sec. 10-95. 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 and without first having paid the applicable occupation tax and obtained an occupational tax certificate required under this division. A separate amusement game room license must be obtained for each location in the jurisdiction which bona fide coin-operated amusement machines are operated.
(Ord. No. 180518-1, exh. A(34-274), 5-18-2018)

Sec. 10-96. Issuance of license.

(a) Application for a license for operating an amusement game room within the corporate limits of the City shall be made to the City Clerk or designee upon a form to be supplied by the City Clerk or designee for this purpose. The license application shall include the following information:

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

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

(b) Upon issuing a license for an amusement game room, the City official or employee shall provide the licensee with a copy of this division. The City shall not require a fee for an amusement game room license or registration. A license issued in accordance with this division shall be valid until December 31 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 this chapter.

(Ord. No. 180518-1, exh. A(34-275), 5-18-2018)

Sec. 10-97. 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.

(Ord. No. 180518-1, exh. A(34-276), 5-18-2018)

Sec. 10-98. Minimum distance requirements.

Every amusement game room 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.

(Ord. No. 180518-1, exh. A(34-277), 5-18-2018)

Sec. 10-99. Number of bona fide coin-operated amusement machines at a location.

No amusement game room in the City shall offer to the public more than six Class B bona fide coin-operated amusement machines offering non-cash redemption in accordance with O.C.G.A. § 16-12-35(c) and (d)(1), (2), or both at the same location. At a public meeting, the Mayor and Council may, after consideration of the nature and character of the business, waive the applicability of this provision to an individual location.

(Ord. No. 180518-1, exh. A(34-278), 5-18-2018)

Sec. 10-100. 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 amusement games and the other products and services sold at the location.

(b) Any location owner or location operator subject to O.C.G.A. § 50-27-84(b)(1) is hereby required to maintain a monthly report that shall indicate the monthly gross retail receipts for each business location located within the jurisdiction of the City and that shall be made available to the City Clerk or designee upon request. 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 machines are situated from such Class B machines 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 division. Compliance with this subsection requires both the availability of records for inspection and compliance with the 50 percent of gross retail receipts requirement. Any violations of this provision shall be reported to the Georgia Lottery Corporation.
(Ord. No. 180518-1, exh. A(34-279), 5-18-2018)

Sec. 10-101. Notice requirements.

(a) Every amusement game room 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 shall post the license issued by the City conspicuously and permanently.

(c) The owner or proprietor of each amusement game room shall inform every employee of the acts and omissions prohibited by O.C.G.A. § 16-12-35 and by this division, and of the penalties for violation of O.C.G.A. § 16-12-35 and this division.
(Ord. No. 180518-1, exh. A(34-280), 5-18-2018)

Sec. 10-102. 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.
(Ord. No. 180518-1, exh. A(34-281), 5-18-2018)

Sec. 10-103. 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 O.C.G.A. § 16-12-35(e), (f), or (g).

(b) The City may suspend or revoke the license of any location owner or location operator of any other license granted by the City as a penalty for the conviction of the business owner or business operator of a violation of O.C.G.A. § 16-12-35(e), (f), or (g).

(c) The suspension or revocation of licenses under this 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 division 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 the licensee's employees or any person holding an interest in the license for any felony, any law, administrative regulation or ordinance involving alcoholic beverages, gambling or narcotics, or tax laws.
 - b. Conviction of, or the entering of a plea of guilty or nolo contendere by, the licensee or any of the licensee's 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 division 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 division shall be deemed a violation of the requirement attempted to be circumvented.
 - e. Failure to meet or maintain any standard prescribed by this division 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 City. 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 section, 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 the Officer's 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 the licensee's 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 Administrator, in consultation with the Chief of Police. Any stipulation entered under this subsection shall be in writing, signed by the licensee, and non-appealable.

(Ord. No. 180518-1, exh. A(34-282), 5-18-2018)

Sec. 10-104. Criminal penalties for violations by owners or operators of amusement game rooms.

(a) Penalties for violation of the provisions of this division by the owner or operator of an amusement game room, after conviction in the Municipal Court, or other court of competent jurisdiction, are as follows:

- (1) *First offense.* Fine not to exceed \$500.00 for each violation.
- (2) *Second offense.* Fine not to exceed \$750.00 for each violation, suspension of the owner's or operator's license for offering any amusement game at the location for not more than three months, or both.
- (3) *Third offense.* Fine not to exceed \$1,000.00 for each violation, suspension or permanent revocation of the owner's or operator's license for offering any amusement game at the location, or suspension of other permits and licenses granted by the City for not more than six months, or any combination of these penalties.

(b) The fines listed in subsection (a) of this section may be imposed by the judge of the Municipal Court, or the judge of any other court of competent jurisdiction. Suspension or revocation of the owner's 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 Section 10-103.

(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, by a fine not to exceed \$100.00, imprisonment not to exceed 30 days, or both such fine and imprisonment.

(Ord. No. 180518-1, exh. A(34-283), 5-18-2018)

Sec. 10-105. Penalties for violations by those who play bona fide coin-operated machines in violation of law or ordinance.

The Municipal Court of the City, or any other court of competent jurisdiction, is authorized to impose the following penalties on any person convicted of receiving money as a reward for the successful play or winning of any bona fide coin-operated amusement machine from any person owning, possessing, controlling or overseeing such bona fide coin-operated amusement machine or any person employed by or acting on behalf of a person owning, possessing, controlling or overseeing a bona fide coin-operated amusement machines:

- (1) *First offense.* Fine not to exceed \$250.00 for each violation.
- (2) *Second and subsequent offense.* Fine not to exceed \$500.00 for each violation.

(Ord. No. 180518-1, exh. A(34-284), 5-18-2018)

Sec. 10-106. Operating regulations.

All businesses operating as an amusement game room hereunder shall be subject to the following regulations:

- (1) *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 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.

- (2) *Inspection.* The Chief of Police may inspect or cause the inspection of any location in which any such bona fide coin-operated amusement machines are operated or set up for operating, and may inspect, investigate and test such machines as needed.
 - (3) *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.
 - (4) *Loitering.* As used in this section, the term "loitering" shall mean remaining idle in essentially one location and shall include the concepts of spending time idly, loafing or walking about aimlessly, and shall be unlawful for any person, firm or corporation licensed to operate an amusement game room to permit loitering on or in the immediate vicinity of any machine or business premises regulated hereunder in such a manner as to:
 - a. Create or cause to be created a danger of a breach of the peace;
 - b. Create or cause to be created any disturbance of the peace, as defined by law;
 - c. Obstruct the free passage of pedestrians or vehicles;
 - d. Obstruct, molest or interfere with any person lawfully in a public place.
 - (5) *Shirt and shoes required.* All location owners and location operators shall require shirts and shoes to be worn at all times by any person frequenting their location.
- (Ord. No. 180518-1, exh. A(34-285), 5-18-2018)

Sec. 10-107. Licenses and permits nontransferable.

(a) Licenses required in this division 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.

(Ord. No. 180518-1, exh. A(34-286), 5-18-2018)

Sec. 10-108. Enforcing officer.

The Chief of Police or other designee of the City Administrator is hereby designated as the enforcement officer and shall execute all requirements of this division.

(Ord. No. 180518-1, exh. A(34-287), 5-18-2018)

Secs. 10-109—10-129. Reserved.

DIVISION 4. CONVENIENCE STORE SECURITY

Sec. 10-130. "Convenience store" defined.

As used herein, the term "convenience store" means any place of business that is engaged in the retail sale of groceries, including the sale of prepared food and gasoline, that is regularly open for business at any time between the hours of 9:00 p.m. and 6:00 a.m. The term "convenience store" does not include a store which is solely or primarily a restaurant.

(Ord. No. 180821-3, exh. A(34-270), 8-21-2018)

Sec. 10-131. Required convenience store security.

(a) Each convenience store located within the City shall:

(1) Be equipped with the following security devices:

- a. A silent alarm that notifies local law enforcement or a private security agency that a robbery is taking place.
- b. A security camera system capable of retrieving an image to assist in the identification and apprehension of a robber.
- c. A drop safe or cash management device that provides minimum access to the facility's cash receipts.

(2) Provide lighted parking lots illuminated at an intensity of two footcandles per square foot with a uniformity ratio of no more than 5:1 at 18 inches above the surface.

(3) Post a conspicuous sign at the convenience store entrance which states that the cash register contains \$50.00 or less.

(4) Maintain window signage and merchandise displays so that there is a clear and unobstructed view of the cash register and transaction area.

(5) Prohibit window tinting on the windows of the establishment if such tinting reduces exterior or interior viewing during the hours of operation to which this division is applicable.

(6) Install height markers at the entrance of the establishment which display height measure from the floor.

(7) Establish a cash management policy to limit the amount of available cash on hand between the hours of 9:00 p.m. and 6:00 a.m.

(8) Place such coin-operated amusement machines so that all such machines are visible from the front doorway of the establishment.

(9) Install no loitering signs at least 18 inches by 24 inches reading "No Loitering Violators will be Prosecuted" in red letters on white background and visible from the property lines, posted two each on the front and each side of the store at the corners.

(b) No person who is not employed by the convenience store or a vendor of the convenience store may be in areas other than those clearly visible from outside the store or a public restroom if one is available.

(Ord. No. 180821-3, exh. A(34-271), 8-21-2018)

Sec. 10-132. Training of employees.

(a) The owner or principal operator of a convenience store shall provide proper robbery deterrence and safety training to at least its employees who work between the hours of 9:00 p.m. and 6:00 a.m. Any proposed program of training shall be submitted in writing to and approved by the City Chief of Police.

(b) All employees must receive required alcohol training from the City Chief of Police or the Chief's designee.

(Ord. No. 180821-3, exh. A(34-272), 8-21-2018)

Sec. 10-133. Noncompliance fees and penalties.

(a) The City Administrator may assess a noncompliance fee for failure of any owner or principal operator of a convenience store regulated pursuant to this division to comply with requirements of the division. If the owner or principal operator corrects the noncompliance within ten days after receipt of notification of noncompliance, no fee shall be assessed.

(b) At the time of assessment of a noncompliance fee, the City Administrator shall give the owner or principal operator written notice setting forth the noncompliance fee assessed, the specific provision of this division alleged to be violated, the facts alleged to constitute the violation, the corrective action needed to bring the party into compliance, and the rights available to challenge the assessment. The assessment shall be final and effective unless a review by the City Commission is requested within 20 days after receipt of the written notice.

(c) If for any reason the owner or principal operator can demonstrate to the City Administrator that the violation was beyond the control of the owner or principal operator, the City Administrator shall waive the noncompliance fee.

(d) Unless the City initiates a civil action for nonpayment of a fee properly assessed pursuant to this section, the City Administrator's assessment of a noncompliance fee shall be in lieu of any other civil action which may be instituted by the City in a court of competent jurisdiction to impose civil penalties for any violation that resulted in the fee assessment.

(e) However, any owner or principal operator of a convenience store who willfully and deliberately violates the requirements of this division or who deliberately fails to initially implement the requirements of this division shall be required to pay to the City, upon complaint filed by the City, a civil fine not to exceed \$5,000.00.

- (1) The noncompliance fee schedule shall be as adopted by the City Council from time to time.
- (2) For violation of Section 10-132, pertaining to training of employees, the noncompliance fee shall be in amounts as adopted by the City Council from time to time if all affected employees are not trained in accordance with an approved program of training.
- (3) Violations shall not be cited more frequently than once in each calendar month; provided, however, that such limitation on the frequency of citations shall not apply to proceedings before the Code Enforcement Board.

(Ord. No. 180821-3, exh. A(34-273), 8-21-2018)

Secs. 10-134—10-164. Reserved.

DIVISION 5. MASSAGE ESTABLISHMENTS

Sec. 10-165. Definitions.

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

Employee means any employee, massage therapist, practitioner, masseur, masseuse, massagist, spa therapist, independent contractor, agent, and/or partner, general or limited, associated with the massage or spa establishment.

Massage or *massage therapy* means the manipulation and/or treatment of soft tissues of the body, including, but not limited to, the use of effleurage, petrissage, pressure, friction, tapotement, kneading, vibration, range of motion stretches, and any other soft tissue manipulation, whether manual or by use of massage apparatus, and may include the use of oils, lotions, creams, salt glows, hydrotherapy, heliotherapy, hot packs, and cold packs. The term "massage" or "massage therapy" does not include diagnosis; the prescribing of drugs or medicines; spinal or other joint manipulations; the use of range of motion stretches by professionals, including, but not limited to, personal trainers and yoga instructors; limited massage or massage therapy provided by athletic trainers, barbers, or cosmetologists licensed by the State; the use of a hydro-bed during which the client is fully clothed; or any service or procedure for which a license to practice chiropractic, physical therapy, podiatry, or medicine is required by the State.

Massage apparatus means any manual, mechanical, hydraulic, hydrokinetic, electric, or electronic device or instrument or any device or instrument operated by manual, mechanical, hydraulic, hydrokinetic or electric power, which is utilized by a massage therapist for the purpose of administering a massage.

Massage establishment means any business established for profit which employs or contracts with one or more massage therapists and/or operates or maintains for profit one or more massage apparatus, and which for good or valuable consideration, offers to the public facilities and personnel for the administration of massages or massage therapy. The term "massage establishment" includes the administration of massages or massage therapy off-site (i.e., including, but not limited to, the client's home or place of business). The term "massage establishment" does not include hospitals or other professional health care establishments separately licensed as such by the State.

Massage therapist, practitioner, masseur, masseuse, or massagist means any person who, for good or valuable consideration, administers a massage or massage therapy.

Spa establishment means any business established for profit that provides spa therapy. The term "spa establishment" includes the administration of spa therapy off-site, including, but not limited, to the client's home or place of business. The term "spa establishment" does not include hospitals or other professional health care establishments separately licensed as such by the State, health clubs, fitness clubs, and childbirth facilities.

Spa therapist means any person who, for good or valuable consideration, administers spa therapy.

Spa therapy means any personal services such as body wraps, hydro mineral wraps, body polish, body wash, baths and hydro tub soaks. The term "spa therapy" does not include the use of a hydro-bed during which the client is fully clothed.

(Code 2006, § 34-137)

Sec. 10-166. Scope of regulations.

(a) All licenses issued under this division shall constitute a mere privilege to conduct the business so authorized during the term of the certificate or permit only and subject to all terms and conditions imposed by the City, County and State law.

(b) Nothing in this division shall be construed to regulate, prevent, or restrict in any manner:

- (1) Any physician, chiropractor, physical therapist, registered nurse, or similar professional licensed and regulated by or through the State while engaged in the practice of said profession.
- (2) Any hospital or other professional health care establishment separately licensed as such by the State.
- (3) Any other individual or entity expressly exempted from local legislation by State laws.

(Code 2006, § 34-138)

Sec. 10-167. License required, application.

(a) In addition to obtaining an occupation tax certificate, all persons, firms or corporations desiring to engage in the business, trade or profession of a massage establishment shall, before engaging in such trade, business, or profession, make application for a license in the form and manner prescribed in this division. The application shall include the information required on all license returns, along with the following additional information:

- (1) No license for a massage establishment shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence.
- (2) The applicant must furnish a certified statement from the National Certification Board of Therapeutic Massage and Bodywork evidencing passage of the exam for massage therapists administered by said Board for each massage therapist associated with the establishment.
- (3) If the applicant is a corporation or partnership, such corporation or partnership shall submit the foregoing certification statement with regard to each massage therapist associated with the operation of the massage establishment.
- (4) If the applicant is a corporation, such corporation shall, in addition to the foregoing information, submit a complete list of the officers of said corporation, including names, current addresses and current occupations, and provide the name and address for its registered agent in the County.
- (5) If the applicant is a corporation, such corporation must be chartered under the laws of the State or authorized by the Secretary of State to do business in the State.
- (6) If the applicant is an individual, the applicant must submit a copy of a valid driver's license or a valid ID card as reliable proof thereof.

- (7) At least three character references for the applicant, the operator and owner shall be submitted from individuals who are in no way related to the applicant or any operator or owner and who are not benefiting or will not benefit financially in any way from the application if the license is granted. The City shall prepare forms consistent with the provisions of this subsection for the applicant, the operator and owner, who shall submit all character references on such forms.

(b) In addition to obtaining an occupation tax all persons, firms or corporations desiring to engage in the business, trade or profession of a spa establishment shall, before engaging in such trade, business, or profession, make application for a license in the form and manner prescribed in this division. The application shall include the information required on all license returns, along with the following additional information:

- (1) No license for a spa establishment shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence.
- (2) The applicant must furnish for each spa therapist associated with the establishment evidence of current licensure by the State as an esthetician and/or master cosmetologist.
- (3) If the applicant is a corporation or partnership, such corporation or partnership shall submit the foregoing information and exhibits with regard to each spa therapist associated with the operation of the spa therapy establishment.
- (4) If the applicant is a corporation, such corporation shall, in addition to the foregoing information, submit a complete list of the officers of said corporation, including names, current addresses and current occupations, and provide the name and address for its registered agent in the County.
- (5) If the applicant is a corporation, such corporation must be chartered under the laws of the State or authorized by the Secretary of State to do business in the State.
- (6) If the applicant is an individual, the applicant must submit a copy of a valid driver's license or a valid ID card as reliable proof thereof.
- (7) At least three character references for the applicant, the operator and owner shall be submitted from individuals who are in no way related to the applicant or any operator or owner and who are not benefiting or will not benefit financially in any way from the application if the license is granted. The City shall prepare forms consistent with the provisions of this subsection for the applicant, the operator and owner, who shall submit all character references on such forms.

(c) No person, firm or corporation or its officers shall be granted a license for a massage or spa establishment unless it shall appear to the satisfaction of the Clerk or the Clerk's designee that such person, partners in the firm, officers and directors of the corporation have not been convicted or plead guilty or entered a plea of nolo contendere under any federal, State or local law of any crime involving illegal gambling, any felony, criminal trespass, public indecency, disorderly conduct, misdemeanor involving any type of sexual related crime, any theft or violence against person or property, any crime of possession, sale, or distribution of illegal drugs, distribution of material depicting nudity or sexual conduct as defined under State law, criminal solicitation to commit any of these listed offenses, attempts

to commit any of these listed offenses, for a period of ten years prior to the date of application for such certificate and has been released from parole or probation. No person, partner or officer under the age of 18 years shall be granted a license for a massage or spa establishment.

(Code 2006, § 34-139)

Sec. 10-168. Regulatory fee, expiration and renewal.

(a) There shall be an annual regulatory fee for each massage and spa establishment licensed within the City limits as determined by the Mayor and Council. The regulatory fee shall be paid with the license application.

(b) All licenses granted hereunder shall expire on March 31 of each year. Licensees who desire to renew their license shall file application on the form provided for renewal of the license for the ensuing year and the requisite fee with the Clerk. Applications for renewal must be filed before February 28 of each year. Any renewal applications received after February 28 shall pay, in addition to said annual fee, a late charge of 20 percent. If license application is received after March 31, such application shall be treated as an initial application, and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held. Any new establishment that begins work in the City after January 1 of each year shall obtain the required license prior to beginning work. If not so obtained, a late charge of 20 percent will be assessed in addition to said annual fee.

(c) All licenses granted hereunder shall be for the calendar year, and the full regulatory fee must be paid for a license application filed prior to July 1 of the license year. One-half of a full regulatory fee shall be paid for a license application filed after July 1 of the license year.

(d) Any person renewing any license issued hereunder who shall pay the required fee, or any portion thereof, after April 1, shall, in addition to said annual fee and late charges, pay an interest charge as determined by the Mayor and Council.

(Code 2006, § 34-140)

Sec. 10-169. Work permits required.

Prior to the issuance of a license on the premises, the owner, manager, massage therapist, and/or spa therapist shall be required to obtain a work permit. In the event of a new owner, manager, massage therapist, and/or spa therapist becoming affiliated with a massage or spa establishment already licensed by the City, said person shall obtain a work permit within ten days of affiliation.

(Code 2006, § 34-141)

Sec. 10-170. General operating provisions for massage and spa establishments.

(a) It shall be the duty of all persons holding a license under this division to annually file, along with the renewal application for the license, the name of all employees, their home addresses, home telephone numbers and place of employment. The holder of a license issued under the provisions of this division must additionally report changes in the list of employees and require supplemental information for new employees to be filed with the Clerk or the Clerk's designee within ten days from the date of such change.

(b) It shall be the duty of any person granted a license under this division to maintain correct and accurate records of the name and address of the persons receiving treatment at such establishment; the type of treatment administered; and the name of the person at the establishment administering the treatment. The records shall be subject to inspection at any time by the Clerk, or the Clerk's designee, or the Chief of Police or the Chief's designee.

(c) The establishment shall have an owner, manager, or supervisor on premises at all hours the establishment offers massage and/or spa therapy. If during an inspection there is no owner, manager, or supervisor on premises, the establishment must cease operations and close to the public until an owner, manager or supervisor is on premises.

(d) Records required to be maintained under this division shall be kept for a minimum of two years beyond the expiration date of the license. Records shall be made available to the Clerk, during business hours, at the certificate holder's business location in the City, within ten business days of any such request.

(e) The establishment shall be subject to inspection at any time during business hours by the Clerk, or the Clerk's designee, and/or by the Chief of Police, or the Chief's designee, to ensure compliance with this division.

(f) All employees, massage therapists, spa therapists, and other persons on the premises, with the exception of the customers, shall be completely clothed at all times when administering massage and/or spa therapy. For the purposes of this division, the term "completely clothed" shall mean having on the upper portion of the body appropriate undergarments and either a blouse or shirt, which shall cover all the upper body save the arms and neck, and shall mean having on the lower body appropriate undergarments plus either pants or skirt, and said pants or skirt must cover from the waist down to a point at least two inches above the knee. All clothes worn in compliance with this division shall be entirely nontransparent.

(g) No massage or spa therapy shall be administered, and no massage or spa establishment shall be open for business except within and between the hours of 7:00 a.m. and 10:00 p.m.

(h) A readable sign shall be posted at the main entrance identifying the establishment. Signs shall comply with the Sign Ordinance of the City.

(i) Minimum interior lighting shall be provided in each enclosed room or booth in accordance with the State Building Code, to be no less than one artificial light of at least a 40-watt bulb.

(j) Ordinary beds or mattresses shall not be permitted in any establishment.

(k) The establishment, prior to the issuance of the license, must be in compliance with all applicable building and life safety codes, and the building to be occupied must have a valid, current certificate of occupancy.

(l) It shall be unlawful for any person under the age of 18 years to receive massage and/or spa therapy unless such person carries with such person at the time of such patronage a written order from a regularly licensed physician directing the treatment to be given or written permission of the underage person's parent or guardian. It shall be the duty of the holder of a license to determine the age of the person attempting to receive such therapy and to prohibit such patronage by an underage person.

(m) No employee of any massage or spa establishment shall manipulate, fondle or handle the sexual organs or anus of any person.
(Code 2006, § 34-142)

Sec. 10-171. Issuance of the license for massage and spa establishments.

(a) When a license application is submitted in proper form, including all information and exhibits required herein and accompanied by the correct fees, the application shall be accepted, and a review of the application and an inspection and investigation shall be conducted by the Clerk or the Clerk's designee. The Clerk or the Clerk's designee shall transmit a copy of the completed application to the Police Department. Upon the payment by the applicant of the required fees, the Police Department, or its designee, shall cause to be conducted a background investigation of the police record of the applicant and shall transmit a summary of the investigation results to the Clerk or the Clerk's designee.

(b) Upon receipt of the background investigation, and completion of review of the application in accordance with the terms of this division, the Clerk or the Clerk's designee shall act on the application within 30 days. The Clerk or the Clerk's designee shall deny any application that:

- (1) Fails to meet each of the application requirements specified herein.
 - (2) Fails to meet each of the minimum standards specified in this division.
 - (3) Contains false information in the application or attached documents.
- (Code 2006, § 34-143)

Sec. 10-172. Grounds for revocation and suspension for massage and spa establishments.

The license of a massage or spa establishment may be revoked or suspended upon one or more of the following grounds:

- (1) Failure of the holder to maintain initial requirements for obtaining the license.
- (2) The holder and/or an employee of the establishment is guilty of fraud in the practice of massage or spa therapy, or fraud or deceit in said holder's or employee's being issued the license for the practice of massage or spa therapy.
- (3) The holder and/or an employee of the establishment is engaged in the practice of massage or spa therapy under a false or assumed name or is impersonating another therapist of a like or different name.
- (4) The holder has been convicted, pled guilty, or entered a plea of nolo contendere to any felony, or has violated any laws relating to sodomy, aggravated sodomy, solicitation of sodomy, public indecency, prostitution, pimping, pandering, pandering by compulsion, masturbation for hire, and/or disorderly conduct.
- (5) Any of the holder's employees, independent contractors or agents has been convicted, pled guilty, or entered a plea of nolo contendere to any felony, or has violated any laws relating to sodomy, aggravated sodomy, solicitation of sodomy, public indecency, prostitution, pimping,

pandering, pandering by compulsion, masturbation for hire, or disorderly conduct in connection with the operation of the massage or spa establishment or on or about the premises of the massage or spa establishment.

- (6) Failure of the holder to maintain correct and accurate records as required by this division.
 - (7) Failure of the holder to actively supervise and monitor the conduct of the employees, independent contractors, agents, customers, or others on the premises in order to protect the health, safety and welfare of the general public and the customers.
 - (8) The holder, the holder's employees, agents, or independent contractors associated with the establishment have allowed to occur or have engaged in a violation of any part of this division.
- (Code 2006, § 34-144)

Sec. 10-173. Hearings.

No license for a massage or spa establishment shall be denied, suspended or revoked without the opportunity for a hearing as hereinafter provided.

- (1) The Clerk shall provide written notice to the applicant or license holder of the Clerk's order to deny, suspend or revoke the license. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the applicant or license holder of the right to appeal under the provisions of this division. Any applicant or license holder who is aggrieved or adversely affected by a final action of the Clerk may have a review thereof by appeal to the Mayor and Council. Such appeal shall be by written petition filed in the office of the Clerk within 15 days after the final order or action of the Clerk and, in order to defray administrative costs, must be accompanied by a filing fee as determined by the Mayor and Council. The Clerk, at the Clerk's discretion, may waive or reduce the filing fee amount if it is determined the fee would create a hardship on the individual filing such appeal. The Mayor and Council may, at the request of the appellant, refund the filing fee by a majority vote.
- (2) A hearing shall be conducted on each appeal within 30 days of the date of filing with the Clerk unless a continuance of such date is agreed to by the appellant and the Clerk. The appellant at such hearing shall have the right to be represented by an attorney, at the expense of the appellant, and to present evidence and cross examine witnesses. Should the appellant desire an official transcript of the appeal proceedings, such request must be made at least three days prior to such hearing. The cost for such transcripts shall be paid by the appellant and shall be subject to the fees established by the Mayor and Council for City records. The appellant shall have the burden of proof on any such appeal. Before hearing an appeal, each member of the Mayor and Council shall sign an affidavit to be part of the record that said member is not related to or personal friends with any appellant or any owner of the establishment in question in the appeal being considered and that said member has no financial interest in the outcome of the appeal. Should any member be unable to sign such an affidavit, that member shall not serve on that appeal, and the case shall be heard by the remaining members of the Mayor and Council.

- (3) The findings of the Mayor and Council shall be forwarded to the Clerk within 15 days after the conclusion of the hearing, and it shall be the duty of the Clerk to notify the appellant and the Chief of Police or the Chief's designee of the action of the Mayor and Council within 15 days of receipt of findings.
 - (4) The findings of the Mayor and Council shall not be set aside unless found to be:
 - a. Contrary to law or ordinances;
 - b. Unsupported by substantial evidence on the records as a whole; or
 - c. Unreasonable.
 - (5) The findings of the Mayor and Council shall be final unless appealed within 30 days of the date of such finding by certiorari to the County Superior Court. An aggrieved party shall have all other remedies provided by law or at equity to all ordinances.
- (Code 2006, § 34-145)

Secs. 10-174—10-199. Reserved.

DIVISION 6. OUTDOOR EVENTS

Sec. 10-200. Penalties.

Any person who conducts an outdoor event without receiving a regulatory license as required by this division or conducts an outdoor event not meeting the requirements of this division, or both, shall be subject to the penalties otherwise allowed by this Code, as assessed in the discretion of the judge of the Municipal Court. Each day of holding, operating, or conducting an event in violation of this division shall be deemed a separate offense.

(Ord. No. 140520-2, art. IX(34-251), 5-20-2014)

Sec. 10-201. Issuance of regulatory licenses for outdoor events.

The power to issue a regulatory license for the operation of an outdoor exhibition, outdoor performance, outdoor musical festival or concert, race, parade or other outdoor public assembly, to raise money, as a commercial activity, or for profit, shall be reserved specifically for the City Council, and said power shall be exercised as provided hereinafter.

- (1) The City Council, by way of a regularly scheduled public meeting, or by a specially called meeting, shall make an investigation and may hold a hearing, as necessary to assess the impact of the outdoor events set forth in this section upon the health, safety and general welfare and security of the City. The application for a license for any of the outdoor events set forth in this section shall provide conclusive evidence:
 - a. That the applicant has provided for sufficient law enforcement officers, at the expense of the applicant, to control the public and enforce all laws within the area occupied by the business and/or event;

- b. That the applicant has provided for adequate emergency medical facilities, at the expense of the applicant, to provide sufficient emergency medical care for members of the public who patronize the applicant's business and/or event;
 - c. That the applicant has provided for adequate maintenance personnel to clean the area occupied by the business or event, or both, as well as those areas which are adjacent to the area occupied by the business or event, or both, and which are littered as a result of the business, event, or its patrons, or any combination thereof;
 - d. That a showing has been made to establish the adequacy of the facility for the use as applied for, including, but not limited to, the appropriateness of the facility for the proposed use in light of the surrounding uses adjoining the facility, adequacy of parking (with sufficient area to park one passenger vehicle for each anticipated four patrons), and further establishing the adequacy of the public roads to handle the access to the business facility or event, or both, for the number of anticipated patrons;
 - e. That the applicant has provided for adequate toilet facilities such that a minimum of one toilet fixture per 100 patrons is provided;
 - f. That the applicant has provided adequate drinking water for the members of the public who patronize the applicant's business or event, or both;
 - g. That the applicant shall designate a resident of the State as agent and lawful attorney in fact upon whom may be served all summons or other lawful processes in any action or proceeding against the business or event, or both, for any action arising as a result of the business or event, or both. The name and address of such resident agent shall be filed with the application and be a part thereof;
 - h. If required by the City Council, the applicant shall secure and provide proof at least two weeks before the event, of an insurance policy or a bond, affording coverage to the business or the event, or both, which insurance policy or bond shall provide coverage for any personal injury or death or property damages in an amount as established by the City Council;
 - i. That the applicant shall provide proof of the projected attendance, scheduling details such as time, place, and manner of holding the outdoor event, anticipated noise levels, and how the applicant proposes to minimize any adverse consequences of the outdoor event as to surrounding or adjoining homeowners or landowners.
- (2) The City Council, considering whether the applicant meets the requirements in Subsection (1) of this section, may either issue the license, issue the license with conditions, or deny the license as necessary, in the opinion of the City Council, to safeguard the public health, safety and general welfare and security of the City.
- (3) The failure of the applicant for a regulatory license for an outdoor event set forth in this section to make the required application in sufficient time for the City Council to consider the application at one regular meeting of said City Council prior to the beginning of the operation of the event, or at a specially called meeting ten days prior to the event, shall result in the automatic denial of the license.

- (4) Regulatory fee required for outdoor events falling under this section shall be as established by the City Council either by general resolution or as a condition of approval of a particular application. The fees shall be set at an amount sufficient to cover the expense to the City of providing police protection, utilities, maintenance and clean-up operations, and any other action required by the City as a result of the event. Each day of holding, operating, or conducting an event shall be deemed a separate event necessitating that the applicant demonstrates the health and safety minimum requirements for each day.
- (5) The specifically enumerated requirements set forth in Subsections (1) of this section shall not apply to any event, if the anticipated attendance at which is less than 50 people and there will be no extraordinary use of the streets and sidewalks.
- (Ord. No. 140520-2, art. IX(34-252), 5-20-2014)

Secs. 10-202—10-225. Reserved.

DIVISION 7. PRECIOUS METALS DEALERS

Sec. 10-226. Applicability of certain sections.

(a) Section 10-231 shall not apply to any precious metals or goods containing precious metals obtained from industrial producers, manufacturers, licensed dealers, or distributors.

(b) Sections 10-228 and 10-229 shall not apply to registered pawnbrokers, scrap metal processors, or secondhand dealers. Pawnbrokers, scrap metal processors, and secondhand dealers are not, however, relieved from compliance with Section 10-231 when the purchase of precious metals or goods containing precious metals are from persons or sources other than industrial producers, manufacturers, or licensed dealers or distributors.

(Ord. No. 111018-11, exh. A(34-181), 10-18-2011)

Sec. 10-227. Definitions.

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

Nonpermanent location means any location designated to be used to conduct the aforementioned business, in any movable vehicle, and temporary or movable structure, including, but not limited to, vans, mobile homes, trailers, hotels and motels, lodges, or any similar nonpermanent structure designed by the applicant to be used to conduct such business for a limited or specific time.

Permanent location means a business domiciled within a properly constructed building which must be located within a properly zoned area according to the Unified Development Code.

Precious metals means any metals, including, but not limited to, in whole or in part, silver, gold, and platinum.

Precious metals dealer means any person, partnership, sole proprietorship, corporation, association, or other entity engaged in the business of purchasing, selling, bartering, or acquiring in trade any precious metals from persons or sources other than manufacturers or licensed dealers for resale in its original form or as changed by melting, reforming, remolding, or for resale as scrap, or in bulk.

(Ord. No. 111018-11, exh. A(34-182), 10-18-2011)

Sec. 10-228. Occupation tax certificate required, application.

(a) All persons, firms or corporations desiring to engage in the business, trade or profession of a precious metals dealer shall, before engaging in such business, trade or profession, make application for an occupation tax certificate in the form and manner prescribed by the licensing and revenue manager.

(b) The application shall include, but shall not be limited to, the information required on all occupation tax returns, along with the following additional information:

- (1) Full name, date of birth, address, and social security number of applicant.
- (2) Full name, date of birth, and social security number of any other person having an ownership interest in the proposed business. In the case of a corporation, this list shall include owners of ten or more percent of the common or preferred stock.
- (3) Full names, dates of birth, and social security numbers, and titles of corporate officers where appropriate.
- (4) Full name, address, telephone number, date of birth, title, and social security number of individuals to be employed.

(Ord. No. 111018-11, exh. A(34-183), 10-18-2011)

Sec. 10-229. Work permits required.

Prior to the issuance of an occupation tax certificate, a work permit shall be required for the owner, manager, and employee.

(Ord. No. 111018-11, exh. A(34-184), 10-18-2011)

Sec. 10-230. Applicant disqualifications.

No occupation tax certificate shall be granted to any person under the age of 34 years or who has been convicted, pled guilty or entered a plea of nolo contendere under any federal, State or local law of any crime involving moral turpitude, illegal gambling, any felony, criminal trespass, public indecency, misdemeanor involving any type of sexual related crime, theft or violence against person or property, any crime of possession, sale, or distribution of illegal drugs, distribution of material depicting nudity or sexual conduct as defined under State law, criminal solicitation to commit any of these listed offenses, or attempts to commit any of these listed offenses.

(Ord. No. 111018-11, exh. A(34-185), 10-18-2011)

Sec. 10-231. Records and information to be maintained; display of transaction number; identification; digital photographs; fingerprints; records storage.

(a) Engaging in the business of buying used or previously owned precious metals in the areas of the City is hereby declared to affect the public interest due to the opportunity it affords for the disposal of stolen property.

(b) In the public interest and as set forth herein, all precious metals dealers shall maintain records documenting all precious metals transactions:

- (1) All precious metals dealers shall maintain records documenting accurate descriptions of all property purchased. Such description shall include, 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. The precious metals dealers shall assign a transaction number documenting each transaction, and ensure each item received is tagged with the transaction number.
- (2) The tag bearing the transaction number must remain attached to the item until the property is disposed of by sale, trade, or other lawful means. This subsection does not apply to the purchase of property from licensed wholesale or distributor businesses for the purpose of retail sales; however, the precious metals dealer shall be required to maintain all purchasing records for property exempted from this subsection.
- (3) The precious metals dealer shall require all persons selling property to show proper identification prior to conducting a 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.
- (4) The precious metals dealer shall also document the name, address, telephone number, race, sex, height, weight, driver's license number, date of birth, and social security number of the person selling the property, along with the date and time of transaction. This documentation shall be made at the time of the transaction.
- (5) The precious metals dealer shall photograph, with a digital camera or web camera, the person selling the property. The photograph shall clearly show a frontal view of the subject's face along with the transaction number and a photograph of the item being sold. Digital images shall be labeled and stored in such a manner that they are safe from corruption, readily identifiable, and readily available for review.
- (6) The precious metals dealer shall obtain from each person selling any property, the fingerprint of the right-hand index finger, unless such finger is missing, in which 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 fingerprint shall be imprinted onto the transaction form in the designated area along with the signature of the person selling the property. The fingerprint must be clear and legible. In the event that more than one transaction form is required, a fingerprint and signature will be obtained for each form. Fingerprints and the information required herein shall be obtained each time such person pledges, trades, pawns, exchanges, or sells any property.

- (7) Items of property that appear to be new, unused, and in their original packaging cannot be accepted by the precious metals dealer unless the customer can supply a copy of the original sales receipt, or other proof of purchase from the place of purchase, to the precious metals dealers who shall retain the receipt or proof of purchase on file.
 - (8) The precious metals dealer shall store the above records, digital images, and fingerprints for a period of four years and make them available to law enforcement personnel upon request.
 - (9) Every precious metals dealer 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. The administrator of the electronic automated reporting system will electronically transmit all transactions to the City Police Department.
- (Ord. No. 111018-11, exh. A(34-186), 10-18-2011)

Sec. 10-232. Daily report to police; required format.

Every precious metals dealer shall make a daily report, in such form as may be prescribed by the Chief of Police, of all transactions that occurred during 24 hours ending at 9:00 p.m. on the date of the report.

- (1) Daily reports shall list all property sold, the transaction number for each transaction, and a description of the property, 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 on the automated reporting system along with the date and time of the transaction.
- (2) Every precious metals dealer 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. The administrator of the electronic automated reporting system will electronically transmit all transactions to the Police Department.
- (3) In the event that the electronic automated reporting system becomes temporarily or permanently disabled, precious metals dealers will be notified as soon as possible by the Police Department. In this event, the precious metals dealer will be required to make records of transactions in paper form as prescribed by the Police Department. Such paper forms must include all information as enumerated in this Code. Precious metals dealers shall be responsible for maintaining an adequate inventory of these forms.
- (4) The Chief of Police or the Chief's designee shall select and designate the required automated reporting system and required equipment needed. There will be a fee assessed to the precious metals dealer for each reported transaction. Said fee may be assessed against the persons selling property. The assessed fee shall not exceed 50 percent of the actual cost charged by the Police Department or the third-party administrator. This fee will be invoiced to the precious metals dealers and collected by the Chief of Police or the Chief's designee, which may be a third-party administrator of the automated reporting system.

(Ord. No. 111018-11, exh. A(34-187), 10-18-2011)

Sec. 10-233. Property not to be disposed of for 30 days after acquisition; location of property; police holds.

(a) All property received through any precious metals dealer transaction shall be held for at least 30 days before disposing of same by sale, transfer, shipment, or otherwise.

(b) All property purchased shall be held and maintained by the precious metals dealer on the premises of the precious metals dealer or, if impracticable, at such other location as may have been previously approved in writing by the Chief of Police or the Chief's designee. The Chief of Police shall not approve any off-premises storage facilities located outside the City.

(c) The City Police Department has the authority to place property that is the subject of police investigation on "police hold." In that event, the City Police Department shall notify the precious metals dealer of the need for a police hold and identify all property subject to the police hold. Upon notification, it shall be the responsibility of the precious metals dealer to maintain the subject property until such time as the property is released from police hold status or the property is confiscated as evidence.

(d) No occupation tax certificate shall be granted to any applicant for a nonpermanent location. (Ord. No. 111018-11, exh. A(34-188), 10-18-2011)

Sec. 10-234. Dealing with minors.

It shall be unlawful for any precious metals dealers, the dealer's agents or employees, to receive through any precious metals dealer any property from minors. A minor, for the purpose of this section, is an individual 17 years of age or under.

(Ord. No. 111018-11, exh. A(34-189), 10-18-2011)

Sec. 10-235. Responsibility for enforcement.

The City Police Department shall have the responsibility for the enforcement of this division. Sworn officers of the City Police Department and civilian employees designated by the Chief of Police shall have the authority to inspect establishments licensed under this division during the hours in which the premises are open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of this division and State law. This section is not intended to limit the authority of any other City officer to conduct inspections authorized by other provisions of this Code.

(Ord. No. 111018-11, exh. A(34-190), 10-18-2011)

Sec. 10-236. Penalty for violation.

Any person, firm, company, corporation or other entity who violates any provision of this division may be subject to arrest or summoned to appear in the City Recorder's Court and, upon conviction or other finding of guilt, be punished according to Section 1-10.

(Ord. No. 111018-11, exh. A(34-191), 10-18-2011)

Secs. 10-237—10-265. Reserved.

DIVISION 8. YARD SALES

Sec. 10-266. Definitions.

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

Yard sale means and includes all sales entitled "yard sale," "garage sale," "lawn sale," "attic sale," "rummage sale," or any other similar casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of said sale. As used in this division, the term "yard sale" shall include all of the above-described sales.

(Ord. No. 160622-3, art. XI(34-271), 6-22-2016)

Sec. 10-267. Permit required; when permit fee required.

(a) Any person conducting a yard sale, garage sale or other such sale, at their residence in the City, or participating in a yard sale, garage sale or other such sale in the City, shall obtain a permit from the Clerk of the City prior to holding such sale. Said permit shall not exceed two consecutive days.

(b) Said resident is authorized to conduct one sale every six months without payment of a fee.

(c) No permits shall be issued to any person who is not a resident of the City.

(d) Any civic, church or nonprofit organization conducting a yard sale, garage sale or other such sale within the City shall obtain a permit from the Clerk of the City prior to the holding of such sale.

(e) No sign advertising a yard sale may exceed four square feet nor may be more than three feet in height. No sign may block a motorist's view of traffic. No such sign may be posted on a street signpost, utility pole, fence, tree, rock or other natural surface. Any sign advertising a yard sale must be removed within 12 hours of the end of the sale. Any sign left standing after 12 hours shall be a violation of this division and subject to removal and the person conducting the sale shall be subject to fine or imprisonment or both.

(f) Any person/applicant conducting said sales shall be responsible for the street being kept clear for the movement of traffic during the time of said sale.

(Ord. No. 160622-3, art. XI(34-272), 6-22-2016)

Sec. 10-268. Restrictions on use of commercial and public property.

(a) No yard sale, garage sale or other such sale shall be conducted on commercial property.

(b) No yard sale, garage sale or other such sale shall be conducted on public property within the City, unless in conjunction with a City-sponsored event.

(Ord. No. 160622-3, art. XI(34-273), 6-22-2016)

Sec. 10-269. Violation; penalty.

Any person, firm, organization or corporation in violation of this division shall, upon conviction thereof, be punished according to Section 1-10.

(Ord. No. 160622-3, art. XI(34-274), 6-22-2016)

Secs. 10-270—10-286. Reserved.

ARTICLE III. TAXATION

DIVISION 1. GENERALLY

Sec. 10-287. Gross direct premiums tax.

(a) *Rate of levy on life, accident, and sickness insurers.* There is hereby set and levied upon each company authorized to write life, accident, and sickness insurance and which is doing business within the municipal corporate limits an annual tax equal to one percent of the annual gross direct premiums received during the preceding calendar year from policies insuring persons residing within the corporate limits of the City, except that such tax shall not apply to the gross direct premiums of an insurance company which qualifies, pursuant to O.C.G.A. § 33-8-5, for the reduction to one-half of one percent of the State tax imposed by O.C.G.A. § 33-8-4. The tax imposed by this subsection shall not apply to annuity considerations. The term "gross direct premiums," as used in this section, shall have the same meaning as that used in O.C.G.A. § 33-8-4. The tax levied by this subsection is in addition to any license fee imposed by this Code.

(b) *Rate of levy on all other insurers.* There is hereby set and levied upon each insurance company not taxed under the provisions of Subsection (a) of this section and which is doing business within the municipal corporate limits an annual tax equal to 2½ percent of the annual gross direct premiums received during the preceding calendar year from policies insuring persons residing within the municipal corporate limits. The tax levied by this subsection is in addition to any license fee imposed by this Code. (Code 2001, § 4-108; Code 2006, § 34-1)

Sec. 10-288. Public utility franchise tax.

(a) *Rate of levy.* There is hereby set and levied on each electric light and power company, gas company, telephone and telegraph company, water company, and any other public utility making use of the streets, alleys, or other public ways or places in the City for the purposes of rendering utility services a franchise tax of the annual gross revenue received from residential, commercial, and industrial sales:

Utility Franchise Tax Schedule

Georgia Power Company	four percent
Georgia Natural Gas	three percent
Southern Bell	three percent
Electric Membership Corporation	four percent
Comcast	three percent

(b) *Due date and required report.* The public utility franchise tax shall be paid on or before March 31 following the calendar year in which the utility was provided and the sale was made, and payment by a report showing the volume of gross sales by service classification (residential, commercial, industrial) for said preceding month.

(c) *Penalty.* There shall be a ten percent penalty if tax is not paid by the due date. Such delinquent taxes shall bear an interest rate of seven percent per annum.
(Code 2001, § 4-111; Code 2006, § 34-2)

Secs. 10-289—10-310. Reserved.

DIVISION 2. OCCUPATIONAL LICENSE, TAX, AND REGULATORY FEES

Sec. 10-311. Occupation tax required for business dealings in the City.

For the year 1995 and succeeding years thereafter, each person engaged in any business, trade, profession, or occupation in the City, whether with a location in the City or in the case of an out-of-state business with no location in the State exerting substantial efforts within the State pursuant to O.C.G.A. § 48-13-7, shall pay an occupation tax for said business, trade, profession, or occupation; which tax and any applicable registration shall be displayed in a conspicuous place in the place of business, if the taxpayer has a permanent business location in the City. If the taxpayer has no permanent business location in the City, such business tax registration shall be shown to the City Clerk or the Clerk's designee or to any police officer of the City, upon request.
(Code 2001, § 4-115(1); Code 2006, § 34-27)

Sec. 10-312. Definitions.

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

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

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

Employee means an individual whose work is performed under the direction and supervision of the employer and whose employer withholds PICA, Federal Income Tax, or State Income Tax or whose employer issues to such individual for purposes of documenting compensation a form IRS W-2 but not a form IRM 1099. The term "employee" includes an individual who performs work under the direction and supervision of one business or practitioner in accordance with the terms of a contract or agreement with another business which recruits such individual as an employee of the business or practitioner which issues to such individual for purposes of documenting compensation a form IRS W-2. A full-time employee means an employee working 40 hours or more weekly. For the purposes of counting part-time employees, the average weekly hours of employees who work less than 40 hours weekly shall be added and the total divided by 40 to produce full-time position equivalents. The number of employees shall be deemed to be the monthly average number of full-time employees or full-time equivalents employed during the previous calendar year, or in the case of a newly established business, the projected average number of full-time employees or full-time equivalents employed during the year.

Game room means any business in which amusement machines, coin-operated or otherwise, are available for the entertainment of the public, and where the proceeds from the operation of said amusement machines constitutes 50 percent or more of the gross revenue of said business. All persons operating pool and/or billiard rooms, bowling alleys and/or game rooms shall apply for and hold a permit for such operation subject to this division.

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

Occupation tax means a tax levied on persons, partnerships, corporations, or other entities for engaging in an occupation, profession, or business for revenue-raising purposes.

Person shall be held to include sole proprietors, corporations, partnerships, nonprofits, or any other form of business organization, but specifically excludes charitable nonprofit organizations which utilize 50 percent of their proceeds for charitable purposes.

Practitioner of profession or occupation means one who, by State law, requires State licensure regulating such profession or occupation. Practitioners of professions and occupations shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.

Regulatory fees means payments, whether designated as license fees, permit fees, or by another name, which are required by local government as an exercise of its police power and as a part of or an aid to regulation of an occupation, profession, or business. The amount of a regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the City. A regulatory fee may not include an administrative fee or registration fee. Development impact fees as defined by O.C.G.A. § 36-71-2(8) or other costs or conditions of zoning or land development are not regulatory fees. (Code 2001, § 4-115(2); Code 2006, § 34-28)

Sec. 10-313. Regulatory fee structure; occupation tax structure.

(a) A regulatory fee will be imposed as provided under O.C.G.A. § 48-13-9 on those applicable businesses.

(b) The regulatory fee schedule for persons in occupations and professions will be in amounts as adopted by the City Council from time to time. (Code 2001, § 4-115(3); Code 2006, § 34-29)

Sec. 10-314. Occupation tax levied; restrictions.

(a) An occupation tax shall be levied upon those businesses and practitioners of professions and occupations with one or more locations or offices in the corporate limits of the City and upon the applicable out-of-state businesses with no location or office in the State pursuant to O.C.G.A. § 48-13-7 based upon the number of employees of the business or practitioner.

(b) The tax rate determined by number of employees for each business, trade, profession, or occupation will be based on the most recent fee schedule as adopted by the City Council from time to time.

(c) There shall be a maximum tax liability of \$250.00 per business.
(Code 2001, § 4-115(4); Code 2006, § 34-30)

Sec. 10-315. Paying occupation tax of business with no location in the State.

Registration and assessment of an occupation tax is hereby imposed on those businesses and practitioners of professions with no location or office in the State if the business's largest dollar volume of business in the State is in the City and the business or practitioner:

- (1) Has one or more employees or agents who exert substantial efforts within the jurisdiction of the City for the purpose of soliciting business or serving customers or clients; or
- (2) Owns personal or real property which generates income and which is located within the jurisdiction of the City.

(Code 2001, § 4-115(5); Code 2006, § 34-31)

Sec. 10-316. Each line of business to be identified on business registration.

The business registration of each business operated in the City shall identify the dominant lines of business that the business conducts. No business shall conduct any line of business without first having that line of business registered with the City Clerk's office and that line of business being noted by the City Clerk upon the business registration form which is to be displayed by the business owner.

(Code 2001, § 4-115(6); Code 2006, § 34-32)

Sec. 10-317. Number of businesses considered to be operating in the City.

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

(Code 2001, § 4-115(7); Code 2006, § 34-33)

Sec. 10-318. Practitioners exclusively practicing for a government.

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

(Code 2001, § 4-115(9); Code 2006, § 34-35)

Sec. 10-319. Purpose and scope of tax.

The occupation tax levied herein is for revenue purposes only and is not for regulatory purposes, nor is the payment of the tax made a condition precedent to the practice of any such profession, trade, or calling. The occupation tax only applies to those businesses and occupations which are covered by the provisions of O.C.G.A. §§ 48-13-5 to 48-13-26. All other applicable businesses and occupations are taxed by the local government pursuant to the pertinent general and/or local law and ordinance. (Code 2001, § 4-115(10); Code 2006, § 34-36)

Sec. 10-320. When tax due and payable; effect of transacting business when tax delinquent.

(a) Each such occupation tax shall be for the calendar year unless otherwise specifically provided. Said registration and occupation tax shall be payable January 1 of each year and shall, if not paid by March 31 of each year, be subject to penalties for delinquency as prescribed in this division. On any new profession, trade, or calling begun in the City in 1995 or succeeding years thereafter, the registration and tax shall be delinquent if not obtained immediately upon beginning business and a ten percent penalty imposed. The tax paid by a new business shall be prorated based on the number of quarters remaining in the calendar year. A partial quarter shall be taxed as a full quarter. The tax registration herein provided for shall be issued by the City Clerk's office, and if any person, firm, or corporation whose duty it is to obtain a registration shall, after said registration or occupation tax becomes delinquent, transact or offer to transact, in the City, any of the kinds of profession, trade, or calling subject to this division without having first obtained said registration, such offender shall, upon conviction by the Municipal Court judge, be punished according to Section 1-10.

(b) In addition to the above remedies, the City may proceed to collect in the same manner as provided by law for tax executions. (Code 2001, § 4-115(11); Code 2006, § 34-37)

Sec. 10-321. Exemption for certain organizations.

No business registration or occupation tax shall be levied on any State or local authority or any nonprofit organization. (Code 2001, § 4-115(12); Code 2006, § 34-38)

Sec. 10-322. Evidence of State registration required if applicable; State registration to be displayed.

(a) Each person who is licensed by the Secretary of State pursuant to O.C.G.A. Title 43 shall provide evidence of proper and current State license before the City registration may be issued.

(b) Each person who is licensed by the State shall post the State license in a conspicuous place in the licensee's place of business and shall keep the license there at all times while the license remains valid. (Code 2001, § 4-115(13); Code 2006, § 34-39)

Sec. 10-323. Evidence of qualification required if applicable.

Any business required to obtain health permits, bonds, certificate of qualification, sales tax certificates, certificates of competency, or any other regulatory matter shall first, before the issuance of a City business registration, show evidence that such requirements have been met.

(Code 2001, § 4-115(14); Code 2006, § 34-40)

Sec. 10-324. Liability of officers and agents; registration required; failure to obtain.

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

(Code 2001, § 4-115(15); Code 2006, § 34-41)

Sec. 10-325. When registration and tax due and payable; effect of transacting business when tax delinquent.

(a) Each such registration shall be for the calendar year in which the registration was obtained unless otherwise specifically provided. There is hereby imposed a penalty upon each business which fails to apply for and obtain an appropriate business registration and pay all tax and fees as provided herein before April 15 of each year and by April 15 each year hereafter. Every person commencing business in the City after January 1 of each year shall obtain the registration required before commencing such business. Any person transacting or offering to transact in the City any business, trade, profession, or occupation without first having obtained said registration shall be subject to the penalties provided in Section 1-10. Said penalties shall be in addition to all other penalties, civil and criminal, herein provided; may be collected by the remedies herein provided for collection of the occupation tax; and shall have the same lien and priority as the occupation tax to which the penalty is applied.

(b) The registration herein provided for shall be issued by the City Clerk's office, and if any person, firm, or corporation whose duty it is to obtain a registration shall, after said occupation tax becomes delinquent, transact or offer to transact, in the City, any of the kinds of business, trade, profession, or occupation without having first obtained said registration, such offender shall be subject to the penalties provided thereof.

(Code 2001, § 4-115(16); Code 2006, § 34-42)

Sec. 10-326. Subpoena and arrest powers.

The Police Chief and the Chief's duly designated officers and inspectors or their successors shall be classified as deputy marshal business inspectors with full subpoena and arrest powers in conjunction with any violation pertaining to the Business Tax Ordinance for 1995 and succeeding years.

(Code 2001, § 4-115(18); Code 2006, § 34-43)

Sec. 10-327. Businesses not covered by this division.

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

- (1) Those businesses regulated by the State Public Service Commission.
 - (2) Those electrical service businesses organized under O.C.G.A. Title 46, Ch. 3 (O.C.G.A. § 46-3-1 et seq.).
 - (3) Any farm operation for the production from or on the land of agricultural products, but not including agribusiness.
 - (4) Cooperative marketing associations governed by O.C.G.A. § 2-10-105.
 - (5) Insurance companies governed by O.C.G.A. § 33-8-8 et seq.
 - (6) Those businesses governed by O.C.G.A. § 48-5-355.
 - (7) Agricultural products and livestock raised in the State governed by O.C.G.A. § 48-5-356.
 - (8) Depository financial institutions governed by O.C.G.A. § 48-6-93.
 - (9) Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55.
- (Code 2001, § 4-115(19); Code 2006, § 34-44)

Sec. 10-328. Restrictions upon persons exempt from City license; registration, compliance with ordinances, laws.

It shall be the duty of any person authorized under the laws of the State to engage in business in the City without paying license for the privilege, before engaging in business in the City, to register with the City Clerk in a book to be provided for said purpose, and it shall be unlawful for any person to engage in business in the City without registering with the Clerk as aforesaid, provided that no person shall be allowed to register by the said Clerk who is guilty of violating any of the ordinances of the City, or under charge thereof, or who is guilty of violating any law of the State or the United State of America, or under charge thereof; and provided further, that if any person after registering as aforesaid shall then be convicted of violating any of the ordinances of the City or any law of the State or of the United States, then said person shall no longer be authorized to engage in business in the City, and it shall be unlawful for such person to engage in business in the City thereafter; and provided further, that it shall be unlawful for any person after registering as aforesaid, who is engaged in any business in the City and who, thereafter, is charged with violating any ordinance of the City or law of the State or of the United States to continue to engage in business in the City pending the trial of said charges and until acquitted of the charge then pending.

(Code 2001, § 4-115(20); Code 2006, § 34-45)

Sec. 10-329. Disabled persons' statutory certificates of exemption.

Veterans of the Armed Services and blind persons holding a certificate of exemption shall, before doing business thereunder in the City, exhibit such certificate and register annually with the City Clerk

and receive a no-fee license from the City. To be exempt from paying a license fee under this section, a veteran or blind person must qualify under and comply with O.C.G.A. §§ 43-12-1—43-12-8.
(Code 2001, § 4-115(21); Code 2006, § 34-46)

Sec. 10-330. Occupation tax inapplicable where prohibited by law or provided for pursuant to other existing law.

An occupation tax shall not apply to a business where such levy is prohibited or exempted by the laws of the State or of the United States. This division shall not be construed to limit the City's ability to levy an occupation tax, registration fee, or regulatory fee for any business or practitioner of professions or occupations as authorized by other State laws or local ordinances and not covered by O.C.G.A. §§ 48-13-5 to 48-13-26.
(Code 2001, § 4-115(22); Code 2006, § 34-47)

Sec. 10-331. When occupation tax due and payable.

The amount of occupation tax shall be payable to the City, at the City Clerk's office on January 1 each year and delinquent if not paid on or before April 15 each year.
(Code 2001, § 4-115(23); Code 2006, § 34-48)

Sec. 10-332. Payment of occupation tax by newly established businesses.

In the case of a business subject to occupation tax for a calendar year, which was not conducted for any period of time in the corporate limits of the City in the preceding year, the owner, proprietor, manager, or executive officer of the business liable for occupation tax shall estimate the number of employees from the commencing date to the end of the calendar year and such tax shall be paid. Said tax due the City shall be prorated based on a semi-annual basis for any portion of the year yet remaining.
(Code 2001, § 4-115(24); Code 2006, § 34-49)

Sec. 10-333. More than one place or line of business.

Where a business is operated at more than one place or where the business includes more than one line, said business shall be required to obtain the necessary registration for each location and line and pay an occupation tax in accordance with the prevailing taxing method and tax rate for each location and line.
(Code 2001, § 4-115(25); Code 2006, § 34-50)

Sec. 10-334. Transfers of occupational tax certificate.

No tax certificate may be transferred from one person to another. Additions to or deletions from the ownership of a business, which do not affect the liability of the principal ownership of a business for which the certificate is issued, may be made without canceling the old occupational tax certificate and applying for a new certificate.
(Code 2001, § 4-115(27); Code 2006, § 34-51)

Sec. 10-335. Inspections of books and records.

In any case, the City, through its officers, agents, employees, or representatives, may inspect the books of the business for which the returns are made to determine the accuracy of the return as herein provided. The City shall have the right to inspect the books or records for the business of which the return was made in the City, and upon demand of the City such books or records shall be submitted for inspection by a representative of the City within 30 days. Failure of submission of such books or records within 30 days shall be grounds for revocation of the tax registration currently existing to do business in the City. Adequate records shall be kept in the City for examination by the City at its officer's discretion. (Code 2001, § 4-115(28); Code 2006, § 34-52)

Sec. 10-336. Effect of failure to comply with provisions; continuing in business after tax registration revocation.

Any persons, their managers, agents, or employees, who do business in the City after the registration for said business has been revoked as set forth in Section 10-335, hereby required to make occupation tax returns, and who fail to make said returns within the time and in the manner herein provided, who refuse to amend such returns so as to set forth the truth, or who shall make false returns; and any person, their managers, agents, or employees who refuse to permit an inspection of books in their charge when the officers, agents, employees, or representatives of the City request such inspection, during business hours, for the purpose of determining the accuracy of the returns herein provided for, shall be subject to penalties provided herein. In the case of those practitioners where the local government cannot suspend the right of the practitioner to conduct business, the imposition of civil penalties shall be permitted and pursued by the local government as in the case of delinquent occupation tax. These civil penalties shall consist of a fine of ten percent of the tax or fee due, but not to exceed \$500.00. (Code 2001, § 4-115(29); Code 2006, § 34-53)

Sec. 10-337. Revocation of license.

The Mayor and Council shall have the right to revoke any license issued under this Code whenever the business conducted is in violation of any law of the State or the City, or is being conducted in a manner detrimental to the moral and general welfare of the citizens of the City; said license shall stand revoked until the next regular meeting of the Mayor and Council, at which such action in the premises either shall be sustained by action of the Council and the said license shall be permanently revoked, or it shall be restored. (Code 2001, § 4-115(30); Code 2006, § 34-54)

Sec. 10-338. Lien taken for delinquent occupation tax.

In addition to the other remedies herein provided for the collection of the occupation tax herein levied, the City Clerk, upon any tax or installment of said tax becoming delinquent and remaining unpaid, shall issue execution for the correct amount of said tax against the persons, partnership, or corporation liable for said tax, which said execution shall bear interest at the rate of 12 percent per annum from the date when such tax or installment becomes delinquent, and lien shall cover the property in the City of the person, partnership, or corporation liable for said tax, all as provided by the ordinances and the Charter of the City and the laws of the State. The lien of said occupation tax shall become fixed on

and date from the time when such tax or any installment thereof becomes delinquent. The execution shall be levied by the Police Chief or other appropriate officer of the City upon the property of the defendant located in said jurisdiction, and sufficient property shall be advertised and sold to pay the amount of said execution, with interest and costs. All other proceedings in relation thereto shall be had as is provided by ordinances and Charter of the City and the laws of the State, and the defendant in said execution shall have rights of defense, by affidavit of illegality and otherwise, which are provided by the applicable laws in regard to tax executions. When a null bona entry has been entered by proper authority upon an execution issued by the City Clerk's office against any person defaulting on the occupation tax, the person against who the entry was made shall not be allowed or entitled to have or collect any fees or charges whatsoever for services rendered after the entry of the null bona. If, at any time after the entry of null bona has been made, the person against whom the execution issues pays the tax in full, together with all interest and costs accrued on the tax, the person may collect any fees and charges due to said person as though said person had never defaulted in the payment of the taxes.

(Code 2001, § 4-115(31); Code 2006, § 34-55)

Sec. 10-339. Provisions for nonpayment.

A person engaged in any business, trade, profession, or occupation in the City, whether with a location in the City or in the case of an out-of-state business with no location in the State exerting substantial efforts within the State pursuant to O.C.G.A. § 48-13-7, will not be allowed to pay an occupational tax for a new calendar year until all outstanding or delinquent balances of ad valorem taxes, regulatory fees, or any other form of taxes are paid. The nonpayment of this occupational tax will prohibit a business to continue its operation until all such outstanding balances are paid.

(Code 2001, § 4-115(34); Code 2006, § 34-56)

Sec. 10-340. Enforcement of provisions.

It is hereby made the duty of the City Clerk and/or the Chief of Police to see that the provisions of this division relating to occupation taxes are observed and to summon all violators of the same to appear before the court. It is hereby made the further duty of the City Clerk's office, Chief of Police, members of the Police Department, and their assistants to inspect all registrations issued by the City as often as in their judgment it may seem necessary to determine whether the registration held is the proper one for the business sought to be transacted thereunder.

(Code 2001, § 4-115(35); Code 2006, § 34-57)

Secs. 10-341—10-368. Reserved.

DIVISION 3. COLLECTION OF DELINQUENT TAXES

Sec. 10-369. Date due.

All property subject to property tax levy by the City shall be due and payable on or before December 20 of each year.

(Ord. No. 110621-5, exh. A(34-151), 6-21-2011)

Sec. 10-370. Failure to pay, issuance of tax fi. fa.

In the event the property tax due the City is not paid on or before December 20 of each year, then a tax fi. fa. shall be issued on said property.

(Ord. No. 110621-5, exh. A(34-152), 6-21-2011)

Sec. 10-371. Form of tax fi. fa.

The form of the tax fi. fa. to be issued shall be created by City Council from time to time.

Sec. 10-372. City Clerk authorized to issue fi. fa.

The City Clerk is authorized and directed to issue said fi. fa. on December 21 of each year for the City property taxes that have not been paid.

(Ord. No. 110621-5, exh. A(34-154), 6-21-2011)

Sec. 10-373. Certain persons authorized to execute fi. fa.

The Chief of Police, or any of the Chief's authorized officers, is authorized and directed to execute said fi. fa. under the same manner and procedure as provided by the State laws governing executions for such process from the Superior Court.

(Ord. No. 110621-5, exh. A(34-155), 6-21-2011)

Sec. 10-374. Issuance of fi. fa. to Clerk of Superior Court.

The City Clerk shall issue to the Clerk of the County Superior Court said fi. fa. with a notice to be created by City Council from time to time.

(Ord. No. 110621-5, exh. A(34-156), 6-21-2011)

Sec. 10-375. Issuance of fi. fa. for outstanding bills; recordation.

The City Clerk is directed to immediately issue fi. fa. for all outstanding property tax bills that are due to the City and forward the same to the attorney for the City for recording in the office of the Clerk of the County Superior Court.

(Ord. No. 110621-5, exh. A(34-157), 6-21-2011)

Sec. 10-376. Levy on property; collection of delinquent taxes.

Once the fi. fa. has been issued, the Chief of Police of the City is directed to make the necessary levy on the property for the unpaid taxes and notify the City Attorney. Said Attorney is then authorized and directed to commence collection of all delinquent taxes as provided by law. Said form language is to be created by City Council from time to time.

(Ord. No. 110621-5, exh. A(34-158), 6-21-2011)

Secs. 10-377—10-395. Reserved.

DIVISION 4. HOTEL AND MOTEL TAX

Sec. 10-396. Definitions.

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

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

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

Hotel means any structure or any portion of a structure, including any lodginghouse, roominghouse, dormitory, turkish bath, bachelor hotel, studio hotel, motel, motor hotel, auto court, inn, public club or private club, containing guest rooms and which is occupied, or is intended or designed for occupancy, by guests, whether rent is paid in money, goods, labor or otherwise. The term "hotel" does not include any jail, hospital, nursing home, retirement home, asylum, sanitarium, orphanage, prison, detention or other buildings in which human beings are housed and detained under legal restraint.

Monthly period means the calendar months of any year.

Occupancy means the use or possession, or the right to the use or possession, of the furnishings or to the services and accommodations accompanying the use and possession of the room.

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

Operator means any person operating a hotel in the City, including, but not limited to, the owner or proprietor of the premises, lessee, sublessee, lender in possession, licensee or any other person otherwise operating the hotel.

Permanent resident means any occupant as of a given date who has or shall have occupied or has or shall have the right of occupancy of any guest room in a hotel for at least ten consecutive days next preceding the date.

Person means an individual, firm, partnership, joint association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit, the plural as well as the singular number, except the United States of America, the State, and any political subdivision of either thereof upon which the City is without power to impose the tax provided in this division.

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

Return means any return filed or required to be filed as provided by this division.

Tax means the tax imposed by this division.
(Ord. No. 110419-3, exh. A(34-201), 4-19-2011)

Sec. 10-397. Findings; distribution.

(a) The City hereby finds, determines and declares that:

- (1) The encouragement, development, growth and expansion of tourism and conventions within the City are important to the economy of the City and to the general welfare of its citizens;
- (2) The City should be a tourism and convention center of the State and should have the financial ability to attract and promote tourism and conventions, and to provide the necessary public facilities to compete in the domestic and international travel and convention markets; and
- (3) The City believes the tourism and convention industry should pay for the delivery of the services and facilities requested by them to promote and attract visitors and convention delegates.

(b) In accordance with the findings enumerated in Subsection (a) of this section, it is hereby declared that, in each fiscal year, the amount of tax collected under this division shall be used in accordance with O.C.G.A. § 48-13-51.

(Ord. No. 110419-3, exh. A(34-202), 4-19-2011)

Sec. 10-398. Imposition and rate of tax.

There is hereby levied and there shall be paid a tax of seven percent of the rent for every occupancy of a guest room in a hotel in the City. The tax imposed by this section shall be paid upon any occupancy on and after June 1, 2011; although, the occupancy is had pursuant to a contract, lease or other arrangement made prior to that date.

(Ord. No. 110419-3, exh. A(34-203), 4-19-2011)

Sec. 10-399. Collection of tax by operator.

Every operator maintaining a hotel in the City and renting guest rooms in the City, not exempted under Section 10-400, shall collect the tax from the occupant.

(Ord. No. 110419-3, exh. A(34-204), 4-19-2011)

Sec. 10-400. Exemptions.

The tax authorized by this division shall not apply to:

- (1) Charges made for any rooms, lodgings, or accommodations provided to any persons who certify that they are staying in such room, lodging, or accommodation as a result of the destruction of their home or residence by fire or other casualty;
- (2) The use of meeting rooms and other such facilities or any rooms, lodgings, or accommodations provided without charge;
- (3) Any rooms, lodgings, or accommodations furnished for a period of one or more days for use by State or local governmental officials or employees when traveling on official business. Notwith-

standing the availability of any other means of identifying the person as a State or local government official or employee, whenever a person pays for any rooms, lodgings, or accommodations with a State or local government credit or debit card, such rooms, lodgings, or accommodations shall be deemed to have been furnished for use by a State or local government official or employee traveling on official business for purposes of the exemption provided by this subsection. For the purpose of the exemption provided under this subsection, a local government official or employee shall include officials or employees of counties, municipalities, consolidated governments, or county or independent school districts; or

- (4) Charges made for continuous use of any rooms, lodgings, or accommodations after the first 30 days of continuous occupancy.

(Ord. No. 110419-3, exh. A(34-205), 4-19-2011)

Sec. 10-401. Registration of operator; form and contents; execution; certificates of authority.

Every person engaging or about to engage in business as an operator of a hotel in the City shall immediately register with the City Clerk on a form provided by the Clerk. Persons engaged in such business shall register not later than 30 days after the effective date of the ordinance from which this division is derived. The privilege of registration after the imposition of the tax shall not relieve any person from the obligation of payment or collection of tax, on and after the date of imposition thereof, regardless of registration. The registration shall set forth the name under which the person transacts business or intends to transact business, the location of the place of business and any other information which would facilitate the collection of the tax as the City Clerk may require. The registration shall be signed by the owner if a natural person; in case of ownership by an association or partnership, by a member or partner; in the case of ownership by a corporation, by an officer thereof. The City Clerk shall, after registration, issue without charge a certificate of authority to each operator to collect the tax from the occupant. A separate registration shall be required for each place of business of an operator. Each certificate shall state the name and location of the business to which it is applicable.

(Ord. No. 110419-3, exh. A(34-206), 4-19-2011)

Sec. 10-402. Due date of taxes.

Taxes hereunder shall be due and payable to the City monthly on or before the 20th day of every month next succeeding each respective monthly period as set forth in Section 10-403.

(Ord. No. 110419-3, exh. A(34-207), 4-19-2011)

Sec. 10-403. Information on return.

On or before the 20th day of the month following each monthly period, a return for the preceding monthly period shall be filed with the City Clerk showing the gross rent, rent from permanent residents, taxable rent, amount of tax collected or otherwise due for the related period, and such other information as may be required by the City Clerk.

(Ord. No. 110419-3, exh. A(34-208), 4-19-2011)

Sec. 10-404. Operator's deduction.

Operators collecting the tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and payment of the amount due, if the amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions under the provisions of O.C.G.A. § 48-13-52.

(Ord. No. 110419-3, exh. A(34-209), 4-19-2011)

Sec. 10-405. Deficiency determinations.

(a) *Recomputation of tax.* If the City Clerk is not satisfied with the return of the tax or the amount of the tax required to be paid to the City by any person, the Clerk may compute and determine the amount required to be paid upon the basis of any information within the Clerk's possession or that may come into the Clerk's possession. One or more deficiency determinations may be made of the amount due for one or more monthly periods.

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

(c) *Service of notice.* The City Clerk shall give to the operator written notice of the determination. The notice may be served personally or by mail. If served by mail, the service shall be addressed to the operator at the address as it appears in the records of the City Clerk. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.

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

(Ord. No. 110419-3, exh. A(34-210), 4-19-2011)

Sec. 10-406. Failure to file return.

(a) *Estimate of gross receipts or total rentals.* If any person fails to make a return, the City Clerk shall make an estimate of the amount of the gross receipts of the person, or as the case may be, of the amount of the total rentals in the City which are subject to the tax. The estimate shall be made for the period in respect to which the person failed to make the return and shall be based upon any information which is or may come into the possession of the City Clerk. Written notice shall be given in the manner prescribed in Section 10-405.

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

(Ord. No. 110419-3, exh. A(34-211), 4-19-2011)

Sec. 10-407. Administration.

(a) *Authority of the City Clerk.* The City Clerk shall administer and enforce the provisions of this division for the collection of the tax imposed by this division.

(b) *Records required from operators.* Every operator renting guest rooms in the City to a person shall keep any records, receipts, invoices and other pertinent papers in such form as the City Clerk may require.

(c) *Examination of records and facilities.* The City Clerk may examine or cause to be examined the books, papers, records, financial reports, equipment and other facilities of any operator renting guest rooms to a person and any operator liable for the tax, in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.

(d) *Filing of reports.* In administration of the provisions of this division, the City Clerk may require the filing of reports by any persons or class of persons having in the person's possession or custody information relating to rentals of guest rooms which are subject to the tax. The reports shall be filed with the Clerk when required by the Clerk and shall set forth the rental charged for each occupancy, the date of occupancy, and such other information as the Clerk may require.

(Ord. No. 110419-3, exh. A(34-212), 4-19-2011)

Sec. 10-408. Penalties.

(a) *Time limitation* At any time within three years after any tax or any amount of tax required to be collected becomes due and payable and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the City Clerk may bring an action in a court of competent jurisdiction in the name of the City to collect the amount delinquent together with interest, court fees, filing fees, attorneys' fees and other legal fees incident thereto.

(b) *Successor to withhold amount due.* If any operator liable for any amount under this division sells the business or quits the business, the successors or assigns thereof shall withhold a sufficient amount of the purchase price to cover the amount due the City until the former owner produces a receipt from the City Clerk showing payment or a certificate stating that no amount is due.

(Ord. No. 110419-3, exh. A(34-213), 4-19-2011)

Sec. 10-409. Liability of successor; credit for overpayment.

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

(b) *Credit for overpayment.* Whenever the amount of any tax or interest has been paid more than once or has been erroneously or illegally collected or received by the City under this division, it may be offset by the City Clerk. If the operator or person determines that such person has overpaid or paid more than once, which fact has not been determined by the City Clerk, the operator shall have three years from the date of payment to file claim in writing stating the specific ground upon which the claim is founded. The claim shall be audited. If the claim is approved by the City Clerk, the excess amount paid the City may be credited on any amounts then due and payable from the person by whom it was paid, or by administrators or executors thereof.

(Ord. No. 110419-3, exh. A(34-214), 4-19-2011)

Chapter 11

RESERVED

Chapter 12

ENVIRONMENT AND NATURAL RESOURCES

Article I. In General

Secs. 12-1—12-18. Reserved.

Article II. Trees and Tree Care Standards

- Sec. 12-19. Purpose.
- Sec. 12-20. Definitions.
- Sec. 12-21. Creation of Tree Committee.
- Sec. 12-22. Tree planting and care standards.
- Sec. 12-23. Prohibition against harming public trees.
- Sec. 12-24. Adjacent owner responsibility.
- Sec. 12-25. Certain trees declared a nuisance.
- Sec. 12-26. Violations and penalty.
- Sec. 12-27. Appeals.

ARTICLE I. IN GENERAL

Secs. 12-1—12-18. Reserved.

ARTICLE II. TREES AND TREE CARE STANDARDS**Sec. 12-19. Purpose.**

To enhance the quality of life and the present and future health, safety, and welfare of all citizens, to enhance property values, and to ensure proper planting and care of trees on public property, the City Council herein establishes a Tree Committee to provide recommendations to the Mayor and City Council, establishes practices governing the planting and care of trees on public property, and makes provision for the emergency removal of trees on private property under certain conditions.

(Ord. No. O-20-04, § 1, 9-15-2020)

Sec. 12-20. 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:

Damage means any injury to or destruction of a tree, including, but not limited to, uprooting; severance of all or part the root system or main trunk; storage of material on or compaction of surrounding soil; a substantial change in the natural grade above a root system or around a trunk; surrounding the tree with impervious paving materials; or any trauma caused by accident or collision.

Nuisance means any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; or threatens public health, safety and welfare.

Parkway means the area along a public street between the curb and the sidewalk; or if there is no curb or sidewalk, the unpaved portion of the area between the street right-of way line and the paved portion of the street or alley.

Public property means all grounds and rights-of-way (ROWS) owned or maintained by the City.

Public tree means any tree or woody vegetation on city-owned or city-maintained property or rights-of-way.

Top or *topping* means the non-standard practice of cutting back of limbs to stubs within a tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

(Ord. No. O-20-04, § 2, 9-15-2020)

Sec. 12-21. Creation of Tree Committee.

(a) *Committee structure and powers.* The Tree Committee will consist of the Director of the Public Works Department and seven individual residents of the City appointed and confirmed by the Mayor and City Council. Except for the Director of Public Works, each individual member of the Tree Committee shall serve for a term lasting two years. Any member of the Tree Committee may be

reappointed and confirmed by the Mayor and City Council. The Tree Committee shall provide recommendations to the Mayor and City Council relative to the planting, pruning, maintenance and removal of trees and wooded plants growing in or upon all municipal streets, rights-of-way, City parks, and other public property. The Tree Committee shall be authorized to adopt any and all rules of procedure and proceedings necessary to carry out its mission and purpose. In emergency situations, the Mayor is authorized to instruct the pruning or removal of a tree that is an immediate danger to the public in the Mayor's opinion.

(b) *Coordination among City departments.* All City departments will coordinate as necessary with the Tree Committee and will provide information as required to ensure the Tree Committee can make informed decisions and recommendations, specifically as it relates to streets, alleys, rights-of-way, drainage, easements and other public properties not under direct jurisdiction of the directors. (Ord. No. O-20-04, § 3, 9-15-2020; Ord. No. O-21-01, § 1, 2-16-2021)

Sec. 12-22. Tree planting and care standards.

(a) *Conformance to maintenance standards.* All planting and maintenance of public trees shall conform to the American National Standards Institute (ANSI) A-300 "Standards for Tree Care Operations" and shall follow all tree care Best Management Practices (BMPs) published by the International Society of Arboriculture.

(b) *Requirements of franchise utility companies.* The maintenance of public trees for utility clearance shall conform to all applicable utility industry standards.

(c) *Tree species list.* The Tree Committee shall develop and maintain an official list of desirable tree species, to be approved by the Mayor and City Council, for planting on public property in two size classes: ornamental (20 feet or less in height at maturity) and shade (greater than 20 feet at maturity). Only trees from this approved list may be planted without written approval from the directors. The approved list of trees is below:

(1) *Small trees.* Crepe Myrtle, Dogwood, Cherry blossom, Japanese Maple.

(2) *Large trees.* Sugar Maple, Red Oak, October Glory, Poplar.

(d) *Planting distances.* The Tree Committee shall develop and maintain an official set of spacing requirements for the planting of trees on public property. No tree may be planted within the visibility triangle of a street intersection or within ten feet of a fire hydrant.

(e) *Planting trees under electric utility lines.* Only trees listed as ornamental trees on the official City tree species list may be planted under or within 15 lateral feet of any overhead utility wire.

(f) *Protection of public trees during construction.* Any person, firm, corporation, or City department performing construction near any public tree must employ appropriate measures to protect the tree, including, but not limited to, placing barriers around the tree to prevent damage. (Ord. No. O-20-04, § 4, 9-15-2020)

Sec. 12-23. Prohibition against harming public trees.

(a) It shall be unlawful for any person, firm or corporation to damage, remove, or cause the damage or removal of a tree on public property without written permission from the City.

(b) It shall be unlawful for any person, firm or corporation to attach any cable, wire or signs or any other object to any street, park, or public tree.

(c) It shall be unlawful for any person, firm or corporation to top any public tree. Trees severely damaged by storms or other causes, where best pruning practices are impractical, may be exempted from this provision at the determination of the directors.

(Ord. No. O-20-04, § 5, 9-15-2020)

Sec. 12-24. Adjacent owner responsibility.

(a) The owner of land adjacent to any City street or highway, when acting within the provisions of this article, may plant and maintain trees in the adjacent parkway area. Property owners are responsible for the reasonable and routine maintenance of trees and other landscaping in the adjacent parkway area.

(b) No property owner shall allow a tree, or other plant growing on the owner's property or within the adjacent parkway to obstruct or interfere with pedestrians or the view of drivers, thereby creating a hazard. If an obstruction persists, the directors shall notify the property owner to prune or remove the tree or plant. If the owner fails to comply with the notice, the City may undertake the necessary work and charge the cost to the property owner.

(Ord. No. O-20-04, § 6, 9-15-2020)

Sec. 12-25. Certain trees declared a nuisance.

(a) Any tree, or limb thereof, on private property determined by the City to have contracted a lethal, communicable disease or insect; to be dead or dying; to obstruct the view of traffic signs or the free passage of pedestrians or vehicles; or that threatens public health, safety, and welfare is declared a nuisance and the City may require its treatment or removal.

(b) Private property owners have the duty, at their own expense, to remove or treat nuisance trees on their property. The City may remove such trees at the owner's expense if the owner does not comply with treatment and/or removal as specified by the City within the written notification period.

(Ord. No. O-20-04, § 7, 9-15-2020)

Sec. 12-26. Violations and penalty.

Any person, firm or corporation violating any provision of this article shall be deemed guilty of a misdemeanor and, upon issuance of a citation and conviction in the Municipal Court, shall be subject to a fine not to exceed \$500.00 for each offense.

(Ord. No. O-20-04, § 8, 9-15-2020)

Sec. 12-27. Appeals.

Appeals from decisions of the Municipal Court shall be taken to the County Superior Court or State Court in the manner provided for appeals under State law.

(Ord. No. O-20-04, § 9, 9-15-2020)

Chapter 13

RESERVED

Chapter 14

FLOODS

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ARTICLE I. IN GENERAL

Secs. 14-1—14-18. Reserved.

ARTICLE II. FLOOD DAMAGE PREVENTION**DIVISION 1. GENERALLY****Sec. 14-19. Definitions.**

Unless specifically defined below, words, terms, or phrases used in this article, shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

Addition (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by an independent perimeter load-bearing wall, shall be considered "new construction."

Appeal means a request for a review of the interpretation of any provision of this article.

Area of shallow flooding means a designated AO or AH zone on a community's flood insurance rate map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. In the absence of official designation by the Federal Emergency Management Agency, areas of special flood hazard shall be those designated by the local community and referenced in Section 14-25.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement means that portion of a building having its floor subgrade (below ground level) on all sides.

Building means any structure built for support, shelter, or enclosure for any occupancy or storage.

Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, and permanent storage of materials or equipment.

Elevated building means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

Existing construction means any structure for which the start of construction commenced before the effective date of the first floodplain management code or ordinance adopted by the City as a basis for that community's participation in the National Flood Insurance Program (NFIP).

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from the:

- (1) Overflow of inland or tidal waters; or
- (2) Unusual and rapid accumulation or runoff of surface waters from any source.

Flood hazard boundary map (FHBM) means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of areas of special flood hazard have been defined as Zone A.

Flood insurance rate map (FIRM) means an official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

Flood insurance study means the official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles and water surface elevations of the base flood.

Floodplain means any land area susceptible to flooding.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed foundation of a building.

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

- (3) Individually listed on a State inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
 - a. By an approved State program as determined by the Secretary of the Interior; or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Lowest floor means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this Code.

Manufactured home means a building, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

Mean seal level means the average height of the sea for all stages of the tide. The term "National Geodetic Vertical Datum" is used as a reference for establishing various elevations within the floodplain. For purposes of this article, the term "National Geodetic Vertical Datum" is synonymous with National Geodetic Vertical Datum (NGVD).

National Geodetic Vertical Datum (NGVD) as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

New construction means any structure, as defined in this section, for which the start of construction commenced after the effective date of the first floodplain management ordinance adopted by the community as a basis for community participation in the NFIP, and includes any subsequent improvements to the structure.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the first floodplain management regulations adopted by a community.

Recreational vehicle means a vehicle, which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Start of construction means the date the development permit was issued, provided that the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of the structure such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of buildings appurtenant to the permitted structure, such as garages or sheds not occupied as dwelling units or part of the main structure (note: accessory structures are not exempt from any ordinance requirements). For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement.

- (1) The term "substantial improvement" means any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during a five-year period, in which the cumulative cost equals or exceeds 50 percent of the market value of the structure prior to the improvement. The market value of the building should be the appraised value of the structure prior to the start of the initial repair or improvement, or in the case of damage, the value of the structure prior to the damage occurring.
- (2) The term "substantial improvement" includes structures which have incurred substantial damage, regardless of the actual amount of repair work performed.
- (3) Substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building.
- (4) The term "substantial improvement" does not, however, include those improvements of a building required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, which have been pre-identified by the Code Enforcement Officer, and not solely triggered by an improvement or repair project.

Substantially improved existing manufactured home parks or subdivisions is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Variance means a grant of relief from the requirements of this article, which permits construction in a manner otherwise prohibited by this article.

(Code 2006, § 30-19; Ord. of 7-27-2004, art. 6)

Sec. 14-20. Findings of fact.

(a) The flood hazard areas of the City are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are caused by the occupancy in flood hazard areas of uses vulnerable to floods, which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

(Code 2006, § 30-20; Ord. of 7-27-2004, art. 1, § B)

Sec. 14-21. Statement of purpose.

It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (2) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;
- (3) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and
- (4) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters.

(Code 2006, § 30-21; Ord. of 7-27-2004, art. 1, § C)

Sec. 14-22. Objectives.

The objectives of this article are to:

- (1) Protect human life and health;
- (2) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (3) Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize flood blight areas;
- (4) Minimize expenditure of public money for costly flood control projects;
- (5) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

- (6) Minimize prolonged business interruptions; and
 - (7) Ensure that potential homebuyers are notified that property is in a flood area.
- (Code 2006, § 30-22; Ord. of 7-27-2004, art. 1, § D)

Sec. 14-23. Variance procedures.

(a) The Mayor and Council shall hear and decide requests for appeals or variance from the requirements of this article.

(b) The Mayor and Council shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Mayor and Council in the enforcement or administration of this article.

(c) Any person aggrieved by the decision of the Mayor and Council may appeal such decision to the Superior Court as provided in O.C.G.A. § 5-4-1.

(d) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.

(e) Variances may be issued for development necessary for the conduct of a functionally-dependent use, provided the criteria of this article are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

(f) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(g) In reviewing such requests, the Mayor and Council shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this article.

(h) Conditions for variances.

(1) A variance shall be issued only when there is a:

- a. Finding of good and sufficient cause;
- b. Determination that failure to grant the variance would result in exceptional hardship; and
- c. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(2) The provisions of this article are minimum standards for flood loss reduction; therefore, any deviation from the standards must be weighed carefully. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and, in the instance of an historic structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

- (3) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.
- (4) The Mayor and Council shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(i) Upon consideration of the factors listed above and the purposes of this article, the Mayor and Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

(Code 2006, § 30-23; Ord. of 7-27-2004, art. 5)

Sec. 14-24. Lands to which this article applies.

This article shall apply to all areas of special flood hazard within the jurisdiction of the City.
(Ord. of 7-27-2004, art. 2, § A)

Sec. 14-25. Basis for area of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in its flood insurance study (FIS), dated April 4, 1975, with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this article. For those land areas acquired by a municipality through annexation, the current effective FIS and data for the County are hereby adopted by reference. Areas of special flood hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a FIS.

(Code 2006, § 30-25; Ord. of 7-27-2004, art. 2, § B)

Sec. 14-26. Establishment of development permit.

A development permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities.

(Code 2006, § 30-26; Ord. of 7-27-2004, art. 2, § C)

Sec. 14-27. Compliance.

No structure or land shall hereafter be located, extended, converted or altered without full compliance with the terms of this article and other applicable regulations.

(Code 2006, § 30-27; Ord. of 7-27-2004, art. 2, § D)

Sec. 14-28. Abrogation and greater restrictions.

This article is not intended to repeal, abrogate, or impair any existing ordinance, easements, covenants, or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Code 2006, § 30-28; Ord. of 7-27-2004, art. 2, § E)

Sec. 14-29. Interpretation.

In the interpretation and application of this article, all provisions shall be considered as minimum requirements, liberally construed in favor of the Governing Body, and deemed neither to limit nor repeal any other powers granted under State statutes.

(Code 2006, § 30-29; Ord. of 7-27-2004, art. 2, § F)

Sec. 14-30. Warning and disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; flood heights may be increased by manmade or natural causes. This article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the City or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

(Code 2006, § 30-30; Ord. of 7-27-2004, art. 2, § G)

Sec. 14-31. Penalties for violation.

Violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Each day such violation continues shall be considered a separate offense.

(Code 2006, § 30-31; Ord. of 7-27-2004, art. 2, § H)

Secs. 14-32—14-50. Reserved.

DIVISION 2. ADMINISTRATION

Sec. 14-51. Designation of administrator.

The Code Enforcement Official is hereby appointed to administer and implement the provisions of this article.

(Code 2006, § 30-51; Ord. of 7-27-2004, art. 3, § A)

Sec. 14-52. Permit procedures.

Application for a development permit shall be made to the City Planning Department on forms furnished by the community prior to any development activities and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the elevations of the area in question and the nature, location, and dimensions of existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

- (1) *Application stage.*
 - a. Elevation in relation to mean seal level (or highest adjacent grade) of the lowest floor, including basement, of all proposed structures;

- b. Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;
- c. Design certification from a registered professional engineer or architect that any proposed nonresidential floodproofed structure will meet the floodproofing criteria of Section 14-81(2);
- d. Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development.

(2) *Construction stage.*

- a. For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the regulatory floor elevation or floodproofing level immediately after the lowest floor or floodproofing is completed. Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for nonresidential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.
- b. Any work undertaken prior to submission of these certifications shall be at the permit holder's risk.
- c. The Mayor and Council shall review the above-referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

(Code 2006, § 30-52; Ord. of 7-27-2004, art. 3, § B)

Sec. 14-53. Duties of the Code Enforcement Official.

Duties of the Code Enforcement Official shall include, but not be limited to:

- (1) Review all development permits to ensure that the permit requirements of this article have been satisfied.
- (2) Review proposed development to ensure that all necessary permits have been received from governmental agencies from which approval is required by federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1344. Require that copies of such permits be provided and maintained on file.
- (3) When base flood elevation data or floodway data have not been provided in accordance with Section 14-25, obtain, review and reasonably utilize any base flood elevation and floodway data available from federal, State or other sources in order to administer the provisions of Division 3 of this article.

- (4) Verify and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all new or substantially improved structures in accordance with Section 14-52(2).
 - (5) Verify and record the actual elevation in relation to mean sea level to which any new or substantially improved structures have been floodproofed, in accordance with Section 14-52(2).
 - (6) When floodproofing is utilized for a structure, obtain certification of design criteria from a registered professional engineer or architect in accordance with Sections 14-52(1)c and 14-81(2) or 14-83(2).
 - (7) Notify adjacent communities and the State Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
 - (8) For any altered or relocated watercourse, submit engineering data/analysis within six months to FEMA to ensure accuracy of community flood maps through the letter of map revision process. Assure flood-carrying capacity of any altered or relocated watercourse is maintained.
 - (9) Make the necessary interpretation where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
 - (10) Maintain all records pertaining to the provisions of this article in the office of the Code Enforcement Official which shall be open for public inspection.
- (Code 2006, § 30-53; Ord. of 7-27-2004, art. 3, § C)

Secs. 14-54—14-79. Reserved.

DIVISION 3. PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 14-80. General standards.

In all areas of special flood hazard, the following provisions are required:

- (1) New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) New construction and substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage.
- (3) New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage.
- (4) All new construction or substantial improvements of existing structures that include any fully enclosed area located below the lowest floor formed by foundation and other exterior walls shall

be designed so as to be an unfinished or flood-resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.

- a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 1. Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 2. The bottom of all openings shall be no higher than one foot above grade; and
 3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both direction.
 - b. So as not to violate the "lowest floor" criteria of this article, the unfinished or flood-resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area.
 - c. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- (5) All heating and air conditioning equipment and components, all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - (6) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, the use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for resisting wind forces.
 - (7) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
 - (8) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
 - (9) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
 - (10) Any alteration, repair, reconstruction or improvement to a structure, which is not complaint with the provisions of this article, shall be undertaken only if the nonconformity is not furthered, extended or replaced.

(Code 2006, § 30-71; Ord. of 7-27-2004, art. 4, § A)

Sec. 14-81. Specific standards.

In all areas of special flood hazard, the following provisions are required:

- (1) *New construction and substantial improvements.* Where base flood elevation data are available, new construction or substantial improvement of any structure or manufactured home shall have the lowest floor, including basement, elevated no lower than one foot above the base flood

elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with standards of Section 14-80(4).

- (2) *Nonresidential construction.* New construction or the substantial improvement of any structure located in A1—30, AE, or AH zones may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to one foot above the base flood elevation, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above and shall provide such certification to the official as set forth above and in Section 14-53(6).
- (3) *Standards for manufactured homes and recreational vehicles.* Where base flood elevation data are available:
 - a. All manufactured homes placed or substantially improved on:
 1. Individual lots or parcels;
 2. In new or substantially improved manufactured home parks or subdivisions;
 3. In expansions to existing manufactured home parks or subdivisions; or
 4. On a site in an existing manufactured home park or subdivision where a manufactured home has incurred substantial damage as the result of a flood;must have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation.
 - b. Manufactured homes placed or substantially improved in an existing manufactured home park or subdivision may be elevated so that either:
 1. The lowest floor of the manufactured home is elevated no lower than one foot above the level of the base flood elevation; or
 2. The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than 36 inches in height above grade.
 - c. All manufactured homes must be securely anchored to an adequately anchored foundation system, as stated in Section 14-80(6), to resist flotation, collapse and lateral movement.
 - d. All recreational vehicles placed on sites must either:
 1. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached structures or additions); or
 2. Meet all the requirements for new construction, including the anchoring and elevation requirements of Subsections (3)a through c of this section.

- (4) *Floodway*. Located within the areas of special flood hazard established in Section 14-25 are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions shall apply:
- a. Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted, however, provided that it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof.
 - b. Only if Subsection (4)a of this section is satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of this division.

(Code 2006, § 30-72; Ord. of 7-27-2004, art. 4, § B)

Sec. 14-82. Building standards for streams without established base flood elevations and/or floodway (A zones).

(a) Located within the areas of special flood hazard established in Section 14-25, wherever streams exist but no base flood data have been provided (A zones), or where base flood data have been provided but a floodway has not been delineated, the following provisions apply:

- (1) When base flood elevation data or floodway data have not been provided in accordance with Section 14-25, then the Code Enforcement Officer shall obtain, review, and reasonably utilize any scientific or historic base flood elevation and floodway data available from federal, State, or other sources, in order to administer the provisions of this division; only if data are not available from these sources, then the provisions of Subsections (a)(2) and (3) of this section shall apply.
- (2) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or 20 feet, whichever is greater, measured from the top of the stream bank, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (3) In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 14-80(4).

(b) The Code Enforcement Officer shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

(Code 2006, § 30-73; Ord. of 7-27-2004, art. 4, § C)

Sec. 14-83. Standards for areas of shallow flooding (AO zones).

Areas of special flood hazard established in Section 14-25 may include designated "AO" shallow flooding areas. These areas have base flood depths of one to three feet above ground, with no clearly defined channel. The following provisions apply:

- (1) All new construction and substantial improvements of residential and nonresidential structures shall have the lowest floor, including basement, elevated to the flood depth number specified on the flood insurance rate map (FIRM), above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Section 14-80(4). The Code Enforcement Officer shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.
- (2) New construction or the substantial improvement of a nonresidential structure may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to the specified FIRM flood level plus one foot, above highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above and shall provide such certification to the official as set forth above and as required in Section 14-52(1)c and (2).
- (3) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

(Code 2006, § 30-74; Ord. of 7-27-2004, art. 4, § D)

Sec. 14-84. Standards for subdivisions.

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (d) Base flood elevation data shall be provided for subdivision proposals and all other proposed development, including manufactured home parks and subdivisions, greater than 50 lots or five acres, whichever is less.

(Code 2006, § 30-75; Ord. of 7-27-2004, art. 4, § E)

Chapter 15

RESERVED

Chapter 16

INFRASTRUCTURE IMPROVEMENT TAX DISTRICTS

- Sec. 16-1. Constitutional authority.
- Sec. 16-2. Declaration of policy and purpose.
- Sec. 16-3. Definitions.
- Sec. 16-4. Special tax districts created; register; responsibility for costs.
- Sec. 16-5. Collection and responsibility for administration.
- Sec. 16-6. Liens created.
- Sec. 16-7. Establishment of special infrastructure improvement tax district over existing or new development.
- Sec. 16-8. Payments.
- Sec. 16-9. Federal, State laws to prevail.
- Sec. 16-10. Verification of status required.

Sec. 16-1. Constitutional authority.

The Mayor and Council is authorized by Ga. Const. art. IX, § II, ¶ VI to create special districts for the provision of local government services within such districts, and to levy and collect fees, assessments, and taxes within such district to pay, wholly or partially, the cost of providing such services therein. (Ord. No. 110621-4, exh. A(32-101), 6-21-2011)

Sec. 16-2. Declaration of policy and purpose.

The purpose of this chapter is to provide citizens of the City with a procedure for providing infrastructure for development where infrastructure does not exist or is inadequate. This chapter is adopted in order to affect the creation of infrastructure improvement tax districts to pay for such infrastructure. (Ord. No. 110621-4, exh. A(32-102), 6-21-2011)

Sec. 16-3. Definitions.

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

Property owner includes all persons holding fee simple title according to the real estate records of the County to real property within a proposed special tax district at the time the petition for the creation of said district is submitted as provided herein. For the purpose of the petitioning of the Mayor and Council for the creation of a special tax district, the property owner shall have one vote per acre or part of an acre of parcels within a particular proposed special tax district. The acreage of parcels shall be determined by the records of the County Tax Assessors. The term "property owner" specifically excludes tenants in possession of property within the road pavement district. The term "property owner" shall include the developer of any subdivision otherwise not covered by the City's Subdivision Ordinance who has fee simple title to an existing or proposed road and has promised to dedicate said road to the City.

Special tax district is authorized pursuant to Ga. Const. art. IX, § II, ¶ VI. Special tax districts may be created in order for infrastructure to be provided in areas where service is inadequate or does not exist. (Ord. No. 110621-4, exh. A(32-103), 6-21-2011)

Sec. 16-4. Special tax districts created; register; responsibility for costs.

(a) New special tax districts may be created upon the submission of proper petition and resolution of the Mayor and Council. Each special tax district so created shall be assigned a number and be designated by recorded plats showing each lot therein.

(b) A register of special tax districts shall be maintained in the office of the City Clerk or the Clerk's designee and the office of the County Tax Commissioner. Such registers shall be available to the public for inspection upon reasonable notice to either of these offices. (Ord. No. 110621-4, exh. A(32-104), 6-21-2011)

Sec. 16-5. Collection and responsibility for administration.

The office designated by the City Council shall be responsible for the timely collection of taxes, fees, and assessments assessed to each infrastructure improvement tax district and shall remit such sums to the Mayor and Council in the same manner as other taxes are remitted.

(Ord. No. 110621-4, exh. A(32-105), 6-21-2011)

Sec. 16-6. Liens created.

In addition to any other rights of collection for late or unpaid charges, the City shall have all rights available under the laws of the State for the assessment and creation of a lien upon the property of the owner receiving the service provided, together with all rights of execution, levy, foreclosure, and sale.

(Ord. No. 110621-4, exh. A(32-106), 6-21-2011)

Sec. 16-7. Establishment of special infrastructure improvement tax district over existing or new development.

(a) Any property owner in any area of the City may present a request for the creation of a special tax district to the City Clerk. The request shall designate the boundaries for a special tax district which shall serve the property owner presenting the request and other property owners within the geographical area. The request shall include a plat or plats showing the proposed infrastructure improvement tax district. The office of the City Clerk shall then provide a petition to be circulated by the presenter of the request among the property owners in the proposed district. At least 75 percent of the property owners within the proposed district must sign the petition for the petition to be presented to the Mayor and Council. If the proposed special tax district encompasses more than one subdivision as shown by plats filed in the public land records of the County, 75 percent of the property owners within the special tax district in each and all of the included subdivisions must sign the petition. Unless 100 percent of the property owners have signed the petition, a public hearing shall be held by the Mayor and Council after having advertised one time in the official legal organ of the County, and a sign shall be posted in the proposed road pavement district giving notice of the hearing, at least ten days before the public hearing.

(b) The petition for the creation of the proposed special infrastructure improvement tax district must be returned to the City Clerk within 90 days of the presentment of the request. The City Clerk shall verify the signatures on the petition and that requisite number of property owners have signed said petition. Said petition must be accompanied by a certificate of title or other document that shows the public's interest in the right-of-way of a road or easements for construction and maintenance of infrastructure or a necessary document letter of commitment from the owner to convey the road or necessary easements to the City before implementation of the tax or construction of the infrastructure.

(c) By signing the petition for the creation of a new special infrastructure improvement tax district, all petitioners within a proposed special tax district shall be deemed to have actual or constructive notice of this chapter and all the provisions contained herein as well as the request and petition for a special infrastructure improvement tax district.

(d) All successors in interest to the property owners within a certain district at the time of the creation of said special infrastructure improvement tax district shall be deemed to have constructive notice of this chapter and the existing special tax district or request wherein the property is located due to the existence of public records containing such information.

(e) Upon receipt of a petition as provided herein and after a public hearing, if one is required, the Mayor and Council shall take under consideration the establishment of the requested special infrastructure improvement tax district. The Mayor and Council, in its sole discretion, may vote to create one or more of such districts based upon all of the evidence presented to the Mayor and Council. Nothing contained herein shall create any right by any property owner to the creation of such districts. The creation of one or more of such districts shall not generate a precedent or obligation on the Mayor and Council to approve future requests for a special infrastructure improvement tax district; rather, each proposed district shall be considered based on the totality of the evidence regarding each respective district. The decision of the Mayor and Council, in the exercise of its discretion, shall be final.

(f) The decision of the Mayor and Council to create special infrastructure improvement tax districts shall be evidenced by resolutions adopted at a regular or special meeting of the Mayor and Council.

(g) No property in a proposed special infrastructure improvement tax district may be exempt. If, after the establishment of a special infrastructure improvement tax district, the greater of two acres or two percent of the total acreage shall become exempt, the special infrastructure improvement tax district shall be dissolved.

(h) Any special tax district established hereunder shall be dissolved the sooner of ten years from the date established or the time at which the cost of the infrastructure improvements has been fully paid.

(i) No property may be included in a special infrastructure improvement tax district if property taxes are outstanding or on which any tax liens exist.

(j) Additional property may be added to an existing special tax district under the same process and requirement for creation of the special tax district.
(Ord. No. 110621-4, exh. A(32-108), 6-21-2011)

Sec. 16-8. Payments.

The resolution adopted by the Mayor and Council establishing a special infrastructure improvement tax district may provide that the City will pay up to 45 percent of the ad valorem property taxes collected in the special infrastructure improvement tax district toward the cost of infrastructure dedicated to the City which lies within easements or right-of-way dedicated to the City. The petitioner or its successors in interest shall certify to the City, in writing, under oath, the cost of such infrastructure and may receive payments during the life of the special infrastructure improvement tax district as provided for in Section 16-7(h).

(Ord. No. 110621-4, exh. A(32-109), 6-21-2011)

Sec. 16-9. Federal, State laws to prevail.

If any provision of this chapter is in conflict with any State or federal law, or with any rule, regulation, or any order of any agency of the State or federal agency having jurisdiction of the subject matter of this

chapter, it is hereby deemed to the intention of the Mayor and Council that the State or federal law or rule, regulation, or order shall prevail be that the remaining portion of this chapter shall be deemed to be of full force or effect.

(Ord. No. 110621-4, exh. A(32-110), 6-21-2011)

Sec. 16-10. Verification of status required.

(a) Any applicant for a public benefit listed in Subsection (b) of this section shall execute an Affidavit Verifying Status for City Public Benefit Application provided by the City Clerk.

(b) Public benefits for which the affidavit required by Subsection (a) of this section must be provided include the following:

- (1) Employment benefits;
- (2) Business or occupational licenses, which shall include any license or certification issued by the City;
- (3) Contracts;
- (4) Any other circumstances whereby a person receives City funds.

(c) The Mayor is authorized to enter into a Memorandum of Agreement with the Systematic Alien Verification for Entitlements (SAVE) Program or any successor program or agency to allow the City to comply with the requirements of local, State and federal laws or regulations regarding a person's lawful presence in the United States, as such laws or regulations now exist or may exist in the future.

(Ord. No. 10216-2, § 1(32-114), 2-16-2010)

Chapter 17

RESERVED

Chapter 18

MUNICIPAL COURT*

- Sec. 18-1. Bailiff.
- Sec. 18-2. Record of cases.
- Sec. 18-3. Limitations.
- Sec. 18-4. Service of summons.
- Sec. 18-5. Subpoenas.
- Sec. 18-6. Failure to obey summons or subpoena.
- Sec. 18-7. Arrest and bond.
- Sec. 18-8. Forfeiture of bond.
- Sec. 18-9. Court cost.
- Sec. 18-10. Malicious prosecution.
- Sec. 18-11. Collection of fines.
- Sec. 18-12. Appeal.

***State law references**—Municipal Courts, O.C.G.A. § 36-32-1 et seq.; Mayor's Court deemed to mean a Municipal Court, O.C.G.A. § 36-32-1; appointment of judges of Municipal Courts, O.C.G.A. § 36-32-2; powers of Municipal Court judges in criminal cases, O.C.G.A. § 36-32-3; jurisdiction of Municipal Court, O.C.G.A. § 36-32-6 et seq.

Sec. 18-1. Bailiff.

The duties of the bailiff shall consist generally of seeing that the courtroom is in proper condition for sessions of court, of assisting in keeping order while court is in session, and of doing such other acts of assistance as may be required of the bailiff by the judge of the Municipal Court and the Municipal Clerk of the Court or their designee.

(Code 2001, § 5-104; Code 2006, § 38-1)

Sec. 18-2. Record of cases.

A record of all cases heard in the Municipal Court for violation of this Code or other municipal ordinances shall be kept in a suitable bound volume by the City Clerk/Treasurer. Such record shall contain the name of the defendant, the nature of the offense charged, the final disposition of the case, and the date of final disposition.

(Code 2001, § 5-105; Code 2006, § 38-2)

Sec. 18-3. Limitations.

All prosecutions for violations of City ordinances shall be commenced within two years after the commission of the crime.

(Code 2001, § 5-106; Code 2006, § 38-3)

Sec. 18-4. Service of summons.

Any person charged with violating any City ordinance shall receive notice by service of a summons as herein provided. Such summons may be issued and served by the Code Enforcement Officer or any police officer of the City. The summons shall be directed to the accused and shall distinctly state the offense charged, the time and place, as far as practicable, of the offense charged, and the day, hour, and place of trial, requiring the accused to appear before the judge of the Municipal Court to answer accusations made. Service of the summons shall be either by serving the accused personally or by leaving a copy at the person's most notorious place of abode, except that in the case of a summons issued for violation of laws or ordinances relating to the parking of motor vehicles, such summons may be directed to an unknown person as owner of an automobile designated in the summons and may be served upon such person by leaving a copy in or attached to such automobile.

(Code 2001, § 5-107; Code 2006, § 38-4)

Sec. 18-5. Subpoenas.

The Municipal Court Clerk or Court Clerk's designee shall issue subpoenas for the appearance of all witnesses necessary for the prosecution or for the defense in any case pending before the Municipal Court. All subpoenas shall be served in the same manner as a summons.

(Code 2001, § 5-108; Code 2006, § 38-5)

Sec. 18-6. Failure to obey summons or subpoena.

Any person who fails to appear at the time and place set out in any summons or subpoena served upon said person shall be guilty of contempt of court and upon conviction thereof shall be punished for same.

(Code 2001, § 5-109; Code 2006, § 38-6)

Sec. 18-7. Arrest and bond.

When a police officer has arrested any person for violation of any provision of this Code or any municipal ordinance and trial cannot be had immediately, the officer may take a cash bond not exceeding the maximum fine for the offense, or a bond with a good security, for the appearance of such person before the judge of the Municipal Court. If such person fails or refuses to give a bond, the officer may confine said person until a trial can be held, provided that the Mayor, in the Mayor's discretion, may release such person on such person's own recognizance without security. No person shall be incarcerated for more than 72 hours without being tried by the municipal judge.

(Code 2001, § 5-110; Code 2006, § 38-7)

Sec. 18-8. Forfeiture of bond.

Upon the failure of a person to appear in the Municipal Court at the time and place fixed by the summons, unless legal excuse is offered in the person's behalf, the judge of said Court shall enter a judgment of forfeiture on any cash bond or, in the case of a security bond, shall pass a rule requiring the principal and surety on such bond to show cause on the date named therein, which date shall not be less than ten days from the passage of such ruling, why they should not be required to pay the amount of said bond. If no sufficient cause is shown, the judge shall enter judgment against the principal and surety for the amount of the forfeited bond and shall direct the City Clerk/Treasurer to issue execution thereon.

(Code 2001, § 5-111; Code 2006, § 38-8)

Sec. 18-9. Court cost.

A surcharge of ten percent shall be added to each fine and/or bond forfeiture imposed to cover the cost of jail services.

(Code 2001, § 5-112; Code 2006, § 38-9)

Sec. 18-10. Malicious prosecution.

Whenever the judge of the Municipal Court, after a fair and full trial, is satisfied that any case was frivolously or maliciously prosecuted, said judge shall assess the prosecution with the court costs and such punitive damages as the judge deems appropriate.

(Code 2001, § 5-113; Code 2006, § 38-10)

Sec. 18-11. Collection of fines.

When directed by the judge of the Municipal Court, the City Clerk/Treasurer shall issue executions for fines imposed by said Court, including the costs, which executions may be levied upon any goods or chattels, lands, or tenements of the person so fined.

(Code 2001, § 5-114; Code 2006, § 38-11)

Sec. 18-12. Appeal.

Appeals from decisions of the Municipal Court shall be taken to the County Superior Court or State Court in the manner provided for appeals under State law.

(Code 2001, § 5-115; Code 2006, § 38-12)

Chapter 19

RESERVED

Chapter 20

NUISANCES*

Article I. In General

- Sec. 20-1. Definitions.
- Sec. 20-2. General, specific nuisances.
- Sec. 20-3. Unlawful to maintain nuisance on property.
- Sec. 20-4. Complaint.
- Sec. 20-5. Issuance of summons for abatement.
- Sec. 20-6. Order for abatement.
- Sec. 20-7. Special provisions for old, unused, stripped, junked automobiles.
- Sec. 20-8. Nuisances constituting imminent danger.
- Sec. 20-9. Other powers preserved.
- Sec. 20-10. Owner and tenant responsibility for cleanliness of property.
- Secs. 20-11—20-38. Reserved.

Article II. Dangerous Buildings

- Sec. 20-39. Definitions.
- Sec. 20-40. Findings.
- Sec. 20-41. Determination of status by Code Enforcement Officer.
- Sec. 20-42. Additional powers of Code Enforcement Officer.
- Sec. 20-43. Prohibition.
- Sec. 20-44. Abatement procedure.
- Secs. 20-45—20-61. Reserved.

Article III. Junk Motor Vehicles

- Sec. 20-62. Definitions.
- Sec. 20-63. Junk motor vehicles or parts prohibited.
- Sec. 20-64. Enforcement.
- Sec. 20-65. Health hazard.
- Sec. 20-66. Nuisance.
- Sec. 20-67. Notice; voluntary disposal.
- Sec. 20-68. Disposal, general; fee; collection.
- Sec. 20-69. Sale; proceeds.
- Sec. 20-70. Exception.
- Sec. 20-71. Enforcement.
- Secs. 20-72—20-100. Reserved.

Article IV. Mosquito Control

- Sec. 20-101. Violation declared nuisance.
- Sec. 20-102. Keeping water in which mosquitoes may breed.
- Sec. 20-103. Treatment of collections of water.

***State law references**—Nuisances generally, O.C.G.A. § 41-1-1 et seq.; jurisdiction of Municipal Court or Magistrate Court to abate nuisances, O.C.G.A. § 41-2-5.

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- Sec. 20-104. Mosquito larvae as evidence of breeding.
- Sec. 20-105. Failure to remedy conditions after notice.
- Sec. 20-106. Right of entry of officer.
- Secs. 20-107—20-125. Reserved.

Article V. Vegetation

- Sec. 20-126. Certain weeds, grasses and plants declared a nuisance; exemptions.
- Sec. 20-127. Height permitted.
- Sec. 20-128. Notice to abate.
- Sec. 20-129. Abatement of City; notice of abatement.
- Sec. 20-130. Remedies.
- Sec. 20-131. Award of contracts for clearing of lots by city.
- Secs. 20-132—20-160. Reserved.

Article VI. Unfit Structures

- Sec. 20-161. Findings.
- Sec. 20-162. Abatement.
- Sec. 20-163. Powers cumulative.

ARTICLE I. IN GENERAL

Sec. 20-1. Definitions.

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

Abandoned motor vehicle means a motor vehicle or trailer which:

- (1) Has been left by the owner or some person acting for the owner with an automobile dealer, repairperson or wrecker service for repair or for some other reason and has not been called for by such owner or other person within a period of 30 days after the time agreed upon; or within 30 days after such vehicle is turned over to such dealer, repairperson or wrecker service when no time is agreed upon; or within 30 days after the completion of necessary repairs;
- (2) Is left unattended on a public street, road, highway or other public property for a period of at least five days, and it reasonably appears to a law enforcement officer that the individual who left such motor vehicle unattended does not intend to return and remove such motor vehicle;
- (3) Has been lawfully towed onto the property of another at the request of a law enforcement officer and left there for a period of not less than 30 days without anyone having made claim thereto;
- (4) Has been lawfully towed onto the property of another at the request of a property owner on whose property the vehicle was abandoned and left there for a period of not less than 30 days without the owner having made claim thereto; or
- (5) Has been left unattended on private property for a period of not less than 30 days without anyone having made claim thereto.

Motor vehicle or *vehicle* means a motor vehicle or trailer.

Nuisance means anything within the City that causes hurt, inconvenience or damage to another, and the fact that the act done may otherwise be lawful shall not keep it from being a nuisance. The inconvenience complained of shall not be fanciful or such as would affect only one of fastidious taste, but it shall be such as would affect an ordinary, reasonable person. Any such nuisance may be abated as provided in this chapter.

Owner means the owner, lessor, lessee, security interest holders and all lienholders as shown on the records of the State Department of Revenue.

(Code 2006, § 42-1)

State law reference—Similar provisions, O.C.G.A. § 41-1-1.

Sec. 20-2. General, specific nuisances.

(a) *General prohibition.* The various nuisances described and enumerated in this section shall not be deemed to be exclusive but shall be in addition to all other nuisances described and prohibited in this Code.

- (b) *Conditions, acts declared nuisances.* The following are declared to be nuisances:
- (1) *Things interfering with peace or comfort.* Sounds, animals or other things that interfere with the peace or comfort or disturb the quiet of the community.
 - (2) *Obnoxious, offensive odors.* The emission of obnoxious and offensive odors, the tainting of the air rendering it offensive or unwholesome so as to affect the health or comfort of reasonable persons residing in the neighborhood thereof.
 - (3) *Discharging of offensive matter.* The placing, throwing or discharging from any house or premises and flow from or out of any house or premises, of any filthy, foul or offensive matter or liquid of any kind, into any street, alley or public place or upon any adjacent lot or ground.
 - (4) *Water pollution.* The obstruction or pollution of any watercourse or source of water supply in the City.
 - (5) *Emission of dense smoke.* Any emission of dense smoke from any fire, chimney, engine, oil burner or other agency in the City so as to cause disturbance or discomfort to the public. For the purpose of testing and grading the density of smoke, the Ringelmann Smoke Chart as published and used by the United States Geological Survey shall be the standard for such grading, and smoke shall be defined and declared to be dense when it is of a degree of density of number three on the chart, or greater, for more than six minutes in any one hour, whether such period of time is consecutive or not.
 - (6) *Debris on vacant lots.* Any vacant lot whereon debris is permitted to accumulate and remain in such a manner as to create a fire hazard or other hazard to the public health, safety and welfare.
 - (7) *Nonconforming structures, machines, etc.* Any building, business, thing, machine or machinery erected, repaired, conducted, maintained, operated or used contrary to or in violation of any of the fire and safety regulations of this Code, State law or City ordinance.
 - (8) *Unsanitary animal enclosures.* Any enclosure in which any animals are kept, dog kennels or runs and other animal or fowl pens wherein manure, dung, filth or litter is allowed to accumulate.
 - (9) *Dead animals.* The carcass of any dead animal of any kind on any premises within the City.
 - (10) *Depositing trash, garbage, refuse, etc., on private or public property.* The depositing and leaving on private or public property of trash, garbage, refuse, scrap building materials, paper, cardboard containers, brick, cement, rubbish, tree residue, cans, containers, or any other rubbish or trash that is a menace to public health and safety in the City or which reasonably annoys others.
 - (11) *Unoccupied buildings.* Unoccupied buildings that are not properly whitewashed or cleansed or abandoned, deteriorating, decayed, dilapidated or defaced buildings, fences, walls, or building materials.
 - (12) *Unsafe vehicles, machinery, etc.* Except as otherwise allowed, unsheltered storage of old, unused, stripped, junked and other automobiles not in good and safe operating condition, and of any other vehicles, machinery, implements and/or equipment and personal property of any kind that is no longer safely usable for the purposes for which it was manufactured, for a period of 30 days or more. The absence of a license plate for the current year and/or the absence of a current motor vehicle registration shall be prima facie evidence that such vehicle is junked.

- (13) *Gutters or spouts.* Any gutter or spout that conveys filth into any street, lane or alley of the City.
 - (14) *Hazardous trees, tree stumps.* Dead, dying, damaged, or diseased trees shall not be allowed to exist or to be maintained on any premises which are hazardous to persons on adjacent property or to adjacent property. A finding by a registered forester or certified arborist shall constitute prima facie evidence that a tree is in danger of falling upon adjacent lots or public streets due to the death or impending death of the tree, or due to damage by weather conditions or due to disease infestation. Tree stumps greater than 12 inches in height above ground level shall not be permitted or maintained on any premises for more than 30 days after the tree has been cut. This subsection shall not apply, however, to property:
 - a. Covered by a valid land disturbing permit;
 - b. One acre or greater in size;
 - c. Zoned A (agriculture).
 - (15) *Obstruction of public ways.* Obstruction of a public street, highway or sidewalk without a permit.
 - (16) *Plants obstructing vision.* Any trees, shrubbery or other plants or parts thereof which obstruct clear, safe vision on roadways and intersections of the City.
 - (17) *As defined by State law.* Any other condition constituting a nuisance under State law.
 - (18) *As determined by Court.* Any condition found by the judge of the Municipal Court, after an evidentiary hearing, to be detrimental to or endanger the health, welfare or good order of the City and declared by the judge therefor to be a nuisance.
- (Code 2006, § 42-2)

Sec. 20-3. Unlawful to maintain nuisance on property.

It shall be unlawful for any person to maintain or permit the existence of any nuisance on any property within the City.
 (Code 2006, § 42-3)

Sec. 20-4. Complaint.

Any City official or City employee or at least five inhabitants of the City may file a verified complaint of nuisance with the Police Department. The Police Department shall investigate and if warranted provide notice to the owners of and any parties in interest in such building, structure or property to abate such nuisance within ten days.
 (Code 2006, § 42-4)

Sec. 20-5. Issuance of summons for abatement.

Whenever an officer determines after investigation that a nuisance exists within the City; or any condition shall exist on any property within the City that is required or subject to be demolished, removed or abated under any of the ordinances of the City; and the owner or other person responsible for such nuisance refuses or fails after the notice to demolish, remove or abate such nuisance, the Chief

of Police, or the officer having responsibility for the enforcement of abating such nuisance, may issue a summons and cause the summons to be served upon such owner or other person responsible for such condition, describing the condition complained of and specifying the ordinances or parts thereof claimed to be violated, and requiring such person to appear before the municipal judge at a time, date and place specified in the summons, to show cause why such condition should not be demolished, removed or abated.

(Code 2006, § 42-5)

Sec. 20-6. Order for abatement.

(a) If the municipal judge at the required hearing shall determine that a condition does exist as alleged that constitutes a nuisance or a condition which under this Code or the ordinances of the City is required or subject to be demolished, removed or abated, the judge shall issue the judge's order and judgment so finding and shall order the property owner or other person responsible for such nuisance to demolish, remove or abate the condition within a period of time to be fixed by the judge. The order shall provide how the condition is to be abated, including, but not limited to, rehabilitation or demolition of any buildings or structures located on the property in question. The order shall further provide that if the property owner or other person responsible for such nuisance shall fail to comply with the order within the time specified, the City shall be authorized to proceed without further notice to demolish, remove or abate such condition and to take whatever action is deemed necessary to demolish, remove or abate such condition, and the expense thereof shall be charged against the owner of the property in question and shall be a lien against the property upon which the condition existed, ranking equally with the lien for City taxes.

(b) Execution shall issue for such costs as in the case of City taxes, and the procedure for the enforcement of the execution shall be the same as in the case of City taxes.

(Code 2006, § 42-6)

State law reference—Authorization and procedure for abatement of nuisances in cities, O.C.G.A. § 41-2-5.

Sec. 20-7. Special provisions for old, unused, stripped, junked automobiles.

(a) Unsheltered storage of old, unused, stripped, junked and other automobiles not in good and safe operating condition, and of any other vehicles, machinery, implements and/or equipment and personal property of any kind that is no longer safely usable for the purposes for which it was manufactured, for a period of 30 days or more, except as otherwise provided, within the corporate limits of the City is a nuisance.

(b) The owner, tenant, lessee and/or occupant of any lot within the corporate limits of the City upon which the storage of property is made, and also the owner and/or lessee of the property involved in such storage shall jointly and severally abate the nuisance by the prompt removal of the property into completely enclosed buildings authorized to be used for such storage purposes, if within the corporate limits of the City, or otherwise by removing it to a location without the corporate limits.

(Code 2006, § 42-7)

Sec. 20-8. Nuisances constituting imminent danger.

Whenever any condition shall exist which constitutes an immediate and grave hazard to public health and safety requiring immediate action, the condition may be abated or otherwise remedied summarily and without following the procedures set forth in this chapter.

(Code 2006, § 42-8)

Sec. 20-9. Other powers preserved.

Nothing in this chapter shall in any way affect the power and authority of the municipal judge to punish for any violations which the conditions may constitute, nor shall it affect the power and authority of the judge to punish by contempt the failure to comply with the judge's order.

(Code 2006, § 42-9)

Sec. 20-10. Owner and tenant responsibility for cleanliness of property.

(a) It shall be the lawful duty of the owner or operator and the occupant or tenant of any premises, within their respective areas of responsibility as specified herein below, to keep interiors and exteriors, including premises, yards, lawns, courts and alleys, clean, clear and free of any public or attractive nuisance, accumulation of dirt, junk, junk vehicles, rubbish, garbage, debris, combustible materials and to ensure all vehicles are parked on all-weather surfaces at all times. Interiors and exteriors shall also be kept clean, clear and free of any conditions conducive to the spread of fire or disease. The exterior of the premises and the condition of necessary structures shall be maintained so as not to constitute a nuisance to neighboring or adjoining property owners. Responsibility for cleaning the interior of dwelling units shall include keeping the walls, floors and ceilings sanitary and free from accumulation of dirt or trash, and, where appropriate, may require a coating on interior surfaces to make them resistant to vermin and insect infestation.

- (1) Weeds/grass in lawn areas not to reach a height of 12 or more inches.
- (2) No excessive growth of shrubs, brush, vines, thickets or similar matter conducive to fire or safety hazards permitted on any area of the property.
- (3) Vegetation not to encroach onto adjacent property. Vegetation on the premises, to include any adjacent sidewalk planting strips, not to encroach onto the right-of-way.
- (4) Vegetation on unimproved lots not to encroach into the right-of-way or onto adjacent improved or greenspace property, or create a safety or fire hazard.
- (5) Nuisance plants are restricted.
- (6) Remove all brush, vines and other vegetation around buildings likely to hamper or obstruct the passage of fire or other emergency personnel.
- (7) Remove all dead shrubs, dead trees, branches, and stumps with the exception of such tree parts being maintained as part of a naturalscape area of a yard, which are not to create a safety or fire hazard.

(b) It shall be the specific responsibility of the owner or operator:

- (1) To comply with this Code;

- (2) To maintain cleanliness of vacant dwellings. Every owner or operator of a vacant dwelling shall be responsible for maintenance of the interior, exterior and premises in a clean sanitary condition and secured against unauthorized entry;
- (3) To provide for the extermination of insects, rodents and other pests. Every owner or operator of a dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the property, provided that every occupant or tenant shall be required to eliminate or minimize the presence of pests by performing the duties under Subsection (c) of this section.

(c) Responsibility of tenant.

- (1) It shall be the specific responsibility of the tenant for:
 - a. The maintenance of the unit which the tenant occupies. Every tenant of a dwelling unit shall keep in a sanitary condition and upon departure shall leave, in a clean and sanitary condition, that part of the dwelling unit and property thereof which the tenant used or possessed;
 - b. The maintenance of plumbing fixtures and other fixtures. Every tenant of a dwelling unit shall be responsible for exercising reasonable care in the use of plumbing and other fixtures in the dwelling unit and its premises;
 - c. The maintenance of the dwelling unit. Every tenant of a dwelling unit shall be responsible for exercising reasonable care in the use of the dwelling and its premises. The tenant shall not place on the premises, any material which may cause a fire hazard or otherwise endanger the health or safety of any tenant of such dwelling, nor place in storage on the premises any furniture, equipment, or material which harbors insects, rodents, or other pests;
 - d. The maintenance of batteries, where utilized, in smoke detectors;
 - e. The providing of access at reasonable hours to dwelling units for owners or operators to provide routine maintenance and extermination of insects or rodents;
 - f. The disposal of the tenant's garbage or rubbish in a sanitary manner;
- (2) Every tenant of a single-family dwelling shall be responsible for the extermination of any insects, rodents or other pests;
- (3) Every tenant of a dwelling or dwelling unit causing damage to said premises so that it does not comply with the requirements of this Code shall be subject to the penalties hereof and shall be responsible for all damage to the real property within an occupant's or tenant's possession or control. If an inspection of a dwelling or dwelling unit prior to or subsequent to the leasing thereof indicates that it complies with all codes, ordinances and statutes relating thereto, the tenant in possession at the time of said inspection or, if there is no tenant in possession at said time, then the next tenant, shall be presumed to have caused said damage or code violation as the case may be.

(d) It shall be unlawful for the owner, occupant, tenant or operator of any lot, tract, parcel of land or premises in the City to have, permit or allow any junk vehicle to be parked, let or maintained thereon; and it shall be unlawful for any person to cause, have, let, maintain or place such a junk vehicle on the real property of another. Except that it shall not be unlawful to maintain, in an otherwise lawful manner:

- (1) Any vehicle in an enclosed building;
- (2) Any vehicle on the premises of a business enterprise operated in a lawful manner, when necessary to the operation of such business enterprise; or
- (3) Any vehicle on property occupied and used for repair, reconditioning and remodeling of motor vehicles in conformance with the Unified Development Code of the City.

(e) Outside storage restrictions. All items utilized in connection with a permitted use of the property, but which are stored outside, shall be placed in the rear yard of the primary structure and shall not be visible on the premises from a front view. There shall be no excessive accumulation.

(f) The provisions of this section are cumulative of other requirements and prohibitions.

(g) Violations of this section shall be punished as provided in this Code. Nothing herein shall limit the City's authority to otherwise enforce the provisions of this section or any other provision of this chapter. (Ord. No. 190416-1, exh. A(42-10), 4-16-2019)

Secs. 20-11—20-38. Reserved.

ARTICLE II. DANGEROUS BUILDINGS*

Sec. 20-39. 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:

Applicable codes means:

- (1) Any housing or abatement standard provided in O.C.G.A. Title 8, Ch. 2 (O.C.G.A. § 8-2-1 et seq.) or other property maintenance standards as adopted by ordinance or operation of law, or general nuisance law, relative to the safe use of real property;
- (2) Any fire or life safety code as provided for in O.C.G.A. Title 8, Ch. 2 (O.C.G.A. § 8-2-1 et seq.) or the minimum standard codes provided in O.C.G.A. Title 8, ch. 2 (O.C.G.A. § 8-2-1 et seq.), provided that such building or minimum standard codes for real property improvements shall be deemed to mean those building or minimum standard codes in existence at the time such real property improvements were constructed unless otherwise provided by law.

Closing means causing a dwelling, building, or structure to be vacated and secured against unauthorized entry.

*State law reference—Dangerous buildings, O.C.G.A. § 41-2-7 et seq.

Drug crime means an act which is a violation of the Georgia Controlled Substances Act (O.C.G.A. § 16-13-20 et seq.).

Dwelling, building, or structure means any building or structure or part thereof used and occupied for human habitation or commercial, industrial, or business uses, or intended to be so used, and includes any outhouses, improvements, and appurtenances belonging thereto or usually enjoyed therewith and also includes any building or structure of any design. The term "dwelling, building, or structure" does not mean or include any farm, any building or structure located on a farm, or any agricultural facility or other building or structure used for the production, growing, raising, harvesting, storage, or processing of crops, livestock, poultry, or other farm products.

Interested parties means:

- (1) The Owner;
- (2) Those parties having an interest in the property as revealed by a certification of title to the property conducted in accordance with the title standards of the State Bar of Georgia;
- (3) Those parties having filed a notice in accordance with O.C.G.A. § 48-3-9;
- (4) Any other party having an interest in the property whose identity and address are reasonably ascertainable from the records of the petitioner or records maintained in the County courthouse or by the Clerk of the court. The term "interested parties" shall not include the holder of the benefit or burden of any easement or right-of-way whose interest is properly recorded which interest shall remain unaffected; and
- (5) Persons in possession of said property and premises.

Owner means the holder of the title in fee simple and every mortgagee of record.

Public authority means any member of a City Council, any housing authority officer, or any officer who is in charge of any department or branch of the government of the City relating to health, fire, or building regulations or to other activities concerning dwellings, buildings, or structures in the City.

Repair means altering or improving a dwelling, building, or structure so as to bring the structure into compliance with the applicable codes in the City and the cleaning or removal of debris, trash, and other materials present and accumulated which create a health or safety hazard in or about any dwelling, building, or structure.

Resident means any person residing in the City where the property is located on or after the date on which the alleged nuisance arose.

(Code 2006, § 42-133)

State law reference—Similar provisions, O.C.G.A. § 41-2-8.

Sec. 20-40. Findings.

(a) There exist in the City dwellings, buildings, or structures which are unfit for human habitation or for commercial, industrial, or business uses due to dilapidation and not in compliance with applicable codes; which have defects increasing the hazards of fire, accidents, or other calamities; which lack adequate ventilation, light, or sanitary facilities; or where other conditions exist rendering such dwell-

ings, buildings, or structures unsafe or unsanitary, or dangerous or detrimental to the health, safety, or welfare, or otherwise inimical to the welfare of the residents of the County or City, or vacant, dilapidated dwellings, buildings, or structures in which drug crimes are being committed.

(b) All the provisions of this article apply to private property where there exists an endangerment to the public health or safety as a result of unsanitary or unsafe conditions to those persons residing or working in the vicinity. A finding by any governmental health department, health officer, or Building Inspector that such property is a health or safety hazard shall constitute prima facie evidence that said property is in violation of this article.

(Code 2006, § 42-134)

State law reference—Similar provisions, O.C.G.A. § 41-2-7.

Sec. 20-41. Determination of status by Code Enforcement Officer.

(a) The Code Enforcement Officer may determine, under existing ordinances, that a dwelling, building, or structure is unfit for human habitation or is unfit for its current commercial, industrial, or business use if the officer finds that conditions exist in such building, dwelling, or structure which are dangerous or injurious to the health, safety, or morals of the occupants of such dwelling, building, or structure; of the occupants of neighborhood dwellings, buildings, or structures; or of other residents of the City. Such conditions may include the following (without limiting the generality of the foregoing):

- (1) Defects therein increasing the hazards of fire, accidents, or other calamities;
- (2) Lack of adequate ventilation, light, or sanitary facilities;
- (3) Dilapidation;
- (4) Disrepair;
- (5) Structural defects; and
- (6) Uncleanliness.

(b) The Code Enforcement Officer may determine, under existing ordinances, that a dwelling, building, or structure is vacant, dilapidated, and being used in connection with the commission of drug crimes upon personal observation or report of a law enforcement agency and evidence of drug crimes being committed.

(Code 2006, § 42-135)

State law reference—Similar provisions, O.C.G.A. § 41-2-10.

Sec. 20-42. Additional powers of Code Enforcement Officer.

The Code Enforcement Officer has the authority to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this article, including the following powers to:

- (1) Investigate the dwelling conditions in the City in order to determine which dwellings, buildings, or structures therein are unfit for human habitation or are unfit for current commercial, industrial, or business use or are vacant, dilapidated, and being used in connection with the commission of drug crimes;

- (2) Administer oaths and affirmations, to examine witnesses, and to receive evidence;
- (3) Enter upon premises for the purpose of making examinations; provided, however, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- (4) Appoint and fix the duties of such officers, agents, and employees as the officer deems necessary to carry out the purposes of this article; and
- (5) Delegate any of the Officer's functions and powers under the ordinance to such officers and agents as the Officer may designate.

(Code 2006, § 42-136)

State law reference—Similar provisions, O.C.G.A. § 41-2-11.

Sec. 20-43. Prohibition.

It is the duty of the owner of every dwelling, building, structure, or property within the City to construct and maintain such dwelling, building, structure, or property in conformance with applicable codes in force within the City, or such ordinances which regulate and prohibit activities on property and which declare it to be a public nuisance to construct or maintain any dwelling, building, structure, or property in violation of such codes or ordinances.

(Code 2006, § 42-137)

State law reference—Similar provisions, O.C.G.A. § 41-2-9(a)(1).

Sec. 20-44. Abatement procedure.

(a) Whenever a request is filed with the Code Enforcement Officer by a public authority or by at least five residents of the City charging that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the Code Enforcement Officer shall make an investigation or inspection of the specific dwelling, building, structure, or property.

(b) If the Code Enforcement Officer's investigation or inspection identifies that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the Code Enforcement Officer may issue a complaint in rem against the lot, tract, or parcel of real property on which such dwelling, building, or structure is situated or where such public health hazard or general nuisance exists and shall cause summons and a copy of the complaint to be served on the interested parties for such dwelling, building, or structure. The complaint shall identify the subject real property by appropriate street address and official tax map reference; identify the interested parties; state with particularity the factual basis for the action; and contain a statement of the action sought by the Code Enforcement Officer to abate the alleged nuisance.

(c) The summons shall notify the interested parties that a hearing will be held before the Municipal Court at a date and time certain. Such hearing shall be held not less than 15 days nor more than 45 days after the filing of said complaint in the Court. The interested parties shall have the right to file an answer to the complaint and to appear in person or by attorney and offer testimony at the time and place fixed for hearing.

(d) If, after such notice and hearing, the Court determines that the dwelling, building, or structure in question is unfit for human habitation or is unfit for its current commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the Court shall state in writing findings of fact in support of such determination and shall issue and cause to be served upon the interested parties that have answered the complaint or appeared at the hearing an order:

- (1) If the repair, alteration, or improvement of the said dwelling, building, or structure can be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to repair, alter, or improve such dwelling, building, or structure so as to bring it into full compliance with the applicable codes relevant to the cited violation and, if applicable, to secure the structure so that it cannot be used in connection with the commission of drug crimes; or
- (2) If the repair, alteration, or improvement of the said dwelling, building, or structure in order to bring it into full compliance with applicable codes relevant to the cited violations cannot be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to demolish and remove such dwelling, building, or structure and all debris from the property.

(e) For purposes of this section, the Court shall make its determination of reasonable cost in relation to the present value of the dwelling, building, or structure without consideration of the value of the land on which the structure is situated; provided, however, that the costs of the preparation necessary to repair, alter, or improve a structure may be considered. Income and financial status of the owner shall not be a factor in the Court's determination. The present value of the structure and the costs of repair, alteration, or improvement may be established by affidavits of real estate appraisers with a State appraiser classification as provided in O.C.G.A. Title 43, Ch. 39A (O.C.G.A. § 43-39A-1 et seq.), qualified building contractors, or qualified Building Inspectors without actual testimony presented. Costs of repair, alteration, or improvement of the structure shall be the cost necessary to bring the structure into compliance with the applicable codes relevant to the cited violations in force in the City.

(f) If the owner fails to comply with an order to repair or demolish the dwelling, building, or structure, the Code Enforcement Officer may cause such dwelling, building, or structure to be repaired, altered, or improved or to be vacated and closed or demolished. Such abatement action shall commence within 270 days after the expiration of time specified in the order for abatement by the owner. Any time during which such action is prohibited by a court order issued pursuant to O.C.G.A. § 41-2-13 or any other equitable relief granted by a court of competent jurisdiction shall not be counted toward the 270

days in which such abatement action must commence. The Code Enforcement Officer shall cause to be posted on the main entrance of the building, dwelling, or structure a placard with the following words:

"This building is unfit for human habitation or commercial, industrial, or business use and does not comply with the applicable codes, has been ordered secured to prevent its use in connection with drug crimes, or constitutes an endangerment to public health or safety as a result of unsanitary or unsafe conditions. The use or occupation of this building is prohibited and unlawful."

(g) If the Code Enforcement Officer has the structure demolished, reasonable effort shall be made to salvage reusable materials for credit against the cost of demolition. The proceeds of any monies received from the sale of salvaged materials shall be used or applied against the cost of the demolition and removal of the structure, and proper records shall be kept showing application of sales proceeds. Any such sale of salvaged materials may be made without the necessity of public advertisement and bid.

(h) The amount of the cost of demolition, including all court costs, appraisal fees, administrative costs incurred by and all other costs necessarily associated with the abatement action, including restoration to grade of the real property after demolition, shall be a lien against the real property upon which such cost was incurred.

(Code 2006, § 42-138)

State law reference—Similar provisions, O.C.G.A. § 41-2-9(a)(2)—(7).

Secs. 20-45—20-61. Reserved.

ARTICLE III. JUNK MOTOR VEHICLES

Sec. 20-62. 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:

Disposal contractor means the person contracted with by the City to remove and dispose of junk motor vehicles and parts, as required by the City.

Junk motor vehicle means any motor vehicle discarded, dismantled, wrecked, scrapped or ruined on public or private property.

Legal junkyard means a junkyard which complies with the laws of the State relating to the licensing and regulating of motor vehicle junkyards and dealers under O.C.G.A. §§ 32-6-240 through 32-6-248 and 43-48-9.

Notice, whenever required, means a written direction to the owner of the junk motor vehicle or part, if known, informing the owner that the junk motor vehicle or part has been found to be in such a condition that it constitutes a health hazard or unsightly nuisance, and giving the owner ten days to dispose of or remove the vehicle or part so as to terminate the condition complained of.

(Code 2006, § 42-100; Ord. No. 05719-5, exh. A(2-11-20), 7-19-2005)

State law reference—Definition of abandoned motor vehicle, O.C.G.A. § 40-11-1.

Sec. 20-63. Junk motor vehicles or parts prohibited.

Any discarded, dismantled, wrecked, scrapped, ruined or junked motor vehicle, or part thereof, which is in such a condition that it constitutes a health hazard or an unsightly nuisance, within the limits of the City, shall be removed and disposed of, upon notice to the owner of the same, if the owner is known, and without notice, if the owner is unknown or cannot be found, after reasonable and diligent effort.

(Code 2006, § 42-101; Ord. No. 05719-5, exh. A(2-11-21), 7-19-2005)

State law references—Effort required in identifying owner, O.C.G.A. § 40-11-9; authority, O.C.G.A. § 36-60-4.

Sec. 20-64. Enforcement.

The Sheriff of the County and/or Chief of Police of the City shall be the enforcing officers of this article, and it shall be their duty to discover junk motor vehicles and parts, which constitute a health hazard and a public nuisance, and to report the same to the Code Enforcement Officer of the City, and to the proper official of the County Health Department where a health hazard is involved.

(Code 2006, § 42-102; Ord. No. 05719-5, exh. A(2-11-22), 7-19-2005)

Sec. 20-65. Health hazard.

Any junk motor vehicle or parts which shall become a breeding place for vermin, flies, or mosquitoes, or become hazardous to children, other persons or property, whether on private or public property, shall be deemed to be a hazard to health.

(Code 2006, § 42-103; Ord. No. 05719-5, exh. A(2-11-23), 7-19-2005)

Sec. 20-66. Nuisance.

Any junk motor vehicle or parts which are unsightly or offensive to the sight, smell or taste of citizens in the community shall be deemed to be an unsightly nuisance, so as to come within the meaning of this article.

(Code 2006, § 42-104; Ord. No. 05719-5, exh. A(2-11-24), 7-19-2005)

Sec. 20-67. Notice; voluntary disposal.

Upon determination by either the Sheriff or Chief of Police that either a health hazard or a nuisance exists, as to junk motor vehicles or parts, the owner, if known, of the junk motor vehicle or part shall be notified by either certified mail or personal delivery of a notice in writing to such owner stating the particular violation charged hereunder, and shall be given ten days to remove or dispose of the junk motor vehicle or part. In the event the owner of the junk motor vehicle or part or any real property owner shall request the Police Chief or Sheriff to dispose of a junk motor vehicle or part, the vehicle or part shall be disposed of in accordance with the procedures developed by the City hereunder to dispose of junk motor vehicles or parts.

(Code 2006, § 42-105; Ord. No. 05719-5, exh. A(2-11-25), 7-19-2005)

State law reference—Authority to remove, O.C.G.A. § 40-11-11 et seq.

Sec. 20-68. Disposal, general; fee; collection.

(a) In the event, after diligent effort, that no owner of the junk motor vehicle or part is to be found and there is no identification on the junk motor vehicle or part by which the owner may be traced, whether the same be on public or private property, the Sheriff or Police Chief may order the same removed and disposed of under the procedures developed for the disposal of junk motor vehicles and parts hereunder.

(b) Any owner notified, who does not dispose of or make arrangements to dispose of the junk motor vehicle or part within the ten days provided, shall be assessed a penalty of \$1.00 a day, for each day the junk motor vehicle or part remains upon such person's property, while such person refuses to dispose of the same.

(c) Any owner notified herein, who refuses to make arrangements to dispose of the junk motor vehicle or part shall, in addition to the penalty provided above, pay the costs of the removal and disposal of the vehicle or part, and upon refusal to do so, the Mayor and City Council may order a fi. fa. issued against the owner for the cost of same, to be collected as provided by law.

(Code 2006, § 42-106; Ord. No. 05719-5, exh. A(2-11-26), 7-19-2005)

Sec. 20-69. Sale; proceeds.

The City shall enter into such contracts as may be deemed reasonable and necessary to provide for the removal and disposal of junk motor vehicles and parts, and any fees derived from the sale of junk motor vehicles and parts shall be used to help defray the cost of carrying out the terms and provisions of this article.

(Code 2006, § 42-107; Ord. No. 05719-5, exh. A(2-11-27), 7-19-2005)

State law reference—Lien foreclosure procedure, O.C.G.A. § 40-11-19.1.

Sec. 20-70. Exception.

Nothing contained within this article shall be deemed to apply to any motor vehicle which shall be located within the premises of any junkyard complying with the laws of the State relating to the licensing and regulation of motor vehicle junkyards.

(Code 2006, § 42-108; Ord. No. 05719-5, exh. A(2-11-28), 7-19-2005)

Sec. 20-71. Enforcement.

(a) Upon information made known to the Sheriff of the County, and/or Chief of Police of the City, or to any officer of the Sheriff's Department or the City Police Department, or the City Attorney, that any person is in violation of this article, the one gaining the information shall cause a citation to be issued requiring such person to appear before the judge of the Magistrate Court on a day and time certain, then and there to stand trial for violation of this article.

(b) Citations issued hereunder shall be pursuant to O.C.G.A. § 15-10-63 and shall be personally served upon the person accused. Each citation shall state the time and place at which the accused is to appear for trial.

(Code 2006, § 42-109; Ord. No. 05719-5, exh. A(2-11-29), 7-19-2005)

Secs. 20-72—20-100. Reserved.

ARTICLE IV. MOSQUITO CONTROL**Sec. 20-101. Violation declared nuisance.**

A violation of any provision of this article is a nuisance.
(Code 2006, § 42-73)

Sec. 20-102. Keeping water in which mosquitoes may breed.

(a) It shall be unlawful to have, keep, maintain, cause or permit within the City any collection of standing or flowing water in which mosquitoes breed or are likely to breed, unless such collection of water is so treated as to effectively prevent such breeding.

(b) The collections of water prohibited by Subsection (a) of this section shall be those contained in ditches, pools, ponds, excavations, holes, depressions, open cesspools, privy vaults, fountains, cisterns, tanks, shallow wells, barrels, troughs (except horse troughs in frequent use), urns, cans, boxes, bottles, tubs, buckets, defective house roof gutters, tanks of flush closets or other similar water containers.
(Code 2006, § 42-74)

Sec. 20-103. Treatment of collections of water.

The method of treatment of any collections of water that are specified in Section 20-102 directed toward the prevention of breeding of mosquitoes shall be approved by the Health Officer and may be one or more of the following:

- (1) Screening with wire netting of at least 16 meshes to the inch each way, or with any other material that will effectively prevent the ingress or egress of mosquitoes.
- (2) Complete emptying every seven days of unscreened containers followed by thorough drying and cleaning of such containers.
- (3) Using a larvicide approved and applied under the direction of the Health Officer.
- (4) Covering completely the surface of the water with kerosene, petroleum or paraffin oil once every seven days.
- (5) Cleaning and keeping sufficiently free of vegetable growth and other obstructions, and stocking with mosquito-destroying fish.
- (6) Filling and draining to the satisfaction of the officer authorized to enforce this article, the officer's agent or accredited representative.
- (7) Proper disposal by removal or destruction of tin cans, tin boxes, broken or empty bottles and similar articles likely to hold water.

(Code 2006, § 42-75)

Sec. 20-104. Mosquito larvae as evidence of breeding.

The natural presence of mosquito larvae in standing or running water shall be evidence that mosquitoes are breeding there, and failure to prevent such breeding within three days after notice by the officer authorized to enforce this article, the officer's authorized agent or representative, shall be deemed a violation of this article.

(Code 2006, § 42-76)

Sec. 20-105. Failure to remedy conditions after notice.

Should the person responsible for conditions giving rise to the breeding of mosquitoes fail or refuse to take necessary measures to prevent such breeding, within three days after due notice has been given to said person, the officer authorized to enforce this article, or the officer's authorized agent may do so, and all necessary costs incurred by the officer for this purpose shall be a charge against the property owner or other offending person, as the case may be.

(Code 2006, § 42-77)

Sec. 20-106. Right of entry of officer.

For the purpose of enforcing the provisions of this article, the officer authorized to enforce this article, or the officer's duly accredited agent under the officer's authority, may at all reasonable times lawfully enter in and upon any premises within the officer's jurisdiction.

(Code 2006, § 42-78)

Secs. 20-107—20-125. Reserved.

ARTICLE V. VEGETATION

Sec. 20-126. Certain weeds, grasses and plants declared a nuisance; exemptions.

(a) Any weeds such as jimson, burdock, ragweed, thistle, cocklebur or other weeds of a like kind found growing on any lot or tract of land in the City, and any weeds, grasses or plants other than trees, bushes, flowers or other ornamental plants, growing to a height exceeding 12 inches anywhere in the City are declared to be a nuisance and are subject to abatement as provided in this article.

(b) Garden flowers, vegetables, cultivated agricultural crops, ornamental shrubbery and trees shall not be considered weeds, grass or vegetation within the meaning of this article.

(c) The provisions of this article shall apply only to property located within subdivisions of record in the office of the Clerk of the Superior Court of the County and to the original City lots. They shall not apply to undeveloped areas of unsubdivided land within the City.

(Code 2006, § 42-37)

Sec. 20-127. Height permitted.

It shall be unlawful for the owner, lessee, tenant or other person having the possession and control of real property, or responsible for its management, maintenance or upkeep, to permit the growth and accumulation of weeds, grass or other vegetation to a height in excess of 12 inches above the ground. (Code 2006, § 42-38)

Sec. 20-128. Notice to abate.

(a) For a violation of this article, the owner of the property shall be given notice to remove such excess growth within seven days from the receipt of the notice. Such notice may be served personally, by registered or certified mail, or by attaching a copy of the notice to the principal entrance of the dwelling and shall contain a description of the location of the property upon which such condition exists.

(b) Where notice is given by registered or certified mail, the depositing of such notice in the U.S. mail by registered or certified mail, return receipt requested, addressed to the owner of the property at the address shown on the latest ad valorem tax return of such owner for such property shall constitute sufficient service of such notice, where the return receipt shall be duly returned signed by the addressee or someone residing on the premises, or where the return receipt or other notification from the federal postal service indicates that the notice was refused, or that there was a refusal to sign the return receipt or that delivery of the notice at such address could not be made. (Code 2006, § 42-39)

Sec. 20-129. Abatement of City; notice of abatement.

(a) Upon the failure of the owner of the property to comply within the required time when properly notified pursuant to the provisions of Section 20-128, the City is authorized to have the contractor enter upon the property, and the contractor is authorized to enter such property and to cut and remove the weeds, grass and vegetation. The City shall issue a lot cleaning order to the contractor, who shall promptly perform the work and submit the contractor's bill to the City. The City shall inspect the work and, if the work is satisfactory, shall approve the bill for payment and forward it to the City Treasurer for payment.

(b) The City Treasurer shall promptly send to the owner of the property a statement of account demanding payment thereof on or before a date named in such demand, which shall not be earlier than 15 days nor later than 45 days after payment to the contractor.

(c) If payment under Subsection (b) of this section shall not have been made on or before the date named, the City Treasurer shall issue a notice directed to the owner of the property and signed by the municipal judge, notifying such owner to show cause before the judge, at a time, place and on a date named in such notice, why execution should not issue against the property for its approved amount.

(d) If it shall appear at such hearing that the property was in violation of this article, the notice required in Section 20-128 was given, the work was performed and the cost thereof paid by the City and the City has not been reimbursed, execution shall issue for such amount, signed by the City Treasurer, and shall be executed by the Chief of Police in the same manner as tax executions are executed.

(e) If the owner of the property is unknown, or cannot be located, the provisions of Subsections (b) and (c) of this section shall not apply, but in lieu thereof a notice shall be published once a week for four weeks in a newspaper of general circulation in the City; be addressed "To Whom It May Concern"; describe with reasonable particularity the property involved as well as the amount due for the removal of the weeds, grass or other vegetation; and notify all persons interested to show cause before the municipal judge, at a time and place and on a date named in the notice, why execution should not issue in rem against the property for such amount. In such event, Subsection (a) of this section will apply, but the execution shall issue against the property in rem.

(Code 2006, § 42-40)

Sec. 20-130. Remedies.

The remedies provided in this article are cumulative of all other remedies the City has for the accomplishment of the objectives set forth in this article. Nothing in this article shall be construed as relieving any person from the obligation to comply with this Code, all ordinances, laws or regulations of the City or to permit the maintenance by any person of a nuisance, and any nuisance shall be subject to be abated in the manner provided by law.

(Code 2006, § 42-41)

Sec. 20-131. Award of contracts for clearing of lots by city.

Prior to the commencement of each fiscal year, the City may obtain bids from contractors or other qualified persons for clearing lots of weeds, grass and other vegetation not in excess of two inches in diameter, and for clearing lots of weeds, grass and other vegetation in excess of two inches but not in excess of four inches in diameter, and the Mayor and City Council shall award a contract to the lowest and best bidder and such contract shall remain in effect during the ensuing fiscal year.

(Code 2006, § 42-42)

Secs. 20-132—20-160. Reserved.

ARTICLE VI. UNFIT STRUCTURES

Sec. 20-161. Findings.

(a) It is found and declared that in the City there is or may be the existence or occupancy of dwellings or other buildings or structures which are unfit for human habitation or for commercial, industrial, or business occupancy or use and not in compliance with the applicable State minimum standard codes as adopted by ordinance or operation of law or any optional building, fire, life safety, or other codes relative to the safe use of real property and real property improvements adopted by ordinance in the City or operation of law; or general nuisance law, and which constitute a hazard to the health, safety, and welfare of the people of the City; and that a public necessity exists for the repair, closing, or demolition of such dwellings, buildings, or structures.

(b) It is found and declared that in the City there is or may be in existence a condition or use of real estate which renders adjacent real estate unsafe or inimical to safe human habitation, such use is dangerous and injurious to the health, safety and welfare of the people of the City and a public necessity exists for the repair of such condition or the cessation of such use which renders the adjacent real estate unsafe or inimical to safe human habitation.

(Ord. No. 110719-7, § 1(42-601), 7-19-2011)

Sec. 20-162. Abatement.

(a) Where it is determined by the City Planner that there exists in the City a dwelling or other building or structure which is unfit for human habitation or for commercial, industrial, or business uses due to dilapidation and not in compliance with applicable codes; which have defects increasing the hazards of fire, accident, or other calamities; which lack adequate ventilation, light or sanitary facilities; or where other conditions exist rendering such dwellings, building or structures unsafe or unsanitary or dangerous or detrimental to the health, safety or welfare or otherwise inimical to the welfare of the residents of the City, or vacant, dilapidated dwellings, buildings or structures in which drug crimes are being committed, the City Planner or the Planner's designee may exercise the power to repair, close or demolish the aforesaid dwellings, buildings or structures in the manner provided in O.C.G.A. §§ 41-2-8 through 41-2-17, which are incorporated by reference as if fully set forth herein.

(b) All the provisions of this article, including method and procedure, may also be applied to private property where there exists an endangerment to the public health or safety as a result of unsanitary or unsafe conditions to those persons residing or working in the vicinity. A finding by any governmental health department, health officer or Building Inspector that such property is a health or safety hazard shall constitute prima facie evidence that said property is in violation of this article.

(Ord. No. 110719-7, § 1(42-602), 7-19-2011)

Sec. 20-163. Powers cumulative.

The authority provided by this article shall be cumulative of any other authority or remedy provided by State or local law, regulation or ordinance.

(Ord. No. 110719-7, § 1(42-604), 7-19-2011)

Chapter 21

RESERVED

Chapter 22

OFFENSES AND MISCELLANEOUS PROVISIONS

Article I. In General

- Sec. 22-1. Penalties.
- Sec. 22-2. Littering.
- Sec. 22-3. Misdemeanors under State law.
- Secs. 22-4—22-24. Reserved.

Article II. Offenses Against the Person

- Sec. 22-25. Simple battery.
- Secs. 22-26—22-53. Reserved.

Article III. Offenses Against Property Rights

- Sec. 22-54. Destruction of property.
- Sec. 22-55. Theft of services.
- Secs. 22-56—22-83. Reserved.

Article IV. Offenses Against Public Safety

- Sec. 22-84. Reckless conduct.
- Sec. 22-85. Discharging firearms.
- Secs. 22-86—22-113. Reserved.

Article V. Offenses Involving Public Peace and Order

Division 1. Generally

- Sec. 22-114. Refusal to disperse.
- Sec. 22-115. Disorderly conduct.
- Sec. 22-116. Public drunk.
- Secs. 22-117—22-145. Reserved.

Division 2. Juvenile Curfew

- Sec. 22-146. Definitions.
- Sec. 22-147. Persons 16 years of age or younger.
- Sec. 22-148. Exceptions.
- Sec. 22-149. Violations and penalties.
- Sec. 22-150. Enforcement.
- Secs. 22-151—22-168. Reserved.

Division 3. Urban Camping and Improper Use of Public Places

- Sec. 22-169. Definitions.
- Sec. 22-170. Unlawful locations.

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- Sec. 22-171. Warning.
- Sec. 22-172. Exceptions.
- Sec. 22-173. Enforcement.
- Sec. 22-174. Penalty.
- Secs. 22-175—22-201. Reserved.

Division 4. Noise

- Sec. 22-202. General regulation.
- Sec. 22-203. Specific sounds, acts deemed loud and disturbing.
- Sec. 22-204. Exemptions.
- Secs. 22-205—22-231. Reserved.

Article VI. Offenses Against Public Morals

- Sec. 22-232. Possession of marijuana.
- Secs. 22-233—22-257. Reserved.

Article VII. Offenses Against Administration of Government

- Sec. 22-258. False fire alarm.
- Sec. 22-259. Obstruction of an officer.
- Sec. 22-260. Fleeing from an officer.

ARTICLE I. IN GENERAL**Sec. 22-1. Penalties.**

Violations of this chapter shall be punished according to Section 1-10.
(Ord. No. 101019-05, § 1(46-201), 10-19-2010)

Sec. 22-2. Littering.

A person who intentionally litters shall be guilty of a misdemeanor.
(Code 2006, § 46-1)

Sec. 22-3. Misdemeanors under State law.

Any act, the commission of which constitutes a misdemeanor under the laws of the State, is prohibited within the City, and if committed within the City, is hereby declared to be an offense under this Code; provided, however, that the penalty to be imposed therefor shall not exceed the maximum penalty prescribed in Section 1-10 for violations of this Code.
(Code 2006, § 46-2)

Secs. 22-4—22-24. Reserved.**ARTICLE II. OFFENSES AGAINST THE PERSON****Sec. 22-25. Simple battery.**

A person shall be guilty of simple battery, a misdemeanor, if they either:

- (1) Intentionally make physical contact of an insulting or provoking nature with the person of another; or
 - (2) Intentionally cause physical harm to another.
- (Code 2006, § 46-23)

Secs. 22-26—22-53. Reserved.**ARTICLE III. OFFENSES AGAINST PROPERTY RIGHTS****Sec. 22-54. Destruction of property.**

A person who willfully destroys, damages, defaces, or harms any City or private property shall be guilty of a misdemeanor.
(Code 2006, § 46-50)

Sec. 22-55. Theft of services.

A person commits the offense of theft of services when by deception and with the intent to avoid payment the person knowingly obtains services, accommodations, entertainment, or the use of property which is available only for compensation.

(Code 2006, § 46-51)

Secs. 22-56—22-83. Reserved.

ARTICLE IV. OFFENSES AGAINST PUBLIC SAFETY

Sec. 22-84. Reckless conduct.

When a person causes bodily harm to or endangers the bodily safety of another by consciously disregarding a substantial and unjustifiable risk that the person's act or omission will cause the harm or endanger the safety, the person is guilty of a misdemeanor.

(Code 2006, § 46-76)

Sec. 22-85. Discharging firearms.

It shall be unlawful for any person (other than a law enforcement official in the lawful discharge of the official's duties) to discharge any gun, pistol, or other firearm in the City, unless otherwise permitted by law.

(Code 2006, § 46-77; Ord. No. 120515-2, § 1, 5-15-2012)

Secs. 22-86—22-113. Reserved.

ARTICLE V. OFFENSES INVOLVING PUBLIC PEACE AND ORDER

DIVISION 1. GENERALLY

Sec. 22-114. Refusal to disperse.

A person in a gathering who refuses to obey the reasonable request or order of a peace officer or firefighter to move for the purpose of promoting the public safety by dispersing those gathered in dangerous proximity shall be guilty of a misdemeanor.

(Code 2006, § 46-98)

Sec. 22-115. Disorderly conduct.

It shall be unlawful for any person in the City to engage in any violent, obstreperous, or similar disorderly conduct tending to infringe on the peace and repose of the citizens of the City. Fighting

between two or more persons in which physical contact is made, except that which occurs at boxing or wrestling matches duly authorized by the City, shall be deemed to be disorderly conduct within the meaning of this section.

(Code 2006, § 46-99)

Sec. 22-116. Public drunk.

A person appearing in public in a state of intoxication, brought about by either alcohol or drugs, shall be guilty of a misdemeanor.

(Code 2006, § 46-100)

Secs. 22-117—22-145. Reserved.

DIVISION 2. JUVENILE CURFEW

Sec. 22-146. Definitions.

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

Adult means a person who is at least 17 years of age or is an emancipated minor.

Curfew hours means 12:00 midnight on any day until 6:00 a.m. of the same day.

Emancipated minor means:

- (1) Any person under the age of 17 years who is or has been married or who is not under the care, custody and control of a parent, guardian, person standing in locus parentis, or the juvenile court of competent jurisdiction; or
- (2) Any person under the age of 17 years who has had the disabilities of minority removed by a court of competent jurisdiction.

Establishment means any privately owned place of business operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment.

Guardian means a person who, under court order, is the guardian of the person of a minor, or a public or private agency with whom a minor has been placed by the court.

Loiter means to stand or sit idly about or to linger at a place aimlessly.

Minor means any person 16 years of age or under.

Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term "operator" includes the members or partners of an association or partnership and officers of a corporation.

Parent means a person who is a natural parent, an adopted parent, or stepparent of another person.

Prescribed Authority is when a parent/guardian grants supervisory rights of a minor to an adult to oversee a minor's activity.

Public place means any place to which the public or a substantial group of the public has access that includes, but is not limited to, streets, highways, alleys, roads, parks, sidewalks, public buildings and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

Remain means to linger or stay or fail to leave premises when requested to do so by an officer or the owner, operator, or the person in control of the premises.

Serious bodily injury means bodily injury that causes death or creates a substantial risk of serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Vacant property means a parcel of land which is either an unimproved parcel or an improved parcel which is unoccupied.

Wander means to move about aimlessly.
(Ord. No. 120717-4, § 46-101(a), 7-17-2012)

Sec. 22-147. Persons 16 years of age or younger.

Curfew for persons 16 years of age or younger is as follows:

- (1) It is unlawful for any minor to loiter, wander or play in or upon the public places, establishments or vacant property in the City unsupervised by a parent, guardian or through prescribed authority and having the lawful authority to be in such places, between the hours of 12:00 midnight and 6:00 a.m.
- (2) It shall be unlawful for the parent, guardian, or other person having custody or control of any minor 16 years of age or younger to knowingly allow or by insufficient control allow such minor to loiter, wander or play in or upon a public place, establishment or vacant property unsupervised between the hours of 12:00 midnight and 6:00 a.m.
- (3) It shall be unlawful for any owner, operator, or employee of an establishment to knowingly allow a minor to loiter, wander or play unsupervised in or upon the premises of the establishment in the City between the hours of 12:00 midnight and 6:00 a.m. It is a defense to prosecution under this section that the owner, operator, or employee of an establishment promptly notified the Police Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(Ord. No. 120717-4, § 46-101(b), 7-17-2012)

Sec. 22-148. Exceptions.

The provisions of this division shall not apply in the following instances:

- (1) When a minor is accompanied by said minor's parent, guardian, or other adult having the prescribed authority and custody of the minor;
- (2) When the minor is upon an emergency errand directed by said minor's parent or guardian or other adult person having the lawful care and custody of such minor, or if such minor is seeking medical treatment;

- (3) When the minor is returning directly home from a school or religious activity;
- (4) When the minor is traveling to or from lawful employment that makes it necessary to be in the above-referenced places during the prescribed period of time;
- (5) When the minor is an emancipated minor as defined in O.C.G.A. § 15-11-207.
(Ord. No. 120717-4, § 46-101(c), 7-17-2012)

Sec. 22-149. Violations and penalties.

(a) *Minors.* Upon a first offense, the minor will be remanded to said minor's parent, guardian or custodian and a warning shall be issued to both the minor and the parent, guardian or custodian. Upon a subsequent offense, the minor will be remanded to said minor's parent, guardian or custodian and a juvenile court complaint will be filed with Juvenile Court Services.

(b) *Adult, parent, guardian or owner, operator or employee.* Upon conviction of violations of this division for the first time, an adult, parent, guardian or owner, operator or employee of an establishment shall be given a warning citation. Upon further convictions, an adult, parent, guardian or owner, operator or employee of an establishment shall be punished according to Section 1-10.
(Ord. No. 120717-4, § 46-101(d), 7-17-2012)

Sec. 22-150. Enforcement.

Before taking any enforcement action under this division, the police officer shall ask the apparent offender's age and the reason for being in the location. The officer shall not issue a citation or make an arrest under this division unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no exception listed in Section 22-148 is present.
(Ord. No. 120717-4, § 46-101(e), 7-17-2012)

Secs. 22-151—22-168. Reserved.

DIVISION 3. URBAN CAMPING AND IMPROPER USE OF PUBLIC PLACES

Sec. 22-169. Definitions.

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

Camp means residing in or using a location for private living accommodations, such as erecting tents or other temporary structures or objects providing shelter; sleeping in a single place for more than one hour at a time; cooking or preparing meals; or other similar activities.

Storing personal property means leaving one's personal effects, such as, but not limited to, clothing, bedrolls, cookware, sleeping bags, luggage, knapsacks, or backpacks, unattended for more than one hour.
(Ord. No. 130716-6, § 46-101(a), 7-16-2013)

Sec. 22-170. Unlawful locations.

(a) *City parks.* It shall be unlawful to camp or to store personal property in any park owned by the City.

(b) *Streets and sidewalks.* It shall be unlawful to camp, sleep, store personal property, or to sit or lie down on any street or sidewalk or public right-of-way.

(c) *Other public property.* It shall be unlawful to camp, sleep, store personal property, or to sit or lie down on any public property.

(Ord. No. 130716-6, § 46-101(b)—(d), 7-16-2013)

Sec. 22-171. Warning.

No person may be arrested for violating this division by simply sleeping, sitting or lying down in a prohibited location or for a prohibited period of time without having first received from a public employee or official an oral or written warning to cease such unlawful conduct.

(Ord. No. 130716-6, § 46-101(e), 7-16-2013)

Sec. 22-172. Exceptions.

Notwithstanding anything in this division to the contrary, this division shall not apply to nor be construed to prohibit the following behavior:

- (1) Persons sitting or lying down as a result of a medical emergency;
- (2) Persons sitting in wheelchairs while using sidewalks;
- (3) Persons sitting down while attending parades;
- (4) Persons sitting down while patronizing outdoor cafes;
- (5) Persons sitting down, lying down or napping while attending performances, festivals, concerts, fireworks or other special events taking place in any park or on any street or sidewalk closed by permit for such purpose;
- (6) Persons sitting on chairs or benches supplied by a public agency or abutting private property owner;
- (7) Persons sitting on seats in bus zones occupied by people waiting for the bus;
- (8) Persons sitting or lying down while waiting in an orderly line outside a box office to purchase tickets to any sporting event, concert, performance, or other special event;
- (9) Persons sitting or lying down in an orderly line awaiting entry to any building, including shelters, or awaiting social services, such as provisions of meals;
- (10) Children under the age of 13 years sleeping in parks, or sleeping anywhere else while being carried by an accompanying person or while sitting or lying in a stroller or baby carriage; or

- (11) Organized events lasting no longer than two days for which the organizing group has obtains a permit from the City Clerk and demonstrates proof of insurance covering the group and event or posts a \$5,000.00 cash bond.

(Ord. No. 130716-6, § 46-101(f), 7-16-2013)

Sec. 22-173. Enforcement.

The City Police Department shall be responsible for the enforcement of this division.

(Ord. No. 130716-6, § 46-101(g), 7-16-2013)

Sec. 22-174. Penalty.

Any person who violates any provision of this division may be subject to arrest or summoned to appear in the City Municipal Court and, upon conviction or other finding of guilt, be punished by a fine of up to \$1,000.00 or 60 days of imprisonment, or both.

(Ord. No. 130716-6, § 46-101(h), 7-16-2013)

Secs. 22-175—22-201. Reserved.

DIVISION 4. NOISE

Sec. 22-202. General regulation.

It shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any excessive, unnecessary, or unusually loud noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing within the City limits.

(Code 2001, § 14-101; Code 2006, § 46-129)

Sec. 22-203. Specific sounds, acts deemed loud and disturbing.

The following acts are declared to be loud, disturbing, and unnecessary noises in violation of this division, but said enumeration shall not be deemed to be exhaustive.

- (1) *Motor vehicle horns.* The sounding of any horn on any automobile, motorcycle, or other motor vehicle on any street or public place of the City except as a warning signal.
- (2) *Radios, television sets, and similar devices.* The playing, using or operating, or permitting to be played, used or operated, of any radio receiving set, musical instrument, phonograph, television set, or other machine or device for the producing or reproducing of sound between the hours of 10:00 p.m. and 7:00 a.m. in such manner as to disturb the peace, quiet, and comfort of neighboring residents.
- (3) *Loudspeakers and amplifiers.* The using or operating of any loudspeaker or sound-amplifier device mounted upon any vehicle within the City for the purpose of broadcasting or advertising any information about any business or activity for any other purpose, unless a permit for such sound amplification has been obtained from the Mayor or Police Chief. Such a permit shall be issued upon a showing that public peace and order will not be disturbed.

- (4) *Construction equipment and activity.* The operating of any equipment or the performing of any outside construction or repair work on buildings, structures, roads or projects within the City between the hours of 10:00 p.m. and 7:00 a.m.
 - (5) *Exhausts.* The discharging into the open air of the exhaust of any internal combustion engine, motorboat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
 - (6) *Animals and birds.* The keeping of any animal or bird which by frequent or continuous barking, chirping, or other means of communication disturbs the comfort or repose of the residents of any residential neighborhood.
 - (7) *Vehicle repair in residential areas.* The repairing, rebuilding, or testing of any motor vehicle between the hours of 10:00 p.m. and 7:00 a.m. within any residential area in such a manner as to disturb the peace, quiet, and comfort of the residents of the area.
 - (8) *Schools, courts, churches, hospitals.* The creating of any excessive noise on any street adjacent to any school, institution of learning, church, or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the working of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital, or court street.
 - (9) *Hawkers and peddlers.* The selling of anything by outcry within the residential areas of the City, except at licensed sporting events, parades, fairs, circuses, and other similar licensed public entertainment events.
 - (10) *Drums.* The using of any drum or other instrument or device for the purpose of attracting attention by the creation of noise within the City, unless a permit for such use has been obtained from the Mayor or Police Chief. Such a permit shall be issued upon a showing that public peace and order will not be disturbed.
- (Code 2001, § 14-102; Code 2006, § 46-130)

Sec. 22-204. Exemptions.

The following uses and activities shall be exempt from the noise regulations set forth in this division:

- (1) Noises of safety signals and warning devices;
 - (2) Noises resulting from any authorized emergency vehicle, when responding to an emergency call acting in time of emergency; and
 - (3) Noises resulting from emergency work, to be construed as work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from an imminent exposure to danger.
- (Code 2001, § 14-103; Code 2006, § 46-131)

Secs. 22-205—22-231. Reserved.

ARTICLE VI. OFFENSES AGAINST PUBLIC MORALS**Sec. 22-232. Possession of marijuana.**

Anyone in possession of less than one ounce of marijuana shall be guilty of a misdemeanor.
(Code 2006, § 46-151)

Secs. 22-233—22-257. Reserved.**ARTICLE VII. OFFENSES AGAINST ADMINISTRATION OF GOVERNMENT****Sec. 22-258. False fire alarm.**

A person who transmits in any manner to the Fire Department a false report of a fire, knowing at the time no fire exists, is guilty of a misdemeanor.
(Code 2006, § 46-171)

Sec. 22-259. Obstruction of an officer.

A person who knowingly and willfully obstructs or hinders any law enforcement officer in the lawful discharge of the officer's official duties is guilty of a misdemeanor.
(Code 2006, § 46-172)

Sec. 22-260. Fleeing from an officer.

A person who intentionally attempts to flee from or elude an authorized officer of the law shall be guilty of a misdemeanor.
(Code 2006, § 46-173)

Chapter 23

RESERVED

Chapter 24

PAWNSHOPS

- Sec. 24-1. Definitions.
- Sec. 24-2. Location; conditional use.
- Sec. 24-3. Annual permit required.
- Sec. 24-4. Permit prerequisite to issuance of occupation tax certificate.
- Sec. 24-5. Application for permit.
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- Sec. 24-9. Occupation tax certificate applications, renewals and qualifications.
- Sec. 24-10. Suspension or revocation of occupation tax certificate.
- Sec. 24-11. Hearings for the denial, suspension or revocation of certificate.
- Sec. 24-12. Records and information to be maintained; display of pawnshop transaction number; identification; digital photographs; fingerprints; records storage.
- Sec. 24-13. Daily report to police; required format.
- Sec. 24-14. Property not to be disposed of for 30 days after acquisition; location of property; police holds.
- Sec. 24-15. Dealing with minors.
- Sec. 24-16. Responsibility for enforcement.
- Sec. 24-17. Penalty for violation.

Sec. 24-1. Definitions.

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

Automated reporting system means a computer-based system specified by the Chief of Police designed to record and transmit data and information electronically.

Employee means:

- (1) Any owner or pawnbroker who, in the performance of said owner's or pawnbroker's duties or the management of the business affairs of a pawnshop, comes into contact with members of the public;
- (2) Any person working for an owner or pawnbroker; or
- (3) Any person who is employed on a part-time or full-time basis, either with or without remuneration, by a pawnshop.

Pawn or *pledge* means a bailment of personal property as security for any debt or engagement, redeemable upon certain terms and with the power of sale on default.

Pawnbroker means any person engaged in whole or in part in the business of lending money on the security of pledged goods, or in the business of purchasing tangible personal property on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time, or in the business of purchasing tangible personal property from persons or sources other than manufacturers or licensed dealers as part of or in conjunction with the business activities described in this chapter.

Pawnshop means any business wherein a substantial part thereof is to take or receive, by way of pledge, pawn, consignment or exchange, any goods, wares, merchandise, or any kind of personal property whatsoever, as security for the repayment of money lent thereon.

Pawnshop transaction means to take or receive any article of property from any customer, by pawning, pledging, trading, exchanging, purchasing, or other means.

Police Department means the City Police Department.

Third-party administrator means any individual, business or corporation designated by the Chief of Police to administer the reporting requirements of this chapter.

(Ord. No. 111018-10, exh. A(49-1), 10-18-2011)

Sec. 24-2. Location; conditional use.

Pawnshops may only be located in areas approved under the Unified Development Code. Prior to applying for a permit, persons desiring to operate a pawnshop or similar business must obtain the conditional use permit required by the City Unified Development Code.

(Ord. No. 111018-10, exh. A(49-2), 10-18-2011)

Sec. 24-3. Annual permit required.

Before beginning the business of operating a pawnshop or similar place, all persons pledging, trading, pawning, exchanging, or selling property shall first file an application with the City Police Department for an annual permit to conduct such business. The issuance of such permit will be based on a criminal history background investigation of the applicant. The cost of the permit/criminal history background investigation shall be an amount as adopted by the City Council from time to time. This fee is imposed to cover investigative expenses and/or administrative costs associated with issuing an initial permit for all owners. In the event an owner has more than one pawnshop, then each location will be assessed the above fee. This fee is nonrefundable in the event an applicant, for any reason, is not issued a permit and/or an occupational tax certificate. Owners are required to renew the permit upon expiration thereof and shall be required to pay a renewal fee established by the Mayor and City Council.

(Ord. No. 111018-10, exh. A(49-3), 10-18-2011)

Sec. 24-4. Permit prerequisite to issuance of occupation tax certificate.

No occupation tax certificate required by this chapter shall be granted to any person until a permit required by Section 24-3 has been issued or approved by the City Police Department.

(Ord. No. 111018-10, exh. A(49-4), 10-18-2011)

Sec. 24-5. Application for permit.

The application for the annual permit required by Section 24-3 shall state the street number and address at which the business is proposed to be operated. The application shall contain the full name, address, phone number, date of birth, photograph, and social security number of all persons, including pawnbrokers and employees, having any interest in the proposed business, plus any additional information, including fingerprints, deemed necessary by the Licensing and Revenue Manager and/or the City Police Department.

(Ord. No. 111018-10, exh. A(49-5), 10-18-2011)

Sec. 24-6. Regulation as to employees and managers.

(a) No person shall be employed by a pawnshop in any capacity until such person is found to be in compliance with the qualifications as described in this section and has paid a fee which shall be established by the Mayor and City Council. Upon complying with the requirements of this chapter, a permit card authorizing such person to be a pawnshop employee will be issued. Each employee and/or manager will be required to renew the permit card annually. The permit card and occupation tax certificate will expire annually, on the date established generally for expiration of the occupation tax certificate. All persons having any interest in the proposed business, including each owner, employee, manager, and pawnbroker, shall, while on the pawnshop premises, have in their possession and available for inspection such permit card. It shall be the duty of the pawnbroker to ensure compliance with the provisions of this section.

(b) The following qualifications shall apply to all employees and managers:

- (1) No permit shall be issued until such time as a signed application has been filed with the City Police Department, Chief of Police or the Chief's designee and a search of the criminal record

of the person completed. Such application shall include the applicant's name, fingerprints, social security number, date of birth, and prior arrest record; though an applicant's arrest record shall be used for investigative purposes only and shall not give rise to a presumption or inference of guilt. Applicant must also provide positive identification (only official government issued pictured identification accepted (e.g., U.S. driver's license, passport, military card, or U.S. state identification card).

- (2) The Chief of Police or the Chief's designee shall conduct a complete and exhaustive search relative to any police record of the applicant.
- (3) In the event the applicant is qualified for employment in a pawnshop under this section and there is no record of a violation of this chapter, the Chief of Police or the Chief's designee shall issue a permit to the applicant, by mail, stating that the person is eligible for employment. If it is found that the person is not qualified for a permit and, therefore, ineligible for employment in a pawnshop, the Chief of Police or the Chief's designee shall notify the person in writing that they are not eligible for employment, the cause of such denial and their right to appeal.
- (4) No person who has been convicted or pled guilty or entered a plea of nolo contendere to any crime involving moral turpitude, illegal gambling, or any felonies, or any crime involving theft or fraudulent practices shall be issued a permit for the five years preceding the date of application. For purposes of this chapter, a conviction or plea of guilt or nolo contendere entered under the Georgia First Offender Act, O.C.G.A. § 42-8-60 et seq., shall be ignored; provided, however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender status or committed another crime and the sentencing court entered an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.
- (5) No person shall be issued a permit if it is determined that the person falsified, concealed, or misrepresented any material fact by any device, trick, or scheme while making application to the Police Department for a pawnshop permit under this chapter.
- (6) All permits issued through administrative error can be terminated and seized by the Chief of Police or the Chief's designee or the Licensing and Revenue Manager or the Manager's designee.
- (7) Replacement permits will be issued within 30 days of original date, upon paying one-half of the fee charged for pawnshop permits. After 30 days of original application date, a new application and fee must be submitted.
- (8) All permits issued hereunder remain the property of the City Police Department and shall be produced for inspection upon the demand of any officer or designee of the City Police Department or employee of the Licensing and Revenue Department.
- (9) No pawnshop owner shall allow any employee or manager to work on the premises unless the employee or manager has in their possession a current valid City permit. For new employees, a receipt issued by the City Police Permit Unit may be used for a maximum of 30 days from the date of issue. Pawnshop owners are required by this chapter to inspect and verify that each employee or manager has in their possession a valid current pawnshop permit. Issuance of this fee receipt shall allow the applicant to work in the position applied for only until such time as the

required criminal history background investigation is completed. The temporary privilege conferred by issuance of this fee receipt shall expire immediately upon completion of such background investigation. If the background investigation indicates that the applicant does not meet the requirements for issuance of a pawnshop permit, the applicant may appeal the denial of the permit as provided in this chapter. However, issuance of this fee receipt and the temporary privilege granted thereby shall not be construed as conferring any right or privilege to the applicant to continue working in the position for which the permit sought during the pendency of the appeal from the denial of a permit under this chapter.

- (10) It shall be the duty of all persons holding a pawnshop occupation tax certificate to file with the Chief of Police or the Chief's designee the name of the establishment, the occupation tax certificate number and a list of all employees, including their date of birth, social security number, home address and home telephone numbers, twice annually during the month of June and again during the month of December.
 - (11) If it is determined that any person issued a pawnshop permit has falsified, concealed, or misrepresented any material fact by any device, trick, or scheme in the application for the pawnshop permit such permit shall be revoked or canceled.
 - (12) City employees who are directly involved in the issuance of pawnshop permits or in the regulation of pawnshops shall not be eligible for a permit.
- (Ord. No. 111018-10, exh. A(49-6), 10-18-2011)

Sec. 24-7. Denial, suspension or revocation of permit.

A permit may be denied, suspended or revoked by the Chief of Police or the Chief's designee where the pawnbroker or employee furnishes fraudulent or untruthful information in the application for a permit or fails to meet all qualifications set forth under the provisions of this chapter.

(Ord. No. 111018-10, exh. A(49-7), 10-18-2011)

Sec. 24-8. Hearings for denial, suspension or revocation of permit.

No permit shall be denied, suspended or revoked without the opportunity for a hearing as hereinafter provided.

- (1) Written notice; filing requirements.
 - a. The Chief of Police or the Chief's designee shall provide written notice to the applicant of the Chief's order to deny, suspend or revoke the permit. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the applicant of the right to appeal under the provisions of this chapter. Any applicant who is aggrieved or adversely affected by a final action of the Chief of Police may have a review thereof by appeal to the Mayor and City Council.
 - b. Such appeal shall be by written petition, filed in the office of the City Clerk within 15 days after the final order or action of the Chief of Police and, in order to defray administrative costs, must be accompanied by a filing fee in an amount as adopted by the City Council by resolution from time to time.

- (2) A hearing shall be conducted on each appeal within 30 days of the date of filing with the City Clerk unless a continuance of such date is agreed to by the appellant and the City Clerk. The appellant at such hearing shall have the right to be represented by an attorney, at the expense of the appellant, and to present evidence and cross examine witnesses. Should the appellant desire an official transcript of the appeal proceedings, then such request must be made at least three days prior to such hearing. The appellant shall have the burden of proof on any such appeal. Before hearing an appeal, each member of the Mayor and City Council shall sign an affidavit to be part of the record that each member is not related to or personal friends with any owner of the establishment in question in the appeal being considered and that each member has no financial interest in the outcome of the appeal. Should any member be unable to sign such an affidavit, that member shall not serve on that appeal and the case shall be heard by the remaining members.
 - (3) The findings of the Mayor and City Council shall be forwarded to the City Clerk within 15 days after the conclusion of the hearing, and it shall be the duty of the City Clerk to notify the appellant of the action of the Mayor and City Council.
 - (4) The findings of the Mayor and City Council shall not be set aside unless found to be:
 - a. Contrary to law or ordinances;
 - b. Unsupported by substantial evidence on the records as a whole; or
 - c. Unreasonable.
 - (5) The findings of the Mayor and City Council shall be final unless appealed within 30 days of the date of such finding by certiorari to the County Superior Court.
- (Ord. No. 111018-10, exh. A(49-8A), 10-18-2011)

Sec. 24-9. Occupation tax certificate applications, renewals and qualifications.

- (a) All persons, firms, or corporations desiring to engage in the business, trade or occupation of a pawnshop shall, before engaging in such business, trade or profession, make application for an occupation tax certificate in the form and manner prescribed by the City Clerk.
- (b) The application shall include, but not be limited to, the information required on all occupation tax returns, along with the following additional information:
 - (1) Full name, date of birth, address and social security number of applicant.
 - (2) Full names, dates of birth and social security numbers of any other persons having an ownership interest in the business. In the case of a corporation, this list shall include owners of ten percent or more of the common or preferred stock.
 - (3) Full names, dates of birth and social security numbers and titles of corporate officers where appropriate.
 - (4) Full names, addresses, telephone numbers, dates of birth, titles and social security numbers of individuals to be employed.
 - (5) A copy of the alcohol, tobacco and firearms license where applicable.

(c) All occupation tax certificates granted under the provisions of this chapter shall expire annually, on the date established generally for expiration of the occupation tax certificates.

(d) Certificate holders who desire to renew their certificates shall file the application and all applicable fees with the licensing and revenue manager on the form prescribed for renewal of the certificate for the following year. Applications for renewal must be filed on or before the annual deadline provided for all businesses for filing of renewal applications, with payment of tax being due on the date set for occupation taxes generally.

(e) All occupation tax certificates granted hereunder shall be for the full calendar year and are not subject to proration.

(f) It shall be the duty of the renewal applicant to obtain renewal permits as required by this chapter.

(g) The following occupation tax certificate qualifications shall also apply:

(1) No occupation tax certificate required by this chapter shall be granted to any person who is not a citizen of the United States or registered resident alien. Where the owner-applicant is a partnership or corporation, the provisions of this chapter shall apply to all its partners, officers, managers and majority stockholders.

(2) Where the applicant is a corporation, a certificate will be issued jointly to the corporation, president or chief executive officer and to the majority stockholder. Where the applicant is a partnership, the certificate may be issued to a partner or general partner.

(3) An occupation tax certificate for the practices listed herein may not be issued where the applicant has been convicted or plead guilty or entered a plea of nolo contendere, and has been released from parole or probation, to any crime involving moral turpitude, illegal gambling, or has been convicted of any felonies, or any crime involving theft or fraudulent practices within a period of ten years immediately prior to the filing of such application. At the time an application is submitted for any pawnshop occupation tax certificate, the applicant shall, by duly sworn affidavit, certify that neither the applicant, nor any of the other owners of the establishment, have been convicted or have plead guilty or entered a plea of nolo contendere to any crime involving moral turpitude, illegal gambling, or have been convicted of any felonies, or any crime involving theft or fraudulent practices. Should any applicant, partner, or officer engaged in operating a pawnshop, after a certificate has been granted, be convicted or plead guilty or enter a plea of nolo contendere to any crime involving moral turpitude, illegal gambling, or any felony, or any crime involving theft or fraudulent practices, the certificate and/or permit shall be immediately revoked or canceled.

(Ord. No. 111018-10, exh. A(49-8B), 10-18-2011)

Sec. 24-10. Suspension or revocation of occupation tax certificate.

(a) A certificate may be suspended or revoked by the City Clerk where the certificate holder furnishes fraudulent or untruthful information in the application for a certificate and fails to pay all fees, taxes, or other charges imposed under the provisions of this chapter.

(b) The City Clerk shall revoke the certificate for any premises where goods are pawned during a period of suspension.

(c) The City Clerk may suspend or revoke the certificate of any establishment which does not meet the qualifications set forth in this chapter any time such knowledge becomes known to the Clerk.

(d) An act or omission of a certificate holder, owner of more than 20 percent interest in the establishment, or employee of the certificate holder or establishment willingly or knowingly performed, which constitutes a violation of federal or State law or of any provision of this chapter, will subject the certificate holder to suspension or revocation of its certificate in accordance with the provisions of this chapter, when the City Clerk determines to the Clerk's own satisfaction that the act or omission did occur, regardless of whether any criminal prosecution or conviction ensues. Provided, however, in the case of an employee, the City Clerk or the Clerk's designee must determine that the acts of the employee were known to or under reasonable circumstances should have been known to the certificate holder, were condoned by the certificate holder, or where the certificate holder has not established practices or procedures to prevent the violation from occurring.

(e) The City Clerk may suspend or revoke the certificate of any establishment whenever it can be shown that a certificate holder hereunder no longer maintains adequate financial responsibility upon which issuance of the certificate was conditioned or whenever the certificate holder has defaulted in any obligation of any kind whatsoever, lawfully owing to City.

(f) Wherever this chapter permits the City Clerk to suspend any certificate issued hereunder but does not mandate the period of such suspension, such discretion shall be exercised within the guidelines of this subsection.

- (1) No suspension shall be for a period of time longer than the time remaining on such certificate.
- (2) The following factors shall be considered on any revocation or suspension as set out above:
 - a. Consistency of penalties mandated by this chapter and those set by the Licensing and Revenue Manager.
 - b. Likelihood of deterring future wrongdoing.
 - c. Impact of the offense on the community.
 - d. Any mitigating circumstances or remedial or corrective steps taken by the certificate holder.
 - e. Any aggravating circumstances or failure by the certificate holder to take remedial or corrective steps.

(Ord. No. 111018-10, exh. A(49-10), 10-18-2011)

Sec. 24-11. Hearings for the denial, suspension or revocation of certificate.

No certificate shall be denied, suspended or revoked without the opportunity for a hearing as hereinafter provided.

- (1) Written notice; filing requirements.
 - a. The City Clerk shall provide written notice to the applicant or certificate holder of the Clerk's order to deny, suspend or revoke the certificate. Such written notification shall set

forth in reasonable detail the reasons for such action and shall notify the applicant or certificate holder of the right to appeal under the provisions of this chapter. Any applicant or certificate holder who is aggrieved or adversely affected by a final action of the City Clerk may have a review thereof by appeal to the Mayor and City Council.

- b. Such appeal shall be by written petition, filed in the office of the City Clerk within 15 days after the final order or action of the City Clerk and, in order to defray administrative costs, must be accompanied by a filing fee in an amount as adopted by the City Council by resolution from time to time. The City Clerk, at the Clerk's discretion, may waive or reduce the filing fee amount if it determines the fee would create a hardship on the individual filing such appeal. The City Clerk may, at the request of the appellant, refund the filing fee by a majority vote.
- (2) A hearing shall be conducted on each appeal within 30 days of the date of filing with the City Clerk unless a continuance of such date is agreed to by the appellant and the City Clerk. The appellant at such hearing shall have the right to be represented by an attorney, at the expense of the appellant, and to present evidence and cross examine witnesses. Should the appellant desire an official transcript of the appeal proceedings, then such request must be made at least three days prior to such hearing. The appellant shall have the burden of proof on any such appeal. Before hearing an appeal, each member of the City Clerk shall sign an affidavit to be part of the record that each member is not related to or personal friends with the appellant or any owner of the establishment in question in the appeal being considered and that each member has no financial interest in the outcome of the appeal. Should any member be unable to sign such an affidavit, that member shall not serve on that appeal and the case shall be heard by the remaining members.
- (3) The findings of the Mayor and City Council shall be forwarded to the City Clerk within 15 days after the conclusion of the hearing, and it shall be the duty of the City Clerk to notify the appellant and the Chief of Police or the Chief's designee of the action of the Mayor and City Council.
- (4) The findings of the Mayor and City Council shall not be set aside unless found to be:
 - a. Contrary to law or ordinances;
 - b. Unsupported by substantial evidence on the records as a whole; or
 - c. Unreasonable.
- (5) The findings of the occupation tax rate review and appeal board shall be final unless appealed within 30 days of the date of such finding by certiorari to the County Superior Court.

(Ord. No. 111018-10, exh. A(49-11), 10-18-2011)

Sec. 24-12. Records and information to be maintained; display of pawnshop transaction number; identification; digital photographs; fingerprints; records storage.

Engaging in the business of pledging, trading, pawning, exchanging, or selling used or previously owned merchandise, furniture, machinery, appliances, utensils, firearms, gold, silver, coins, precious

metals, jewelry, and precious stones within the City is hereby declared to be affected with the public interest due to the opportunity it affords for the disposal of stolen property. In the public interest and as set forth herein, all pawnbrokers shall maintain records documenting all pawnshop transactions.

- (1) All pawnbrokers shall maintain records documenting accurate descriptions of all property pledged, traded, pawned, exchanged, or sold to the pawnbroker. Such description shall include, 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. The pawnbroker shall assign a pawnshop transaction number documenting each transaction, and ensure each item received is tagged with the pawnshop transaction number.
- (2) The tag bearing the pawnshop transaction number must remain attached to the item until the property is disposed of by sale, trade, or other lawful means. This subsection does not apply to the purchase of property from licensed wholesale or distributor businesses for the purpose of retail sales; however, the pawnbroker shall be required to maintain all purchasing records for property exempted from this subsection.
- (3) The pawnbroker shall require all persons pledging, trading, pawning, exchanging, or selling property to show proper identification prior to conducting a pawnshop 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.
- (4) The pawnbroker shall also document the name, address, telephone number, race, sex, height, weight, driver's license number, date of birth, and social security number of the person pledging, trading, pawning, exchanging, or selling the property, along with the date and time of transaction. This documentation shall be made at the time of the transaction.
- (5) The pawnbroker shall photograph, with a digital camera or web camera, the person pledging, trading, pawning, exchanging, or selling the property. The photograph shall clearly show a frontal view of the subject's face along with the pawnbroker's ticket transaction number and a photograph of the item being pledged, traded, pawned, exchanged, or sold. Digital images shall be labeled and stored in such a manner that they are safe from corruption, readily identifiable, and readily available for review.
- (6) The pawnbroker shall obtain from each person pledging, trading, pawning, exchanging, or selling any property, the fingerprint of the right-hand index finger, unless such finger is missing, in which 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 fingerprint shall be imprinted onto the pawn transaction form in the designated area along with the signature of the person pawning, trading, pledging, exchanging, or selling the property. The fingerprint must be clear and legible. In the event that more than one pawn transaction form is required, a fingerprint and signature should be obtained for each form. Fingerprints and the information required herein shall be obtained each time such person pledges, trades, pawns, exchanges, or sells any property.
- (7) Items of property that appear to be new, unused, and in their original packaging cannot be accepted by the pawnbroker unless the customer can supply a copy of the original sales receipt, or other proof of purchase from the place of purchase, to the pawnbroker, who shall retain the receipt or proof of purchase on file.

- (8) The pawnbroker shall store the above records, digital images, and fingerprints for a period of four years and make them available to law enforcement personnel upon request.
- (9) Every pawnshop 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. The administrator of the electronic automated reporting system will electronically transmit all transactions to the City Police Department.

(Ord. No. 111018-10, exh. A(49-12), 10-18-2011)

Sec. 24-13. Daily report to police; required format.

Every pawnbroker shall make a daily report, in such form as may be prescribed by the Chief of Police, of all pawnshop transactions that occurred during those 24 hours ending at 9:00 p.m. on the date of the report.

- (1) Daily reports shall list all property pledged, traded, pawned, exchanged, or sold, the pawn transaction number for each transaction, and a description of the property, 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 person pledging, trading, pawning, exchanging, or selling the property along with the date and time of the transaction.
- (2) Every pawnshop 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. The administrator of the electronic automated reporting system will electronically transmit all transactions to the Police Department.
- (3) In the event that the electronic automated reporting system becomes temporarily or permanently disabled, pawnshops and pawnbrokers will be notified as soon as possible by the Police Department. In this event, the pawnbrokers will be required to make records of transactions in paper form as prescribed by the Police Department. Such paper forms must include all information as enumerated in Section 24-12. Pawnbrokers shall be responsible for maintaining an adequate inventory of these forms.
- (4) The Chief of Police or the Chief's designee shall select and designate the required automated reporting system and required equipment needed. There will be a fee assessed to the pawnshop for each reported transaction. Said fee may be assessed against the persons pledging, trading, pawning, exchanging, or selling property. The assessed fee shall not exceed 50 percent of the actual cost charged by the Police Department or the third-party administrator. This fee will be invoiced to the pawnbroker and collected by the Chief of Police or the Chief's designee, which may be a third-party administrator of the automated reporting system.

(Ord. No. 111018-10, exh. A(49-13), 10-18-2011)

Sec. 24-14. Property not to be disposed of for 30 days after acquisition; location of property; police holds.

(a) All property received through any pawnshop transaction shall be held for at least 30 days before disposing of same by sale, transfer, shipment, or otherwise, except when property is redeemed as per a pawn transaction contract.

(b) All property pledged, traded, pawned, exchanged, or purchased shall be held and maintained by the pawnbroker on the premises of the pawnshop or, if impracticable, at such other location as may have been previously approved in writing by the Chief of Police or the Chief's designee. The Chief of Police shall not approve any off-premises storage facilities located outside the City.

(c) The City Police Department has the authority to place property that is the subject of police investigation on a "police hold." In that event, the City Police Department shall notify the pawnbroker of the need for a police hold and identify all property subject to the police hold. Upon notification, it shall be the responsibility of the pawnbroker to maintain the subject property until such time as the property is released from police hold status or the property is confiscated as evidence.

(Ord. No. 111018-10, exh. A(49-14), 10-18-2011)

Sec. 24-15. Dealing with minors.

It shall be unlawful for any pawnbroker, the pawnbroker's agents or employees, to receive through any pawnshop any property from minors. A minor, for the purpose of this section, is an individual 17 years of age or under.

(Ord. No. 111018-10, exh. A(49-15), 10-18-2011)

Sec. 24-16. Responsibility for enforcement.

The City Police Department shall have the responsibility for the enforcement of this chapter. Sworn officers of the City Police Department and civilian employees designated by the Chief of Police shall have the authority to inspect establishments licensed under this chapter during the hours in which the premises are open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of this chapter and State law. This section is not intended to limit the authority of any other City officer to conduct inspections authorized by other provisions of this Code.

(Ord. No. 111018-10, exh. A(49-16), 10-18-2011)

Sec. 24-17. Penalty for violation.

Any person, firm, company, corporation or other entity who violates any provision of this chapter may be subject to arrest or summoned to appear in the Municipal Court and, upon conviction or other finding of guilt, be punished according to Section 1-10.

(Ord. No. 111018-10, exh. A(49-17), 10-18-2011)

Chapter 25

RESERVED

Chapter 26

SOLID WASTE*

Article I. In General

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Secs. 26-2—26-20. Reserved.

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Sec. 26-22. Procedures for litter control.
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Sec. 26-28. Refuse collection.
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Article IV. Yard Trimmings Disposal Regulations

- Sec. 26-90. Definitions.
Sec. 26-91. Placement and disposal of yard trimmings; prohibitions.
Sec. 26-92. Sorting, storing, composting and collecting yard trimmings.

***State law references**—Georgia Comprehensive Solid Waste Management Act, O.C.G.A. § 12-8-20 et seq.; local, multijurisdictional and regional solid waste plans, O.C.G.A. § 12-8-31.1; unlawful placement of signs within right-of-way of public road, O.C.G.A. § 32-6-51; authorization to provide garbage and solid waste collection and disposal, Ga. Const. art. IX, § II, ¶ III(a)(2).

ARTICLE I. IN GENERAL**Sec. 26-1. Northeast Georgia Regional Solid Waste Management Plan.**

The City adopts the most recent Northeast Georgia Regional Solid Waste Management Plan, as adopted by the Northeast Georgia Regional Commission (NEGRC), and as may be amended, is incorporated by reference as if fully set out herein.

(Code 2006, § 58-1)

Secs. 26-2—26-20. Reserved.

ARTICLE II. LITTER**Sec. 26-21. 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:

Handbill means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature.

Litter means all sand, gravel, slag, brickbats, rubbish, waste material, tin cans, refuse, garbage, trash, debris, dead animals or discarded materials of every kind and description.

Litter receptacle means those containers acceptable to the City and which may be standardized as to size, shape, capacity, and color; as well as any other receptacles suitable for the depositing of litter as defined herein.

Private property means any dwelling, house, building or other structure, whether inhabited or used permanently or temporarily, or continuously uninhabited or vacant, and which is 100 percent privately owned, and shall include any yard, grounds, walk, parking area, driveway, porch, steps, vestibule, or mailbox belonging or pertinent to such dwelling, house, building or other structure.

Public place means any area that is used or held out for use by the public, whether owned or operated by public or private interests, including, but not limited to, streets, parking lots, parking garages, sidewalks, rights-of-way, parks, campgrounds, highways, alleys, and other public ways.

Vehicle includes every device capable of being moved upon a public highway and in, upon, or by which any person or property may be transported or drawn upon a public highway, including devices moved by human power or used exclusively upon stationary rails or tracks.

(Code 2001, § 31-102; Code 2006, § 58-51)

Sec. 26-22. Procedures for litter control.

(a) Unless the nature of the violation of this article is such that an immediate threat to safety or health is evident, the term "reasonable notice," as used herein, shall mean five days from such time as a written notice of the violation is posted on the property on which the violation has occurred and mailed to the

owner of the property as reflected by the current property tax record of the City. Unless the nature of the violation of this article is such that an immediate threat to safety or health is evident and notwithstanding the foregoing, with respect to the second or more violations by the same property owner of this article within a 24-month period of time, the term "reasonable notice," as used herein, shall mean three days from such time as written notice of the violation is posted on the property and mailed to the owner of the property as reflected by the current property tax records of the City.

(b) In addition to authorizing the removal of litter or other refuse by the City employees at the property owner's expense, the failure to cure or eliminate a violation of this article as to which notice has been provided within the time period set forth above shall result in the issuance of a citation, returnable to the Municipal Court, to the property owner or the owner's agent for a violation thereof.

(c) To the extent that any property owner in the City becomes obligated to repay or pay to the City any of the costs imposed in this section, the City shall have the right to collect such costs by way of all available legal process, including, but not limited to, suit in Municipal, State or Superior Court and the right to pursue all available and lawful post judgment remedies. A judgment obtained against a person under this order becomes a lien against said person's property in the manner provided by law. Interest on any such costs owed by any person to the City shall run at the rate of ten percent per year from the date of completion of the work by the City until judgment or collection, whichever shall first occur, and at the legal rate of interest per year from judgment until collection.

(d) Nothing within the foregoing shall preclude the City from enforcing the terms of this article by way of immediate issuance of a citation for any violation thereof.

(e) Nothing within the foregoing shall preclude the City from seeking appropriate injunctive relief to halt continuing violations of this article or to halt a nuisance.

(f) The City employee primarily responsible for enforcement of this article shall be the officer appointed by the Mayor and such assistants as the Mayor may designate.

(Code 2001, § 31-116; Code 2006, § 58-65)

Sec. 26-23. Litter in public places.

No person shall throw, drop or in any way deposit litter on any public property except in authorized and identified litter receptacles.

(Code 2001, § 31-103; Code 2006, § 58-52)

Sec. 26-24. Litter and other substances on property.

(a) Each owner of private or public property in the City shall keep said property free and clear of any litter or other refuse which may constitute a threat or detriment to the public safety, welfare, property values, morality or good order.

(b) Each person who owns private property in the City shall, at such time as the City may proscribe, remove to a proscribed and approved location or permit City employees to enter and remove from such property any and all litter and other substances which might endanger the health, safety, morality, order, property values, or welfare of residents of the City. A failure to remove such litter or other substances may result, whenever the Governing Body deems necessary, and after reasonable notice, in the Governing

Body removing such litter or other substances which might endanger the health, safety, or welfare of residents of the City, in which event the costs or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the City in the manner provided in this article.

(c) Any person who owns vacant developed or undeveloped private property shall cut the grass, weeds and other foreign growth on such property or any property thereof and remove all litter from it at such time as the City shall proscribe so that the public health, safety, welfare, morality and good order are served. A failure to abide by this requirement may result, whenever the City deems it necessary and after reasonable notice, in having such grass, weeds or other foreign growth cut by agents or employees of the City, in which event, the cost and expenses thereof shall be chargeable to and paid by the person who owns such property and may be collected by the City in the manner provided in this article.

(d) It shall be the duty of every tenant, lessee, or occupant of any residence or establishment where people reside, congregate, or are employed to provide sufficient garbage containers or receptacles to handle the accumulation of garbage during the intervals between collections.

(e) Branches and heavy brush shall be cut in lengths not exceeding four feet and stacked in front of the residence or property adjoining the curb and shall not extend into the street. Logs, limbs and branches over four inches in diameter or over four feet long will not be collected at any time.

(f) In reference to any discarded furniture, appliances, machinery or other oversized litter or trash, the property owner, at the owner's expense, must make arrangements for removal and disposal. Under no circumstances while awaiting removal shall a discarded refrigerator, icebox, freezer, washer, dryer, or stove or other item capable of entrapping a child be left in an area accessible to children. Any such items left outside on private property for a period of seven days or more, unless part of an authorized business operation, will be presumed to be discarded and, after reasonable notice, removed by the City at the property owner's expense.

(g) All litter receptacles, plastic bags or single use paper or cardboard boxes, shall be kept clean and free of accumulated waste and shall be treated with an effective insecticide if necessary to prevent nuisances. The capacity of the individual refuse receptacle if used shall not exceed 90 pounds total weight; provided that special receptacles of other capacities may be used with the written permission of the enforcement officer for multifamily residences or businesses.

(h) Under no circumstances shall any private property owner be permitted to store, accumulate or otherwise maintain any litter or other refuse on the premises in such quantities as to constitute a nuisance or be harmful to the health or safety of the public.

(Code 2001, § 31-104; Code 2006, § 58-53)

Sec. 26-25. Dumping.

No person shall dump or otherwise dispose of litter or other refuse or unsightly matter on any public or private property unless said property specifically is approved by the City and/or the State for dumping. It is a violation of this article to dump any household or non-household refuse into any private dumpster or private collection system without permission from the owner.

(Code 2001, § 31-105; Code 2006, § 58-54)

Sec. 26-26. Litter from vehicles.

It shall be unlawful to throw, drop, or otherwise deposit or dispose of litter or any other refuse from any vehicle.

(Code 2001, § 31-106; Code 2006, § 58-55)

Sec. 26-27. Allowing escape of load material.

No vehicle shall be driven or moved on any street, highway, or other public road within the City, unless such vehicle is constructed or loaded to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom. Provided, however, that sand or any substance for increasing traction, or water or other substance may be sprinkled on a roadway and the cleaning or maintaining of such roadway may be undertaken by the governmental agency having that responsibility. Any person operating a vehicle from which any glass, litter, or other object has fallen or escaped, which constitute an obstruction or damage a vehicle or otherwise endanger travel upon such street, highway or other public road, shall immediately cause the street, highway or public road to be cleaned of all glass or objects and shall pay any costs for such removal. Provided, however, that no provision of this section shall apply to any motor vehicle which is used exclusively for agricultural purposes and which is not operated on or over any public highway for any other purpose other than for the purpose of operating it across the highway or along the highway from one point of the owner's land to another part thereof irrespective of whether or not the tracts adjoin.

(Code 2001, § 31-107; Code 2006, § 58-56)

Sec. 26-28. Refuse collection.

(a) Proper collection and disposal of accumulated litter and other refuse is required and may not be conducted in a manner contrary to the public health, order, morality, safety or welfare.

(b) All equipment used for the collection and transportation of litter and other refuse shall be so designed as to prevent its escape therefrom as per Section 26-27. This equipment shall be provided with a watertight body designed so as to prevent the escape of any fluid. All surfaces of collection and transportation equipment coming in contact with garbage or organic commercial waste shall be smooth, nonabsorbent and in good repair. Only equipment approved by the enforcement officer may be used in the collection and transportation of litter and other refuse.

(c) All equipment used in the collection and transportation of litter and other refuse shall be thoroughly washed and treated with an approved insecticide as often as the enforcement officer shall deem necessary to prevent fly-breeding and/or nuisances.

(d) All litter and other refuse spilled during collection or transportation shall be promptly removed by the refuse collector.

(e) At each collection, all litter and other refuse in the refuse receptacle shall be removed and the receptacle left covered.

(f) Hazardous waste and dead animals shall be removed in a manner approved by the City and the County Health Department and subject to any other federal, State, or local ordinances, laws, rules, statutes or regulations as may apply.

(g) The City has arranged for the collection of litter and other refuse from private or public property; property owners choosing to subscribe shall be responsible for payment to the contractor of such reasonable charges as may from time to time be set for the regular removal of litter and other refuse. (Code 2001, § 31-108; Code 2006, § 58-57)

Sec. 26-29. Parking lots.

All parking lots and establishments with parking lots, public or private, shall provide litter receptacles distributed within the parking area. Such receptacles shall be weighted to or attached to the ground as necessary to prevent spillage. It shall be the responsibility of the owner or manager of the property to collect the refuse and trash deposited and to provide for collection or disposal of same. (Code 2001, § 31-109; Code 2006, § 58-58)

Sec. 26-30. Construction and demolition sites.

(a) All construction and demolition contractors shall provide on-site refuse receptacles suitable to contain all debris, paper, building material waste, scrap building materials, and other trash produced by those working on the site.

(b) All construction and demolition sites shall be kept in a litter-free condition.

(c) All dirt, mud, construction materials, or other debris deposited upon any public or private property (including streets and roads) as a result of construction or demolition shall be removed by the contractor on a daily basis. (Code 2001, § 31-111; Code 2006, § 58-60)

Sec. 26-31. Scavenging.

No person other than the owner thereof, or an agent or an employee of the City, shall interfere with any container placed for the purpose of storing refuse pending collection, or remove or take any of the contents thereof, or remove any such container from the location where the same shall have been placed by the owner thereof. (Code 2001, § 31-112; Code 2006, § 58-61)

Sec. 26-32. Handbills and advertising matter.

(a) It shall be unlawful to place in or on any automobile in the City any handbill, circular, pamphlet, poster, postcard, or other literature, except in a manner that will prohibit same from being blown about or scattered by the elements.

(b) It shall be unlawful for any person to place or drop on any private property any handbill, circular, pamphlet, poster, postcard, or other literature, except with the express permission of the owner of the property or intended recipient. Notwithstanding the foregoing, the provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers, except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk, or other public or private property. (Code 2001, § 31-113; Code 2006, § 58-62)

Sec. 26-33. Public utility poles.

No person shall post or affix any notice, poster or other paper or device calculated to attract the attention of the public to any public utility pole or other public lamppost or structure unless expressly authorized.

(Code 2001, § 31-114; Code 2006, § 58-63)

Secs. 26-34—26-56. Reserved.

ARTICLE III. SCRAP TIRE

Sec. 26-57. 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:

Scrap tire means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

Scrap tire carrier means any person engaged in picking up or transporting scrap tires not otherwise exempted under the Georgia Rules for Solid Waste Management Section 391-3-4-.19(5.g) (Ga. Comp. Rules and Regs. R391-3-4-.19(5.g)) for the purpose of removal to a scrap tire processor, end user, or disposal facility (O.C.G.A. § 12-8-22(32)).

Scrap tire generator means any person who generates scrap tires. Generators may include, but are not limited to, retail tire dealers, retreaders, scrap tire processors, automobile dealers, private company vehicle maintenance shops, garages, service stations, and City, County, and State governments.

Tire means a continuous solid or pneumatic rubber covering designed for encircling the wheel of a motor vehicle and which is neither attached to the motor vehicle nor a part of the motor vehicle as original equipment (O.C.G.A. § 12-8-22(38)).

Tire retailer means any person engaged in the business of selling new or replacement tires.

Sec. 26-58. Applicable rules and regulations.

(a) All persons defined as scrap tire generators, scrap tire carriers, tire retailers, and/or scrap tire processors shall be subject to rules as defined in the Rules for Solid Waste Management Section 391-3-4-.19 (Ga. Comp. Rules and Regs. R391-3-4-.19) and handle scrap tires in accordance with the provisions of O.C.G.A. § 12-8-20 et seq., and the Rules for Solid Waste Management, Ga. Comp. Rules and Regs. Ch. 391-3-4, applicable to solid waste.

(b) No person shall deposit a scrap tire in any container or receptacle unless authorized by the owner of the receptacle or the Mayor and Council or their designee.

(Code 2001, § 12-111; Code 2006, § 58-31)

Secs. 26-59—26-89. Reserved.

ARTICLE IV. YARD TRIMMINGS DISPOSAL REGULATIONS**Sec. 26-90. 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:

Commercial solid waste means all types of solid waste generated by stores, offices, restaurants, warehouses and other nonmanufacturing activities, excluding residential and industrial wastes.

Composting means the controlled biological decomposition of organic matter into a stable, order-free humus.

Leachate collection system means a system at a landfill for collection of the leachate which may percolate through the waste and into the soils surrounding the landfill.

Municipal solid waste means any solid waste derived from households, including garbage, trash and sanitary waste in septic tanks and includes solid waste from single-family and multifamily residences, hotels and motels, bunkhouses, campgrounds, picnic grounds, and day use recreation areas. The term "municipal solid waste" includes yard trimmings and commercial solid waste but does not include solid waste from mining, agricultural or silvacultural operations or industrial processes or operations.

Municipal solid waste disposal facility means any facility or location where the final deposition of any amount of municipal solid waste occurs, whether or not mixed with or including commercial or industrial solid waste, including, but not limited to, municipal solid waste landfills.

Municipal solid waste landfill means a disposal facility where any amount of municipal solid waste, whether or not mixed with or including commercial waste, industrial waste, nonhazardous sludges or small quantity generator hazardous waste, is disposed of by means of placing an approved cover thereon.

Yard trimmings means leaves, brush, grass clippings, shrub and tree prunings, discarded Christmas trees, nursery and greenhouse vegetative residuals, and vegetative matter resulting from landscaping development and maintenance, other than mining, agricultural and silvacultural operations.
(Code 2001, § 12-110; Code 2006, § 58-30(a))

Sec. 26-91. Placement and disposal of yard trimmings; prohibitions.

(a) It shall be unlawful to place or mix yard trimmings with municipal solid waste within the City.

(b) Yard trimmings shall not be disposed at any municipal solid waste disposal facility having a liner and leachate collection system or requiring vertical expansion located within the City.
(Code 2001, § 12-110; Code 2006, § 58-30(b))

Sec. 26-92. Sorting, storing, composting and collecting yard trimmings.

Yard trimmings shall be sorted and stored in the following manner:

- (1) Designated times shall be scheduled for leaf and limb pickup.
- (2) The yard trimmings shall be placed roadside away from the regular municipal solid waste.

- (3) The trimmings shall be carried to a mulch field area so that they can decay and mix with the soil as compost.

(Code 2001, § 12-110; Code 2006, § 58-30(c))

Chapter 27

RESERVED

Chapter 28

TELECOMMUNICATIONS

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- Sec. 28-2. Granting authority.
- Sec. 28-3. Franchise applications.
- Sec. 28-4. Nonrefundable application fees for new franchises.
- Sec. 28-5. Responsibilities of applicants.
- Sec. 28-6. Public availability of applications.
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ARTICLE I. IN GENERAL**Sec. 28-1. Definitions.**

For purposes of the article, the following words, terms, phrases, and their derivations shall have the meanings set forth in this section, unless the context clearly indicates that another meaning is intended. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number and words used in the singular number include the plural number.

Cable services means "cable services" as defined in the Communications Act of 1934, as amended by the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, the Telecommunications Act of 1996, and as may be further amended from time to time (the "Cable Act"), but does not include telecommunications services. In the event that the term "cable services" is no longer defined in the Cable Act or that the definition in the Cable Act otherwise becomes inapplicable, the term "cable services" shall mean "cable services" as defined in the Cable Act immediately prior to such term no longer being defined in the Cable Act or such definition otherwise becoming inapplicable.

Cable system means any "cable system" as defined in the Cable Act.

Franchise means an initial authorization, or renewal thereof, issued by the City, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement or otherwise, which authorizes the occupation and use of the streets to provide cable services through a cable system or open video system.

Grantee means the legal entity to which is granted the right, authority and responsibility to construct, install, operate and maintain a system of equipment as necessary to furnish, supply and distribute cable services to inhabitants within the franchise area.

Open video system means "open video system" as defined by 47 CFR 76.1500(a).

Person means any individual or any association, firm, partnership, joint venture, corporation or other legally recognized entity, whether for profit or not for profit, but shall not mean the City.

Streets means the surface of, as well as the spaces above and below, any and all streets, alleyways, avenues, highways, boulevards, driveways, bridges, tunnels, parks, parkways, public grounds or waters, and other public rights-of-way within or belonging to the City.

Telecommunications services means "telecommunications service" as defined by 47 USC 153(46) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, but does not include cable services. In the event that the term "telecommunications service" is no longer defined in the Communications Act or the definition in the Communications Act otherwise becomes inapplicable, the term "telecommunications service" shall mean "telecommunications service" as defined in the Communications Act immediately prior to such term no longer being defined in the Communications Act or such definition otherwise becoming inapplicable.

(Code 2001, § 40-103(1); Code 2006, § 62-1)

Sec. 28-2. Granting authority.

(a) No person shall use or occupy the streets to provide any cable services or operate a cable system or open video system without a franchise granted in accordance with the provisions of this chapter.

(b) The City Council may grant one or more franchises in accordance with this chapter, provided that the City Council reserves the right to modify any provision of this chapter by amendment hereof.

(c) The grant of any franchise shall be made by adoption of a separate ordinance by the City Council and shall be on such terms and conditions as may be specified in said separate ordinance and/or a franchise agreement between the City and the grantee.

(d) Any franchise granted shall be nonexclusive. The City specifically reserves the right to grant, at any time, such additional franchises as it deems appropriate and/or itself engage in the provision of cable services.

(e) A franchise may be granted for all or any defined portion of the City.

(f) The grant of franchises by the City shall be subject to the provisions of applicable law, such as the provisions in the Cable Act, as amended, governing cable television system and open video system franchises and the renewals of cable television system franchises.

(Code 2001, § 40-103(2); Code 2006, § 62-2)

Sec. 28-3. Franchise applications.

(a) Applications for franchises shall be submitted in such form and be issued on such terms and conditions as the City Council may determine, subject to applicable law.

(b) Any application for a franchise shall contain and/or require the following information with respect to the proposed franchise and such other information as the City Council shall deem necessary or appropriate:

- (1) Applicant's name, address, telephone number, and federal employer identification number or social security number; copy of applicant's corporate charter or partnership agreement as applicable; and any trade names (and registrations) used by applicant;
- (2) A detailed statement of the corporation or business entity organization of the applicant, including, but not limited to, the following, and to whatever extent required by the City:
 - a. The names and the residence and business addresses of all officers and directors of the applicant;
 - b. The names, residence, and business addresses of all persons and entities having any share of the ownership of the applicant and the respective ownership share of each person or entity;
 - c. The names and address of any parent or subsidiary of the applicant, namely, any other business entity owning or controlling the applicant in whole or in part or owned or controlled in whole or in part by the applicant, and a statement describing the nature of

any such parent or subsidiary business entity, including, but not limited to, cable systems and open video systems owned or controlled by the applicant, its parent, and subsidiary, and the areas served thereby;

- d. A detailed and complete financial statement of the applicant, certified by an independent certified public accountant, for the fiscal year immediately preceding the date of the application hereunder, or a letter or other acceptable evidence in writing from a recognized lending institution or funding source, addressed to both the applicant and the Council, setting forth the basis for a study performed by such lending institution or funding source, and a clear statement of its intent as a lending institution or funding source to provide whatever capital shall be required by the applicant to construct and operate the proposed cable system or open video system in the City, or a statement from an independent certified public accountant certifying that the applicant has available sufficient free, net, and uncommitted cash resources to construct and operate the proposed cable system or open video system in the City;
- e. A detailed financial plan (pro forma) describing, for each year of the franchise, projected number of subscribers, rates, all revenues, operating expenses, capital expenditures, depreciation schedules, income statements, and sources and uses of funds statement;
- f. A statement identifying, by place and date, any other cable television franchise awarded to the applicant, its parent or subsidiary; the status of said franchise with respect to completion thereof; the total cost of completion of such franchisee cable system and open video system; and the amount of the applicant's and its parent's or subsidiary's resources committed to the completion thereof;
- g. A detailed description of the proposed plan of operation of the applicant which shall include, but not be limited to, the following:
 1. A description of the cable services proposed to be provided;
 2. A detailed map indicating all areas proposed to be served, and a proposed time schedule for the installation of all equipment necessary to become operational throughout the entire area to be serviced;
 3. A statement or schedule setting forth all proposed classifications or rates and charges to be made against subscribers and all rates and charges as to each of said classifications, including installation charges, cable service charges, and any other service charges;
 4. A detailed, informative, and referenced statement describing the actual equipment and operational standards proposed by the applicant;
 5. A copy of the form of any agreement, undertaking, or other instrument proposed to be entered into between the applicant and any subscriber to cable services; and
 6. A detailed statement setting forth in its entirety any and all agreements and undertakings, whether formal or informal, written, oral, or implied, existing or proposed to exist between the applicant and any person, firm, or corporation which materially relate or pertain to or depend upon the application and the granting of the franchise;

a copy of any agreement covering the franchise area, if existing between the applicant and any utility providing for the use of any facilities of the utility, including, but not limited to, poles, lines, or conduits; and

- h. Any other details, statements, supplementary information, or references pertinent to the subject matter of such application which shall be required or requested by the Council, or by any other provision of law.

(Code 2001, § 40-103(3); Code 2006, § 62-3)

Sec. 28-4. Nonrefundable application fees for new franchises.

No application for a new franchise shall be considered without payment by the applicant of application fees as provided in this section. If a franchise is granted, application fees will not be deemed a credit towards any other fees or sums due by the grantee. If an application is denied, the application fee will not be refunded.

- (1) *Purpose of application fees.* The application fees provided by this section will serve to cover the direct and indirect costs incurred by the City in processing the application, evaluating the applicant, and granting a franchise, and shall include, but not be limited to, administrative, engineering, publication, legal, and consultant's expenses.
- (2) *Application fee.* The applicant will be expected to pay the reasonable costs of the City in evaluating the application. Notwithstanding any other requirement of this article, each applicant must furnish with its proposal a nonrefundable application fee in an amount as adopted by the City Council by resolution from time to time by certified check or cashier's check made payable to the City. In the event that the City's reasonable costs exceed such amount, the applicant may be required by the City to pay any additional amount to cover such costs.

(Code 2001, § 40-103(4); Code 2006, § 62-4)

Sec. 28-5. Responsibilities of applicants.

It shall be the responsibility of each applicant for a franchise to comply with all applicable laws, ordinances, resolutions, rules, regulations and other directives of the City and any federal, State or local governmental authority having jurisdiction.

(Code 2001, § 40-103(5); Code 2006, § 62-5)

Sec. 28-6. Public availability of applications.

To the extent determined by the City Council, applications for franchise, including any additions, modifications or amendments thereto, shall be available for public inspection at a designated City office during normal business hours.

(Code 2001, § 40-103(6); Code 2006, § 62-6)

Sec. 28-7. Evaluation criteria.

In making any determination hereunder as to any application for a franchise, the City Council may consider such factors as it deems appropriate and in the public interest, including, without limitation, the:

- (1) Adequacy of the proposed compensation to be paid to the City, including the value of any facilities and cable services offered by the applicant to the City;

- (2) Legal, financial, technical and other appropriate qualifications of the applicant;
 - (3) Ability of the applicant to maintain the property of the City in good condition throughout the term of the franchise;
 - (4) Value and efficiency to the City and its residents of the cable services to be provided, including the type of cable services to be provided, as well as alternatives to those services and services that may be precluded by the grant of the franchise;
 - (5) Willingness and ability of the applicant to meet construction and physical requirements and to abide by all purpose and policy conditions, limitations and requirements with respect to the franchise; and any other public interest factors or considerations deemed pertinent by the City for safeguarding the interests of the City and the public.
- (Code 2001, § 40-103(7); Code 2006, § 62-7)

Sec. 28-8. Procedure for consideration of and action on applications.

(a) The City may make such investigations and take or authorize the taking of such other steps as the City Council deems necessary or appropriate to consider and act on applications for franchises and determine whether a franchise should be granted to an applicant, and may require the applicant to furnish additional information and data for this purpose. In considering applications, the City Council may seek advice from other City officials or bodies, from such other advisory bodies as it may establish or determine appropriate, or from the public, and may request the preparation of one or more reports to be submitted to the City Council, which may include recommendations with respect to such applications.

(b) If the City Council, after considering such information as it determines to be appropriate, elects to further consider any application, the City Council shall set one or more public hearings for consideration of the application, fixing and setting forth a day, hour and place certain when and where any persons having any interest therein or objections thereto may file written comments and appear before the City Council and be heard, and providing notice of such public hearing in accordance with applicable law.

(c) The City Council may authorize negotiations between City officials and applicants to determine whether the City and such applicants are able to reach agreement on the terms of the proposed franchise.

(d) Upon completion of the steps deemed appropriate by the City Council, the City Council may grant the franchise, and may specify the conditions under which the franchise is granted. Alternatively, the City may reject any and all applications from whatever source and whenever received except that a franchising authority may not grant an exclusive franchise and may not unreasonably refuse to award an additional competitive franchise. The City also reserves the right to waive any or all requirements when it determines that the best interests of the City may be served thereby and may, if it so desires, request new or additional proposals.

(Code 2001, § 40-103(8); Code 2006, § 62-8)

Sec. 28-9. Terms and conditions of franchise.

The terms and conditions applicable to any franchise granted pursuant to this chapter shall be set forth in the separate ordinance granting the franchise or in a separate written agreement. Such separate ordinance or written agreement, among other things, shall address the following subjects:

- (1) The term of the franchise;
- (2) The franchise area and the cable services which are the subject of the franchise;
- (3) The compensation to be paid to the City, which may include the payment of fees or the provision of facilities or services, or both;
- (4) The circumstances upon which the franchise may be terminated or cancelled;
- (5) The mechanisms, such as performance bonds, security funds or letters of credit, to be put in place to ensure the performance of the grantee's obligations under the franchise;
- (6) The city's right to inspect the facilities and records of the grantee;
- (7) Insurance and indemnification requirements applicable to the grantee;
- (8) The obligation of the grantee to maintain complete and accurate books of account and records, and the City's inspection rights with respect thereto;
- (9) Provisions to ensure quality workmanship and construction methods;
- (10) Provisions to ensure that the grantee will comply with all applicable City, State and federal laws, regulations, rules and policies, including, without limitation, those related to employment, purchasing and investigations;
- (11) Provisions to ensure adequate oversight and regulation of the grantee by the City;
- (12) Provisions to restrict the assignment or other transfer of the franchise without the prior written consent of the City;
- (13) Remedies available to the City to protect the City's interest in the event of the grantee's failure to comply with terms and conditions of the franchise;
- (14) Provisions to ensure that the grantee will obtain all necessary licenses and permits from, and comply with, all laws, regulations, rules and policies of any governmental body having jurisdiction over the grantee, including, but not limited to, the Federal Communications Commission;
- (15) Provisions to ensure that the grantee will protect the property of the City and the delivery of public services from damage or interruption of operations resulting from the construction, operation, maintenance, repair or removal of improvements related to the franchise;
- (16) Provisions designed to minimize the extent to which the public use of the streets of the City are disrupted in connection with the construction of improvements relating to the franchise; and
- (17) Such other provisions as the City determines are necessary or appropriate in furtherance of the public interest.

(Code 2001, § 40-103(9); Code 2006, § 62-9)

Secs. 28-10—28-36. Reserved.

ARTICLE II. STATE CABLE AND VIDEO SERVICE FRANCHISES**Sec. 28-37. 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:

Gross revenues means any revenue received from subscribers, including, but not limited to, revenue for basic service, tier service, additional outlets, FM service, commercial service, premium service, pay-per-view service and related per-event services, or for the distribution of any service over the system or the provision of any service-related activity in connection with the operation of the system.

(Ord. No. 08520-5, § 1(70-110), 5-20-2008)

Sec. 28-38. Purpose.

The City considers collecting a franchise fee from a cable or video provider utilizing the public rights-of-way as compensation to the public for the use of the rights-of way and a means of promoting the public health, safety, welfare, economic development, and protection of the public works infrastructure of the City. O.C.G.A. § 36-76-1 et seq., otherwise known as the Consumer Choice for Television Act (hereinafter referred to as "the Act,"), as amended from time to time by the Georgia General Assembly, authorizes a statewide franchising option for cable service providers and video service providers providing cable and video services as defined therein. As specifically applied to the City, the Act further authorizes cable service providers and video service providers to obtain a State franchise to serve all or parts of the City. In the event any cable service provider or video service provider operating within the City elects, after January 1, 2008, to obtain a State franchise to serve all or parts of the City, it is the intention of the Mayor and City Council that such cable service providers or video service providers be subject to any franchise fees authorized by law. The City is authorized by law to collect a franchise fee at a rate up to and including five percent of each cable or video service provider's gross revenues generated within the City or the maximum amount established by federal and State law. Furthermore, the City currently collects a franchise fee of five percent of annual gross revenues generated within the City pursuant to existing franchise agreements and intends to collect that same amount on gross revenues generated pursuant to any State franchise or the maximum that may subsequently be allowed by law.

(Ord. No. 08520-5, § 1(70-111), 5-20-2008)

Sec. 28-39. Franchise fees.

The City shall require collection of franchise fees at the rate of five percent of annual gross revenues generated by any cable or video service provider providing cable or video services within the City pursuant to a State franchise or the maximum fee that may be subsequently allowed by law. Such fees shall be paid directly to the City as provided for by O.C.G.A. § 36-76-6 or as may be subsequently allowed by law.

(Ord. No. 08520-5, § 1(70-112), 5-20-2008)

Sec. 28-40. Regulations pertaining to use of government streets and public rights-of-way.

All regulations set forth in this Code, including Article IV of this chapter, concerning regulations pertaining to use of government streets and public rights-of-way, are hereby made applicable to any cable or video service provider providing cable and video services within the City pursuant to a State franchise. (Ord. No. 08520-5, § 1(70-113), 5-20-2008)

Sec. 28-41. Forward certified copy of article.

The City Clerk is herewith directed to forward a certified copy of this article to the Georgia Secretary of State and to each applicant for or holder of a State franchise with a service area located within the City. (Ord. No. 08520-5, § 2, 5-20-2008)

Secs. 28-42—28-60. Reserved.**ARTICLE III. TELEPHONE AND TELEGRAPH SERVICE****Sec. 28-61. Due compensation for telephone companies with end user retail customers within the City.**

(a) The City hereby requires due compensation of three percent of actual recurring local service revenues, as defined in O.C.G.A. § 46-5-1(b)(8) and (9).

(b) Regarding any telephone company that does not have retail, end user customers located within the City's municipal boundaries, the payment by such company to a municipal authority in accordance with the rates set by regulations promulgated by the Department of Transportation for the use of its rights-of-way shall be considered the payment of due compensation. (Ord. No. 10615-4, § 1, 6-15-2010)

Sec. 28-62. Authorized designee.

The City Clerk shall, on behalf of the City, exercise day-to-day administrative duties necessary to fulfill the regulatory authority of the City under O.C.G.A. § 46-5-1 et seq., and shall perform the following duties:

- (1) Review application information submitted by a telephone company to the City and, if an application is incomplete, notify the telegraph or telephone company within 15 business days of the receipt of such application, identifying in such notice all application deficiencies.
- (2) Report the receipt of a completed application to the Council within 60 calendar days of the receipt of such completed application.
- (3) Review payments of due compensation submitted by the company to ensure compliance with the provisions of the amended law and this article.
- (4) Provide a coordination function between a telephone company and all City departments on any matter relating to the amended law and this article.

- (5) Arrange and evaluate, no more than once a year, a comprehensive review of the records of a company which is reasonably related to the calculation and payment of due compensation.
 - (6) Provide to all telegraph and telephone companies located in its rights-of-way written notice of annexations and changes in municipal corporate boundaries.
- (Ord. No. 10615-4, § 2, 6-15-2010)

Sec. 28-63. Preamble.

The preamble attached to the ordinance from which this article is derived is hereby incorporated into this article as if set out fully herein.
(Ord. No. 10615-4, § 3, 6-15-2010)

Secs. 28-64—28-77. Reserved.

ARTICLE IV. USE OF GENERAL STREETS AND PUBLIC RIGHTS-OF-WAY

Sec. 28-78. 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:

Grantee means a person that has been granted a valid franchise agreement from the government, or holds a valid State franchise, or uses the public rights-of-way for cable or wire transmission.
(Ord. No. 08617-6, § 1(70-120), 6-17-2008)

Sec. 28-79. Placement of facilities.

(a) All grantee's facilities to be installed only at locations approved by Public Works Director. Any poles, wires, cable lines, conduits or other properties of a grantee to be constructed or installed in streets shall be so constructed or installed only at such locations and in such manner as shall be approved in writing by the City's Public Works Director in the exercise of the Director's reasonable discretion in conformance with all applicable codes.

(b) During construction, reconstruction or maintenance of system grantee shall not obstruct public ways without prior consent of authorities. In connection with the construction, reconstruction, operation, maintenance, repair, or removal of the system, a grantee shall give due regard to the aesthetics of the franchise areas and shall not obstruct the public ways, streets, railways, passenger travel, or other traffic to, from or within the government, without prior consent of the appropriate authorities. In addition:

- (1) All transmission and distribution structures, lines, and equipment erected by a grantee within the City shall be so located as to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any street or public way.
- (2) In case of any disturbance to any public way, street, easement, paved area or other property, a grantee, at its own cost and expense and in a manner and time period approved by the

government, shall replace and restore such public way, street, easement, paved area or other property in as good condition as before the work involving such disturbance was done (see also Section 28-81(a)).

(c) Permits required to be obtained prior to any physical work being performed in government's streets. A grantee or its authorized contractors must obtain permits from the Public Works Director, Building Department and/or other appropriate departments prior to any physical work being performed in the government's streets, or on government-owned property. Permits will be issued to a grantee or its contractors only on approved plans by approved contractors, which plans must be submitted on or before the request for the construction permit. All work will be done in accordance with the government's specifications and must comply with all applicable government construction codes and procedures.

(d) Grantee to prepare detailed maps of entire system prior to issuance of permit for construction or reconstruction; maps also to be filed with affected utility companies. A grantee shall cause detailed maps of the entire cable system showing materials of construction, amplifier, and power supply locations to be filed in the office of the Public Works Director prior to the issuance of a permit for construction or reconstruction. Prior to requesting the issuance of a permit for the installation of any facility or apparatus in accordance with the provisions of this section, a grantee shall file such maps with all utility companies and public agencies whose facilities are affected by such installation.

(e) Upon undergrounding of utility lines, grantee shall concurrently place lines underground in conduits at depth approved by Public Works Director. All facilities of a grantee in any public street or in any public or private easement, and cable service lines to subscribers off the main lines, shall be located underground at such depths and locations as shall be approved by the Public Works Director, except, with respect to such cable service lines, where grantee uses existing poles with permission from their owner, and where and so long as electric and telephone lines to the subscribers are overhead. Upon the undergrounding of the utility lines of the owner using said poles, a grantee shall concurrently (or earlier) place its facilities underground at depths and locations approved by the Public Works Director, provided that access is made available to grantee during the placement of the facilities underground. All underground wires or cable of a grantee shall be placed in conduits.

(Ord. No. 08617-6, § 1(70-121), 6-17-2008)

Sec. 28-80. Changes required by public improvements.

(a) Grantee may be required to move its facilities to accommodate changes in public improvements. A grantee shall from time to time protect, support, temporarily dislocate, or temporarily or permanently, as may be required, remove or relocate, without expense to the government or any other governmental entity, any facilities installed, used, or maintained under a franchise, if and when made necessary by any lawful change of grade, alignment, or width of any public street by the government or any other governmental entity, or made necessary by any other public improvement or alteration in, under, on, upon or about any public street or other public property, whether such public improvement or alteration is at the instance of the government or another governmental entity, and whether such improvement or alteration is for a governmental or proprietary function, or made necessary by traffic conditions, public

safety, street vacation or any other public project or purpose of the government or any other governmental entity. The decision of the Public Works Director under this section, absent review by the Commission, shall be final and binding on a grantee.

(b) Grantee shall obtain prior approval before altering any municipal facility; alterations to be at cost of grantee. In connection with the construction, operation, maintenance, repair, or removal of the system, a grantee shall, at its own cost and expense, protect any and all existing structures belonging to the government. A grantee shall obtain the prior approval of the government before altering any water main, sewage or drainage system, or any other municipal structure in any public way or street, because of the presence of the system in the public ways or streets. Any such alteration shall be made by a grantee, at its sole cost and expense, and in a manner reasonably prescribed by the government. A grantee shall also be liable, at its own cost and expense, to replace or repair and restore to as close to its prior condition as is reasonably possible and in a manner reasonably specified by the government, any public way, street or any municipal structure involved in the construction of the system that may become disturbed or damaged as a result of any work thereon by or on behalf of the grantee pursuant to a franchise agreement.

(c) Grantee shall temporarily move its wires to permit moving of buildings. Grantee shall, at the request of any person holding a moving permit issued by the government, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same, and grantee shall have the authority to require such payment in advance. Grantee shall be given not less than 48 hours' notice to arrange for such temporary wire changes.

(Ord. No. 08617-6, § 1(70-122), 6-17-2008)

Sec. 28-81. Failure of grantee to perform street work.

(a) Grantee shall repair and restore damage to government facilities. In the event that a grantee during construction, installation, inspection or repair of its facilities causes damage to pavement, sidewalks, driveways, landscaping or other property, the grantee or the authorized agent shall, at its own expense and in a manner approved by the government, replace and restore such places consistent with all applicable codes and standards.

(b) Failure by grantee to complete required work in any street can result in government causing work to be done at expense of grantee. Upon failure of the grantee to complete any work required by law, or by the provisions of a franchise, to be done in any street or other public place within ten days following due notice and to the satisfaction of the Public Works Director, the government may, at its option, cause such work to be done and a grantee shall pay to the government the cost thereof in the itemized amounts reported by the Public Works Director to the grantee within ten days after receipt of such itemized report. Or, at government's option, government may demand of grantee the estimated cost of such work as estimated by the Public Works Director, and such shall be paid by grantee to government within ten days of such demand; upon award of any contracts for such work, grantee shall pay to government within ten days of demand any additional amount necessary to provide for cost of such work. Upon

completion of such work, grantee shall pay to government or government shall refund to grantee such sums so that the total received and retained by government shall equal the cost of such work. The term "cost," as used herein, shall include 15 percent of other costs for government's overhead.

(Ord. No. 08617-6, § 1(70-123), 6-17-2008)

Sec. 28-82. Emergency work.

The government reserves the right to remove any portion of a grantee's equipment and facilities as may be required in any emergency as reasonably determined by the government without liability for interruption of cable service and the government shall not be obligated to restore cable service or to pay the costs of expenses of restoring cable service.

(Ord. No. 08617-6, § 1(70-124), 6-17-2008)

Sec. 28-83. Tree trimming.

A grantee shall notify the government regarding the need to trim trees upon and overhanging streets of the government so as to prevent the branches of such trees from coming in contact with the wires and cables of the grantee; at the option of the government, such trimming may be done by the government at the expense of the grantee, or by the grantee under the government's supervision and direction at the expense of the grantee. When authorized, such trimming shall be limited to the area required for clear cable passage and shall not include major structural branches which materially alter the appearance and natural growth habits of the tree. If such trimming is not performed by the government, the grantee shall be responsible for any and all damages to any tree as a result of trimming, or to the land surrounding any tree, whether such tree is trimmed or removed, or for damage to property or person caused by such trimming and removal of any tree.

(Ord. No. 08617-6, § 1(70-125), 6-17-2008)

Sec. 28-84. Removal and abandonment of property of grantee.

(a) Grantee shall remove system from any public street following termination or expiration of franchise. In the event that the use of a part of the cable system is discontinued for any reason for a continuous period of 12 months, or in the event such cable system or property has been installed in any street or public place without complying with the requirements of the franchise, or the franchise has been terminated, canceled or has expired without renewal, a grantee shall promptly, at its own expense, and upon being given ten days' notice from the Public Works Director, remove from the streets or public places all such property and poles of such cable system other than any which the Public Works Director may permit to be abandoned in place. In the event of such removal, a grantee shall promptly restore the street or other area from which such property has been removed to a condition satisfactory to the Public Works Director.

(b) Grantee's property may be considered abandoned 180 days after termination or expiration of franchise. Any property of a grantee remaining in place 180 days after the termination or expiration of a franchise shall be, at the option of the Council, considered permanently abandoned. The Public Works Director may extend such time not to exceed an additional 60 days.

(c) Abandonment in place shall be done at the direction of Department of Public Works; ownership of property shall be transferred to government. Any property of a grantee permitted to be abandoned in place shall be abandoned in such a manner as the Department of Public Works shall prescribe. Upon permanent abandonment of the property of a grantee in place, the grantee shall submit to the government an instrument in writing, to be approved by the government's attorney, transferring to the government the ownership of such property. If such an instrument is not received within 30 days of the abandonment, the property shall automatically become that of the government.
(Ord. No. 08617-6, § 1(70-126), 6-17-2008)

Secs. 28-85—28-103. Reserved.

ARTICLE V. WIRELESS FACILITIES AND ANTENNAS

DIVISION 1. GENERALLY

Sec. 28-104. Adoption of definitions.

Unless defined herein, terms used in this article shall have the meanings given them in O.C.G.A. § 36-66C-2.
(Ord. No. 19917-2, exh. A(62-12.1), 9-17-2019)

Sec. 28-105. Amended definitions.

In the event that any federal or State law containing definitions used in this article is amended, the definition in the referenced section, as amended, shall control.
(Ord. No. 19917-2, exh. A(62-12.2), 9-17-2019)

Secs. 28-106—28-134. Reserved.

DIVISION 2. PURPOSE AND COMPLIANCE

Sec. 28-135. Establishment of reasonable regulations.

O.C.G.A. § 32-4-92(a)(10) authorizes the City to establish reasonable regulations for the installation, construction, maintenance, renewal, removal, and relocation of pipes, mains, conduits, cables, wires, poles, towers, traffic and other signals, and other equipment, facilities, or appliances in, on, along, over, or under the public roads of the City. Further, 47 USC 253(c) provides that the City has authority to manage its public rights-of-way. Finally, the Georgia Streamlining Wireless Facilities and Antennas Act, O.C.G.A. Title 36, Ch. 66C (the "SWFAA"), addresses the placement of small wireless facilities in the public rights-of-way of the City.
(Ord. No. 19917-2, exh. A(62-11.1), 9-17-2019)

Sec. 28-136. Findings.

The City finds it is in the best interest of the City and its residents and businesses to establish requirements, specifications and reasonable conditions regarding placement of small wireless facilities and poles in the public rights-of-way. These requirements, specifications and conditions are adopted in order to protect the public health, safety and welfare of the residents and businesses of the City and to reasonably manage and protect the public rights-of-way and its uses in the City.

(Ord. No. 19917-2, exh. A(62-11.2), 9-17-2019)

Sec. 28-137. Objectives.

The objective of this article is to:

- (1) Implement the SWFAA; and
- (2) Ensure use of the public rights-of-way is consistent with the design, appearance and other features of nearby land uses, protects the integrity of historic, cultural and scenic resources and does not harm residents' quality of life.

(Ord. No. 19917-2, exh. A(62-11.3), 9-17-2019)

Secs. 28-138—28-186. Reserved.

DIVISION 3. PERMITS

Sec. 28-187. Permit requirements for wireless facility, poles.

A permit is required to collocate a small wireless facility in the public right-of-way or to install, modify, or replace a pole or a decorative pole in the public right-of-way. A permit is not required to perform the activities described in O.C.G.A. § 36-66C-6(e) or (f).

(Ord. No. 19917-2, exh. A(62-13.1), 9-17-2019)

Sec. 28-188. Applications for permits.

Any person seeking to collocate a small wireless facility in the public right-of-way or to install, modify, or replace a pole or a decorative pole in the public right-of-way shall submit an application to the Permitting Department for a permit. Applications are available from the Permitting Department. Any material changes to information contained in an application shall be submitted in writing to the Permitting Department within 30 days after the events necessitating the change.

(Ord. No. 19917-2, exh. A(62-13.2), 9-17-2019)

Sec. 28-189. Application fees.

Each application for a permit shall include the maximum application fees permitted under O.C.G.A. § 36-66C-5(a)(1) through (3). Such maximum application fees shall automatically increase on January 1 of each year beginning January 1, 2021, as provided under O.C.G.A. § 36-66C-5(b).

(Ord. No. 19917-2, exh. A(62-13.3), 9-17-2019)

Sec. 28-190. Review of applications.

The Permitting Department shall review applications for permits according to the timelines and using the procedures identified in O.C.G.A. §§ 36-66C-7 and 36-66C-13.
(Ord. No. 19917-2, exh. A(62-13.4), 9-17-2019)

Sec. 28-191. Exceptions of approval.

Applications for permits shall be approved except as follows:

- (1) In order to receive a permit to install a pole or replace a decorative pole, the applicant must have determined after diligent investigation that it cannot meet the service objectives of the permit by collocating on an existing pole or support structure on which:
 - a. The applicant has the right to collocate subject to reasonable terms and conditions; and
 - b. Such collocation would not impose technical limitations or significant additional costs. The applicant shall certify that it has made such a determination in good faith, based on the assessment of a licensed engineer, and shall provide a written summary of the basis for such determination.
- (2) The Permitting Department may deny an application for a permit upon any of the conditions identified in O.C.G.A. § 36-66C-7(j).
- (3) For applications for new poles in the public right-of-way in areas zoned for residential use, the Permitting Department may propose an alternate location in the public right-of-way within 100 feet of the location set forth in the application, and the wireless provider shall use the Permitting Department's alternate location unless the location imposes technical limits or significant additional costs. The wireless provider shall certify that it has made such a determination in good faith, based on the assessment of a licensed engineer, and it shall provide a written summary of the basis for such determination.

(Ord. No. 19917-2, exh. A(62-13.5), 9-17-2019)

Sec. 28-192. Authority of permit holders.

A permit issued under this article shall authorize such person to occupy the public rights-of-way to:

- (1) Collocate a small wireless facility on or adjacent to a pole or a support structure that does not exceed the limitations set forth in O.C.G.A. § 36-66C-7(h)(3) or on or adjacent to a decorative pole in compliance with O.C.G.A. § 36-66C-12; and
- (2) Install, modify, or replace a pole or decorative pole for collocation of a small wireless facility that does not exceed the limitations set forth in O.C.G.A. § 36-66C-7(h)(1) and (2).

(Ord. No. 19917-2, exh. A(62-13.6), 9-17-2019)

Sec. 28-193. Anniversary of permit issuance; pro rata payments.

Upon the issuance of a permit under this article, and on each anniversary of such issuance, every person issued a permit shall submit to the City the maximum annual payments permitted under O.C.G.A. § 36-66C-5(a)(4) and (5); provided, however, that if such person removes its small wireless

facilities from the public rights-of-way pursuant to O.C.G.A. § 36-66C-5(e), then such person shall be responsible for the pro rata portion of the annual payment based on the number of days of occupation since the last annual payment. Upon making such pro rata payment and removal of the small wireless facilities, the person's annual payment obligations under this section shall cease as of the date of the actual removal. The maximum annual payments shall automatically increase on January 1 of each year beginning January 1, 2021, as provided under O.C.G.A. § 36-66C-5(b).
(Ord. No. 19917-2, exh. A(62-13.7), 9-17-2019)

Sec. 28-194. Fees.

Any person issued a permit shall pay the fees identified in O.C.G.A. § 36-66C-5(a)(6) and (7), as applicable.
(Ord. No. 19917-2, exh. A(62-13.8), 9-17-2019)

Sec. 28-195. Permit revoked.

The City may revoke a permit issued pursuant to this article if the wireless provider or its equipment placed in the public right-of-way under that permit subsequently is not in compliance with any provision of this article or the Georgia Streamlining Wireless Facilities and Antennas Act. Upon revocation, the City may proceed according to Section 28-196.
(Ord. No. 19917-2, exh. A(62-13.9), 9-17-2019)

Sec. 28-196. Restoration of public rights-of-way.

If a wireless provider occupies the public rights-of-way without obtaining a permit required by this article or without complying with the SWFAA, then the City may, at the sole discretion of the City, restore the right-of-way, to the extent practicable in the reasonable judgment of the City, to its condition prior to the unpermitted collocation or installation and to charge the responsible wireless provider the reasonable, documented cost of the City in doing so, plus a penalty according to Section 1-10. The City may suspend the ability of the wireless provider to receive any new permits from the City under this article until the wireless provider has paid the amount assessed for such restoration costs and the penalty assessed, if any; provided, however, that the City may not suspend such ability of any applicant that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.
(Ord. No. 19917-2, exh. A(62-13.10), 9-17-2019)

Sec. 28-197. Public availability of accepted applications.

All accepted applications for permits shall be publicly available subject to the limitations identified in O.C.G.A. § 36-66C-6(c).
(Ord. No. 19917-2, exh. A(62-13.11), 9-17-2019)

Sec. 28-198. Consolidated applications.

An applicant may file a consolidated application related to multiple small wireless facilities, poles or decorative poles so long as such consolidated application meets the requirements of O.C.G.A. § 36-66C-13.

(Ord. No. 19917-2, exh. A(62-13.12), 9-17-2019)

Sec. 28-199. Authorized activities.

Activities authorized under a permit shall be completed within the timelines provided in O.C.G.A. § 36-66C-7(k)(2).

(Ord. No. 19917-2, exh. A(62-13.13), 9-17-2019)

Sec. 28-200. Authority of applicants.

Issuance of a permit authorizes the applicant to:

- (1) Undertake the collocation, installation, modification or replacement approved by the permit; and
- (2) Operate and maintain the small wireless facilities and any associated pole covered by the permit for a period of ten years.

(Ord. No. 19917-2, exh. A(62-13.14), 9-17-2019)

Sec. 28-201. Renewal of permits.

Permits shall be renewed following the expiration of the term upon the terms and conditions identified in O.C.G.A. § 36-66C-7(k)(2)(B).

(Ord. No. 19917-2, exh. A(62-13.15), 9-17-2019)

Sec. 28-202. Application requirements.

If an application for a permit seeks to collocate small wireless facilities on authority poles in the public rights-of-way, then the City shall, within 60-days of receipt of the completed application:

- (1) Provide a good faith estimate for any make-ready work necessary to enable the authority pole to support the proposed facility; or
- (2) Notify the wireless provider that the wireless provider will be required to perform the make-ready work. Any make-ready work performed by the City shall be completed pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(n).

(Ord. No. 19917-2, exh. A(62-13.16), 9-17-2019)

Secs. 28-203—28-227. Reserved.

DIVISION 4. REMOVAL; RELOCATION; RECONDITIONING; REPLACEMENT;
ABANDONMENT

Sec. 28-228. Removal of small wireless facilities.

A person may remove its small wireless facilities from the public rights of according to the procedures of O.C.G.A. § 36-66C-5(e).

(Ord. No. 19917-2, exh. A(62-14.1), 9-17-2019)

Sec. 28-229. Restoring right-of-way after removal.

(a) In the event of a removal, the right-of-way shall be, to the extent practicable in the reasonable judgment of the City, restored to its condition prior to the removal. If a person fails to return the right-of-way, to the extent practicable in the reasonable judgment of the City, to its condition prior to the removal within 90 days of the removal, the City may, at the sole discretion of the City, restore the right-of-way to such condition and charge the person the City's reasonable, documented cost of removal and restoration, plus a penalty not to exceed the amount authorized under O.C.G.A. § 36-66C-5.

(b) The City may suspend the ability of the person to receive any new permits under this article until the person has paid the amount assessed for such restoration costs and the penalty assessed, if any; provided, however, that the City will not suspend such ability of any person that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.

(Ord. No. 19917-2, exh. A(62-14.2), 9-17-2019)

Sec. 28-230. Pole relocation.

(a) If, in the reasonable exercise of police powers, the City determines:

- (1) A pole or support structure unreasonably interferes with the widening, repair, reconstruction, or relocation of a public road or highway; or
- (2) Relocation of poles, support structures, or small wireless facilities is required as a result of a public project;

the wireless provider shall relocate such poles, support structures, or small wireless facilities pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(l).

(b) If the wireless provider fails to relocate a pole, support structure or small wireless facility or fails to provide a written good faith estimate of the time needed to relocate the pole, support structure or small wireless within the time period prescribed in O.C.G.A. § 36-66C-7(l), the City make take the actions authorized by O.C.G.A. § 36-66C-7(o), in addition to any other powers under applicable law.

(Ord. No. 19917-2, exh. A(62-14.3), 9-17-2019)

Sec. 28-231. Reconditioning and replacement of poles.

The City shall recondition and replace authority poles consistent with the provisions of O.C.G.A. § 36-66C-7(m). Wireless providers shall accommodate and cooperate with reconditioning and replacement consistent with the provisions of O.C.G.A. § 36-66C-7(m).

(Ord. No. 19917-2, exh. A(62-14.4), 9-17-2019)

Sec. 28-232. Wireless facility abandonment.

A wireless provider must notify the City of its decision to abandon any small wireless facility, support structure or pole pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(p)(1). The wireless provider shall perform all acts and duties identified in O.C.G.A. § 36-66C-7(p) regarding abandonment. The City may take all actions and exercise all powers authorized under O.C.G.A. § 36-66C-7(p) upon abandonment, in addition to any other powers under applicable law.

(Ord. No. 19917-2, exh. A(62-14.5), 9-17-2019)

Secs. 28-233—28-257. Reserved.

DIVISION 5. STANDARDS

Sec. 28-258. Pole and new small wireless facility requirements.

(a) Small wireless facilities and new, modified, or replacement poles to be used for collocation of small wireless facilities may be placed in the public right-of-way as a permitted use:

- (1) Upon a receipt of a permit under Division 3 of this article;
- (2) Subject to applicable codes; and
- (3) So long as such small wireless facilities and new, modified, or replacement poles to be used for collocation of small wireless facilities comply with the appropriate provisions of O.C.G.A. § 36-66C-7(h).

(b) New, modified, or replacement poles installed in the right-of-way in a historic district and in an area zoned primarily for residential use shall not exceed 50 feet above ground level.

(c) Each new, modified, or replacement pole installed in the right-of-way that is not in a historic district or in an area zoned primarily for residential use shall not exceed the greater of:

- (1) 50 feet above ground level; or
- (2) Ten feet greater in height above ground level than the tallest existing pole in the same public right-of-way in place as of January 1, 2019, and located within 500 feet of the new proposed pole.

(d) New small wireless facilities in the public right-of-way and collocated on an existing pole or support structure shall not exceed more than ten feet above the existing pole or support structure.

(e) New small wireless facilities in the public right-of-way collocated on a new or replacement pole under Subsection (a) or (b) of this section may not extend above the top of such poles.
(Ord. No. 19917-2, exh. A(62-15.1), 9-17-2019)

Sec. 28-259. Decorative poles.

A decorative pole should only be located where an existing pole can be removed and replaced, or at a new location where the City has identified that a streetlight is necessary.
(Ord. No. 19917-2, exh. A(62-15.2), 9-17-2019)

Sec. 28-260. Concealing wireless facilities.

Unless it is determined that another design is less intrusive, or placement is required under applicable law, small wireless facilities shall be concealed as follows:

- (1) Antennas located at the top of poles and support structures shall be incorporated into the pole or support structure, or placed within shrouds of a size such that the antenna appears to be part of the pole or support structure.
- (2) Antennas placed elsewhere on a pole or support structure shall be integrated into the pole or support structure or be designed and placed to minimize visual impacts.
- (3) Radio units or equipment cabinets holding radio units and mounted on a pole shall be placed as high as possible, located to avoid interfering with, or creating any hazard to, any other use of the public rights-of-way, and located on one side of the pole. Unless the radio units or equipment cabinets can be concealed by appropriate traffic signage, radio units or equipment cabinets mounted below the communications space on poles shall be designed so that the largest dimension is vertical, and the width is such that the radio units or equipment cabinets are minimally visible from the opposite side of the pole on which they are placed.
- (4) Wiring and cabling shall be neat and concealed within or flush to the pole or support structure, ensuring concealment of these components to the greatest extent possible.

(Ord. No. 19917-2, exh. A(62-15.3), 9-17-2019)

Sec. 28-261. Collocating wireless facilities in historic districts.

Notwithstanding any provision of this article to the contrary, an applicant may collocate a small wireless facility within a historic district, and may place or replace a pole within a historic district, only upon satisfaction of the following:

- (1) Issuance of a permit under Division 3 of this article; and
 - (2) Compliance with applicable codes.
- (Ord. No. 19917-2, exh. A(62-15.4), 9-17-2019)

Sec. 28-262. Collocating wireless facilities on a decorative pole.

Notwithstanding any provision of this article to the contrary, an applicant may collocate a small wireless facility on a decorative pole, or may replace a decorative pole with a new decorative pole, in the event the existing decorative pole will not structurally support the attachment, only upon satisfaction of the following:

- (1) Issuance of a permit under Division 3 of this article; and
 - (2) Compliance with applicable codes.
- (Ord. No. 19917-2, exh. A(62-15.5), 9-17-2019)

Chapter 29

RESERVED

Chapter 30

TRAFFIC AND VEHICLES*

Article I. In General

- Sec. 30-1. Uniform rules of the road.
- Sec. 30-2. Enforcement authority.
- Sec. 30-3. Additional charge for traffic offenses.
- Sec. 30-4. Traffic control signs, signals, devices and markings.
- Sec. 30-5. No parking rules.
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Article II. Enhanced 911 Addressing

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- Sec. 30-32. Purpose.
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- Secs. 30-38—30-62. Reserved.

Article III. Golf Carts

- Sec. 30-63. Findings; definition.
- Sec. 30-64. Registration/inspection certification.
- Sec. 30-65. Operation regulations.
- Sec. 30-66. Recreation path users—Authorized.
- Sec. 30-67. Recreation path users—Prohibited uses.
- Sec. 30-68. Hazardous activities and special rules.
- Sec. 30-69. Liability.
- Sec. 30-70. Penalties.
- Secs. 30-71—30-108. Reserved.

Article IV. Roadways Approved for the Use of Speed Detection Devices

- Sec. 30-109. List of roadways.
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Article V. Use of Sidewalks

- Sec. 30-159. Purpose of the public sidewalk.
- Sec. 30-160. Placement of merchandise for display, sale, advertisement limited.
- Sec. 30-161. Approval procedure and requirements.

***State law references**—Jurisdiction of Municipal Courts over misdemeanor traffic offenses, O.C.G.A. § 40-13-21(a); power of local authorities generally, O.C.G.A. § 40-6-371.

ARTICLE I. IN GENERAL**Sec. 30-1. Uniform rules of the road.**

Pursuant to O.C.G.A. §§ 40-6-372—40-6-376, the provisions of O.C.G.A. §§ 40-6-1—40-6-395 (except for O.C.G.A. §§ 40-6-393 and 40-6-394), known as the Uniform Rules of the Road, and the definitions contained in O.C.G.A. § 40-1-1 are hereby adopted as and for the traffic regulations of the City with like effect as if recited herein.

(Code 2001, § 11-101; Code 2006, § 66-1)

Sec. 30-2. Enforcement authority.

The provisions of this chapter, other traffic ordinances of the City, and State law provisions adopted in this chapter are enforced by the City Police Department within the City.

Sec. 30-3. Additional charge for traffic offenses.

Effective July 1, 2001, the City shall impose an additional \$15.00 surcharge fee on each person convicted of traffic offenses or violations in the Municipal Court. Said surcharge fee shall be used to pay for acquisition, repair and maintenance of computer software.

(Code 2001, § 11-102; Code 2006, § 66-2)

Sec. 30-4. Traffic control signs, signals, devices and markings.

The location and existence of all traffic control signs, signals, devices and markings in place as of the adoption date of this Code are ratified and confirmed.

(Code 2006, § 66-3)

Sec. 30-5. No parking rules.

(a) It shall be unlawful at any time to permit any vehicle to stand, stop or park in any of the following places except in compliance with the directions of a law enforcement official or traffic control device:

- (1) In any intersection;
- (2) In a crosswalk;
- (3) Within 20 feet of any intersection or crosswalk;
- (4) At any place where the vehicle would block the use of the driveway;
- (5) At any place where the standing, stopping or parking of a vehicle will reduce the useable width of the roadway for moving traffic to less than 20 feet;
- (6) At any place or in an area designated as a "No Parking Zone" where signs have been posted by the City;
- (7) Overnight (11:00 p.m. to 5:00 a.m.) parking shall be prohibited in all public rights-of-way. Nothing shall prohibit parking in designated parking spaces.

(b) The Chief of the City Police Department or their designee.

(c) Any person or vehicle found to be in violation of this section shall be guilty of a misdemeanor. If any vehicle remains in violation for a period of two hours or more such vehicle shall be presumed to be abandoned and may be impounded by the Police Department or their designee.

(Code 2006, § 66-4; Ord. No. 05517-2, § 1, 5-17-2005; Ord. No. 110719-6, §§ 1, 2, 7-19-2011; Ord. No. O-21-03, 3-16-2021)

Sec. 30-6. Weight regulations in residential areas.

(a) In order to preserve the road surface adjoining residential areas, and in order to improve the traffic conditions within the City limits, in areas so posted, no person shall operate a motor vehicle of any type or description with an aggregate weight of six tons (12,000 pounds) or more without the express written consent of the City, provided that nothing in this section shall prevent State, County or City owned vehicles from using the roads in these posted residential areas for a specific purpose for which they are designed; and, provided further, that this section shall not apply to any vehicle actually engaged in loading or unloading activity on that roadway where the driver is present and in charge thereof.

(b) This section shall apply to the following posted areas: Price Street from SR 211 to SR 8.

(c) Violation of this section is punishable by a fine of \$1,000.00 or imprisonment for not more than 30 days, or both such fine and imprisonment.

(Code 2006, § 66-5; Ord. No. 05517-3, § 1, 5-17-2005)

Secs. 30-7—30-30. Reserved.

ARTICLE II. ENHANCED 911 ADDRESSING

Sec. 30-31. 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:

Building Official means the person whom the Mayor has appointed to administer and enforce the provisions of this article. The Building Official may also be referred to as "Code Enforcement Officer." (Ord. No. 131217-8, § 66-7(b), 12-17-2013)

Sec. 30-32. Purpose.

The purpose of this article is to improve the Barrow County E-911/Emergency Communication System and to provide for a uniform County wide addressing system with respect to street or house numbers assigned to all residences and principal buildings and businesses within the City. This will assist fire and rescue companies, law enforcement agencies, the United States Postal Service, parcel delivery companies, utility companies, tax appraisal, public works, planning and the general public in the timely and efficient provision of services to residents and businesses in the City.

(Ord. No. 131217-8, § 66-7(c), 12-17-2013)

Sec. 30-33. Display required.

Every location furnished with a 911 address inside the City must display that address so that it is visible from the public roadway. Mobile home parks and apartment complexes, including duplex dwelling structures, shall also be required to have each individual pad, lot number or apartment number displayed in a readily visible manner and in compliance with the requirements of this article. Such lot, pad or apartment numbers shall be in sequence unless directional signs are provided for numbers not in sequence.

(Ord. No. 131217-8, § 66-7(d), 12-17-2013)

Sec. 30-34. Method of display.

(a) Assigned 911 address numbers may be fixed to the house, apartment, business or other location itself, provided that such house, apartment, business or other location is not more than 60 feet from the centerline of the roadway or the road or street in front of such location, and the number must be readily visible from the street or road by persons traveling along the street or road in each direction. 911 address numbers may also be placed on mailboxes or signs located on the premises in front of the location, as long as the mailboxes or signs are on the same side of the road as the house, apartment, business or other building or location. If the addresses or numbers are displayed on signs, such signs must be of a durable type, and must be located not more than 60 feet from the centerline of the street or road in front of the property. The numbers on such signs shall be readily visible from the street by persons traveling along the street in each direction. If not on signs or mailboxes, the address must be located within ten feet of the access from the public road. If the road in front of the location is unpaved, said sign should be located not more than 45 feet from the edge of the road nearest the location.

(b) If the house, apartment, business or other building or location to be numbered is more than 60 feet from the centerline of the street or roadway in front of the property, or if for any reason a street address number affixed to the location would not be readily visible from the street or roadway by persons traveling along the street or roadway in each direction, then the 911 address numbers shall be displayed on a sign or mailbox in the premises next to the public roadway in front of the structure, and complying with the requirements of this article.

(Ord. No. 131217-8, § 66-7(e), 12-17-2013)

Sec. 30-35. Size, condition of addresses.

Assigned 911 addressed numbers and/or characters shall be a minimum of three inches in height and 1½ inches in width. Address numbers and characters for businesses shall be a minimum of four inches in height and two inches in width. All numbers or characters shall be reflective on a contrasting background so as to be clearly visible. It is recommended to use white reflective numbers and/or characters on a green background.

(Ord. No. 131217-8, § 66-7(f), 12-17-2013)

Sec. 30-36. Proper maintenance.

It shall be the responsibility of each property owner to properly maintain their E-911 address sign. Tall grass or bushes are to be kept cut or trimmed so as to not obstruct said signs. Also, any faded or missing numbers or characters shall be replaced so that the location may be located easily and at all times by emergency personnel.

(Ord. No. 131217-8, § 66-7(g), 12-17-2013)

Sec. 30-37. Duty of owner; notification; enforcement.

(a) The obligation of complying with the provisions of this article shall be upon the owner of the property. Failure to comply shall constitute a violation of this article.

(b) Upon such violation, notice shall be given to the owner of the property, or the owner's agent, specifying the nature of such violation, and requiring that such violation be remedied and brought into compliance within ten days after receipt of such notice. Notification shall be made by the designated County Building Official.

(c) Property owners shall have 90 days from the adoption of the ordinance from which this article is derived to comply.

(d) It shall be unlawful for any person to remove, damage, alter or deface any posted E-911 address sign in the City. Violators shall be subject to prosecution. Upon conviction, the violator will be liable of a fine not to exceed \$1,000.00 plus the cost of enforcement and prosecution. Said prosecution shall be pursued through the Municipal Court of the City.

(Ord. No. 131217-8, § 66-7(h), 12-17-2013)

Secs. 30-38—30-62. Reserved.**ARTICLE III. GOLF CARTS****Sec. 30-63. Findings; definition.**

The City Council finds that all streets and paved recreational paths located within the territorial boundaries of the City and under its jurisdiction are designed and constructed so as to safely permit their use by operators of motorized carts, electric bicycles, and low speed motor vehicle ("LSMV"), except as stated elsewhere in this article. The term "motorized carts" are defined as those electric and gasoline-powered pleasure carts, commonly called golf carts, which do not exceed 20 miles per hour. The term "electric bicycles" are defined as those single person bicycles powered by an electric motor which will not propel the bicycle at a speed in excess of 20 miles per hour on a flat surface carrying 150 pounds. No other electric bicycles are authorized for use under this article. The term "LSMVs" are defined as those four-wheeled vehicles whose top speed exceeds 20 miles per hour but does not exceed 25 miles per hour and which possess some mechanical, electrical or similar system other than merely decreased pressure on the accelerator wherein the vehicle's top speed can be prohibited from exceeding 20 miles per hour by the operator.

(Code 2006, § 66-29; Ord. No. 05419-1, § 1, 4-19-2005)

Sec. 30-64. Registration/inspection certification.

(a) *Motorized carts.* It shall be the duty of every owner of a motorized cart that is operated over the recreation paths and streets and those areas accessible by the public to register the cart with the City within ten business days of the date of purchase. Two numerical decals shall be issued upon registration; and a record of each motorized cart number, along with the name and address of the owner, shall be maintained by the Police Department. The decals must be affixed to the sides of the cart in such a manner as to be fully visible at all times. The registration fee for motorized carts shall be in an amount as adopted by the City Council by resolution from time to time, and the registration shall be effective until such time as the cart is sold or otherwise disposed of. If the cart is not registered within ten business days of purchase, a \$20.00 penalty will be applied in addition to the registration fee; and the cart shall be considered an unregistered cart after the ten business-day period. Upon occurrence of a sale of the cart to another person who shall operate the cart over the recreation paths and streets of the City, the registration must be transferred to the new owner within ten business days of the change in ownership at a cost an amount as adopted by the City Council by resolution from time to time. If the registration is not transferred within ten business days, a \$20.00 penalty will be applied in addition to the transfer charge; and the cart shall be considered an unregistered cart after the ten business-day period. The registration shall be effective until the next regular registration period. Registration periods shall occur every five years, beginning in 2018.

(b) *Gasoline carts.*

- (1) Every cart shall at all times be equipped with an exhaust system in good working order and in constant operation, meeting the following specifications:
 - a. The exhaust system shall include the piping leading from the flange of the exhaust manifold to and including the muffler and exhaust pipes or include any and all parts specified by the manufacturer.
 - b. The exhaust system and its elements shall be securely fastened, including the consideration of missing or broken brackets or hangers.
 - c. The engine and powered mechanism of every cart shall be so equipped, adjusted and tuned as to prevent the escape of excessive smoke or fumes.
- (2) It shall be unlawful for the owner of any cart to operate or permit the operation of such cart on which any device controlling or abating atmospheric emissions is placed on said cart by the manufacturer, to render the device unserviceable by removal, alteration or which interferes with its operation.
- (3) Every two years, the cart must be inspected by a golf cart dealer holding a valid business license, and the dealer must certify that the exhaust system meets the standards as stated in this article. This certification must be presented to the City within ten business days following the end of each two-year period, and the registration shall be renewed for an additional two-year period at no charge. If the certification is not presented within ten business days, the gasoline cart shall be considered an unregistered cart.

- (4) All gasoline carts purchased on or after September 1, 1993, must have a dealer certification in order to be registered; and after September 1, 1995, no gasoline-powered cart may be registered, renewed or transferred without dealer certification.

(c) *Rental carts.* Cart dealers and distributors, as well as other commercial establishments, may rent carts to the public for use on the recreation paths and streets and those areas accessible by the public of the City. Each such establishment renting carts shall be required to register each such rental cart in accordance with Subsections (a) and (b) of this section and shall maintain a written record of each person who rents each cart. Renters shall be required to furnish positive identification, shall be provided a copy of this article to read, and must be at least 16 years of age. The registration fee and transfer fees and regulations shall be the same as those in Subsections (a) and (b) of this section.

(d) *Age, number of registrants limited.* Only those persons 18 years of age or older may register a motorized cart. Cart registration may be in one person's name only, and the registration form must be signed by that person.

(e) *LSMV.* No LSMV shall be operated on the paved recreational paths or streets located within the territorial boundaries of the City unless it is legally registered and insured according to laws of the State. (Code 2006, § 66-30; Ord. No. 05419-1, § 2, 4-19-2005; Ord. No. 181120-1, § 1, 11-20-2018)

Sec. 30-65. Operation regulations.

(a) Those persons who are 16 years of age and older may drive a motorized cart on the recreation paths and/or streets and those areas accessible by the public of the City unless such person has had such person's license to operate a motor vehicle suspended or revoked by the state which issued said license, in which case such person shall not be permitted to operate a motorized cart on the recreation paths and/or streets and those areas accessible by the public of the City during the time of suspension or revocation.

(b) Those persons who are 15 years of age but not yet 16 years of age may drive a motorized cart on the recreation paths and/or streets and those areas accessible by the public of the City:

- (1) If such person does not have in said person's possession a valid instructional permit issued by the State pursuant to O.C.G.A. § 40-5-24, as may be amended, and has not had said person's instructional permit suspended or revoked, then said person shall be accompanied in the front seat by a person at least 18 years of age who holds a valid motor vehicle driver's license or said person shall be accompanied in the front seat by a parent, grandparent or legal guardian; or
- (2) If such person has in said person's possession a valid instructional permit issued by the State pursuant to O.C.G.A. § 40-5-24, as may be amended, and is unaccompanied by a licensed driver as provided in Subsection (b)(1) of this section, or is unaccompanied by a parent, grandparent or legal guardian as provided in Subsection (b)(1) of this section, then said person may be accompanied in the vehicle by up to one other person who must be at least 15 years of age, or said person may be accompanied by up to three immediate family members.

(c) Those persons who are 12 years of age but not yet 15 years of age may drive a motorized cart on the recreation paths and/or streets and those areas accessible by the public of the City if they are accompanied in the front seat by a parent, grandparent or legal guardian.

(d) No person under the age of 12 shall be permitted to drive a motorized cart on the recreation paths and/or streets and those areas accessible by the public of the City under any circumstances.

(e) All operators shall abide by all traffic regulations applicable to vehicular traffic when using the recreation paths, streets and those areas accessible by the public in the City. Where cart paths exist, they must be used in preference to parallel City streets.

(f) Motorized carts shall not be operated on sidewalks at any time.

(g) Motorized carts may be operated over those authorized streets, recreational paths and those areas accessible by the public only during daylight hours unless such motorized carts are equipped with functional headlights and taillights.

(h) No motorized cart shall be permitted to operate over, along, or across Highway 211 or Highway 8 within the boundaries of the City except where authorized crossings are provided.

(i) It shall be unlawful for the owner of any motorized cart or LSMV or any other person operating, employing, permitting the use of or otherwise directing the use of such motorized cart or LSMV to operate or permit the operator of any motorized cart or LSMV to drive over the recreational paths, streets or those areas accessible by the public in the City in violation of this article.

(j) Only persons possessing a valid license issued by the State, other state of the United States of America, or international agency which permits such person to operate a motor vehicle on the highways of the State may operate a LSMV on the paved recreational paths or streets located within the territorial boundaries of the City.

(k) No LSMV shall be permitted to operate on, over, along, or across Highway 211 or Highway 8 within the boundaries of the City except where authorized crossings are provided. No LSMV shall be permitted to operate on any street of which the posted speed limit exceeds 35 miles per hour. Except as prohibited above, LSMVs shall be permitted.

(Code 2006, § 66-31; Ord. No. 05419-1, § 3, 4-19-2005)

Sec. 30-66. Recreation path users—Authorized.

Authorized users of asphalt recreation paths and sidewalks are as follows:

- (1) Pedestrians;
- (2) No motorized vehicles;
- (3) Roller skates, roller blades and skateboarders (daylight only);
- (4) Registered electric-powered golf carts;
- (5) Registered gasoline-powered golf carts;
- (6) Emergency and authorized maintenance vehicles;
- (7) Bicycles, traditional and electric (as defined in Section 30-63);
- (8) Electric and conventional wheelchairs;

- (9) Electric vehicles designed to carry one person at a speed not to exceed 20 miles per hour except as prohibited in Section 30-67; and
 - (10) LSMVs, provided that the vehicle is operated only in a mode or other restriction which does not allow the vehicle to exceed 20 miles per hour.
- (Code 2006, § 66-32; Ord. No. 05419-1, § 4, 4-19-2005)

Sec. 30-67. Recreation path users—Prohibited uses.

Prohibited uses of recreation paths are as follows:

- (1) Automobiles and trucks (except authorized maintenance vehicles);
 - (2) Motorcycles;
 - (3) Street and trail motorized bikes or vehicles (not to include electric bicycles);
 - (4) Minibikes and mopeds;
 - (5) Horses;
 - (6) Go-carts;
 - (7) Unregistered electric-powered golf carts;
 - (8) Unregistered gasoline-powered golf carts;
 - (9) Electric- or gasoline-powered scooters;
 - (10) Except as permitted in Section 30-66, any vehicle designed by the manufacturer to go faster than 20 miles per hour under its own power on a flat surface; and
 - (11) Unregistered LSMVs.
- (Code 2006, § 66-33; Ord. No. 05419-1, § 5, 4-19-2005)

Sec. 30-68. Hazardous activities and special rules.

(a) Paths are for transportation and public recreation by the various groups of permitted users. No individual or group shall engage in hazardous activities on the paths and streets and those areas accessible by the public. Such hazardous activities, and the special rules pertaining to them, include but are not limited to the following:

- (1) Racing of any form, except for special events approved by the City; and
- (2) Blocking of public access, except for special events approved by the City.

(b) None of the prohibited users in Section 30-67 shall use the path system or the bridges and/or their underpasses for any purpose whatsoever.

(c) Pedestrians, skaters and permitted vehicles shall not loiter or park on recreation path bridges or in underpasses.

(d) Normal rules of the road shall apply to the recreation paths. For instance, when approaching oncoming path users, each user shall move to such user's right side of the path. Passing shall be on the left side of the path.

(e) Pedestrians should be given due consideration and reasonable right-of-way by other users of the recreation paths to ensure them safe passage.

(f) A warning or announcement shall be given by operators of golf carts and other users of the recreation paths, such as bicyclists and skaters, when approaching pedestrians from the rear. This warning or announcement may be verbal, but it is recommended that bicyclists and golf cart operators equip their vehicles with a warning device such as a horn or bell. Each user of the recreation paths shall be considerate of the safety and welfare of other users, and dangerous conduct will not be tolerated.

(g) All laws and ordinances relative to alcohol and its use, including open container laws, which apply to traffic on the streets of the City, also apply to the recreation paths.

(h) All litter shall be deposited in the receptacles provided along the recreation paths or retained by the path user for proper disposal later. Littering on the recreation paths shall be subject to twice the fines and penalties as littering on the streets.

(i) All users of electric bicycles shall wear a properly-fitted and -fastened bicycle helmet which meets the standards of the American National Standards Institute or the Snell Memorial Foundation's Standards for Protective Headgear for Use in Bicycling or a motorcycle helmet while operating an electric bicycle on the recreational paths.

(j) No one under the age of 15 years shall operate an electric bicycle on the recreational paths.

(k) All operators and passengers must remain seated at all times during the operation of the golf cart. No person may sit on the operator's lap during the operation of the golf cart.
(Code 2006, § 66-34; Ord. No. 05419-1, § 6, 4-19-2005; Ord. No. 181120-1, § 2, 11-20-2018)

Sec. 30-69. Liability.

Each person using the recreation paths is liable for said person's own actions. Liability insurance coverage varies, and each person operating a golf cart on the recreation paths and public streets and those areas accessible by the public should verify their coverage.
(Code 2006, § 66-35; Ord. No. 05419-1, § 7, 4-19-2005)

Sec. 30-70. Penalties.

(a) Any person who violates the terms of this article, except Section 30-65(b), (c) or (d), shall be punished as provided in Section 1-10; except that any fine for a littering offense shall be doubled.

(b) Any violation of Section 30-65(b), (c), or (d) shall be charged against the registered owner of the motorized cart, and all fines and penalties shall be levied against the registered owner of the motorized cart according to Section 1-10.

(c) Any violation by an operator of a LSMV shall be charged against the operator according to the provisions of O.C.G.A. Title 40 and this Code. Any violation by an owner of a LSMV shall be charged against the owner according to the provisions of O.C.G.A. Title 40 and this Code.
(Code 2006, § 66-36; Ord. No. 05419-1, § 8, 4-19-2005)

Secs. 30-71—30-108. Reserved.

ARTICLE IV. ROADWAYS APPROVED FOR THE USE OF SPEED DETECTION DEVICES**Sec. 30-109. List of roadways.**

The City maintains a list of roadways which is on file in the office of the Police Department.

Secs. 30-110—30-158. Reserved.**ARTICLE V. USE OF SIDEWALKS****Sec. 30-159. Purpose of the public sidewalk.**

Use of the public sidewalk for any purpose other than as a pedestrian right-of-way is a privilege, which the City may grant or deny to ensure the primary purpose of the public rights-of-way for travel and to maintain the efficiency of the pedestrian path for both safety and convenience.

- (1) To provide for pedestrian clearance, an access zone shall be reserved at all times for continuous, unobstructed pedestrian traffic along the public sidewalk. This reserved zone shall be a minimum of five feet in width, parallel to the roadway and as straight as possible, and not encroached upon even if this precludes other uses of the public sidewalk. Where less than five feet exists, all of the right-of-way shall be reserved for pedestrian clearance. A minimum of seven feet height clearance above grade for the access zone shall also remain unobstructed.
- (2) To provide for ingress/egress to businesses and structures lining the public rights-of-way, there shall also be reserved clear passages between the sidewalk and the curb. These passages shall be a minimum of five feet in width and perpendicular to the roadway and as direct as possible. In addition to corner passages at street intersections, each side of a City block shall have a minimum of two said passages spaced at least 50 feet apart.

(Ord. No. 190521-2, exh. A(66-7(a)), 5-21-2019)

Sec. 30-160. Placement of merchandise for display, sale, advertisement limited.

It shall be unlawful to place, for purposes of display, for the sale or advertisement of any property or merchandise whatsoever, upon the public sidewalks of the City except as provided herein. The presence of any property or merchandised except in conformity with this section shall be a nuisance and a violation of Section 20-2(15). The presence of any property or merchandised except in conformity with this section shall constitute a violation by both the owner of the property and the applicant. Each day in which property or merchandise is so placed shall constitute a separate violation of this section.

- (1) In accordance with this section, wherever sidewalks wider than eight feet exist within the area bounded by First Street, Broad Street, Sixth Street and the right-of-way of the CSX Railroad, they may also be utilized for product display, provided:
 - a. Placement of merchandise occurs only during business hours and all merchandise is removed at the close of business each day.

- b. To reduce the added risk of product tipping into the access zone, no merchandise shall exceed or be stacked to exceed six feet in height and no shelving units may be used. No tables may be used, unless approved as part of a City-sponsored event.
- c. To reduce the added risk of product rolling into the access zone, all wheels shall be locked or chocked.
- d. To reduce the added risk of product falling into the access zone, no merchandise shall be hung on the building or suspended from the building's awnings or canopies.
- e. No signs shall be used on public property; labels less than one-inch square shall not constitute signage.

(2) If the City Administrator or their designee determines any display, or portion thereof, to be noncompliant with this section, said display is subject to immediate removal.

(Ord. No. 190521-2, exh. A(66-7(b)), 5-21-2019)

Sec. 30-161. Approval procedure and requirements.

(a) An application with the application fee as established by the City Council shall be filed with the City Administrator, or designee, prior to any use or placement of any item upon public property.

(b) The City Administrator shall determine whether the proposed use of the sidewalk complies with this article.

(c) Use of the sidewalk shall be in accordance with the approved application and shall not be modified.

(d) The City Administrator may place additional conditions upon the issuance of approval in order to ensure the protection of the public rights-of-way and the rights of all adjoining property owners and the health, safety, and general welfare of the public.

(e) The City Administrator may require removal of any property or merchandise placed in violation of this article, or that, in the opinion of the City Administrator or Chief of Police, causes to endanger public safety. Failure to remove items and cease use of public property shall result in a removal of such items by the City. The business shall be responsible for all expenses incurred by the City for the removal and storage of such items.

(f) Except for actions arising out of the City's sole negligence, the applicant shall agree to indemnify, defend, and hold harmless the City and all its officers, officials, representatives, agents, and employees, from any and all claims, liability, damages, or causes of action which may arise out of the applicant's use of the sidewalk. Commercial general liability insurance shall be maintained with an A-rated insurance company and shall be in the amount of \$1,000,000.00 per occurrence for bodily injury and property damage. Before final approval of the application, the City must be named as an additional insured on this policy, and an endorsement must be issued as part of the policy reflecting compliance with this requirement.

(g) The business is responsible for repair of any damage to public property caused by the use of the sidewalk.

(Ord. No. 190521-2, exh. A(66-7(d)), 5-21-2019)

Chapter 31

RESERVED

Chapter 32

UTILITIES*

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***State law references**—Water Resources Center, O.C.G.A. § 12-5-1 et seq.; adoption of ordinances, rules and regulations relating to payment for street improvements and construction of water, gas and sewer connections, payment of costs of connections, O.C.G.A. § 36-39-7; authority to provide stormwater, sewage collection and disposal systems, Ga. Const. art. IX, § II, ¶ III(a)(6).

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ARTICLE I. IN GENERAL

Secs. 32-1—32-18. Reserved.

ARTICLE II. CROSS CONNECTIONS**Sec. 32-19. 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:

Auxiliary intake means any piping connection or other device whereby water may be secured from a source other than that normally used.

Bypass means any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

Cross-connection means any physical connection whereby the public water supply is connected with any other water supply system, whether public or private, either inside or outside of any building, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of ineffective check or back-pressure valves, or because of any other arrangement.

Interconnection means any system of piping or other arrangement whereby the public water supply is connected directly with a sewer or drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

Person means any and all persons, natural or artificial, including any individual firm, or association, and any municipal or private corporation, organized or existing under the laws of this or any other state or country.

Public water supply means the waterworks system furnishing water to the City for general use and which supply is recognized as the public water supply by the State Department of Natural Resources/ Environmental Protection Division.

(Code 2006, § 70-51; Ord. of 3-18-2003, § 1)

Sec. 32-20. Compliance with state rules required.

The City public water supply is to comply with 391-3-5-.13 (Ga. Comp. Rules and Regs. R391-3-5-.13) of the Georgia Rules for Safe Drinking Water and (PL 93-523) of the Federal Safe Drinking Water Act, legally adopted in accordance with this Code, which pertains to cross-connections, and establish an effective, ongoing program to control undesirable water uses.

(Code 2006, § 70-52; Ord. of 3-18-2003, § 2)

Sec. 32-21. Cross-connections prohibited.

It shall be unlawful for any person to cause a cross-connection, auxiliary intake, bypass, or interconnection to be made, or allow one to exist for any purpose whatsoever.

(Code 2006, § 70-53; Ord. of 3-18-2003, § 3)

Sec. 32-22. Certification of alternate water sources required.

Any person whose premises are supplied with water from the public water supply, and who also has on the same premises a separate source of water supply or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the Director of the City Water Department a statement of the nonexistence of unapproved or unauthorized cross-connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross-connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises.

(Code 2006, § 70-54; Ord. of 3-18-2003, § 4)

Sec. 32-23. Water service inspections; mandatory repairs.

(a) The City may cause inspections to be made of all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved shall be as established by the Director of the City Water Department.

(b) An approved protective device must be used on the service line serving the premises to assure that any contamination that may originate in this customer's premises is contained therein. The protective devices shall be a reduced pressure zone type backflow prevention device approved by the Director of the Water Department as to manufacturer, model, and size. The method of installation of backflow protective devices shall be approved by the Director of the City Water Department prior to installation and shall comply with the criteria set forth by the Director of the Water Department.

(c) The installation of said backflow protective devices shall be at the expense of the owner or occupant of the premises.

(d) The Department shall have the right to inspect and test the device on an annual basis or whenever deemed necessary by the Director of the Water Department or the Director's designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

(e) The water system shall require the occupant of the premises to make all repairs indicated promptly, and the expense of such repairs shall be borne by the owner or occupant of the premises. These repairs shall be made by qualified personnel, acceptable to the Director of the City Water Department.

(Code 2006, § 70-55; Ord. of 3-18-2003, § 5)

Sec. 32-24. Compliance required.

The Director of the Water Department or the Director's authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the City public water supply for

the purpose of inspecting the piping system thereof for cross-connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections.

(Code 2006, § 70-56; Ord. of 3-18-2003, § 6)

Sec. 32-25. Timeframe of compliance.

Any person who now has cross-connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this article shall be allowed a reasonable time within which to comply with the provisions of this article. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the Director of the Water Department.

(Code 2006, § 70-57; Ord. of 3-18-2003, § 7)

Sec. 32-26. Grounds for modification or disconnection.

Where the nature of use of the water supplied a premises by the Water Department is such that it is deemed:

- (1) Impractical to provide an effective air-gap separation;
- (2) That the owner and/or occupant of the premises cannot or is not willing to demonstrate to the official in charge of the system, or the official's designated representative, that the water use and protective features of the plumbing are such as to pose no threat to the safety or potability of the water supply;
- (3) That the nature and mode of operation within a premises are such that frequent alterations need be made to the plumbing;

there is likelihood that protective measures may be subverted, altered, or disconnected.

(Code 2006, § 70-58; Ord. of 3-18-2003, § 8)

Sec. 32-27. Preservation of potable water supply; warning sign.

(a) The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified herein. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system shall be labeled in a conspicuous manner as:

Water Unsafe For Drinking

(b) Minimum acceptable signs shall have black letters one inch high located on a red background.

(Code 2006, § 70-59; Ord. of 3-18-2003, § 9)

Sec. 32-28. Penalties.

Any person who neglects or refuses to comply with any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be punished according to Section 1-10. In addition to the foregoing fines and penalties, the Director of the Water Department shall discontinue the public water supply service at any premises upon which there is found to be a cross-connection, auxiliary intake, bypass, or interconnection, and service shall not be restored until such cross-connection, auxiliary intake, bypass, or interconnection has been discontinued.

(Code 2006, § 70-60; Ord. of 3-18-2003, § 10)

Secs. 32-29—32-45. Reserved.**ARTICLE III. METERS AND FIXTURES****Sec. 32-46. Meters.**

(a) Except as otherwise provided in Subsections (c) and (d) of this section, the owner or operator of a building containing residential units may install equipment or use an economic allocation methodology to determine the quantity of water that is provided to the tenants and used in the common areas of such a building; and the owner of such a building may charge tenants separately for water and wastewater service based on usage as determined through the use of such equipment or allocation methodology.

(b) Except as otherwise provided in Subsections (c) and (d) of this section, the owner or operator of a building containing residential units may charge tenants separately for water and wastewater service, provided that the total amount of the charges to the tenants of such a building shall not exceed the total charges paid by the owner or operator for water and wastewater service for such building plus a reasonable fee for establishing, servicing, and billing for water and wastewater service and provided, further, that the terms of the charges are disclosed to the tenants prior to any contractual agreement.

(c) All new multiunit residential buildings permitted on or after July 1, 2012, shall be constructed in a manner which will permit the measurement by a county, municipal, or other public water system or by the owner or operator of water use by each unit. This subsection shall not apply to any building constructed or permitted prior to July 1, 2012, which is thereafter:

- (1) Renovated; or
- (2) Following a casualty or condemnation, renovated or rebuilt.

(d) All new multiunit retail and light industrial buildings permitted or with a pending permit application on or after July 1, 2012, shall be constructed in a manner which will permit the measurement by the owner or operator of water use by each unit. This subsection shall not apply to any building constructed or permitted prior to July 1, 2012, which is thereafter:

- (1) Renovated; or
- (2) Following a casualty or condemnation, renovated or rebuilt.

This subsection is not intended to apply to newly constructed multiunit office buildings or office components of mixed-use developments. Multiunit office buildings and the office component of

mixed-use developments may seek reimbursement from office tenants for water and wastewater use through an economic allocation which approximates the water use of each tenant based on square footage. The retail component of a mixed-use development shall be constructed in a manner which will permit the measurement by the owner or operator of water use by each retail unit.

(e) Reimbursement.

- (1) A county, municipal, or other public water system, if applicable, or the owner or operator of a building which is subject to Subsection (c) or (d) of this section shall seek reimbursement for water and wastewater usage by the units through an economic allocation methodology which is based on the measured quantity of water used by each unit.
- (2) The owner or operator of such a building which includes common areas for the benefit of the units may also seek reimbursement for common area water and wastewater use through an economic allocation which approximates the portion of the common area water and wastewater services allocable to each unit.
- (3) The total amount of charges to the units under Subsections (e)(1) and (2) of this section shall not exceed the total charges paid by the owner or operator for water and wastewater service for the building, plus a reasonable fee for establishing, servicing, and billing water and wastewater consumption.
- (4) The Director shall be empowered to issue a temporary waiver of this subsection (e) upon a showing by an owner or operator of a building subject to this subsection that compliance with this subsection has temporarily become impracticable due to circumstances beyond the control of the owner or operator. Such waiver shall be limited in duration to the period during which such circumstances remain in effect and beyond the control of the owner or operator to change.
- (5) The owner or operator who seeks reimbursement for water and wastewater usage as required by this section shall be relieved of liability for actions or inactions that occur as a result of billing or meter-reading errors by an unaffiliated third-party billing or meter-reading company.

(f) The City shall not charge a fee or levy for the installation or use of privately owned meters or other devices which measure or assist in the measurement of water use under Subsection (c) of this section; provided, however, the City shall charge a fee or levy for the installation or use of publicly owned meters or other devices which measure or assist in the measurement of water use.

(g) Subsections (c), (d), and (e) of this section shall not apply to any construction of a building the permit for which was granted prior to July 1, 2012.

(Ord. No. 111220-13, exh. A(70-120), 12-20-2011)

Sec. 32-47. Fixtures.

(a) All new construction shall be required to install high-efficiency plumbing fixtures.

(b) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Commercial means any type of building other than residential.

Construction means the erection of a new building or the alteration of an existing building in connection with its repair or renovation or in connection with making an addition to an existing building and shall include the replacement of a malfunctioning, unserviceable, or obsolete faucet, showerhead, toilet, or urinal in an existing building.

Department means the Department of Community Affairs.

Lavatory faucet means a faucet that discharges into a lavatory basin in a domestic or commercial installation.

Plumbing fixture means a device that receives water, waste, or both and discharges the water, waste, or both into a drainage system. The term "plumbing fixture" includes a kitchen sink, utility sink, lavatory, bidet, bathtub, shower, urinal, toilet, water closet, or drinking water fountain.

Plumbing fixture fitting means a device that controls and directs the flow of water. The term "plumbing fixture fitting" includes a sink faucet, lavatory faucet, showerhead, or bath filler.

Pressurized flushing device means a device that contains a valve that:

- (1) Is attached to a pressurized water supply pipe that is of sufficient size to deliver water at the necessary rate of flow to ensure flushing when the valve is open; and
- (2) Opens on actuation to allow water to flow into the fixture at a rate and in a quantity necessary for the operation of the fixture and gradually closes to avoid water hammer.

Residential means any building or unit of a building intended for occupancy as a dwelling but shall not include a hotel or motel.

Toilet means a water closet.

Water closet means a fixture with a water-containing receptor that receives liquid and solid body waste and on actuation conveys the waste through an exposed integral trap into a drainage system and which is also referred to as a toilet.

WaterSense™ means a voluntary program of the United States Environmental Protection Agency designed to identify and promote water-efficient products and practices.

(c) The standards related to high-efficiency plumbing fixtures shall include, without limitation, the following:

- (1) A water closet or toilet that:
 - a. Is a dual flush water closet that meets the following standards:
 1. The average flush volume of two reduced flushes and one full flush may not exceed 1.28 gallons;
 2. The toilet meets the performance, testing, and labeling requirements prescribed by the following standards, as applicable:
 - (i) American Society of Mechanical Engineers Standard A112.19.2-2008; and
 - (ii) American Society of Mechanical Engineers Standard A112.19.14-2006 "Six-Liter Water Closets Equipped with a Dual Flushing Device"; and

3. Is listed to the WaterSense™ Tank-Type High Efficiency Toilet Specification; or
 - b. Is a single flush water closet, including gravity, pressure assisted, and electro-hydraulic tank types, that meets the following standards:
 1. The average flush volume may not exceed 1.28 gallons;
 2. The toilet must meet the performance, testing, and labeling requirements prescribed by the American Society of Mechanical Engineers Standard A112.192/CSA B45.1 or A112.19.14; and
 3. The toilet must be listed to the WaterSense™ Tank-Type High Efficiency Toilet Specification;
- (2) A showerhead that allows a flow of no more than an average of 2.5 gallons of water per minute at 60 pounds per square inch of pressure;
- (3) A urinal that uses more than an average of 1.0 gallon of water per flush; and associated flush valve that:
 - a. Uses no more than 0.5 gallons of water per flush;
 - b. Meets the performance, testing, and labeling requirements prescribed by the American Society of Mechanical Engineers Standard A112.19.2/CSA B45.1;
 - c. For flushing urinals, meets all WaterSense™ specifications for flushing urinals; and
 - d. Where nonwater urinals are employed, complies with American Society of Mechanical Engineers Standard A112.19.3/CSA B45.4 or American Society of Mechanical Engineers Standard A112.19.19/CSA B45.4. Nonwater urinals shall be cleaned and maintained in accordance with the manufacturer's instructions after installation. Where nonwater urinals are installed, they shall have a water distribution line roughed-in to the urinal location at a minimum height of 56 inches (1,422 mm) to allow for the installation of an approved backflow prevention device in the event of a retrofit. Such water distribution lines shall be installed with shut-off valves located as close as possible to the distributing main to prevent the creation of dead ends. Where nonwater urinals are installed, a minimum of one water-supplied fixture rated at a minimum of one water supply fixture unit shall be installed upstream on the same drain line to facilitate drain line flow and rinsing;
- (4) A lavatory faucet or lavatory replacement aerator that allows a flow of no more than 1.5 gallons of water per minute at a pressure of 60 pounds per square inch in accordance with American Society of Mechanical Engineers Standard A112.18.1/CSA B.125.1 and listed to the WaterSense™ High-Efficiency Lavatory Faucet Specification; and
- (5) A kitchen faucet or kitchen replacement aerator that allows a flow of no more than 2.0 gallons of water per minute.
- (d) Upon application the City may grant an exemption to the requirements of Subsection (c) of this section, relative to new construction and to the repair or renovation of an existing building, under the following conditions:
- (1) When the repair or renovation of the existing building does not include the replacement of the plumbing or sewage system servicing toilets, faucets, or showerheads within such existing building;

- (2) When such plumbing or sewage system within such existing building, because of its capacity, design, or installation, would not function properly if the toilets, faucets, or showerheads required by this section were installed;
 - (3) When such system is a well or gravity flow from a spring and is owned privately by an individual for use in such individual's personal residence; or
 - (4) When units to be installed are:
 - a. Specifically designed for use by persons with disabilities;
 - b. Specifically designed to withstand unusual abuse or installation in a penal institution; or
 - c. Toilets for juveniles.
- (e) The procedure for obtaining the exemption specified in Subsection (d) of this section shall be in the same manner as for a variance.
- (f) Any person who installs any toilet, faucet, urinal, or showerhead in violation of this section shall be guilty of a misdemeanor.
(Ord. No. 111220-13, exh. A(70-121), 12-20-2011)

Sec. 32-48. Maintenance and billing of water meters.

- (a) The City has installed electronically read water meters for City water customers. These water meters are City property and are critical for the operation of the City's water department. Damage to or destruction of a water meter through no fault of the City shall be the responsibility of the customer.
- (b) Whenever a water meter is destroyed or damaged, the City shall replace the meter and provide the customer a bill for the cost of replacing or repairing the water meter, including labor, parts and a new meter, if necessary.
- (c) The bill shall be hand-delivered by a City employee. If delivery fails after three attempts on different days, the bill may be sent to the address to which water bills are sent and delivery and receipt shall be presumed to have occurred three days after mailing.
- (d) If the customer fails to satisfy the bill within 30 days from delivery, the City may:
 - (1) Suspend water service until the bill is satisfied; and
 - (2) File a lien upon the property for the amount of the bill and the cost of filing.
- (e) The failure to satisfy the bill within 45 days shall be a misdemeanor and upon the issuance of a proper summons, the Municipal Court may punish the customer as provided by the ordinances of the City.
(Ord. of 10-18-2005, § 1(70.10))

Secs. 32-49—32-62. Reserved.

ARTICLE IV. PRE-SELLING SEWAGE TREATMENT CONNECTION**Sec. 32-63. Pre-purchase of sewage treatment connection.**

Owners of residential property within the service area of the City that at the adoption of the ordinance from which this article is derived is served by an existing septic tank or other existing on-site system may pre-purchase sewer connections to the City sewerage systems as provided in this article. It is the intent of the Mayor and Council to encourage residents with septic tanks to connect to the City's sewerage system as lines are extended into those areas of the City.

(Ord. No. 06418-2, § 1(intro. ¶), 4-18-2006)

Sec. 32-64. Written request.

In order to pre-purchase a sewer connection to the City sewerage system a person must make written request to the City Clerk.

(Ord. No. 06418-2, § 1(1), 4-18-2006)

Sec. 32-65. Calculation of cost.

Using the information provided, the City Clerk or a designee shall calculate the cost of the connection the person seeks to pre-purchase. The cost for a single-family residential use connection for the owner of such property will be an amount as adopted by the City Council from time to time.

(Ord. No. 06418-2, § 1(2), 4-18-2006)

Sec. 32-66. Payment of costs.

The City Clerk shall notify the requesting person of the amount of the total cost within three days of the request. The person shall then have six months within which to pay the cost in full or make a request to make payments and provide evidence of financial need. Upon the failure of the person to pay the full cost or make such a request within 30 days, the Clerk shall notify the person that the request is denied. If the person requests to make payments and demonstrates that they are on a fixed income of less than \$3,000.00 per month, the Clerk may grant the request and allow the person to pay \$50.00 per month for 24 months.

(Ord. No. 06418-2, § 1(3), 4-18-2006)

Sec. 32-67. Infrastructure.

By pre-selling sewage treatment connection, the City shall not be obligated or required to provide any necessary infrastructure improvements, including, but not limited to, pump or lift stations; provided, however, that if a connection purchased pursuant to this article is not available within two years, the City shall refund the connection fee paid, with interest earned while in the City's account.

(Ord. No. 06418-2, § 1(4), 4-18-2006)

Secs. 32-68—32-92. Reserved.

ARTICLE V. SEWERS AND SEWAGE DISPOSAL**Sec. 32-93. 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:

Act means the Federal Water Pollution Control Act Amendments of 1972, PL 92-500, as amended by the Clean Water Act of 1977, PL 95-217, and as subsequently amended, 33 USC 1251 et seq.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure prescribed in "Standard Methods for the Examination of Water and Wastewater" in five days at 20 degrees Celsius, expressed in milligrams per liter.

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the outer face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal, also called "house connection" or "service connection."

Categorical standard means national pretreatment standards applicable to industrial users specifying quantities or concentrations of pollutants or pollutant properties which may be discharged to a City-owned wastewater treatment works. Categorical standards are established in 40 CFR, Chapter 1, Subchapter N, relating to effluent guidelines and standards.

Chemical oxygen demand means the quantity of oxygen or oxygen utilized in the oxidation of organic matter under standard laboratory procedures prescribed in "Standard Methods for the Examination of Water and Wastewater," expressed in milligrams per liter.

Combined sewer means a sewer intended to receive both wastewater and stormwater or surface water.

Composite sample means the accumulation of a number of individual samples over a period of time, so taken as to represent the nature of the wastewater.

Cooling water means the water discharged from any use such as air conditioning, cooling, refrigeration, or to which the only pollutant added is heat.

Customer means every person who is responsible for contracting (expressly or implicitly) with the City in obtaining, having or using sewer connections with, or sewer tap to, the sewerage system of the City and in obtaining, having or using water and other related services furnished by the City for the purpose of disposing of wastewater and sewage through the system. The term "customer" shall include the occupants of each unit of a multiple-family dwelling unit building as a separate and distinct customer.

Designated City representative means the City Clerk or the Clerk's authorized deputy or representative.

Easement means an acquired legal right for the specific use of land owned by others.

Floatable oil means oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.

Flush toilet means the common sanitary flush commode in general use for the disposal of human excrement.

Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

General pretreatment regulations means 40 CFR 403, General Pretreatment Regulations for Existing and New Sources of Pollution, as amended.

Grab sample means a sample which is taken from a wastewater stream on a one-time basis with no regard to the flow in the wastewater stream and without consideration of time.

Grease means a group of substances, including fats, waxes, free fatty acids, calcium and magnesium soaps, mineral oils, and certain other nonfatty materials.

Grease interceptor means a tank or vessel designed to remove and retain grease and floatable oil from a wastewater stream prior to discharge to a public sewer.

Grit means the heavy suspended mineral matter present in wastewater such as sand or gravel.

Grit interceptor means a tank or vessel designed to interrupt the flow of wastewater so as to cause grit to settle out of the wastewater stream prior to discharge to a public sewer.

Industrial wastes means the wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.

Infiltration/inflow means groundwater and surface water which leaks into the sewers through cracks in pipes, joints, manholes or other openings.

Municipality means the government body having jurisdiction over the maintenance and operations of the water and sanitary sewer systems within the City and adjacent areas of the County.

Natural outlet means any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

Normal wastewater means wastewater discharged into the sanitary sewers in which the average concentration of total suspended solids is not more than 300 milligrams per liter (mg/L), BOD₅ is not more than 300 mg/L, total phosphorous is not more than 15 mg/L, total oil and grease is not more than 100 milligrams per liter (mg/L), total Kjeldahl nitrogen is not more than 20 mg/L, and the total flow is not more than 36,000 gallons per day.

pH means the reciprocal of the logarithm of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution.

Pit privy means a shored, vertical pit in the earth completely covered with a flytight slab on which is securely located a flytight riser covered with hinged flytight seat and lid.

Properly shredded garbage means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

Public sewer means a common sewer controlled by a governmental agency or public utility.

Sanitary sewer means a sewer than carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of groundwaters, stormwaters and surface waters that are not admitted intentionally.

Septic tank means a subsurface impervious tank designed to temporarily retain sewage or similar waterborne wastes, together with a:

- (1) Sewer line constructed with solid pipe, with the joints sealed, connecting the impervious tank with a plumbing stub-out; and
- (2) Subsurface system of trenches, piping and other materials constructed to drain the clarified discharge from the tank and distribute it underground to be absorbed or filtered.

Sewage means the spent water of a community. The equivalent term is "wastewater."

Sewer means a pipe or conduit that carries wastewater or drainage water.

Slug means any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period or duration longer than 15 minutes more than five times the average 24-hour concentration of flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

Storm drain, sometimes termed "storm sewer," means a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source any excluding sewage and industrial wastes other than unpolluted cooling water.

Suspended solids means total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as nonfilterable residue.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in 40 CFR 401.15.

Unpolluted water means water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

User means any person who contributes, causes or permits the contribution of wastewater into public wastewater facilities.

Wastewater means the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water and stormwater that may be present.

Wastewater facilities means the structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

Wastewater treatment works means an arrangement of devices and structures for treating wastewater, industrial wastes and sludge; sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant."

Watercourse means a natural or artificial channel for the passage of water, either continuously or intermittently.

(Code 2006, § 70-86)

Sec. 32-94. Use of public sewers required.

(a) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of the City any human excrement or objectionable waste.

(b) It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of the City, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this article.

(c) Except as otherwise provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

(d) The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley, easement or right-of-way in which there is located a public sanitary sewer of the City and not served by an approved and properly functioning private wastewater disposal system as of the effective date of the ordinance from which this article is derived, is required at the owners' expense to install suitable toilet facilities in such places, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within 90 days after date of official notice to do so, provided the public sewer is within 200 feet of the property line. Any house, building or property used for human occupancy, employment, recreation or other purposes, situated within the City, which has an approved and properly functioning private wastewater disposal system as of the effective date of the ordinance from which this article is derived will not be required by the City to connect to a public sanitary sewer as long as the private wastewater disposal system functions in accordance with requirements of the State Department of Human Resources, the State Department of Natural Resources and the County Sanitarian. For septic tanks or other private subsurface disposal facilities, the County Health Department shall determine if the wastewater disposal system is functioning properly.

(e) All sinks, dishwashing machines, lavatories, basins, shower baths, bathtubs, laundry tubs, washing machines, and similar plumbing fixtures or appliances and swimming pool drains and overflows shall be connected to the public sewer; provided that, where no sewer is available, septic tanks or other private subsurface disposal facilities approved by the County Health Department may be used.

(Code 2006, § 70-87)

Sec. 32-95. Private wastewater disposal.

(a) Where a public sanitary sewer is not available under the provisions of Section 32-94, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section and the regulations of State Department of Human Resources or the State Department of Natural Resources.

(b) Before commencement of construction on any private wastewater disposal system, except for septic tanks, the owner shall first obtain a written permit from the designated City representative. Septic tank installations are under the jurisdiction of the County Health Department.

(c) Septic tanks shall be constructed, repaired, altered, enlarged and maintained in accordance with plans and specifications approved by the County Health Department. Septic tanks shall be maintained in sanitary working order.

(d) No person shall construct, repair, alter or enlarge any septic tank unless the person holds a valid permit for such work issued by the County Health Department. The County Health Department may withhold the issuance of such a permit pending the inspection and approval by the County Health Department of the site and location of the proposed work. Before constructed, repaired, altered or enlarged, it shall be inspected and approved by the County Health Department. A copy of the approval shall be provided to the City by the owner of the private wastewater disposal system.

(e) The type, capacities, location and layout of a private wastewater disposal system shall comply with all requirements of State and federal water pollution control agencies of jurisdiction and with the County Health Department. No permit shall be issued for any private wastewater disposal system employing subsurface solid absorption facilities where the area of the lot is less than 43,560 square feet. No septic tank shall be permitted to discharge to any natural outlet.

(f) No septic tank or other subsurface disposal facility shall be installed where a public sewer is accessible within 200 feet of the premises involved, nor in any place where the County Health Department deems the use to be a menace to human health or well-being.

(g) At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in this section, and the County Health Department determines that the private wastewater disposal system is not functioning properly, a direct connection shall be made to the public sewer within 60 days after official notice to do so. Any septic tanks or similar private wastewater disposal facilities shall then be cleaned of sludge and filled with suitable material.

(h) The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the City.

(i) No subsurface disposal facilities shall be installed in any place where the County Health Department deems the use of such facilities to be a menace to human health or well-being.

(j) Every flush toilet shall be connected to a public sewer where available, to a septic tank, or other permitted private wastewater disposal system. Flush toilets shall be provided at all times with sufficient running water under pressure to flush the toilet clean after each use.

(k) Discharge of septic tank contents into the sewer system shall be as follows:

- (1) **Restricted.** It shall be unlawful to empty, dump or otherwise discharge into any manhole or other opening, into the City sewer system, or any system connected with and discharging into the City sewer system the contents of any septic tank, sludge sewage, or other similar matter or material, except as provided in Subsection (k)(2) of this section. Pumpings or contents taken from grease, grit or oil interceptors are prohibited.
- (2) **Permits.** The designated City representative is authorized to issue permits to discharge the contents of septic tanks at locations specified by the designated City representative and under the representative's supervision. Such permits may be revoked at any time if, in the opinion of the designated City representative, continued dumping of such matter into the sewers will be injurious to the sewer system or treatment processes. Prior to permit issuance, the designated City representative may require a complete analysis of waste products to be discharged to determine compatibility with the treatment process. The analysis will be at the expense of the person requesting the discharge permit.
- (3) **Charges.** A charge shall be made for the privilege of dumping the contents of septic tanks, as provided in the City's fee schedule. A record shall be kept of all such dumping. Fees for dumping shall be paid prior to the City's accepting the waste material.

(l) Any premises with a septic tank or any other sewage, industrial waste or liquid waste disposal system located on the premises that does not function in a sanitary manner shall be corrected within 60 days from the receipt of written notification from the County sanitarian, the State or the City that the system is not functioning in a sanitary manner, and order that the system be corrected.

(m) No statement contained in this section shall be constructed to interfere with any additional requirements that may be imposed by the County Health Department or the State.

(Code 2006, § 70-88)

Sec. 32-96. Building sewers and connections.

(a) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance of such sewer without first obtaining a written permit from the City.

(b) There shall be two classes of building sewer permits, for residential and commercial service, and for service to establishments producing industrial wastes. In either case, the owner or the owner's agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the designated City representative. A permit and inspection fee for a residential or commercial building or either an industrial building sewer permit shall be paid to the City at the time the application is filed.

(c) All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(d) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the front building may be extended to the rear building and the whole considered as one building sewer; but the City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection.

(e) Existing building sewers may be used in connection with new buildings only when they are found, on examination and test by the designated City representative, to meet all requirements of this article.

(f) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in construction shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the City. The installation of all building sewer and connections to the public sewer shall conform with all pertinent Occupational Health and Safety Act (OSHA) requirements.

(g) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be built parallel to or within three feet of any bearing wall which might thereby be weakened. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(h) No person shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the designated City representative for purposes of disposal of polluted surface drainage.

(i) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the ASTM and the WEF Manual of Practice No. 9, latest edition. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the designated City representative before installation.

(j) The applicant for the building sewer permit shall notify the designated City representative when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the designated City representative.

(k) All excavations for building sewer installation shall be adequately guarded with barricades, lights and other devices so as to protect the public from hazard. Streets, alleys, sidewalks and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

(l) The City will define the availability of sewers and any costs associated with sewer permits or construction.

(m) If any building sewer permits the entrance of infiltration or inflow, the City may:

(1) Require the owner to repair the building sewer.

- (2) Charge the owner a sewer rate that reflects the costs of the additional expense of sewage treatment from the owner's property.
 - (3) Require the owner to disconnect the owner's sewer from the City sewer system.
- (Code 2006, § 70-89)

Sec. 32-97. Restricted use of the public sewers.

(a) No person shall discharge or cause to be discharged any unpolluted waters, such as stormwater, groundwater, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters, to any sewer, except that stormwater runoff from limited areas such as solid waste dumpster pads, which stormwater may be polluted at times, may be discharged to the sanitary sewer by permission of the designated City representative.

(b) Stormwater other than that exempted under Subsection (a) of this section and all other unpolluted drainage shall be discharged to storm sewers or to a natural outlet approved by the designated City representative and other regulatory agencies. Unpolluted industrial cooling or condensing water may be discharged, on approval of the designated City representative and the State Environmental Protection Division, to a storm sewer, or natural outlet.

(c) No person shall discharge or cause to be discharged any sanitary wastewater into a storm sewer system.

(d) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- (1) Any gasoline, kerosene, benzene, naphtha, acetone, toluene, turpentine, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, sulfides, fuel oil, mineral spirits or other flammable or explosive liquid, solid or gas in sufficient quantity, either singly or by interaction with other waste, to injure or interfere with any waste treatment process, constitute a hazard to human or animal, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.
- (2) Any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.
- (3) Any waters or wastes having a pH lower than 6.0 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater treatment works.
- (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities, such as but not limited to ashes, bones, cinders, grinding and polishing wastes, sand, mud, grass clippings, leaves, straw, shavings, metal, glass, rags, fibers, feathers, tar, plastics, rubber, latex, wood, under-ground garbage, whole blood, paunch manure, hair and fleshings, entrails, offal, paper or plastic dishes and cups, milk containers, etc., either whole or ground by garbage grinders.

(e) The following-described substances, materials, waters or wastes shall be limited in discharges to municipal systems to concentrations or quantities which will not, either singly or by interaction with other substances, harm either the sewers, wastewater treatment process or equipment; will not have an adverse effect on the receiving stream; or will not otherwise endanger lives, limb, public property or constitute a nuisance. The designated City representative may set limitations lower than the limitations established in the regulations of this subsection if in the representative's opinion such more severe limitations are necessary to meet the objectives of this section. In forming an opinion as to the acceptability, the designated City representative will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the City are as follows:

- (1) Wastewater having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius) or wastewater which will elevate the temperature of the influent to the City wastewater treatment works to 104 degrees Fahrenheit (40 degrees Celsius) or higher.
- (2) Wastewater containing more than 25 milligrams per liter of petroleum oil, nonbiodegradable cutting oils, or products of mineral oil origin.
- (3) Wastewater containing more than 100 milligrams per liter of oils, fats, grease or wax, whether emulsified or not, or containing substances which may solidify or become viscous at temperatures between 32 degrees Fahrenheit (0 degrees Celsius) and 150 degrees Fahrenheit (65 degrees Celsius).
- (4) Any garbage than has not been property shredded (see definition of "properly shredded garbage" in Section 32-93). Garbage grinders may be connected to sanitary sewers from homes, hotels, motels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
- (5) Any waters or wastes containing heavy metals and similar objectionable or toxic substances to such degree that any such material at the point of discharge exceeds the following limits:
 - a. Metals parameters.

<i>Pollutant</i>	<i>Maximum Daily Concentration (mg/L)</i>	<i>Maximum Monthly Concentration (mg/L)</i>
Antimony	0.237	0.141
Arsenic	0.162	0.104
Barium	0.427	0.281
Cadmium	0.0172	0.0102
Chromium	0.746	0.323
Cobalt	0.192	0.124
Copper	0.500	0.242
Lead	0.350	0.160

<i>Pollutant</i>	<i>Maximum Daily Concentration (mg/L)</i>	<i>Maximum Monthly Concentration (mg/L)</i>
Mercury	0.00234	0.000739
Molybdenum	1.01	0.965
Nickel	3.95	1.45
Selenium	1.64	0.408
Silver	0.120	0.0351
Tin	0.409	0.120
Titanium	0.051	0.0299
Vanadium	0.218	0.0662
Zinc	0.497	0.420

b. Organic parameters.

<i>Pollutant</i>	<i>Maximum Daily Concentration (mg/L)</i>	<i>Maximum Monthly Concentration (mg/L)</i>
Acetone	30.2	7.97
Acetophenone	0.114	0.0562
Aniline	0.0333	0.0164
Bis (2-ethylhexyl) phthalate	0.215	0.101
2-Butanone	4.81	1.85
Butylbenzyl phthalate	0.188	0.0887
Carbazole	0.598	0.276
o-Cresol	1.92	0.561
p-Cresol	0.698	0.205
n-Decane	0.948	0.437
2,3-Dichloroaniline	0.0731	0.0361
Fluoranthene	0.0537	0.0268
n-Octadecane	0.589	0.302
Phenol	3.65	1.08
Pyridine	0.370	0.182
2,4,6-Trichlorophenol	0.155	0.106

c. Location of concentrations: Concentrations apply at the point where the industrial waste is discharged to the public sewer. In addition, any element or substance which, in the judgment of the designated City representative, will damage collection facilities or be detrimental to the treatment process may be prohibited. These limits may be amended if such amendment is deemed necessary to protect the facilities or life or health and/or to comply with applicable State or federal regulations.

- (6) All industrial discharges to the City sewer system must comply with the Federal Industrial Pretreatment Standards (40 CFR 401 to 471) and those industrial pretreatment standards established or set by the State Environmental Protection Division.
- (7) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the designated City representative.

- (8) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established in compliance with applicable State or federal regulations.
- (9) Quantities of flow, concentrations, or both that constitute a slug.
- (10) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed or are amendable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to receiving waters.
- (11) Any waters or wastes which, by interaction with other waters or wastes in the public sewer system, release obnoxious gases, form solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.
- (12) Any gasoline, kerosene, benzene, naphtha, acetone, toluene, turpentine, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, sulfides, fuel oil, mineral spirits or other flammable or explosive liquid, solid or gas.
- (13) Materials which exert or cause:
 - a. Any unusual concentration or inert suspended solids (such as, but not limited to, fuller's earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions), which imparts color that cannot be removed by the treatment process, and consequently imparts color to the plant's effluent thereby violating the City's discharge permit.
 - c. Unusual BOD (above 300 mg/L), biochemical oxygen demand in such quantities as to constitute a significant load on the sewage treatment plant.
 - d. Unusual suspended solids (above 300 mg/L) in such quantities as to constitute a significant load on the sewage treatment plant.

(f) If any waters or wastes are discharged or are proposed to be discharged to the public sewers which waters contain the substances or possess the characteristics enumerated in Subsection (e) of this section and which, in the judgment of the City, may have a deleterious effect upon the wastewater facilities, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the City may:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (3) Require control over the quantities and rates of discharge; and/or
- (4) Require surcharge payment to cover added the cost of handling and treatment of the wastes.

(g) Grease, oil and grit interceptors shall be provided when, in the opinion of the City, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, sand or other harmful ingredients; except such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the designated City

representative and shall be located as to be readily and easily accessible for cleaning and inspection. Except when specifically permitted by the designated City representative, interceptors shall be located outside of buildings. In the maintenance of these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the designated City representative. Any removal and hauling of the collected materials not performed by the owner's personnel must be performed by currently licensed waste disposal firms.

(h) When required by the designated City representative, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurements of the wastes. Such structure, when required, shall be accessibly and safely located, protected against vandalism, supplied with electrical current, and constructed in accordance with plans approved by the designated City representative. The structure shall be installed by the owner at the owner's expense and shall be maintained by the owner so as to be safe and accessible at all times.

(i) The industrial users may be required to provide information needed to determine compliance with this article. These requirements may include:

- (1) Wastewater discharge peak rate and volume over a specified time period;
- (2) Chemical analyses of wastewaters;
- (3) Information on raw materials, processes and products affecting wastewater volume and quality;
- (4) Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control;
- (5) A plot plan of sewers of the user's property showing sewer and pretreatment facility location;
- (6) Details of wastewater pretreatment facilities; and
- (7) Details of systems to prevent and control the losses of materials through spills to the public sewer.

(j) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association. Sampling methods, locations, times, durations and frequencies are to be determined on an individual basis subject to approval by the designated City representative.

(k) No statement contained in this section shall be constructed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, provided that all applicable State and federal pretreatment requirements are met.

(l) Persons discharging industrial wastes into the sewer system may be required to pretreat such wastes. Plans for all pretreatment facilities shall be approved prior to construction. At the time written plans are submitted for approval, written maintenance plans shall also be submitted and approved by the

designated City representative. The facilities shall be allowed to operate only as long as they are maintained in accordance with the approved maintenance plans. Pretreatment requirements shall be determined on a case-by-case basis and shall include the following facilities as a minimum:

- (1) Screening. Screens shall be required ahead of the receiving manhole of the City sewer system when deemed necessary by the designated City representative to prevent excess suspended solids from reaching the City system.
- (2) Neutralization. If plans are submitted for the neutralization of strong acid or alkaline wastes, the plans shall include the necessary instrumentation and controls to assure compliance with the regulations of this subsection at all times.
- (3) Equalization. Holding tanks or equalization basins shall be required ahead of the receiving manhole of the City sewer system when deemed necessary by the designated City representative to prevent peak flows that exceed the capacity of the system or that result in operational problems.

(m) There shall be no provision for the granting of variances for discharge of incompatible wastes. If a user begins to violate any of the provisions of this section, it shall be the user's responsibility to apply to the designated City representative who can issue a temporary permit along with a compliance schedule for planning and construction of necessary treatment or pretreatment works. Each case will be carefully evaluated with respect to its effect on the wastewater treatment system and the environment prior to issuance of a temporary permit and compliance schedule.

(Code 2006, § 70-90)

Sec. 32-98. Malicious damage.

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person violating this section shall be subject to immediate arrest under a charge of disorderly conduct.

(Code 2006, § 70-91)

Sec. 32-99. Powers and authority of inspectors.

(a) Duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the public wastewater system in accordance with the provisions of this article.

(b) Duly authorized employees are permitted to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the public wastewater system.

(c) The City Clerk or the Clerk's designated representative shall be the administrative authority over the operations of wastewater facilities which are owned and/or operated by the City.

(d) The City Clerk shall designate the City representative who shall be responsible for the enforcement of this article and shall approve the appointment of inspectors and approve the credentials and identification set forth in Subsection (a) of this section. In addition, the City Clerk shall appoint the Hearing Officer, who shall carry out the provisions of this article related to such Officer.
(Code 2006, § 70-92)

Sec. 32-100. Compliance with regulatory requirements.

The provisions of this article shall not be deemed as alleviating compliance with applicable State and federal regulations. All nonresidential users will be required to comply with pretreatment standards as set forth in 40 CFR 403, as amended.
(Code 2006, § 70-93)

Sec. 32-101. Violations.

(a) Violation of this article shall be a misdemeanor punishable under the laws of the State. Each day of continuing violation shall be considered a separate offense. Any persons violating any of the provisions of this article shall become liable to the City for any expense, loss or damage occasioned the City by reason of violation.

(b) In the event of violation of this article, the County Health Department or designated City representative may verbally instruct the owner as to the necessary corrective action. If the owner fails to carry out verbal instructions in a timely manner or if a serious violation or hazard to public health exists, the County Health Department or City may issue to the owner a written order stating the nature of the violation, the corrective action, and the time limit for completing the corrective action. The records of the mailing of the notice or order shall be prima facie evidence of the notice, and failure of the owner to receive the notice shall in no way affect the validity of any proceedings conducted pursuant to this article.

(c) Failure to comply with any written order duly issued by the County Health Department, the City or the Hearing Officer pursuant to this article or continuation of any violation of this article beyond the applicable time limit will constitute a separate offense, and upon conviction in the Municipal Court shall be punished by the Judge of such court within limits provided by the Charter and this article. Compliance with this article is required notwithstanding the fact that a written order might not have been issued.

(d) The violation of any provisions of this article may be enjoined by instituting appropriate proceedings for injunction in the courts of competent jurisdiction in this State. Any public nuisance which is injurious to the public health, safety or comfort may be abated by instituting appropriate proceedings for injunction in the court of competent jurisdiction in this State. Such actions may be maintained notwithstanding the fact that such violation also constitutes a crime, and notwithstanding that other adequate remedies at law exist. Such actions may be instituted in the name of the City.

(e) Upon the receipt of a notice of a violation of this article and/or an order of the City requiring an act or action to be done or to cease, the owner of any premises then in question may, in writing, demand a hearing before a Hearing Officer to present the evidence challenging the validity of the City's order. The owner may appear in person, by agent or by attorney. This demand must be filed with the City Clerk and be made within five days from the receipt of the order being challenged. Upon the receipt of a demand for a hearing, the City will set a date, time and place for the hearing, to be not less than 45 days from the

date of filing of the demand. The hearing shall apply to any customer's complaint, dispute or challenge of the City's rules, regulations, resolutions, ordinances or policies. Upon the customer's written complaint filed with the City Clerk, the Hearing Officer shall set a hearing as provided in this subsection or at a time agreed upon by the parties.

(f) The Hearing Officer shall, at such hearing, hear evidence presented by the designated City representative and the owner or customer; and if the Hearing Officer determines from such evidence that the violations exist and are of such magnitude that the effectiveness of the City's wastewater treatment works is diminished, the Hearing Officer may order water and sewer service to the offending location terminated. However, it shall be within the power of the Hearing Officer to delay the termination of services for up to 30 calendar days if, from evidence presented, it appears that the offender will in good faith cure such violations within the time stated in the delay. In the event of any such delayed termination order by the Hearing Officer it shall be the duty of the offender within the time specified in the delayed termination order to cure such violations, obtain an affidavit of the designated City representative that the violations have in fact been permanently cured, and present such affidavit to the Hearing Officer, else, the termination order shall remain effective and City water and sewer services shall be discontinued on the date specified in the order. When City water and sewer services have been terminated under this section, such services shall be provided to the location only upon application to the City for such services in the manner and form required by the City of any new customer, and under City policies relating to the provisions of such services as such policies exist at the time of application. If the Hearing Officer determines from evidence presented that the violations are less than contended by the City, the Hearing Officer may modify, alter or cancel previous actions or orders by the City.

(g) Evidence before the City of any hearing conducted pursuant to Subsections (e) and (f) of this section shall be admitted in accordance with the rules of evidence of the Superior Courts of the State; however, the City may take official notice of any order, rule, regulations, or any other document, record or entry contained in its official record or minutes for evidentiary purposes.

(h) For the purposes of this article, the decisions of the City will prevail in any instance in which there is a conflict between it and the County Health Department on any issue of sanitation, or lack thereof, and its effect on human health or well-being.

(Code 2006, § 70-94)

Sec. 32-102. Service charges.

It is determined necessary to fix and collect sewer service charges from customers. Such charges shall be published separate from this article; and the revenue received shall be used for operation, maintenance, debt retirement and other authorized expenses.

(Code 2006, § 70-95)

Sec. 32-103. Authority to disconnect service.

(a) The City reserves the right to terminate water and wastewater disposal services and disconnect a customer from the system when:

- (1) So ordered by the Hearing Officer as prescribed in Section 32-101(f);

- (2) Acids or chemicals damaging to sewer lines or treatment process are released into the public sewer causing rapid deterioration of these structures or interfering with property conveyance and treatment of wastewater;
 - (3) A governmental agency informs the City that the effluent from the wastewater treatment plant is no longer of a quality permitted for discharge into a watercourse, and it is found that the customer is discharging wastewater into the public sewer that cannot be sufficiently treated or requires treatment that is not provided by the City as normal domestic treatment; or
 - (4) The customer:
 - a. Discharges industrial waste or wastewater that is in violation of a permit issued by the approving authority;
 - b. Discharges wastewater at an uncontrolled, variable rate in sufficient quantity to cause an imbalance in the wastewater treatment process;
 - c. Fails to pay monthly bills for sanitary sewer services, surcharges, or fines, when due;
 - d. Repeats a discharge of prohibited wastes into public sewers;
 - e. Discharges any parameter measured in the wastewater in violation of this article; or
 - f. Fails to maintain any pretreatment facility or equipment, including grease traps.
- (b) Notification processes for discontinuance of service are presented in Section 32-101(b).
(Code 2006, § 70-96)

Secs. 32-104—32-134. Reserved.

ARTICLE VI. WATER

Sec. 32-135. Rate schedule.

- (a) Water and sewer rate schedules shall be established by the City Council.
- (b) The rate schedule set forth contemplates a single user, such as a one-family dwelling, one-farm dwelling with appurtenances, or single-commercial operation.
- (c) Extraordinary circumstances, such as multiple dwelling units, industrial users, and fire protection shall be governed by special contract agreements made by the Mayor and City Council on recommendation of the City's Engineer.
(Code 2001, § 20-101; Code 2006, § 70-19)

Sec. 32-136. Application for water service.

The consumer shall make application for water and sewer service, in person, at the City Hall, and at the same time shall make a cash security deposit as established by resolution of the City Council.
(Code 2001, § 20-102; Code 2006, § 70-20)

Sec. 32-137. Charges for initial service.

(a) Each consumer subscribing to use the water and sewer service of the City shall pay a connection fee as established by resolution of the City Council for water and sewer services.

(b) The City may install a second water meter for customers for outside water use only. Fees for the second meter shall be an amount as adopted by the City Council by resolution from time to time. There will be no sewerage charge on this second meter. For the months this meter is not in use, the customer will be charged the minimum fee as established by the Mayor and Council unless the owner has a lock placed on the meter.

(Code 2001, § 20-103; Code 2006, § 70-21)

Sec. 32-138. Minimum charges.

The minimum charge, as provided in the rate schedule, shall be made for such connection subscribed for. Water furnished a given lot shall be used on that lot only, and, except for fire protection, the City shall not under any condition furnish water free of charge to anyone.

(Code 2001, § 20-104; Code 2006, § 70-22)

Sec. 32-139. City responsibility and liability.

The City shall run a service line from its distribution line to the property line where the distribution line exists or is to be constructed and runs immediately adjacent and parallel to the property to be served. No service charge, other than the connection fee referred to in Section 32-137, will be made for a five-eighths-inch or three-quarters-inch meter. A proportionately greater charge than the connection fee above will be made for a meter of larger dimensions.

- (1) The City may make connections to service other properties not adjacent to its lines upon payment of reasonable costs for the extensions of its distribution lines as may be required to render such service.
- (2) The City may install its meter at or near the property line or, at the City's discretion, on the consumer's property within three feet of the property line.
- (3) The City reserves the right to refuse service unless the consumer's lines or piping is installed in such a manner as to prevent cross-connections or back flow.
- (4) Under normal conditions, the consumer will be notified of any anticipated interruptions of service by the City.

(Code 2001, § 20-105; Code 2006, § 70-23)

Sec. 32-140. Consumer's responsibility and liability.

(a) The consumer on whose premises a meter or meter box is located shall provide a suitable place for said meter, unobstructed and accessible at all times to the meter reader.

(b) The consumer shall furnish and maintain a private cut-off valve on the consumer's side of the meter.

(c) The consumer's piping and apparatus shall be installed and maintained by the consumer at the consumer's expense in a safe and efficient manner and in accordance with the sanitary regulations of the State Health Department.

(d) In order to be received as a consumer and entitled to receive water from the City's system, all applicants must offer proof that any private wells located on their property are not physically connected to the lines of the City's water system, and all applicants, by becoming consumers of the City, agree that so long as they continue to be consumers of the City they will not permit the connection of any private wells on their property to the City's water system.

(Code 2001, § 20-106; Code 2006, § 70-24)

Sec. 32-141. Access to premises and extensions of system.

(a) Duly authorized agents of the City shall have access at all hours to the premises of the consumer for the purpose of installing or removing City property, inspecting piping, reading and testing meters, or for any other purpose in connection with the water service and its facilities, and the sewer service and its facilities.

(b) Extensions to the system shall be made only when the consumer shall grant or convey, or shall cause to be granted or conveyed, to the City, a permanent easement or right-of-way across any property traversed by the water and sewer lines.

(Code 2001, § 20-107; Code 2006, § 70-25)

Sec. 32-142. Change of occupancy.

(a) Not less than three days' notice must be given, in person or in writing, at the City Hall to discontinue water and sewer service or to change occupancy. The outgoing party shall be responsible for all water consumed up to the time of departure or the time specified for departure, whichever period is longer. The new occupant shall apply for water service within 48 hours after occupying the premises, and failure to do so will make the occupant liable for paying for the water consumed since the last meter reading.

(b) Landlords and agents controlling property for domestic use, or rooms for lodging purposes, or offices, shall in every case give written notice to the City Clerk of the removal of the tenant, the non-use of water, or change in tenant. Liability for unpaid charges for water furnished is imposed pursuant to O.C.G.A. § 36-60-17.

(Code 2001, § 20-108; Code 2006, § 70-26; Ord. No. 090915-7, § 1, 9-15-2009)

Sec. 32-143. Meter reading; billing and collecting.

(a) Bills to customers for water and sewer service shall be mailed out on such day of each month as may be determined as desirable by the City. The failure of water and/or sewer users to pay charges duly imposed shall result in the automatic imposition of the following penalties:

- (1) Nonpayment from the day after the due date will be subject to a penalty of ten percent of the delinquent account.

- (2) Nonpayment within 30 days from the due date will result in the water being shut off from the water user's property.
- (3) Nonpayment for 60 days after original due date will allow the City, in addition to all other rights and remedies, to terminate agreement, and in such event, the water user shall not be entitled to receive, nor the City obligated to supply, any water under this agreement.

(b) Water and sewer service shall not be reconnected until the customer's delinquent bill, including penalty and disconnection charges, have been paid in full. Should such customer thereafter desire to be reconnected to the water and sewer system, a reconnecting charge as established by resolution of the City Council shall be collected. Bills shall be paid at the City Hall, and a failure to receive bills or notices shall not prevent such bills from becoming delinquent nor relieve the consumer of payment.

(c) Uncollectible bills for water and sewer service shall be turned over to the credit bureau for collection.

(Code 2001, § 20-109; Code 2006, § 70-27)

Sec. 32-144. Suspension of service.

When water and sewer service is discontinued and all bills paid, the security deposit shall be refunded to the consumer by the City.

- (1) Upon discontinuance of service for nonpayment of bills, the security deposit will be applied by the City toward settlement of the account. Any balance will be refunded to the consumer; however, if the security deposit is insufficient to cover the bill, the City may proceed to collect the balance in the usual way provided by law for collection of debts.
- (2) Service disconnected for nonpayment of bills will be restored only after bills are paid in full, such security deposit as may be required by the Mayor and Council is made, and a service charge paid for each meter reconnected.
- (3) The City reserves a right to discontinue its service without notice for the following additional reasons:
 - a. To prevent fraud or abuse.
 - b. Consumer's willful disregard of the City's rules.
 - c. Emergency repairs.
 - d. Insufficiency of water supply due to circumstances beyond the City's control.
 - e. Legal processes.
 - f. Direction of public authorities.
 - g. Strike, riot, fire, flood, or unavoidable accident.

(Code 2001, § 20-110; Code 2006, § 70-28)

Sec. 32-145. Complaints; adjustments.

If the consumer believes said consumer's bill to be in error, said consumer shall present said consumer's claim, in person, at the City Hall before the bill becomes delinquent. Such claim, if made

after the bill has become delinquent, shall not be effective in preventing discontinuance of service as heretofore provided. The consumer may pay such bill under protest and said payment shall not prejudice the consumer's claim.

- (1) The City will make a special water meter reading at the request of a consumer for no charge; provided, however, that if such special reading discloses that the meter was over-read, no charge will be made.
- (2) Water meters will be tested at the request of the consumer upon payment to the City of the actual costs of making the test; provided, however, that if the meter is found to over-register beyond three percent of the correct volume, no charge will be made.
- (3) If the seal of a meter is broken by other than the City's representative or if the meter fails to register correctly or is stopped for any cause, the consumer shall pay an amount estimated from the record of the consumer's previous bills and/or from other proper data.
- (4) The Mayor will be permitted to arrange extended payments for any residential or business customer who has discovered that there has been a break in an underground water line (especially when such a break cannot be visually detected) based on the following conditions:
 - a. The customer is responsible to pay for the water lost at the regular rate as shown on their water bill. No discounts or other price reduction adjustments can be made.
 - b. The customer must present receipts or other evidence to show that repairs have been made to the broken underground water line soon after the break was discovered.
 - c. The Mayor may authorize the Clerk to set up an installment payment schedule agreeable to both parties which will allow a residential or business customer up to three months to pay for excess water usage resulting from the break. A residential customer of 62 years of age or over will be permitted, if necessary, to take up to six months to pay. Such agreement must be in writing and kept on file until the final payment has been received.
 - d. No interest will be charged on such installment/payments. Payments must begin with the next bill following the signing of the agreement. During the months that installment payments are permitted, the customer must pay all current water charges as they are incurred.
 - e. The Mayor can authorize the Clerk to make adjustments in the excess charges for sewage resulting from the break. Those charges can be reduced to an amount equal to the average charge for sewage for three months prior to the discovery of the break.
 - f. These procedures will not apply in cases where excessive water usage is the result of a break in any above ground water pipes in a dwelling or building, whether occupied or vacant. The Mayor is not obligated to authorize installment payments to any customers who have had higher water bills due to underground water line breaks for several months who have made no effort to have such breaks promptly repaired.

(Code 2001, § 20-111; Code 2006, § 70-29)

Sec. 32-146. Violation of water restrictions.

Any person violating water restrictions set by the Mayor and Council shall be guilty of a misdemeanor, and upon the first offense shall be warned, and upon the second and subsequent offenses shall be punished according to Section 1-10.

(Code 2006, § 70-32; Ord. of 6-20-2000, § 12-119)

Secs. 32-147—32-177. Reserved.**ARTICLE VII. WATER CONSERVATION AND DROUGHT RESTRICTION****Sec. 32-178. Title, authority and applicability.**

(a) *Title.* This article shall be known and may be cited as the "City of Statham Water Conservation and Drought Restriction Ordinance."

(b) *Authority.* The City has the authority to adopt the ordinance from which this article is derived pursuant to Ga. Const. art. 9, § 2, ¶¶ I and III, O.C.G.A. § 31-5-12, and the Georgia Department of Natural Resources (DNR) Rules for Outdoor Water Use, Ga. Comp. Rules and Regs. Ch. 391-3-30 (hereinafter, the Rules).

(c) *Applicability.* This article shall apply to all persons and jurisdictions receiving potable or reused water from the City.

(Ord. No. 111220-12, exh. A(70-101), 12-20-2011)

Sec. 32-179. Purpose and intent.

(a) *Purpose.* The purpose of this article is to protect the public health, safety, environment, and general welfare through adopting and enforcing water use measures that encourage water conservation and ensure adequate supplies of water for the citizens of the City.

(b) *Policy and intent.* It is the policy of the City to promote water conservation by regulating outdoor water use and by complying with the laws and regulations imposed by the State on outdoor water use.

(c) *Delegations.* The Mayor and Council hereby delegates to the Public Works Director the authority and responsibility for the implementation of an effective outdoor water use regulatory program for the enforcement of the provisions of this article.

(Ord. No. 111220-12, exh. A(70-102), 12-20-2011)

Sec. 32-180. 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:

Address means the house number that, together with the street name, describes a physical location of a specific property. Even-numbered address means a house number ending with the number 0, 2, 4, 6, 8, or no house number. Odd-numbered address means a house number ending with the number 1, 3, 5, 7, or 9.

Declared drought means one of four levels of drought that can be declared by the EPD based on the severity of drought conditions, with one being the least severe and four being the most severe.

Director means the Public Works Director of the City or the Director's designee who is vested with the authority and responsibility for the implementation of an effective outdoor water use program and for the enforcement of the provisions of this article.

Environmental Protection Division means the State Environmental Protection Division (EPD), an agency of the State which is charged with issuing permits that authorize withdrawal of water and with administering the Rules.

Water waste or *water wasting* means the excessive expenditure or application of water from the City water system that results in water flowing down any gutter, street, storm drain, or adjacent property. (Ord. No. 111220-12, exh. A(70-103), 12-20-2011)

Sec. 32-181. Drought contingency plan.

(a) A voluntary water restriction will be placed on all customers when the flow rate of the Barber Creek Reservoir No. 6 intake or outfall drops to a level of 0.7 cubic feet per second or when plant production reaches 0.6 million gallons per day average. This restriction will ask residents to voluntarily restrict outdoor use. Residents with odd-numbered addresses are asked to wash their vehicles or water their lawns or gardens on odd-numbered days only. Residents with even-numbered addresses are asked to wash their vehicles or water their lawns or gardens on even-numbered days only.

(b) This plan will ask residents to defer all discretionary water use until after 7:00 p.m. In addition to reducing demand during peak hours, outdoor activities using water becomes more effective after the sun goes down. Up to 30 percent of water used by sprinkler systems during mid-day heat is lost to evaporation. Water use shifted to evening hours saves water and energy.

(c) A mandatory water restriction will be placed on all customers when the flow rate of the Barber Creek Reservoir No. 6 intake or outfall drops to a level of 0.6 cubic feet per second or when plant production reaches 0.7 million gallons per day average. These requirements will become mandatory.

(d) A total ban on outside use will be implemented and enforced when the flow water of the Barber Creek Reservoir No. 6 drops to a level of 0.5 cubic feet per second or when plant production reaches 0.8 million gallons per day average. This will include closing of commercial car washes and restricting water use to all swimming pools, and nonessential use customers.

(e) The main discharge valve from the elevated water tank located on Fieldcrest Drive will be partially closed when the flow rate of the Barber Creek Reservoir No. 6 intake or outfall drops to a level of 0.5 cubic feet per second or when the plant production rate exceeds 0.8 million gallons per day average. This will reduce flow to the customers but allow water to be maintained in the tank for fire protection.

(1) Natural disaster. If a natural disaster occurs an emergency crew will be dispatched to the disaster location to assess the situation and make emergency repairs as needed. Operational personnel will be at the plant to ensure water is available for firefighting in the affected areas.

- (2) Power failures. A generator large enough to run the water plant and raw water pump station should be made available in case of prolonged power outages.

(Code 2001, § 38-107; Code 2006, § 70-30)

Sec. 32-182. Water conservation plan.

(a) A voluntary water restriction will be placed on all customers when the water use reaches 70 percent [0.7 mg/day] of plant capacity or withdrawal permit. This restriction will ask residents to voluntarily restrict outdoor use. Residents with odd-numbered addresses are asked to wash their vehicles or water their lawns or gardens on odd-numbered days only. Residents with even-numbered addresses are asked to wash their vehicles or water their lawns or gardens on even-numbered days only.

(b) This plan will ask residents to defer all discretionary water use until after 7:00 p.m. In addition to reducing demand during peak hours, outdoor activities using water becomes more effective after the sun goes down. Up to 30 percent of water used by sprinkler systems during mid-day heat is lost to evaporation. Water use shifted to evening hours save water and energy.

(c) A mandatory restriction will be placed on all residents when the water use reaches 80 percent [0.8 mg/day] of plant capacity or withdrawal permit. These requirements will be the same as listed in Subsection (a) of this section but will become mandatory with strict enforcement.

(d) When water use reaches 90 percent [0.9 mg/day] of plant capacity or withdrawal permit a total ban on outside use will be implemented and enforced. This will include closing of commercial car washes and restricting water use to all swimming pools.

(e) When or if the water use reaches 0.95 mg/day of plant capacity or withdrawal permit, the main discharge valve from the elevated water tank located on Fieldcrest Drive will be partially closed. This will reduce flow to the customers but allow water to be maintained in the tank for fire protection.

- (1) Natural disaster. If a natural disaster occurs an emergency crew will be dispatched to the disaster location to assess the situation and make emergency repairs as needed. Operational personnel will be at the plant to ensure water is available for firefighting in the affected areas.
- (2) Power failures. A generator large enough to run the water plant and raw water pump station should be made available in case of prolonged power outages.

(Code 2001, § 38-108; Code 2006, § 70-31)

Sec. 32-183. Outdoor uses during non-drought periods.

(a) *Unrestricted uses.* In accordance with O.C.G.A. § 12-5-7, the following outdoor uses are allowed during drought and non-drought periods, seven days a week, 24 hours per day:

- (1) Commercial agricultural operations as defined in O.C.G.A. § 1-3-3;
- (2) Capture and reuse of cooling system condensate or stormwater in compliance with applicable local ordinances and State guidelines;
- (3) Reuse of gray water in compliance with O.C.G.A. § 31-3-5.2 and applicable local board of health regulations adopted pursuant thereto;

- (4) Use of reclaimed wastewater provided by DWR, unless otherwise limited by reuse permit conditions;
- (5) Irrigation of personal food gardens;
- (6) Irrigation of new and replanted plant, seed, or turf in landscapes, golf courses, or sports turf fields during installation and for a period of 30 days immediately following the date of installation;
- (7) Drip irrigation or irrigation using soaker hoses;
- (8) Hand watering with a hose with automatic cutoff or handheld container;
- (9) Use of water withdrawn from private water wells or surface water by an owner or operator of property if such well or surface water is on said property;
- (10) Irrigation of horticultural crops held for sale, resale, or installation;
- (11) Irrigation of athletic fields, golf courses, or public turf grass recreational areas;
- (12) Installation, maintenance, or calibration of irrigation systems;
- (13) Hydroseeding; and
- (14) Filling swimming pools.

(b) *Restricted uses during non-drought periods.* The following uses are restricted by hours of the day or by days of the week:

- (1) In accordance with O.C.G.A. § 12-5-7, during non-drought periods persons may irrigate for purposes of planting, growing, managing, or maintaining ground cover, trees, shrubs, or other plants, seven days a week, but only between the hours of 4:00 p.m. and 10:00 a.m.
- (2) Other outdoor water uses not listed in Subsections (a) and (b)(1) of this section may occur during non-drought periods 24 hours per day but only on the following days:
 - a. Outdoor water use at odd-numbered addresses is allowed on Tuesdays, Thursdays, and Sundays.
 - b. Outdoor water use at even-numbered addresses is allowed on Mondays, Wednesdays, and Saturdays.

(c) *Emergencies.* The exemptions listed in Subsection (a) of this section may be revoked by resolution of the Mayor and Council during a water system emergency or a water supply shortage which threatens public health, safety, or welfare; provided, however, that such emergency restrictions shall be valid for a period not exceeding seven days unless a variance is granted by the EPD.

(Ord. No. 111220-12, exh. A(70-104), 12-20-2011)

Sec. 32-184. Use schedule during declared droughts.

(a) *Outdoor uses during droughts restricted.* When the EPD declares a drought as authorized by State law and its Rules, outdoor water uses other than activities exempted in Section 32-183(a) shall occur only during scheduled hours on the scheduled days.

(1) *Declared drought response level one.*

- a. Outdoor water use may occur on scheduled days within the hours of 12:00 midnight to 10:00 a.m. and from 4:00 p.m. to 12:00 midnight.
 1. Scheduled days for odd-numbered addresses are Tuesdays, Thursdays and Sundays.
 2. Scheduled days for even-numbered addresses are Mondays, Wednesdays and Saturdays.
- b. Use of hydrants for any purpose other than firefighting, public health, safety or flushing is prohibited.

(2) *Declared drought response level two.*

- a. Outdoor water use may occur on scheduled days within the hours of 12:00 midnight to 10:00 a.m.
 1. Scheduled days for odd-numbered addresses are Tuesdays, Thursdays and Sundays.
 2. Scheduled days for even-numbered addresses and golf course fairways are Mondays, Wednesdays and Saturdays.
- b. The following uses are prohibited during level two droughts:
 1. Using hydrants for any purpose other than firefighting, public health, safety or flushing.
 2. Washing pavement, such as streets, gutters, sidewalks and driveways except when necessary for public health and safety.

(3) *Declared drought response level three.*

- a. Outdoor water use may occur on the scheduled day within the hours of 12:00 midnight to 10:00 a.m.
 1. The scheduled day for odd-numbered addresses is Sunday.
 2. The scheduled day for even-numbered addresses and golf course fairways is Saturday.
- b. The following uses are prohibited during level three droughts:
 1. Using hydrants for any purpose other than firefighting, public health, safety or flushing.
 2. Washing pavement, such as streets, gutters, sidewalks, driveways, except when necessary for public health and safety.
 3. Washing vehicles, such as cars, boats, trailers, motorbikes, airplanes, golf carts, unless such washing occurs at facilities certified under DNR regulations at Ga. Comp. Rules and Regs. R391-3-31-.02.

4. Washing buildings or structures except for immediate fire protection.
 5. Non-commercial fund-raisers, such as car washes.
 6. Using water for ornamental purposes, such as fountains, reflecting pools, and waterfalls except when necessary to support aquatic life.
- (4) *Declared drought response level four.* No outdoor water use is allowed, other than the activities exempted in Section 32-183(a), or as the EPD may allow.
- (5) *Variations.* The Board of Commissioners hereby delegates to the County Administrator the authority to apply to the EPD for a variance to impose more stringent restrictions on outdoor water use than those imposed by the State during a level four drought. Said application for a variance may include reducing the exemptions listed in Section 32-183(a).

(b) *Curtailment by resolution.* To the extent allowed by the Authorities cited in Section 32-178(b), the Mayor and Council may enact additional measures by resolution to curtail indoor and outdoor water usage during any declared drought or in response to judicial decisions which jeopardize water supply. These measures may include but are not limited to the following actions: curtailment or total cessation of water sales to jurisdictions which are not wholly inside the City of Statham borders; reduction of wholesale sales to water purveyors inside the City; and/or the adoption of emergency water rate structures.

(c) *Emergencies.* The exemptions listed in Section 32-183(a) may be revoked by resolution of the Mayor and Council during a water system emergency or a water supply shortage which threatens public health, safety, or welfare; provided, however, that such emergency restrictions shall be valid for a period not exceeding seven days unless a variance is granted by the EPD.

(Ord. No. 111220-12, exh. A(70-105), 12-20-2011)

Sec. 32-185. Water wasting prohibited.

Wasting water is prohibited if such usage leaves a trail of flowing water for more than 50 feet off the property. Water waste also includes irrigation for more than 20 minutes during precipitation and failure to repair a controllable leak. Water wasting, including water wasting by exempt uses in Section 32-183(a), is subject to fines, penalties, and enforcement up to and including termination of service.

(Ord. No. 111220-12, exh. A(70-106), 12-20-2011)

Sec. 32-186. Administrative orders and fines.

(a) *Cease and desist orders.* When the Director finds that a water user has violated, or continues to violate, any provision of this article, the Director may issue an order to the non-conserving water user directing such user to cease and desist all such violations and directing the non-conserving water user to:

- (1) Immediately comply with all conservation requirements; and
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the non-conserving water user.

(b) *Administrative fines.* When the Director finds that a water user has violated, or continues to violate, any provision of this article, the Director may fine such non-conserving water user on an escalating schedule. Such fines shall be assessed on a per-violation, per-day basis. No single-day fine shall exceed \$250.00.

- (1) Unpaid charges, fines, and penalties shall, after 30 calendar days, be assessed an additional penalty of ten percent of the unpaid balance, and interest shall accrue thereafter at a rate of ten percent per month.
- (2) Water users desiring to dispute such fines must file a written request for the Director to reconsider the fine along with full payment of the fine amount within 14 days of being notified of the fine. Where a request has merit, the Director may convene an administrative hearing on the matter. In the event the water user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the water user. The Director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- (3) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the non-conserving water user.

(Ord. No. 111220-12, exh. A(70-107), 12-20-2011)

Sec. 32-187. Civil penalties for violation.

(a) *Violations.* Violations of this article may also be prosecuted upon citations issued by officers of the City Police Department or the Code Enforcement Officer.

(b) *Citations.* Citations for alleged violations of this article shall be issued as follows:

- (1) For households, citations can be issued to any of the following: a homeowner, renter, any person 17 years of age or older living at the address of the alleged violation, or any person or institution deriving some type of economic benefit from said address;
- (2) For businesses doing business in a corporate form, citations shall be issued in the business name and served on either the registered agent or on any officer of the corporation; and
- (3) For unincorporated business, citations shall be issued in the business name and served to the owner or manager of the business.

(c) *Escalated enforcement.* Prior to the issuance of a citation, either a written warning or an administrative fine will be issued. For any subsequent alleged violations of this article within any 12-month period, the violator may be given either an administrative fine or a citation.

(d) *Penalties.*

- (1) Any person, upon conviction by a court of competent jurisdiction of any violation of this section at any address after the issuance of a citation as provided pursuant to Subsection (c) of this section, shall be guilty of a violation of this article and shall be punished according to Section 1-10.

- (2) If the payment of the penalty imposed for a household violation pursuant to this subsection will impose an economic hardship on the defendant, the court, in its sole discretion, may order the defendant to pay such penalty in installments and such order may be enforced through a contempt proceeding.

(Ord. No. 111220-12, exh. A(70-108), 12-20-2011)

Sec. 32-188. Termination of service.

(a) *Provisions for service termination.* The Director shall have the authority to adopt procedures providing for termination of water service at any address upon conviction or plea of nolo contendere of a second or subsequent citation violation, as provided in Section 32-187(d).

(b) *Posting.* The Director is authorized to post the address of any location where water service has been terminated pursuant to this article in such media or on such websites as will provide public notice of the action.

(c) *Mandatory repairs.* The Director shall have the authority to adopt procedures requiring any customer to repair leaking facilities that are located on the customer's side of the water meter and providing for termination of water service at any address if such leaks are not repaired within 45 days after service of such repair order on a customer.

(d) *Water wasting.* The Director shall have the authority to temporarily terminate water service where water is being wasted if the owner or occupant of the property is apparently not on the premises or non-responsive.

(e) *Service restoration fee.* The Director is authorized to impose a service restoration fee in an amount as adopted by the City Council by resolution from time to time to restore water service that has been terminated as provided in Subsection (a) or (d) of this Section.

(Ord. No. 111220-12, exh. A(70-109), 12-20-2011)

Sec. 32-189. Conservation billing.

(a) *Water use surcharge.* As a proactive and continuous conservation measure, water use surcharge rates shall apply to water use as measured by the meter on those accounts subject to such conservation surcharge, in accordance with rate resolutions.

(b) *Sewer billing.* Sewer volumetric charges shall apply to all water use as measured by the meter on non-irrigation accounts which are also connected to the sewer system, in accordance with rate resolutions.

(c) *Billing adjustments precluded.* No billing adjustments shall be provided to any account where water wasting or violations of the outdoor use restrictions have occurred. The date of occurrence shall be that documented by the most recent warning, fine, or citation. This preclusion of billing adjustments shall begin on the date of occurrence and remain in effect for the ensuing 12 months.

(Ord. No. 111220-12, exh. A(70-110), 12-20-2011)

Sec. 32-190. Authority to implement.

The Director is authorized to make all necessary and reasonable rules and policies with respect to the enforcement of this article. All such rules, policies, and procedures shall be consistent with the provisions of this article and shall be effective 30 days after being filed with the City Clerk.
(Ord. No. 111220-12, exh. A(70-111), 12-20-2011)

CODE COMPARATIVE TABLE

2001 CODE

This table gives the location within this Code of those sections of the 2001 Code which are included herein. Sections of the 2001 Code not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature.

2001 Code Section	Section this Code	2001 Code Section	Section this Code
1-101	1-1	4-115(22)	10-330
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1-105	1-7	4-115(27)	10-334
1-106	1-8	4-115(28)	10-335
1-107	1-11	4-115(29)	10-336
1-109	1-10	4-115(30)	10-337
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3-204	2-21	4-115(34)	10-339
3-206	2-22	4-115(35)	10-340
3-208	2-24	4-322	2-262
3-302	2-52	4-323	2-263
3-303	2-53	4-324	2-264
3-305	2-54	5-104	18-1
3-405	2-326	5-105	18-2
3-604	2-324	5-106	18-3
3-606	2-325	5-107	18-4
4-102	4-1	5-108	18-5
4-103	4-2	5-109	18-6
4-108	10-287	5-110	18-7
4-111	10-288	5-111	18-8
4-115(1)	10-311	5-112	18-9
4-115(2)	10-312	5-113	18-10
4-115(3)	10-313	5-114	18-11
4-115(4)	10-314	10-103	8-2
4-115(5)	10-315	11-101	30-1
4-115(6)	10-316	11-102	30-3
4-115(7)	10-317	12-110	26-90
4-115(9)	10-318	—	26-91
4-115(10)	10-319	—	26-92
4-115(11)	10-320	12-111	26-58
4-115(12)	10-321	14-101	22-202
4-115(13)	10-322	14-102	22-203
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2001 Code Section	Section this Code	2001 Code Section	Section this Code
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31-103	26-23	38-107	32-181
31-104	26-24	38-108	32-182
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31-106	26-26	40-103(2)	28-2
31-107	26-27	40-103(3)	28-3
31-108	26-28	40-103(4)	28-4
31-109	26-29	40-103(5)	28-5
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31-112	26-31	40-103(7)	28-7
31-113	26-32	40-103(8)	28-8
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2006 CODE

This table gives the location within this Code of those sections of the 2006 Code, as supplemented through April 20, 2021, which are included herein. Sections of the 2006 Code, as supplemented, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances and other legislation adopted subsequent thereto, see the table immediately following this table.

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1-5	1-8	14-24	8-24
1-6	1-9	14-27	8-25
1-7	1-10	14-28	8-26
1-8	1-11	14-60	8-56
1-9	1-12	14-61	8-57
1-10	1-13	14-62	8-58
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2-47	2-53	14-89	8-95
2-48	2-54	14-90	8-96
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2-72	2-325	14-111	8-123
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30-73	14-82	34-103	10-57
30-74	14-83	34-104	10-58
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34-2	10-288	34-107	10-61
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34-38	10-321	34-120	10-74
34-39	10-322	34-137	10-165
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34-49	10-332	38-2	18-2
34-50	10-333	38-3	18-3
34-51	10-334	38-4	18-4
34-52	10-335	38-5	18-5
34-53	10-336	38-6	18-6
34-54	10-337	38-7	18-7
34-55	10-338	38-8	18-8
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42-106	20-68	62-6	28-6
42-107	20-69	62-7	28-7
42-108	20-70	62-8	28-8
42-109	20-71	62-9	28-9
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46-98	22-114	70-19	32-135
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CODE COMPARATIVE TABLE

LEGISLATION

This table gives the location within this Code of those ordinances and other legislation which are included herein. Ordinances and other legislation not listed herein have been omitted as repealed, superseded or not of a general and permanent nature.

Legislation	Date	Section	Section this Code
Ord. of 6-20-2000	6-20-2000	12-119	32-146
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Ord. of 6-15-2004(1)	6-15-2004	1.1	8-90
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		2.3	8-95
		2.4	8-95
		2.5	8-95
		2.6	8-95
		2.7	8-95
		3.1	8-121
		3.2	8-122
		3.3	8-123
		3.4	8-124
		3.5	8-125
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Ord. No. 05517-2	5-17-2005	7	30-69
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Ord. No. 05517-3	5-17-2005	1	30-5
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		exh. A(2-11-20)	20-62
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Ord. No. 07619-6	6-19-2007	—	8-92
Ord. No. 07918-3(b)	10-16-2007	—	6-21—6-23
Ord. No. 08219-2	2-19-2008	art. I(2)	4-23
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*Note—The adoption, amendment, repeal, omissions, effective date, explanation of numbering system and other matters pertaining to the use, construction and interpretation of this Code are contained in the adopting ordinance and preface which are to be found in the preliminary pages of this volume.

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