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Section 1-2. Definitions and rules of construction.
Section 1-3. Catch lines of Sections, effect of history notes, references in Code.
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Section 1-10. Prior offenses, penalties, contracts or rights not affected by adoption of Code.
Section 1-11. Certain ordinances not affected by Code.

Section 1-1. How Code designated and cited.

The ordinances embraced in this and the following chapters shall constitute and be designated "The Code of the City of Statham, Georgia," and may be so cited. (Code 2001, § 1-101)

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

Section 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 Councilmen, 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. The term "City Council" means 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.

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" shall mean the municipal judge.

Keeper and proprietor. The terms "keeper" and "proprietor" means 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 Aldermen 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.

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.

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, dub, 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 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 curb line and the adjacent property line, intended for the use of pedestrians, excluding parkways.

Signature or subscription. The terms "signature" and "subscription" include 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.

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)

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

Section 1-3. Catch lines of Sections, effect of history notes, references in Code.

a) The catch lines 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 catch lines, 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)

Section 1-4. Effect of repeal of ordinances.

The repeal of an ordinance shall not revive any ordinance in force before or at the time the ordinance repealed took effect The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect or any suit, prosecution or proceeding pending at the time of the repeal for an offense committed or cause of action arising under the ordinance repealed.
(Code 2001, § 1-105)

Section 1-5. 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 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 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)

Section 1-6. 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 catch lines, headings and titles for Sections and other subdivisions of the Code printed in the supplement and make changes in such catch lines, 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 to (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.

Section 1-7. 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 three 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)

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

Section 1-8. 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)

Section 1-9. 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.

Section 1-10. 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.

Section 1-11. 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.

CHAPTER 2

ADMINISTRATION

Article I. In General

Sec. 2-1. Reserved.
Sec. 2-2. James Hammond Day
Sec. 2-3 – 2-18. Reserved.

Article II. City Council

Division 1. Generally

Section 2-19. Meetings.
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Division 2. Mayor

Section 2-46. Duties.
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Article III. Officers and Employees

Division 1. Generally

Section 2-70. Administrative policy and procedures.
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Section 2-105. Intent.
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Section 2-108. Disclosure of conflicts of interest.
Section 2-109. Disqualification.
Section 2-110. Prohibited contracts.
Section 2-111. Restrictions on contracts with former members of the Governing Authority.
Section 2-112. Board of Ethics.
Section 2-113. Receipt of complaints.
Section 2-114. Additional regulations.
Section 2-115. Penalty and member rights.
Section 2-116. Right to appeal.
Secs. 2-117 - 2-138. Reserved.

Article IV. Finance

Section 2-139. Purchasing.
Section 2-140. Returned check charge.
Section 2-141. Community Greenspace Trust Fund.

ARTICLE I. IN GENERAL

Section 2-1. Reserved

Section 2-2. James Hammond Day February 1

Whereas, James Hammond was the second City Marshall of the City of Statham, having been sworn to that duty on ; and

Whereas, James Hammond faithfully carried out the duties of that office until February 1, 1907; and

Whereas, on February 1, 1907 in the course and scope of the faithful exercise of his duties as City Marshall, James Hammond was shot and killed on Railroad Street in the City of Statham, and

Whereas, descendants of James Hammond continue to reside in Statham and its environs, and support and serve this City;

It is hereby ordained by the Mayor and Council of the City of Statham that February 1, 2014 and February 1 of each year thereafter shall be designated as James Hammond Day in the City of Statham.

Sections 2-3 – 2-18. Reserved

ARTICLE II. CITY COUNCIL

DIVISION 1. GENERALLY

Section 2-10. Meetings

(a) 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 his opinion, the public business requires it, and he 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 he is prevented by some unavoidable circumstance. (Code 2001, § 3-204)

Section 2-20. Rules for the conduct of business

Except as otherwise provided in this Section, the 1990 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 his absence, the Mayor pro tem, 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 his 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 him to order or for explanation.
7. Limitations on addressing City Council, Any person not a member of 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, his name and address for the record, and direct his 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 two separate readings, but the first and second readings shall never take place on the same day, unless there is compliance with Section 2.13 of the Charter regarding emergencies.
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 ten days after adoption.

1. 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.
2. 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.
3. 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.
4. 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 City Council and such invitees as shall be invited with the unanimous consent of the Mayor and City Council.

(Code 2001, § 3-206)

Section 2-21. Legal actions

a) The City pledges that it will protect and defend their 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 Councilmen of the City. 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.
c) 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.
d) 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.
e) 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)

Sections 2-22 - 2-45. Reserved.

DIVISION 2. MAYOR

Section 2-46. 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 "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)

Section 2-47. Powers

The Mayor shall have the following powers:

a) Rulemaking. To prescribe such rules and regulations as may be deemed necessary or expedient for the conduct of administrative agencies subject to his authority, and to revoke, suspend or amend any rule or regulation of the administrative service by whomever prescribed;

b) Investigation. To investigate and to examine or inquire into, either by himself or by any officer or person designated for the purpose by him, 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;
c) Overriding. To set aside any action taken by a department head and to supersede him in the functions of his office; and
d) Delegation. To direct any department to perform the work for any other department, and to authorize any department head or officer responsible to him to appoint and remove subordinates serving under such person. (Code 2001, § 3-303)

Section 2-48. 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)

Secs. 2-49 - 2-69. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES

Division 1. GENERALLY

Section 2-70. 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 department and all activities assigned thereto;
2. Keep informed as to the latest practices in their particular field 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 department 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 him; and
6. Be responsible for the proper maintenance of all City property and equipment used in their respective departments.

b) Departments. 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)

Section 2-71. Municipal personnel policy

The Mayor and City Council may adopt such personnel policies as they deem proper.

Section 2-72. Workman's compensation

The City shall provide workers compensation insurance coverage for the Mayor. (Code 2001, § 3-606)

Section 2-73. Duties of City Treasurer

The City Clerk/Treasurer shall have the following duties in his capacity as City Treasurer to:

a) Receive all money due the City Council, including taxes, licenses, fees, and other moneys belonging to the City and pay out the same only upon orders passed by the City Council and signed by the Mayor, or in his absence, the Mayor Pro Tem;
b) 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;
c) Maintain a uniform system of accounts and keep such other records and accounts as may be required by statute or ordinance;
d) Furnish the City Council with quarterly statements detailing all receipts and payments of funds for the quarter; and
e) Enforce the 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)

Section 2-74 - 2-104. Reserved

Division 2. Code of Ethics

Section 2-105. Intent

It is essential to the proper administration and operation of the City that the members of its Governing Authority be, and give the appearance of being, independent and impartial; that public office not be used for private gain; and that there be 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. (Ord. of 8-17-2004, § 2.5-101)

Section 2-106. 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:

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. (Ord. of 8-17-2004, § 2.5-102)

Section 2-107. Prohibitions

1. No member of the Governing Authority shall:

    a. By conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of official acts;
    b. Directly or indirectly request, exact, receive, or agree to receive a gift, loan, favor, promise, or thing of value for himself or another person if it could reasonably be considered to influence the member in the discharge of official duties;
    c. Disclose or otherwise use confidential information acquired by virtue of his official position for his or another person's private gain;
    d. Use his official position to attempt to secure privileges that are not available to the general public;
    e. 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;
    f. Engage in any activity or transaction that is prohibited by law now existing or hereafter enacted which is applicable to him by virtue of being a member of the Governing Authority;

2. Use his 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.
    e. Use government property of any kind for other than officially approved activities, nor shall he direct employees to use such property for any purposes other than those officially approved;
    f. Use his position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to himself or persons having an interest.

3. Subsection (2) of this Section shall not apply in the case of:

    a. An occasional non-pecuniary gift of insignificant value;

b. An award publicly presented in recognition of public service;
c. A commercially reasonable loan or other financial transaction made in the ordinary course of business by an institution or individual authorized by the laws of the State to engage in the making of such a loan or financial transaction;
d. Campaign contributions made and reported in accordance with the State law. (Ord. of 8-17-2004, § 2.5-103)

Section 2-108. Disclosure of conflicts of interest.

An appointed member of the Governing Authority who has an interest that he has reason to believe may be affected by his 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 he 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 he has an interest. (Ord. of 8-17-2004, § 2.5-104)

Section 2-109. Disqualification

A member of the Governing Authority shall disqualify himself 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 he has an interest, when such benefit is not available to the public at large.
(Ord. of 8-17-2004, § 2.5-105)

Section 2-110. 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 the 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 Council following disclosure.

(Ord. of 8-17-2004, § 2.5-106)

Section 2-111. 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. (Ord. of 8-17-2004, § 2.5-107)

Section 2-112. 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. (Ord. of 8-17-2004, g 2.5-108)

Section 2-113. 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 he 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 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. (Ord. of 8-17-2004, § 2.5-109)

Section 2-114. Additional regulations

This article shall be cumulative to any other Charter provision, ordinance, resolution or act now existing. (Ord. of 8-17-2004, § 2.5-110)

Section 2-115. Penalty and member rights

a) Any member of the Governing Authority who knowingly violates any provision of the Code of Ethics provided in this article 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. (Ord. of 8-17-2004, § 2.5-111)

Section 2-116. Right to appeal

a) Any final decision by the City Council pursuant to this Code of Ethics for City Councilmembers shall be reviewable by the Superior Court of Barrow County. 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, no action of the City Council refusing or failing to take action pursuant to this Code of Ethics shall be reviewable by the Superior Court.

Council. (Ord. of 8-17-2004, § 2.5-112)

Section 2-117 - 2-138. Reserved

ARTICLE IV. FINANCE

Section 2-139. 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)

Section 2-140. Returned check charge

The returned check charge shall be $35.00. (Code 2001, § 4-323)

Section 2-141. 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, Chapter 391-1-4, for administering the Georgia Greenspace Program. (Code 2001, § 4-324)

Division 2-5 City Administrator

Section 2-191. 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, he shall be the chief administrative officer of the city, and shall exercise executive supervision over all city employees and departments. He 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.

Section 2-192. 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 his or her 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 employee of the city 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 Articles 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.

Section 2-193. 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.

CHAPTER 6

Licensing, Control, Taxation, and Regulation of the Sale of Alcoholic Beverages for Beverage Purposes by the Drink

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ARTICLE VIII. SEVERABILITY

WHEREAS, the Mayor and City Council of the City of Statham, Georgia desire to combat the undesirable secondary effects of businesses where alcoholic beverages may be sold for beverage purposes by the drink for consumption only on the premises where sold; and

WHEREAS, the Mayor and City Council of the City of Statham, Georgia desire to avoid negative experiences of other counties and municipalities regarding problems with certain businesses where alcoholic beverages are sold for beverage purposes by the drink for consumption only on the premises where sold, which include criminal activity, undesirable community conditions, the depression of property value in the areas surrounding certain establishments, increased expenditure for law enforcement, an increased burden on the judicial system because of increased criminal behavior, and acceleration of community blight (collectively referred to hereinafter as the "pernicious secondary effects"); and

WHEREAS, the Mayor and City Council of the City of Statham, Georgia have a substantial government interest in attempting to preserve the quality of life for the citizens of the City of Statham; and

WHEREAS, the Mayor and City Council of the City of Statham, Georgia desire to reduce and prevent criminal activity and the deterioration of property values in the City of Statham; and

WHEREAS, the Mayor and City Council of the City of Statham, Georgia desire to establish a comprehensive and consolidated ordinance for the licensing, control, taxation, and

regulation of the sale of alcoholic beverages for beverage purposes by the drink for consumption only on the premises where sold.

NOW, THEREFORE, it is hereby resolved by the Mayor and City Council of the City of Statham, Georgia that the provisions contained herein shall apply regarding the sale of alcoholic for beverage purposes by the drink for consumption only on the premises where sold.

ARTICLE I
GENERAL PROVISIONS

Section 6-1: Title

This ordinance shall be known as the "City of Statham Alcohol Ordinance."

Section 6-2: License is a privilege

a) Alcoholic beverages may be sold in the City of Statham under a license granted by the Mayor and City Council upon the terms and conditions provided in this ordinance.
b) All licenses issued pursuant to this ordinance 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 ordinance 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 ordinance 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.

Section 6-3: Definitions

The following words, terms and phrases, when used in this ordinance, 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 in this ordinance 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 included are 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.

City means the City of Statham, Georgia.

City Council, Mayor and City Council, or Mayor and Council mean the Mayor and City Council of the City of Statham, Georgia.

Distilled spirits or spirituous liquor means any alcoholic beverage obtained by distillation or containing more than 21 percent alcohol by volume including, but not limited to, all fortified wines.

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 sixty percent (60%) 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.

Governing authority means the Mayor and City Council of The City of Statham, Georgia.

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 ordinance, 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 sixty percent (60%) 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 are not 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 for the sale or distribution of malt beverages or wine under this ordinance. 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. Manufacturer also means (a) in the case of distilled spirits, any person engaged in distilling, rectifying, or blending any distilled spirits; (b) 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 city 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 shall mean 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 21 percent alcohol made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. 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.

Section 6-4: Licenses, Generally

All licenses issued under this ordinance shall:

a) Permit the licensees to sell or distribute the beverage or beverages for which the license is issued inside the City of Statham, Georgia pursuant to the terms of this ordinance and consistent with the laws of the State of Georgia and the United States;
b) Expire on December 31st of each year and an application for renewal shall be made annually on or before the 30th day of November 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 30th, 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 1st;
c) 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
d) 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.

Section 6-5: Types of licenses to be issued

The following licenses may be issued under this ordinance:

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.

Section 6-6: 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 result in a fine of not less than $250.00.

Section 6-7: Penalties for violation of ordinance

Any person who violates any provision of this ordinance may, upon conviction, be punished by a fine of not less than $250.00 for each offense and/or 30 days in jail, unless a different penalty is set out in this ordinance.

Section 6-8: Location of licensed operation: Distance requirements from schools and church buildings

a) Licenses shall be issued only for locations in areas zoned C-1, or C-2 CH, or PUD.
b) No person may sell or offer to sell (i) 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; (ii) Any wine or malt beverages within 100 yards of any school building, school grounds, or college campus. This subparagraph 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 this 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 in the downtown business district on Jefferson Street or Railroad Street, 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.

Section 6-9: Separate application and separate license for each location of sale

Separate applications must be made for each location and separate licenses must be issued.

Section 6-10: 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 ordinance. 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 non-profit 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 (5) 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 (5) 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, 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 (5) 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 ordinance 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 of Statham previously revoked within two (2) 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 Barrow County a registered agent as indicated in subsection (A). 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 or persons who would not otherwise qualify for a license for any reason whatsoever.
l) The City in its reasonable discretion, may objectively consider any and all relevant circumstances regarding location, history of criminal or suspected criminal activity and proximity to residential areas which may reflect favorably or unfavorably on the applicant, the application or the proposed location of the business. If after evaluating and balancing the evidence in its reasonable judgment, the City determines that the circumstances are such that the granting, suspension or revocation of the license would or would not be in the best interest of the general public, such circumstances may be grounds for the decision of the City.
m) For purposes of this ordinance, 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.

Section 6-11: 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(s); 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 Section 11 (B) to insure compliance with the provisions of this ordinance. 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 (5) 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 ordinance.

Section 6-12: License fee scale

Before a license shall be granted, the applicant therefore 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 issued, however, no portion of the application fee shall be refunded if the license is revoked, suspended, transferred or surrendered.

Section 6-13: Fee schedule

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

Section 6-14: Withdrawal of application

Any license application made pursuant to this ordinance 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.

Section 6-15: Collection of fees or taxes sums due

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

Section 6-16: 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 Barrow County or in the name of the Barrow 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 Barrow 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 council 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.

Section 6-17: 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 10 and must file an application as provided in Section 11 and tender with the application the investigative and administrative fee as provided in Section 12 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 City Council 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 ordinance 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 thirty 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 of $150.00. 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 a $75.00 investigative and administrative fee.

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 delegate, would otherwise be qualified as a licensee under the provisions of this ordinance.

Section 6-18: 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.

Section 6-19: Expiration/Renewal of license

a) All licenses granted under this ordinance 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 13 and a $75.00 administrative and investigation fee, 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%. 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 ordinance 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 ordinance 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.

Section 6-20: Automatic license forfeiture for nonuse

A license issued pursuant to this Ordinance 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 ordinance who shall for a period of 60 days after the license has been issued cease to operate the business and sale

of the product or products authorized shall, after the 60-day period, automatically forfeit the license without the necessity of any further action.

Section 6-21: Revocation or non-renewal of license

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

a) Is convicted of a felony or any crime involving moral turpitude;
b) 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;
c) Fails to timely give written notice of any change of ownership interest as required in Section 17;
d) Violates any rules or regulations promulgated by the Mayor and City Council under this Ordinance, of which the licensee has reasonable notice; or
e) Becomes disqualified under this Ordinance to hold a license.
f) 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.
g) 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.
h) Whenever it can be shown that a licensee under this ordinance 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.

Section 6-22: Suspension of license

a) The following shall be grounds for the suspension of a license issued under this Ordinance 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 ordinance 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 to needed for use in determining the licensee's compliance and qualifications under this ordinance; or
6. To knowingly sell malt beverages or wines to any person while such person is in an intoxicated condition.

b) Wherever this ordinance permits the Mayor and City Council to suspend any license issued under this ordinance 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 ordinance 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 licensee.
    e) Any aggravating circumstances or failure by the licensee to take remedial or corrective steps.

Section 6-23: 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 there be, 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 twenty days (if the notice is mailed) or fifteen days (if the notice is hand delivered), but not more than ten days from the date of the service of the notice.
    2. Shall 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.

Section 6-24: Notice

For the purpose of this ordinance, 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.

Section 6-25: 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(s) issued under this ordinance. 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 1099's.

The Mayor and City Council can waive all or some of the requirements of the foregoing sentence 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.

Section 6-26: Retail consumption dealers to store inventory only on premises

No retail consumption dealer licensed under this ordinance 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.

Section 6-27: Poured alcohol to be transported by employees

Poured alcoholic beverages shall be transported from 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.

Section 6-27.1: 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 his 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 his 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 who was allowed to avail themselves of the Georgia First Offender Act (O.C.G.A. title 42, Ch. 8, art. 3, 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 police department and upon paying a fee which shall be established by the Mayor and Council 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 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 on file, on the premises, the current, valid permit of each such employee.

i) In the event that any permit holder leaves the employ of a licensed establishment, the licensee shall immediately surrender the permit to the police department.

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 police department.

k) Separate permits shall be required by the police department 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 police department for an alcoholic beverage pouring permit under this Section. Any person convicted of this offense shall be punished by a minimum fine of $250.00.

m) This 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 of Statham Police Department.

Section 6-27.2 – 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 his 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, applicant/employee shall be allowed to present evidence to the Mayor and Council to show cause as to why the pouring permit should not be denied, and if necessary, the Chief of Police or his 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 the said hearing.
g) After said hearing, the Mayor and Council shall provide written notice to 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 found to be:

   1. Contrary to law or ordinances; or
   2. There is no evidence in the record to support the findings of the 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 Superior Court of Barrow County.

Section 6-28: Licensees to maintain a copy of this ordinance: Employees to be familiar with terms; Licensee responsible for violations

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

Section 6-29: Employment of underage persons prohibited: Exceptions

a. No person shall allow or require a person in his/her 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 the age of 18 years of age to work as an entertainer in any establishment licensed under this ordinance without written consent from parents or guardian.

Section 6-30: Failure to require and properly check identification

It shall be a violation not to require and properly check identification to ensure that an underaged person is not sold, served, or does not have in his possession alcoholic beverages while in a licensed establishment. 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.

Section 6-31: Sales to underage person prohibited

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 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 his 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 by-law.
5. The penalty for violation of this Section by an individual shall be as follows:

    a) For the first offense, a minimum fine of $250.00.
    b) For the second offense and subsequent violations within one year, a minimum fine of $500.00.

6. Any licensed establishment where three or more violations of this Section, or Section 3-3-23 of the Georgia Alcoholic Beverage Laws and Regulations, have occurred within any 36-month period shall be punished as follows:

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

As to the penalties in subsection (6), 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(s) if a majority of the owners, partners or shareholders are the same.

Section 6-32: Purchase or possession of alcoholic beverages by underage persons

a) No person under the age of 21 years of age shall purchase or possess any alcoholic beverage other than as set forth in Section 29 hereof.
b) No person under the age of 21 years of age shall attempt to purchase any alcoholic beverage or misrepresent his/her age in any manner whatever for the purpose of obtaining alcoholic beverages.

Section 6-33: Reserved

Section 6-34: 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 three-and-one-half 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" of hotels or motels, as that term is used in this subsection, do not have to conform to the standards in this Section.

Section 6-35: 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.

Section 6-36: 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, passage ways and open areas may be clearly seen by the customers therein.

Section 6-37: Solicitation prohibited

No retail consumption dealers licensed under this ordinance shall require, permit, suffer, encourage, or induce any employee or person to solicit in the licensed premises for herself/himself, 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 herself/himself 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.

Section 6-38: Prohibited noise from establishments

It shall be unlawful for any establishment licensed under this ordinance 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 city 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 ordinance after the hours of 11:00 p.m.

Section 6-39: Inspection of licensed establishments by the police department

Sworn officers of the Statham 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 ordinance 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 ordinance.

Section 6-40: Establishment can be closed in cases of emergency

The Chief of Police or his designee may immediately close an establishment licensed under this ordinance 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.

Section 6-41: Sales on election day

a) 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.

b) All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section 6-42: Bring your own bottle (brown bagging) prohibited

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

Section 6-43: 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 ordinance 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 (2), above, 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), nothing in this ordinance 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.

ARTICLE II

BEER AND WINE BY THE DRINK

Section 6-44: Type of retail establishments where prohibited

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

a. In sites in areas zoned C-1 or C-2 and which are being used as one of the following:

   1. are 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. Such eating establishment will regularly serve food every hour the eating establishment is open and shall derive at least 50% of sales from food;
   2. are 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% of its total annual gross revenue from the sale of prepared meals or food and recreation activities;
   3. are 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, 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; or
   4. at a golf course that derives at least 50% of its annual gross revenue from the sale of prepared meals or food and recreation activities, i.e. golf.
   5. at a tavern, provided that taverns may only sell malt beverages.

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.

Section 6-45: 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 the amount of $150.00 to defray investigative and administrative costs. If the application is denied and the license refused, or if the applicant withdraws his application prior to its being issued, the license fee shall be refunded, but the $150.00 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 ordinance. 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 $75.00.

Section 6-46: 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. – 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.

Section 6-47: Reserved.

ARTICLE III

RETAIL SALES OF DISTILLED SPIRITS FOR CONSUMPTION ON THE PREMISES

Section 6-47.51. 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 C-1, or C-2, CH or PUD 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% of its gross receipts annually from the sale of prepared meals or food.

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.

Section 6-47.52. 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.

Section 6-47.53. Hours and days of sales

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 Sunday.
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.

Section 6-47.54. 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.

ARTICLE IV

RETAIL PACKAGE SALES

Section 6-47.60 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.

Section 6-47.61 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.

Section 6-47.62 Hours and days of sales

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.

ARTICLE V

HAPPY HOUR

Section 6-48: 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 open 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 (.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 article.
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 by a fine not to exceed $1,000.00 and/or by imprisonment not to exceed 30 days in the common jail of the county. Licensees may further be subject to revocation proceedings.

ARTICLE VI

EXCISE TAXES

Section 6-49: 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 deem it necessary to conduct an audit of the records and books of the licensee, he/she 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 by a fine of not less than $250.00, 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 article, and such licensee shall remit the same to the city 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.

Section 6-50: 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 of Statham. 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 of Statham 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 twentieth 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 of Statham at the rate of twenty-two cents ($0.22) per liter and six dollars ($6.00) for each container of tap or draft beer or malt beverage of fifteen and one-half (15 ½) gallons and in similar proportion for bottles, cans and containers of various sizes as follows:

SIZE OF CONTAINER	TAX PER CONTAINER
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 (15 ½ gallon)	$ 6.00
1 barrel (31 gallons)	$ 12.00

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 (3) percent of the taxes collected which shall not apply to beer and malt beverage wholesalers.

c) Each wholesale dealer prior to commencement of any business operation within the city shall post a performance bond with the City Clerk equal to one and one-half (1 1/2) 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 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.

d) 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 twelve (12) months subsequent to the commencement of business operations within the city. Continued exemption from the requirement of posting the performance bond shall be conditioned upon continued compliance with the terms of this article and the payment of all sums as required by the provisions herein.

ARTICLE VII

INCORPORATION OF STATE STATUTES

The Mayor and City Council of the City of Statham hereby adopt and incorporate within this ordinance the following provisions of the Official Code of Georgia, which provisions are hereby made a part of this ordinance by reference thereto:

1. O.C.G.A. § 3-3-40. Definitions.
2. O.C.G.A. § 3-3-41. Performance of actual or simulated sexual acts.
3. O.C.G.A. § 3-3-42. Employee solicitation of patrons of drinks on premises.
4. O.C.G.A. § 3-3-43. Permitting persons to view sexually related acts or conduct performed on other premises.
5. O.C.G.A. § 3-3-44. Permitting persons to remove alcoholic beverages to other premises to view sexually related conduct or activities.
6. O.C.G.A. § 3-3-45. Employment of or assistance to persons engaged in sexually related conduct or activity or nudity.
7. O.C.G.A. § 3-3-46. Grounds for suspension and revocation of alcoholic beverage license.

ARTICLE VIII

SEVERABILITY

If any Section, provision or clause of any part of this article shall be declared invalid or unconstitutional, or if the provisions of any part of this article as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this article not so held to be invalid, or the application of this article to other circumstances not so held to be invalid. It is hereby declared as the intent that this article would have been adopted had such invalid portion not been included herein.

CHAPTER 10

ANIMALS

Section 10-1. Definitions.
Section 10-2. Animal Control Unit.
Section 10-3. Duty of Owner to keep animals under control.
Section 10-4. Duty to keep dogs under restraint while on owners' property.
Section 10-4.5 Tethering Prohibited
Section 10-4.6 Kennels
Section 10-5. Duty to keep dogs under restraint while off owners' property.
Section 10-6. Enforcement.
Section 10-7. Disposition of impounded animals.
Section 10-8. Public nuisance animal.
Section 10-9. Abandoned animals.
Section 10-10. Biting dogs, cats and exotic mammals, wildlife, rehabilitated wildlife kept as pets.
Section 10-11. Establishment of infected area quarantine
Section 10-12. Confinement area of facility.
Section 10-13. Animal impoundment and control.
Section 10-14. Vaccination of dogs and cats
Section 10-15. Certificate of vaccination.
Section 10-16. Vaccination tags and collars.
Section 10-17. Clinics.
Section 10-18. Adoption.
Section 10-19. Summons
Section 10-20. Interference with an Animal Control Officer.
Section 10-21. Humane treatment of animals
Section 10-22. Liability of County, officers, and employees.
Section 10-23. Violations.
Section 10-24. Proposed license fee.
Section 10-25. Proposed adoption fees.

Section 10-1. 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 animals. Any domesticated animal shall be considered abandoned, for all rights and purposes of this chapter, when said animal has been placed upon public property and/or within a public building unattended or uncaged for, or placed upon or within the private property of another without the permission of the property owner, and

is left unattended and uncaged. For any domestic animal will also be considered abandoned which has been upon or within the property of the owner or custodian of this animal for a time period in excess of 36 hours unattended and without being supplied proper food or water.

Animal at large. Any animal found loose and not under proper restraint.

Animal Control Officer. Any person so designated by the Board of Commissioners of Barrow County Georgia to perform the duties of Animal Control and Resolution Enforcement. The Chief of Police for the City of Statham shall also be designated as an Animal Control Officer.

Animal under restraint. Any animal is considered under restraint if it is:

1. Controlled within the property limits of its owner, or
2. Controlled by a leash; or
3. At heel or beside a competent person and is obedient to the person's commands; or
4. Within vehicle being driven or parked on the streets.

Domesticated animals. Animals that are accustomed to live in or about the habitation of men, including, but not limited to, cats, dogs, cows, fowl, horses, swine, domesticated wild animals and/or exotic animals

Guard or watch dog. A guard or watch dog shall be any dog trained by a recognized training facility for the purpose of protecting individuals from assault and/or preventing property loss or damage. A recognized training facility shall be deemed to mean any person, partnership, company or corporation holding a:

1. State kennel license; and
2. Business license for either of the above purposes.

Impoundment. The action of taking physical control of an animal by an Animal Control Officer and/or other officers empowered to act by law and the transporting of said animal to the animal control facility.

Owner. Any person who owns, harbors, keeps and maintains, has lawful possession of, or knowingly causes or permits an animal to be harbored or kept. Any person who has an animal in his care, who shelters and/or provides for said animal sufficient quantities of wholesome food and water, and permits animal to remain on or around his premises. This shall include any person hired or acting as custodian of the animal for its owner.

Vicious or dangerous animals. Any animal that attacks, bites, or injures human beings, pets, companion animals, or livestock, without adequate provocation or which, because

of temperament, conditioning, or training, has a known propensity to attack, bite, or injure human beings, pets, companion animals or livestock. No dog may be declared dangerous if the threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing or assaulting the dog or has, in the past, been observed or reported to have teased, tormented, abused, or assaulted the dog or was committing or attempting to commit a crime. (Code 2001, § 30 101)

Section 10-2. Animal Control Unit

There was created for Barrow County the Animal Control Unit (totally separate from and independent of any established Humane Society), and it is staffed with such personnel as may be from time to time authorized by the Board of Commissioners. It is charged with enforcing the Animal Control Ordinance of the County and the operation of the County Shelter. (Code 2001, § 30 102)

See. 10-3. Duty of owner to keep animals under control

It shall be unlawful for the owner of any domesticated animal, or anyone having a domesticated animal in his possession or control, to permit such domesticated animal to be at large. In the event that owner or keeper of any animal is a minor, the parent or guardian of such minor shall be responsible to ensure that all provisions of this chapter are complied with. (Code 2001, § 30 103)

Section 10-4. Duty to keep dogs under restraint while on owner's property

It shall be the duty of every dog owner or said custodian of any dog to ensure that said dogs are kept under proper restraint and that reasonable care and precautions are taken to prevent the dog from leaving, while unattended, the real property limits of its owner, possessor or custodian and that proper restraint shall mean, but not be limited to, the following:

> The dog is securely and humanely enclosed within a house, building, fence, pen or other type enclosure from which the dog cannot climb, dig, jump or escape on its own accord.

Section 10-4.5 Tethering Prohibited

1. 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 of Statham.

2. Any dogs 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 construed 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.

Section 10-4.6 Kennels

1. Where there are 4 or more domestic dogs, each over the age of 6 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 in the C-1, CH or C2 Commercial Districts. Commercial sales may be allowed from a commercial kennel.
2. Kennels, including but not limited to Hobby Kennels, shall be prohibited in residentially zoned areas.
3. 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.
4. Any property or owner in violation of this ordinance on the date of adoption shall have 90 days to come into compliance herewith.
5. All commercial kennels are subject to the requirements for and must obtain a business license from the City of Statham.

Section 10-5. Duty to keep dogs under restraint while off owner’s property

It shall be the duty of the dog owner or anyone having a dog in their possession to keep the dog under restraint and control at all times while the dog is off the real property limits of the owner, possessor or custodian, for the purpose of this Section. A dog shall be deemed under control when off the owner’s real property limits when the dog is:

a) Securely and humanely confined within a vehicle, parked or in motion,
b) Properly confined within a secured enclosure with the property owners permission,
c) Securely restrained by a leash or other method held by a competent person, or
d) Under immediate voice command of a competent person at any given time. Hunting dogs shall be deemed under control for the purpose of this chapter when

they are being hunted in accordance with State Game and Fish Department Laws, Rules and Regulations. (Code 2001, § 30-105)

Section 10-6. Enforcement

a) Enforcement by Barrow County officials. The primary responsibility for enforcement of this chapter shall be vested in the Animal Control Unit. This unit shall consist of Animal Control Officers, the number and identity of which shall be designated by the Board of Commissioners of the County. These officers shall be vested with the authority to issue citations for violation of this chapter, and the officers comprising this unit may also call upon such other officers, constables and employees of the Magistrate's office or Sheriff's department of the County as may be necessary for the enforcement of this chapter. Upon information known to, or a complaint lodged with any officer or member of the Animal Control Unit, or the sheriff's department that any owner or possessor of a domesticated animal is in violation of this chapter, a citation shall be issued requiring the owner or possessor of such domesticated animal to appear before the Judge of the Magistrate's Court of the County on a day and time certain to stand trial for the violation of this chapter. If such violation of this chapter has not been witnessed by an officer of the Animal Control Unit, the sheriff's department or other employee of the County, a citation shall be issued to the person making the complaint requiring said person to appear on the day and time set to testify on behalf of the County. In the event that the owner or possessor of any domesticated animal is not known, and such domesticated animal is at large in violation of this chapter, upon complaint made to, or information known to the Animal Control Unit, it shall be the duty of the unit to immediately take possession of such domesticated animal and impound it according to such Rules and Regulations and Ordinances of the County for the detention, control and disposition of domesticated animals. The Animal Control Officers may pursue said animal onto private property to effect capture and impoundment of said animal. All impounded animals shall be housed and cared for at Barrow County Animal Control. It shall also be the responsibility of the Animal Control Unit to enforce O.C.G.A. 4-8-20 through 4-8-30 relating to dangerous dogs.

b) Enforcement by City officials. The police department of the City is hereby vested with the authority to issue citations for the violations of this chapter. Citations issued by the City police department shall require the violator to appear before Municipal Court of the City. The Municipal Court of the City shall have jurisdiction over violations of this chapter and may punish violators as provided herein. (Code 2001, § 30-106; Ord. of 2-17-2004, § 1A, 33)

Section 10-7. Disposition of impounded animals

a) It shall be the duty of the Animal Control Unit to immediately notify the owner of each domesticated animal impounded if the owner of the domesticated animal is known or can be reasonably ascertained. The owner of any domesticated animal impounded may, within 120 hours of such impoundment, reclaim such domesticated animal by payment of the impoundment fee of $7.00 plus $4.50 per day for board for each day that no proof of current rabies inoculation can be shown at the time of animal's release from the animal shelter. The Animal Control Unit may at the discretion of the County Commission release to any County Humane Society for adoption any animal unredeemed or unclaimed after the 120 hours, and must follow adoption procedure as outlined herein. Any person adopting an animal shall pay the required license fees, cost of rabies inoculation, impoundment fee and any other such fees deemed necessary.

b) If any animal is seized or impounded by the Animal Control Unit and shows evidence of contagious, infectious or fatal diseases, is seriously ill or severely injured, said animal will be evaluated and advice of a licensed veterinarian sought to determine whether to treat the animal or euthanize; or in absence of available veterinarian the Animal Control Officer will concur with supervisor on duty to determine a just reason for euthanasia. These steps will be taken to control disease spread and to eliminate further pain and suffering of animal, all attempts made to treat "owned" animal and all veterinary expenses incurred will be paid by owner of said animal.

c) Any animal which is suffering excessively or any which exhibits feral or wild tendencies and/or may present a real danger to persons or other animals, may be, without regard to confinement period, destroyed in the most humane method available. (Code 2001, § 30- 107)

See. 10-8. Public nuisance animal

Any animal will be deemed a public nuisance animal if:

1. They are repeatedly found at large;
2. Damages the real property of anyone other than the owner of said animal;
3. Is vicious, and for purposes of this Section vicious shall mean any animal that attacks without provocation any human being or other domestic animal;
4. Produces, because of quantity, manner or method in which animals are kept, unsanitary conditions;
5. Any animal that excessively makes disturbing noises, which include but not limited to repeated or continuous barking, howling or crying causing unreasonable annoyance and disturbance to those in close proximity where animal is kept. Any

such animal may be impounded and the owner or possessor charged for this violation of chapter. (Code 2001, § 30-108)

Section 10-9. Abandoned animals

It shall be unlawful for anyone to knowingly and/or willingly abandon any domestic animal within the limits of the County. Any person who does abandon, or knowingly or willingly permits such abandonment or aids in the abandonment of any domestic animal within the limits of the County shall be in violation of this chapter and punished hereinafter. (Code 2001, § 30 109)

Section 10-10. Biting dogs, cats and exotic mammals, wildlife, rehabilitated wildlife kept as pets

a) In accordance with rules and regulations declared by the County Board of Health, all dogs, cats, whether vaccinated or not, and who are known to have bitten a person causing an injury that is open and bleeds, shall be confined for a period of ten days for observation of rabies. However, in the case of wild animals, exotic mammals and domesticated wild animals, no safe confinement period has been established, or in the case of consent of owner for owned dogs and cats, the animal shall be destroyed promptly, decapitated and its brain tissue analyzed for rabies indications.
b) A dog or other animal which has not been vaccinated or which has been vaccinated less than one month prior to being bitten by a known rabid animal shall be immediately destroyed, or if the owner is unwilling to destroy said animal it shall be confined in strict isolation in a location approved by the director for a period of six months. The confined animal must be vaccinated five months after the bite.
c) Any dog or other animal for which rabies vaccination effectiveness has been established and having current vaccination at least one month prior to being bitten by a known rabid animal, may be revaccinated and then confined in a manner approved by the director for 90 days; thereafter, it shall be released to the owner if the animal exhibits no signs (clinical) of rabies as adjudged by a veterinarian. (Code 2001, § 30-110)

Section 10-11. Establishment of infected area quarantine

Whenever the Department of Human Resources may declare the County or any area therein an "infected area" pursuant to O.C.G.A. § 31-19-2, then every dog in said infected area shall be quarantined and confined to the owner's or custodian's premises during the entire period of time for which said declaration to the department is in effect.

Section 10-12. Confinement area of facility

a) Confinement area or facility to which a dog or other animal is confined in compliance with the provisions of this chapter shall be either an animal shelter, kennel, animal hospital or such other place as designated by the director.
b) Unless otherwise authorized by the director, unvaccinated biting animals and animals to be confined as prescribed in Section 10-10 shall be confined in an animal shelter, kennel or animal hospital at the owner's expense. Such facility shall provide for the following.
c) Construction and management which will keep the animal dry, clean, prevent its escape and prevent its contact with both people and other animals.
d) A method and procedure for the identification of the animal and the recording of the date of its admission to the area or facility.
e) Assurance that the animal will have safe and adequate water and food.
f) Adequate space for the animal's exercise.
g) Protection against excessive heat and cold.
h) Space, cages, pens and other necessary equipment to isolate the animal for its protection against injury and infectious diseases. (Code 2001, § 30 112)

Section 10-13. Animal impoundment and control

a) Dogs or other animals within any of the following classes may be captured and impounded at the County animal control:
b) Dogs and other animals whose ownership is unknown,
c) Vicious dogs or animals of all kinds. A dog or other animal shall be deemed vicious when the same is of an ugly disposition and is prone to unprovoked attacks on persons or other animal,
d) Dogs in heat off premises of their owners,
e) Dogs or other animals which have bitten a person or animal or which have been bitten by a dog or animal suspected of having rabies,
f) Dogs not wearing a current vaccination tag,
g) Dogs or other animals suspected of having rabies,
h) Unconfined dogs in quarantine areas.
i) No dog shall be exempted from this provision by virtue of vaccination or certificate.

Section 10-14. Vaccination of dogs and cats

a) The owner of a dog or cat four months of age or older shall cause such dogs and cats to be vaccinated against rabies as defined by this chapter and if such dog or

cat is less than one year of age upon vaccination it shall be revaccinated at least one year from the date of the original vaccination. When dogs and cats of one year of age or older are vaccinated with a vaccine approved by the department as providing three years protection, such animals shall be revaccinated within three years. When other approved vaccines are used, yearly inoculations shall be required.

b) The owner of any dog or cat brought into the County for a permanent stay from outside the County shall cause such dog or cat to be vaccinated in accordance with this chapter except, however, that when the owner of such dog or cat produces evidence satisfactory to the director that such dog or cat has been vaccinated in a manner and by procedures comparable to the requirements of this chapter, then a County certificate of vaccination may be issued in lieu of revaccination.

c) No person shall vaccinate dogs and cats against rabies who is not licensed to practice veterinary medicine in the State.

d) Any dog brought into the County on temporary stay not exceeding 14 days shall be confined or on a leash at all times. (Code 2001, § 30-114)

Section 10-15. Certificate of vaccination

a) Any veterinarian is authorized and required in connection with his practice to issue certificates of vaccination and vaccination tags. Evidence of vaccination shall consist of a certification of vaccination. The certificate with each item answered shall be prepared in triplicate and signed by the veterinarian administering the vaccine. He shall furnish one copy to the animal's owner, one copy to the Barrow County Rabies Control Officer and retain one copy for his files.

b) The certificates of vaccination furnished to the Barrow County Rabies Control Officer by the veterinarian shall be maintained by the said Rabies Control Officer in an orderly, indexed file until such certificates have expired. (Code 2001, § 30-115)

Section 10-16. Vaccination tags and collars.

a) Coincident with the issuance of the certificates of vaccination, the veterinarian shall also furnish to the owner of the vaccinated dog or cat a serially numbered tag bearing the same number and year thereon as the certificate bears.

b) Every dog and cat that is kept, possessed, maintained or harbored in the County at all times shall wear affixed to its collar or harness a current vaccination tag.

c) It shall be unlawful for any person to attach a vaccination tag to the collar of any animal to which it was not issued, or to remove such tag from any animal without the consent of its owner or possessor. (Code 2001, § 30-116)

Section 10-17. Clinics.

a) The director shall operate or cause to be operated County sponsored clinics for the vaccination of dogs against rabies. These clinics shall be operated at least annually, and at such other times as the director may establish.
b) Vaccination shall be performed by a licensed veterinarian.
c) Vaccination fees for such clinics shall be predetermined by the County Board of Health. Public notice of the schedule of the clinics shall be given in advance of the first clinic appearing on the schedule. Such notice shall include the day, the hour, the place and the vaccination fee. (Code 2001, § 30-117)

Section 10-18. Adoption.

The Animal Control Unit or its chosen agent may offer for adoption any animal unredeemed or unclaimed after:

a) One hundred and twenty hours untagged, owner unknown of dogs and/or cats.
b) Seventy two hours tagged, owner notified, still unclaimed dogs and/or cats, unless other arrangements are made with animal control supervision.
c) In the event that the animal is surrendered to the Animal Control Unit by said owner, animal may be offered immediately. All persons adopting must be over 18 years of age and shall provide proper and humane care, feeding, sheltering, and protection from weather, and veterinary treatment as required. All persons adopting a fertile dog or cat shall cause the female to be spayed and/or the male to be neutered within 45 days from date of adoption, or by the maximum age of six months for a female and six months for a male, whichever is longer. Any persons adopting an animal shall not engage in any research involving the use or abuse of the animal to any individual or institution. The frequency with which animals may be adopted and placed in any household may be restricted. The Animal Control Unit and/or its designee reserves the right to refuse adoption of any animal to persons that do not meet specified requirements. Adoption fees are set forth by the Board of Commissioners of the County and may include any and all or part of the costs associated with spaying or neutering dogs and cats. (Code 2001, 30-118)

Section 10-19. Summons.

Any Animal Control Officer may at his discretion, not impound a dog or other animal found in violation of this chapter but may instead return the animal to its rightful owner and at that time issue to the owner a court summons for violation of said Section of ordinance. (Code 2001, 30-119)

Section 10-20. Interference with an Animal Control Officer.

It shall be unlawful to interfere with any Animal Control Officer or officer empowered to act by law or to take or attempt to take any animal from the County vehicle used to transport said animal or to take or attempt to take any animal from the animal control shelter or impounding area. (Code 2001, § 30-120)

Section 10-21. Humane treatment of animals.

a) No person, corporation or other entity having an animal in its possession and/or control shall fail to provide said animal sufficient food, water, shelter and adequate protection from the elements. Veterinary care, when needed, to prevent suffering to said animal, shall be treated with humane care at all times.
b) No person shall beat, ill treat, torment, overload, overwork, or otherwise abuse an animal, or cause, instigate, or permit combat between animals.
c) No person or corporate entity having an animal in its possession and/or control shall abandon said animal on public or private property.
d) No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any animal. It shall not be unlawful for a person to expose on his own property common rat and insect poisons. As used hereinabove, the word "animal" shall be defined to mean any animals that are accustomed to live in or about the habitation of men, including, but not limited to, cats, dogs, cows, fowl, horses, swine, domesticated wild animals and/or exotic animals. Any person, corporation or other legal entity violating any of the prohibitions set forth herein shall be guilty of a County Ordinance Violation, amenable to the process of the Magistrate's Court of the County and upon conviction shall be punished by a fine not to exceed $500.00 or by confinement in the County Jail or Correctional Institution not to exceed 60 days. Fine or confinement, or both, is the discretion of the court.
e) Any Animal Control Officer, or other officer empowered to act by law, may impound any animal found to be cruelly treated.
f) It shall be the duty of the owner to maintain a clean and sanitary condition and free from extreme or unreasonable objectionable odor all structures, pens, yards and areas adjacent thereto wherein any animal is kept. (Code 2001, § 30-121)

Section 10-22. Liability of County, officers and employees.

The County, the Animal Control Unit and its officers shall not be held responsible or liable for any accidents, diseases, injuries or deaths to any animal while being impounded or boarded at the animal shelter. (Code 2001, § 30-122)

Section 10-23. Violations.

Any person, corporation or other legal entity who shall do anything prohibited by this chapter as the same exists or as it may hereafter be amended or, who shall fail to do anything required by this chapter as the same exists or as it may hereafter be amended shall be guilty of an ordinance violation amenable to the process of the Magistrate Court of the County or City Municipal Court and, upon conviction shall be punished by a fine not to exceed $1,000.00 or by confinement in the County Jail or Correctional Institution not to exceed 60 days, either fine or confinement, or both, at the discretion of the court. Repeat offenders of the proceeding provisions will be given full opportunity to explain why continued violations have occurred. The court shall consider such explanation in determining progressive penalties. (Code 2001, § 30-123)

See. 10-24. Proposed license fee.

License and other fees shall be the same as those established by Barrow County from time to time.

See. 10-25. Proposed adoption fees.

Adoption fees shall be the same as those established by Barrow County from time to time.

Chapter 14

BUILDINGS AND BUILDING REGULATIONS

ARTICLE I. - IN GENERAL
ARTICLE II. - CONSTRUCTION CODES
ARTICLE III. - NUISANCE ABATEMENT

ARTICLE I. IN GENERAL

Section 14-1. Penalty.
Section 14-2. Approval of utility connections.
Section 14-3. Licensing of tradesmen.
Section 14-4. Code compliance inspections.
Section 14-5. Performance and maintenance agreement.
Section 14-6. Statham Enhanced 911 Addressing Ordinance
Secs. 14-6—14-30. Reserved.

Section 14-1. Penalty.

Any person who violates any of the provisions of this chapter is subject to trial and possible conviction, and shall upon conviction thereof be punished by a fine not exceeding $500.00, or imprisonment for a term not exceeding six months, or both. Each day a violation continues shall constitute a separate offense.

Section 14-2. Approval of utility connections.

No public utility company or organization furnishing gas, electricity, water, or sewer service to a structure shall connect such service until written approval therefor has been obtained from the city building official.
Cross reference— Utilities, Ch. 70.

Section 14-3. Licensing of tradesmen.

Licensing of tradesmen regulated under this chapter shall be as required by the laws of the state.
Cross reference— Business and occupational license, Ch. 34.

Section 14-4. 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 his inspection report to the County or municipality.
f) Upon submission by the registered professional engineer of a copy of his 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 subsection. 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)

Section 14-5. Performance and maintenance agreement.

a) Development performance and maintenance. Before approval of the final plat, the owner shall file a final development performance and maintenance agreement with the city as a prerequisite to the approval of a final plat or issuance of a certificate of occupancy for any part of a project included in the development permit. The development performance and maintenance agreement shall be in a form as required by the city and shall include the following:

1. Any final required landscaping improvement or other improvements yet to be completed. Such improvements shall be completed in accordance with a schedule acceptable to the city.
2. Maintenance of the public streets, drainage facilities, water system improvements and sanitary sewer improvements and easements for eighteen (18) months after the date of approval of the final plat. Repairs shall be made by the owner for any deficiencies identified by the city with any of such streets, facilities, improvements or easements within, said 18-month period or the surety bond may be called by the city to complete same.
3. Indemnification of the city against all liability for damages arising as a result of errors or omissions in the design or construction of the development for a period of ten (10) years.

b) Performance and maintenance surety bond.

1. The performance and maintenance surety bond may be in the form of cash deposited with the city, or a bond issued by a surety acceptable to the city, or an irrevocable letter of credit from a local financial institution, all in a form acceptable to the city.
2. Performance and maintenance surety bonds shall, in all cases, be provided in an amount established by the city. The maintenance bond period shall be not less than eighteen (18) months from the approval of the final plat. The performance bond for the completion of the required improvements shall not exceed the time period agreed to by the city for completion of the improvements pursuant to Section 14-5 a) 1.

3. In cases where the maintenance surety and performance surety are to cover a second phase or any other later stage of a development project governed by this article, said sureties shall be required to be extended in amount and application to cover the original phase of the project in addition to said later phase for the same period of application as set out in Section 14-5 a) 2 if the later phase will utilize the same entrance street as that used by the original phase of the project.
4. In the event the development has not completed at least ninety (90) percent build out by end of the original bonding period, the bond shall be renewed in three-month intervals until ninety (90) percent build out of the development is complete.

Section 14-6. Statham Enhanced 911 Addressing Ordinance.

a) Enactment and Short Title.
The Mayor and Council of the City of Statham, Georgia, hereby enacts and adopts the following Ordinance, which shall be known and cited to as the "Statham Enhanced 911 Addressing Ordinance".

b) Definitions
Mayor and Council – Mayor and Council of the City of Statham.

Building Official - Person, who the Mayor has appointed to administer and enforce the provisions of this Ordinance. May also be referred to as "Code Enforcement".

City – City of Statham, Georgia.

(c) Purpose.
The purpose of this Ordinance 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 of Statham. 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 Statham, Georgia.

(d) Display Required.
Every location furnished with a 911 address inside the City of Statham 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.

(e) Method of Display.

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 sixty (60) feet from the center line 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 sixty (60) feet from the center line 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 (10) 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 forty-five (45) feet from the edge of the road nearest the location.

If the house, apartment, business or other building or location to be numbered is more than sixty feet from the center line 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 Section.

(f) Size, Condition of Addresses.

Assigned 911 addressed numbers and/or characters shall be a minimum of three (3) inches in height and one and one half (1 ½) inches in width. Address numbers and characters for businesses shall be a minimum of four (4) inches in height and two (2) 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.

(g) 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.

(h) Duty of Owner; Notification; and Enforcement.

The obligation of complying with the provisions of this Ordinance shall be upon the owner of the property. Failure to comply shall constitute a violations article of this Ordinance. Upon such violation, notice shall be given the owner of the property, or his 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 City Building Official. Property owners shall have ninety (90) days from the adoption of this ordinance to comply.

It shall be unlawful for any person to remove, damage, alter or deface any posted E-911 Address Sign in Statham. 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 Statham, Georgia

Secs. 14-7—14-30. Reserved.

ARTICLE II. CONSTRUCTION CODES

DIVISION 1. - GENERALLY
DIVISION 2. - BUILDING OFFICIAL
DIVISION 3. - PERMITS
DIVISION 4. - CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS

DIVISION 1. GENERALLY

Section 14-31. Adopted.
Section 14-32. Purpose and scope of article.
Section 14-33. Interpretation of article; disclaimer of liability.
Section 14-34. Applicability.
Section 14-35. Building department.
Section 14-36. Existing buildings.
Section 14-37. Historic buildings.
Section 14-38. Violations; penalty.
Secs. 14-39—14-60. Reserved.

Section 14-31. Adopted.

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

- 2012 International Building Code
- 2012 International Residential Code (One and Two Family Dwellings)
- 2012 International Plumbing Code
- 2012 International Mechanical Code
- 2011 National Electric Code
- 2012 International Property Maintenance Code
- 2012 International Gas Code
- 2012 International Fire Prevention Code
- 2012 International Code Council Performance Code (for buildings and facilities)
- 2012 International Existing Building Code
- 2012 International Fuel and Gas Code
- 2012 International Code Council Electrical Code
- 2012 International Wildland Urban Interface Code
- 2012 International Private Sewage Code
- 2012 International Energy Conservation Code

- 2012 International Zoning Code
- 2012 International Green Construction Code
- 2012 International Performance Code
- 2012 International Swimming Pool and Spa Code
- Standard Building Code: All Appendices
- Standard Mechanical Code: All Appendices
- Standard Plumbing Code: All Appendices
- Standard Gas Code: All Appendices
- Standard Fire Prevention Code: All Appendices
- CABO One and Two Family Dwelling Code: All Appendices
- Standard Housing Code
- Standard Amusement Device Code
- Standard Excavation and Grading Code
- Standard Existing Building Code
- Standard Unsafe Building Abatement Code

These Codes and Appendices are adopted as if set forth fully herein.
State law reference— Authority to adopt technical codes, Ga. Const. art. IX, §§ II, III (a)(12); construction standards generally, O.C.G.A. §§ 8-2-1 et seq.; minimum state construction codes, O.C.G.A. § 8-2-25; building, electrical and other codes, O.C.G.A. §§ 36-13-1 et seq.

Section 14-32. Purpose and scope of article.

The purpose of this article is to provide for the administration and enforcement of the Georgia State Minimum Standard Codes as adopted in this article. All of the codes adopted in this article shall be referred to in this article as the "technical codes," as may be adopted by the state or the city.

Section 14-33. Interpretation of article; disclaimer of liability.

a) Codes remedial. The codes adopted by this article 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 in this article as "service systems."
b) Quality control. Quality control of materials and workmanship is not within the purview of this article except as it relates to the purposes stated in this article.

c) Disclaimer of liability. The inspection or permitting of any building, system or plan under the requirements of this article shall not be construed in any court as a warranty of the physical condition of such building, system or plan or their adequacy. Neither 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, or for any failure of any component of such building, system or plan which may occur subsequent to such inspection or permitting.

Section 14-34. Applicability.

a) Conflicting regulations; applicability of specific codes.

1. Conflicting regulations. Where, in any specific case, different Sections of the technical codes specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.
2. Applicability of Standard Building Code. The provisions of the Standard Building Code, as amended, shall apply to the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures, except in one- and two-family dwellings.
3. Building official. The building official for the city shall be the Code Enforcement Officer and his representatives, assignees or designees.
4. Applicability of National Electrical Code. The provisions of the National Electrical Code, as amended, shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.
5. Applicability of Standard Gas Code. The provisions of the Standard Gas Code, as amended, shall apply to the installation of consumers' gas piping, gas appliances and related accessories as covered in this article. These requirements apply to gas piping systems extending from the point of delivery to the inlet connections of appliances and the installation and operation of residential and commercial gas appliances and related accessories, except in one- and two-family dwellings.
6. Applicability of Standard Mechanical Code. The provisions of the Standard Mechanical Code, as amended, shall apply to the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances, including ventilating, heating, cooling, air conditioning and refrigeration systems, incinerators and other energy-related systems, except in one- and two-family dwellings.

7. Applicability of Standard Plumbing Code. The provisions of the Standard Plumbing Code, as amended, shall apply to every plumbing installation, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances, and when connected to a water or sewerage system.
8. Applicability of Standard Fire Prevention Code. The provisions of the Standard Fire Prevention Code, as amended, shall apply to the construction, alteration, repair, equipment, use and occupancy, location and maintenance of every building or structure or any appurtenances connected or attached to such buildings or structures.
9. Applicability of Georgia State Energy Code. The provisions of the Georgia State Energy Code, as amended, shall regulate the design of building envelopes for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, service water heating and illumination systems and equipment that will enable the effective use of energy in new building construction.
10. Applicability of CABO One and Two Family Dwelling Code. The provisions of the CABO One and Two Family Dwelling Code, as amended, shall apply to the construction, alteration, repair, equipment, use and occupancy, location and maintenance of every one- or two-family dwelling or any appurtenances connected or attached to such buildings or structures.
11. Applicability of Standard Unsafe Building Abatement Code. The provisions of this code provide code enforcement personnel with the necessary tools to have dangerous and unsafe buildings repaired or demolished.

b) Existing authority and rights preserved. The provisions of this article 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 November 25, 1997, the effective date of the ordinance from which this article is derived, 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.
c) Applicability of appendices. Appendices referenced in the code text of the technical codes shall be considered an integral part of the codes.
d) Applicability of referenced standards. Standards referenced in the text of the technical codes shall be considered an integral part of the codes. If specific portions of a standard are denoted by code text, only those portions of the standard shall be enforced. Where code provisions conflict with a standard, the code provisions shall be enforced. Permissive and advisory provisions in a standard shall not be construed as mandatory.
e) Maintenance requirements. All buildings, structures, 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 technical codes when a building, structure or system is constructed, altered or repaired shall be maintained in good working order. The

owner or his designated agent shall be responsible for the maintenance of buildings, structures and electrical, gas, mechanical and plumbing systems.

Section 14-35. Building department.

a) Conflicts of interest. An officer or employee connected with the building department, except one whose only connection is as a member of the board established by this article, shall not be financially interested in the furnishing of labor, material or appliances for the construction, alteration or maintenance of a building, structure, service or system, or in the making of plans or of specifications therefor, unless he is the owner of such building, structure, service or system. Such officers and employees shall not engage in any other work which is inconsistent with their duties or conflicts with the interests of the department.
b) Records. The building official shall keep, or cause to be kept, a record of the business of the department. The records of the department shall be open to public inspection.
c) Exemption from liability. Any officer or employee charged with the enforcement of this article, acting for the applicable governing authority in the discharge of his duties, shall not thereby render himself personally liable, and is hereby relieved from all personal liability for any damage that may occur to persons or property as a result of any act required or permitted in the discharge of his duties. Any suit brought against any officer or employee or member because of such act performed by him in the enforcement of any provision of this article shall be defended by the department of law until the final termination of the proceedings.
d) Reports. The building official shall submit annually a report covering the work of the building department during the preceding year. He may incorporate in the report a summary of the decisions of the board of adjustments and appeals during the year.

Section 14-36. Existing buildings.

a) Alterations or repairs. Alterations, repairs or rehabilitation work may be made to any existing structure, building or electrical, gas, mechanical or plumbing system without requiring the building, structure or plumbing, electrical, mechanical or gas system to comply with all the requirements of the technical codes, provided that the alteration, repair or rehabilitation work conforms to the requirements of the technical 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 technical codes for new construction.
b) Change of occupancy. If the occupancy classification of any existing building or structure is changed, the building and the electrical, gas, mechanical and plumbing

systems shall be made to conform to the intent of the technical codes as required by the building official.

Section 14-37. Historic buildings.

The provisions of the technical 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.

Section 14-38. Violations; penalty.

Any person or agent who shall violate a provision of the technical 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 or electrical, gas, mechanical or plumbing system or has erected, constructed, altered, repaired, moved or demolished a building or electrical, gas, mechanical or plumbing system, in violation of a detailed statement or drawing submitted and permitted thereunder, may be cited and, upon conviction in Municipal Court shall be punished by imprisonment of not more than 6 months or by a fine of not more than $500.00, or both, for the first offense and by imprisonment of not more than 6 months or by a fine of not more than $1,000.00, or both, for each subsequent offense. 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 this article is committed or continued, and upon conviction of any such violation such person shall be punished within the limits and as provided by the law.

Secs. 14-39—14-60. Reserved.

DIVISION 2. BUILDING OFFICIAL

Section 14-61. Powers and duties generally.
Section 14-62. Right of entry.
Section 14-63. Stop-work orders.
Section 14-64. Revocation of permits and approvals.
Section 14-65. Abatement of unsafe buildings or systems.
Section 14-66. Determination of requirements not covered by technical codes.
Section 14-67. Approval of alternate materials and methods.

Secs. 14-68—14-90. Reserved.

Section 14-61. Powers and duties generally.

The building official is hereby authorized and directed to enforce the provisions of the technical codes. The building official is further authorized to render interpretations of the technical codes which are consistent with their intent and purpose.

Section 14-62. Right of entry.

a) Whenever necessary to make an inspection to enforce any of the provisions of this article, or whenever the building official has reasonable cause to believe that there exists in any building or structure or upon any premises any condition in violation of this article or the technical codes, the building official may enter such building, structure or premises at all times to inspect the building, structure or premises or to perform any duty imposed upon the building official by the technical codes; provided that, if such building or premises is unoccupied, he shall first present proper credentials and request entry. If entry is refused, the building official shall have recourse to every remedy provided by law to secure entry.
b) 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 person having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as provided in this Section, to promptly permit entry therein by the building official for the purpose of inspection and examination pursuant to this article.

Section 14-63. Stop-work orders.

Upon notice from the building official, work on any building, structure or electrical, gas, mechanical or plumbing system that is being done contrary to the provisions of the technical 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 his agent or to the person doing the work or posted in a conspicuous spot at the site of conflict 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.

Section 14-64. Revocation of permits and approvals.

a) False applications. The building official may revoke a permit or approval issued under the provisions of this article in case there has been any false statement or

misrepresentation as to a material fact in the application or plans on which the permit or approval was based.

b) Noncomplying work. 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 or structure or electrical, gas, mechanical or plumbing system for which the permit was issued is in violation of or not in conformity with, the provisions of this article.

Section 14-65. Abatement of unsafe buildings or systems.

All buildings, structures, and electrical, gas, mechanical or plumbing systems which are unsafe or unsanitary or which do not provide adequate egress or which constitute a fire hazard or which 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 the Standard Unsafe Building Abatement Code.

Section 14-66. Determination of requirements not covered by technical codes.

Any requirements necessary for the strength, stability or proper operation of an existing or proposed building, structure or electrical, gas, mechanical or plumbing system or for the public safety, health and general welfare, not specifically covered by this article or the technical codes, shall be determined by the building official.

Section 14-67. Approval of alternate materials and methods.

The provisions of the technical 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 technical 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.
Secs. 14-68—14-90. Reserved.

DIVISION 3. PERMITS

Section 14-91. Generally.
Section 14-92. Drawings and specifications.
Section 14-93. Plan review; acceptance of affidavit from design professional.
Section 14-94. Issuance.
Section 14-95. Licensing of contractors.
Section 14-96. Permit conditions.
Section 14-97. Fees.
Section 14-98. Inspections.
Section 14-99. Certificates.
Section 14-100. Floor loads.
Section 14-101. Tests.
Secs. 14-102—14-120. Reserved.

Section 14-91. Generally.

a) Permit required; application. 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 technical 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) Work covered by permit. A building, electrical, gas, mechanical or plumbing permit shall carry with it the right to construct or install the work, provided the work is shown on the drawings and set forth in the specifications filed with the application for the permit. Where the work is not shown on the drawings and covered by the specifications submitted with the application, separate permits shall be required.
c) 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 technical codes.
d) Required information. 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 his 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.
e) Time limits. Every permit issued by the building official shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within six months from the date of issuance or if the building or work

authorized by such permit is suspended or abandoned for a period of six months or more after the work has commenced. 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 the extension is requested in writing and justifiable cause is demonstrated.

Section 14-92. Drawings and specifications.

a) General requirements. 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 technical codes. Such information shall be specific and the technical 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) Authority to require 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) Preparation by design professional. The design professional shall be an architect legally registered under the laws of this state regulating the practice of architecture or engineering and shall affix his official seal to the drawings, specifications and accompanying data for the following:

   1. All group occupancies, except residential.
   2. Buildings and structures three stories or more high.

   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.

d) Indication of 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 be drawn to scale and shall be of sufficient clarity to indicate the extent of the work proposed and shall show in detail that it will conform to the provisions of this article and all relevant laws, ordinances, rules and regulations. Plans shall include a plot plan drawn to scale showing the location of all easements, drainage facilities, adjacent grades, property lines and proposed buildings and of every existing building on the property.

f) Required information for 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 access ways, 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.

Section 14-93. Plan review; acceptance of affidavit from design professional.

a) The building official shall examine or cause to be examined each application for a permit under this article and the accompanying documents, consisting of drawings, specifications, computations and additional data and shall ascertain by such examination whether the construction indicted and described is in accordance with the requirements of the technical codes and all other pertinent laws or ordinances.

b) The building official may accept a sworn affidavit from a registered architect or engineer stating that the plans submitted conform to the technical 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 shall state that the plans and design conform to the requirements of the technical 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 or electrical, gas, mechanical or plumbing system, a certification that the

structure or electrical, gas, mechanical or plumbing system has been erected in accordance with the requirements of the technical codes. Where the building official relies upon such affidavit, the architect or engineer shall assume full responsibility for compliance with all provisions of the technical codes and other pertinent laws or ordinances.

Section 14-94. Issuance.

a) Generally. The building official shall act upon all applications for a permit under this article 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 technical codes and other pertinent laws and ordinances, he shall issue a permit to the applicant.
b) Denial. If the application for a permit and the accompanying contract documents describing the work do not conform to the requirements or the technical 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 his refusal to issue such permit. Such refusal shall, when requested, be in writing and shall contain the reason for refusal.
c) Special permit for foundation only. When an application for a permit to erect or enlarge a building has been filed and pending issuance of such permit, the building official may, at his discretion, issue a special permit for the foundation only. The holder of such a special permit is proceeding at his own risk and without assurance that a permit for the remainder of the work will be granted and that corrections will not be required in order to meet provisions of the technical codes.
d) Encroachments on 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 the 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 he proposes to build, erect or locate the building. 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 14 of the Standard Building Code.

Section 14-95. Licensing of contractors.

It shall be the duty of every contractor who shall make contracts for the installation or repair of buildings, structures or electrical, gas, mechanical, sprinkler or plumbing systems 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 he is permitted to perform work, the contractor shall supply the city with his license number before receiving a permit for work to be performed.

Cross reference— Business and occupational license, Ch. 34.

Section 14-96. Permit conditions.

a) Permit intent. A permit issued under this article 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 technical codes, nor shall issuance of a permit prevent the building official from thereafter requiring a correction of errors in plans or construction or violations of this article. 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 worked is commenced. One or more extensions of time, for periods of 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) Supervision of work by qualified professional. 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 competent professionals 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 a written affidavit that the work has been done in conformity with the reviewed plans and with the structural provisions of the technical codes. If such architect or engineer is not available, the owner shall employ in his stead a competent person or agency whose qualifications are reviewed by the building official.

c) Endorsement of plans; copy of plans to be kept at work site. When the building official issues a permit, he shall endorse, in writing or by stamp, the plans "Reviewed for Code Compliance". One set of drawings so reviewed shall be retained by the building official and another 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 his authorized representative.

Section 14-97. Fees.

a) Payment. A permit shall not be issued under this article until the fees prescribed by the Mayor and City Council 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 or electrical, plumbing, mechanical or gas system, etc., has been paid.

b) Penalty for commencing work before obtaining permit. Any person who commences any work on a building, structure or electrical, gas, mechanical, plumbing, etc., system 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) Records. The building official shall keep a permanent and accurate accounting of all permit fees and other money collected and the names of all persons upon whose account the fee or other money was paid, along with the date and amount thereof.
d) Amount of fees. For all buildings, structures, and electrical, plumbing, mechanical, and gas systems, or alterations requiring a permit, a fee for each permit, in amounts as established and amended from time to time by the Mayor and City Council, shall be paid at the time of filing application for such permit; provided, however, that the amount of such fees shall be presented within the annual budget approved by the Mayor and City Council
e) Valuations. If, in the opinion of the building official, the valuation of a building, alteration, structure, or 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 the total cost, including electrical, gas, mechanical, plumbing equipment and other systems, including materials and labor.

Section 14-98. Inspections.

a) Existing buildings. Before issuing a permit, the building official may examine or cause to be examined any building or 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. He shall inspect all buildings, structures and electrical, gas, mechanical and plumbing systems from time to time during and upon completion of the work for which a permit was issued. He shall make a record of every such examination and inspection and of all violations of the technical codes.
b) Manufacturers and fabricators. When deemed necessary by the building official, he 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 technical codes.
c) Use of private inspection services. The building official may make or cause to be made the inspections required by subsection (f) of this Section. He may accept reports of inspectors of recognized inspection services provided that after investigation he is satisfied as to their qualifications and reliability. A certificate called for by any provision of the technical codes shall not be based on such

reports unless the certificate is in writing and certified by a responsible officer of such service.

d) Periodic and final inspections. 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 his 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 his 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 his agent of any violations which must be corrected in order to comply with the technical code:

1. Building inspections.

    a. Foundation inspection. To be made after trenches are excavated and forms erected, after the foundation walls are erected and before the backfill is placed.
    b. Slab inspection. To be made after trenches are excavated, forms are erected, plumbing lines are backfilled, gravel is in place and the vapor barrier is in place.
    c. Frame inspection. To be made after the roof and all framing, fire blocking and bracing are in place, all concealed wiring and all pipes, chimneys, ducts, vents and three-quarter siding are complete.
    d. Final inspection. To be made after the building is completed and ready for occupancy.

2. Electrical inspections.

    a. Temporary power pole inspection. To be made after the pole is in place.
    b. Underground inspection. To be made after trenches or ditches are excavated and conduit or cable is installed and before any backfill is put in place.
    c. Rough-in inspection. To be made after the roof, framing, fire blocking, three-quarter siding and bracing is in place and prior to the installation of wall or ceiling membranes.

d. Permanent power inspection. To be made after all required electrical fixtures are in place and properly connected or protected and the meter base is set and properly secured to the structure.
e. 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 inspections.

a. Underground inspection. To be made after trenches or ditches are excavated and piping installed and before any backfill is put in place.
b. Rough-in inspection. To be made after the roof, framing, fire blocking, three-quarter siding and bracing is in place and all soil, waste and vent piping is complete and prior to the 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.
d. Required tests. See Section 417 of the Standard Plumbing Code for required tests.

4. Mechanical inspections.

a. Underground inspection. To be made after trenches or ditches are excavated and underground ducts and fuel piping are installed and before any backfill is put in place.
b. Rough-in inspection. To be made after the roof, framing, fire blocking, three-quarter siding 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 inspections.
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, to ensure compliance with all the requirements of this article and to ensure that the installation and construction of the gas system is in accordance with reviewed plans.

6. Energy inspections.

   a. Frame inspection. To be made before the exterior wall insulation is concealed by wall board to check installation of exterior wall insulation and to inspect that all holes and cracks through the structure envelope have been sealed in an appropriate manner so as to restrict air passage.
   b. 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 and to verify correct SEER ratings on appliances.

g) Written release. Work shall not be done on any part of a building, structure or 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 for each of the inspections described in this Section.

h) Concealed work. Reinforcing steel, structural frame, insulation or plumbing, mechanical or electrical system work on any part of any building or structure shall not be covered or concealed without first obtaining a release from the building official.

i) Application of plaster used for fire protection. In all buildings where plaster is used for fire protection purposes, the permit holder or his 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.

Section 14-99. Certificates.

a) Certificate of occupancy.

   1. Required. A new building shall not be occupied or a change 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. The certificate shall not be issued until all required electrical, gas, mechanical, plumbing and fire protection systems have been inspected for compliance with the technical codes and other applicable laws and ordinances and released by the building official.

2. Issuance. Upon satisfactory completion of construction of a building or structure and installation of electrical, gas, mechanical and plumbing systems in accordance with the technical codes and 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 technical codes.
3. Temporary/partial certificate of 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 buildings. 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 technical 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 technical 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 or 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) Connection of service utilities.

1. Prerequisites for connection. No person shall make connections from a utility, source of energy, fuel or power to any building or system which is regulated by the technical 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 technical 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.

Section 14-100. Floor loads.

a) Generally. 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 he 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) Posting. 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 of 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 shall be replaced by the owner of the building.

Section 14-101. 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 his agent by an approved testing laboratory or other approved agency.

Secs. 14-102—14-120. Reserved.

DIVISION 4. CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS

Section 14-121. Established.
Section 14-114. Quorum and voting; records.
Section 14-123. Powers.
Section 14-124. Appeals.
Section 14-125. Meetings and rules of procedure.

Section 14-126. Decisions.
Secs. 14-127—14-140. Reserved.

Section 14-121. Established.

There is hereby established a board to be called the board of appeals. The board may be referred to in this article as the "board," the "board of appeals" or the "construction board of adjustments and appeals."

Section 14-122. Quorum and voting; records.

A. Quorum and voting. A simple majority of the construction board of adjustments and appeals shall constitute a quorum. In varying any provision of this article, 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. If regular members are unable to attend a meeting, the alternate members, if appointed, shall vote.
B. Records. The building official shall act as secretary of the board and shall make a detailed record of all its proceedings over construction grievances, 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.

Section 14-123. Powers.

The construction board of adjustments and appeals shall have the power, as further defined in Section 14-124, to hear the appeals of decisions and interpretations of the building official and consider variances of the technical codes. All decisions by the board shall be final.

Section 14-124. Appeals.

a) Grounds for appeal. The owner of a building, structure or service system, or his 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 is claimed to exist:

    1. 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.
    2. The provisions of this article do not apply to this specific case.

3. An equally good or more desirable form of installation can be employed in any specific case.
4. The true intent and meaning of this article or any of the regulations under this article have been misconstrued or incorrectly interpreted.

b) Authority to grant variances; conditions. The construction board of adjustments and appeals, when so appealed to and after a hearing, may vary the application of any provision of this article 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 article or the technical codes or the public interest, and also finds all of the following:

1. Special conditions and circumstances exist which are peculiar to the building, structure or service system involved and which are not applicable to others.
2. The special conditions and circumstances do not result from the action or inaction of the applicant.
3. Granting the variance request will not confer on the applicant any special privilege that is denied by this article to other buildings, structures or service systems.
4. The variance granted is the minimum variance that will make possible the reasonable use of the building, structure or service system.
5. The grant of the variance will be in harmony with the general intent and purpose of this article and will not be detrimental to the public health, safety and general welfare.

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 this article. Violation of the conditions of a variance shall be deemed a violation of this article.

c) Notice of appeal. Notice of appeal shall be in writing and filed within 30 calendar days after the decision is rendered by the building official. Appeals shall be in a form acceptable to the building official.
d) 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 his order, limit the time for such notice of appeals to a shorter period.

Section 14-125. Meetings and rules of procedure.

The construction board of adjustments and appeals shall establish rules and regulations for its own procedure not inconsistent with the procedures described in this article. The

board shall meet on call of the chairman. The board shall meet within 30 calendar days after a notice of appeal has been received.

Section 14-126. Decisions.

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 this article, 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.

Secs. 14-127—14-140. Reserved.

Cross Reference, Ch. 42, Article V.

CHAPTER 18

ELECTIONS

Section 18-1. Election districts.
Section 18-2. Polling places.

Section 18-1. Election districts.

The area comprising the corporate limits of the City shall constitute the sole election district of the City.
(Code 2001, § 2-402)

Section 18-2. Polling Places.

The polling places within the precinct shall be the Statham City Hall. (Code 2001, § 2-403)

Chapter 22

ENVIRONMENT AND NATURAL RESOURCES

Article I. In General

Secs. 22-1 - 22-18. Reserved

Article II. Soil Erosion and Sedimentation Control

Section 22-19. Definitions.
Section 22-20. Exemptions.
Section 22-21. Minimum requirements for erosion and sedimentation control using best management practices.
Section 22-22. Application/permit process.
Section 22-23. Inspection and enforcement.
Section 22-24. Penalties and incentives.
Section 22-25. Education and certification.
Section 22-26. Administrative appeal; judicial review.
Section 22-27. Liability.
Section 22-28. Compliance with the manual for erosion and sediment control in Georgia.
Section 22-29 – 22-30. Reserved.

ARTICLE I. IN GENERAL

Secs. 22-1 - 22-18. Reserved.

ARTICLE II. SOIL EROSION AND SEDIMENTATION CONTROL

Section 22-19. Definitions.

The following definitions shall apply in the interpretation and enforcement of this article, unless otherwise specifically stated:

Best Management Practices (BMP's). A collection of structural practices and vegetative measures which, when properly designed, installed and maintained, will provide effective erosion and sedimentation control. The term "properly designed" means designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. § 12-7-6(b).

Board. The board of natural resources.

Buffer. The area of land immediately adjacent to the banks of State waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.

Commission. The State soil and water conservation commission.

Cut. A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface. Also known as "excavation".

Department. The department of natural resources.

Director. The director of the environmental protection division of the department of natural resources.

District. The Oconee River Soil and Water Conservation District.

Division. The environmental protection division of the department of natural resources.

Drainage structure. A device composed of a virtually non-erodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for storm water management, drainage control, or flood control purposes.

Erosion. The process by which land surface is worn away by the action of wind, water, ice or gravity.

Erosion and sedimentation control plan. A plan for the control of soil erosion and sedimentation resulting from a land-disturbing activity. Also known as the "plan".

Fill. A portion of land surface to which soil or other solid material has been added; the depth above the original ground.

Finished grade. The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

Grading. Altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.

Ground elevation. The original elevation of the ground surface prior to cutting or filling.

Land-disturbing activity. Any activity which may result in soil erosion from water or wind and the movement of sediments into State waters or onto lands within the State, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in Section 22-20(5).

Larger common plan of development or sale. A contiguous area where multiple, separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this subsection, "plan" means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawling, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.

Local issuing authority. The Governing Authority of any county or municipality which is certified pursuant to O.C.G.A. § 12-7-8(a).

Natural ground surface. The ground surface in its original state before any grading, excavation or filling.

Nephelometric turbidity units (NTU). Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloidally dispersed particles are present.

Operator. The party that has operational control of construction project plans and specifications, including the ability to maim modifications to those plans and specifications; or day-to-day operational control of those activities that are necessary to ensure compliance with a storm water pollution prevention plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the storm water pollution prevention plan or to comply with other permit conditions.

Permit. The authorization necessary to conduct a land-disturbing activity under the provisions of this article.

Project. The entire proposed development project regardless of the size of the area of land to be disturbed.

Qualified personnel. Any person who meets or exceeds the education and training requirements of O.C.G.A. § 12-7-19.

Roadway drainage structure. A device such as a bridge, culvert, or ditch composed of a virtually non-erodible material such as concrete, steel, plastic, or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled way consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

Sediment. Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, ice, or gravity as a product of erosion.

Sedimentation. The process by which eroded material is transported and deposited by the action of water, wind, ice or gravity. Soil and water conservation district approved plan. An erosion and sedimentation control plan approved in writing by the Oconee River Soil and Water Conservation District.

Stabilization. The process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.

State general permit. The National Pollution Discharge Elimination System general permit for storm water runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and O.C.G.A. § 12-5-30(f).

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

Structural erosion and sedimentation control practices. Practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps and land grading, etc. Such practices can be found in the publication "Manual for Erosion and Sediment Control in Georgia ".

Trout streams. All streams or portions of streams within the watershed as designated by the game and fish division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act (O.C.G.A. § 12-5-20 et seq.). Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

Vegetative erosion and sedimentation control measures. Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

1. Permanent seeding, sprigging or planting, producing long-term vegetative cover; or
2. Temporary seeding, producing short-term vegetative cover; or
3. Sodding, covering areas with a turf of perennial sod-forming grass.

Such measures can be found in the publication, Manual for Erosion and Sediment Control in Georgia.

Watercourse. Any natural or artificial watercourse, steam, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

Wetlands. Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.
(Ord. of 7-20-2004, § II)

State law reference - Similar provisions, O.C.G.A. § 12-7-3.

Section 22-20. Exemptions.

This article shall apply to any land-disturbing activity undertaken by any person on any land except for the following:

1. Surface mining, as the same is defined in O.C.G.A. § 12-4-72;
2. Granite quarrying and land clearing for such quarrying;

3. Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;
4. The construction of single-family residences, when such construction disturbs less than one acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and not otherwise exempted under this subsection; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in this subsection and in Section 22-21. For single-family residence construction covered by the provisions of this subsection, there shall be a buffer zone between the residence and any State waters classified as trout streams pursuant to the Georgia Water Quality Control Act (O.C.G.A. § 12-5-20 et seq.). In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of Section 22-21 and the buffer zones provided by this Section shall be enforced by the issuing authority;
5. Agricultural operations as defined in O.C.G.A. § 1-3-3, to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;
6. Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in Section 22-21(c)(15) and (c)(16), no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three years after completion of such forestry practices;
7. Any project carried out under the technical supervision of the natural resources conservation service of the United States Department of Agriculture;
8. Any project involving less than one acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre or within 200 feet of the bank of any State waters, and for

purposes of this subsection, "state waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainage way, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the local issuing authority from regulating any such project which is not specifically exempted by subsections (1)-(7), (9), or (10) of this Section;

9. Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the department of transportation, the State highway authority, or the State tollway authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of department of transportation or State tollway authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. § 12-7-7.1; except where the department of transportation , the State highway authority, or the State road and tollway authority is a secondary permittee for a project located within a larger common plan of development or sale under the State general permit, in which case a copy of a notice of intent under the State general permit shall be submitted to the local issuing authority, the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;
10. Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the State general permit, in which case the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and
11. Any public water system reservoir.

(Ord. of 7-20-2004, § III)

State law reference - Similar provisions, O.C.G.A. § 12-7-17.

Section 22-21. Minimum requirements for erosion and sedimentation control using best management practices.

a) General provisions. Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities. Therefore, plans for those land-disturbing activities which are not exempted by this article shall contain provisions for application of soil erosion and sedimentation control measures and practices. The provisions shall be incorporated into the erosion and sedimentation control plans. Soil erosion and sedimentation control measures and practices shall conform to the minimum requirements of subsections (b) and (c) of this Section. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion and sedimentation pollution during all stages of any land-disturbing activity.

b) Minimum requirements; BMPs.

1. Best management practices as set forth in subsections (b) and (c) of this Section shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the director or to any other allegation of noncompliance with subsection (b)(2) of this Section or any substantially similar terms contained in a permit for the discharge of storm water issued pursuant to O.C.G.A. § 12-5-30(f). As used in this subsection, the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. § 12-7-6(b).
2. A discharge of storm water runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local issuing authority or of any State general permit issued by the division pursuant O.C.G.A. § 12-5-30(f) for each day on which such discharge results in the turbidity of receiving waters being increased by more than 25 nephelometric turbidity units for waters supporting warm water fisheries or by more than ten nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the director. This subsection shall not apply to any land disturbance associated with the construction of single-family homes which are not part of a larger common

plan of development or sale unless the planned disturbance for such construction is equal to or greater than five acres

3. Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a local issuing authority or of any State general permit issued by the division pursuant to O.C.G.A. § 12-5-30(f), for each day on which such failure occurs.

c) The following are also required:

1. Stripping of vegetation, re-grading and other development activities shall be conducted in a manner so as to minimize erosion.
2. Cut-fill operations must be kept to a minimum.
3. Development plans must conform to topography and soil type so as to create the lowest practical erosion potential.
4. Whenever feasible, natural vegetation shall be retained, protected and supplemented.
5. The disturbed area and the duration of exposure to erosion elements shall be kept to a practicable minimum.
6. Disturbed soil shall be stabilized as quickly as practicable.
7. Temporary vegetation or mulching shall be employed to protect exposed critical areas during development.
8. Permanent vegetation and structural erosion control practices shall be installed as soon as practicable.
9. To the extent necessary, sediment in runoff water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this subsection, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of the Erosion and Sedimentation Act of 1975 (O.C.G.A. § 12-7-1 et seq.).
10. Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills.
11. Cuts and fills may not endanger adjoining property.
12. Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners.
13. Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum.
14. Land-disturbing activity plans for erosion and sedimentation control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in subsection (b)(2) of this Section.
15. Except as provided in subsection (c)(16) of this Section, there is established a 25-foot buffer along the banks of all State waters, as measured horizontally

from the point where vegetation has been wrested by normal stream flow or wave action, except where the director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director pursuant to O.C.G.A. § 12-2-8, or where a drainage structure or a roadway drainage structure must be constructed, provide that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented. The following requirements shall apply to any such buffer:

a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented stream crossings for water lines; or stream crossings for sewer lines.

16. There is established a 50-foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any State waters classified as "trout streams" pursuant to the "Georgia Water Quality Control Act (O.C.G.A. § 12-5-20 et seq.), except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25-foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The director may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are

incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:

a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented stream crossings for water lines; or stream crossings for sewer lines.
c. Injury to the property of another. The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this article or in the terms of the permit.
   (Ord. of 7-20-2004, § IV)
   State law reference - Similar provisions, O.C.G.A. § 12-7-6.

Section 22-22. Application/permit process.

a) Generally. The property owner, developer and designated planners and engineers shall review the general development plans and detailed plans of the local issuing authority that affect the tract to be developed and the area surrounding it. They shall review this article as well as all articles, chapters, or ordinances pertaining to zoning, storm water management, subdivision, flood damage prevention, and other issues which regulate the development of land within the jurisdictional boundaries of the local issuing authority. However, the operator is the only party who may obtain a permit.

b) Application requirements.

1. No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the city without first obtaining a permit from the planning department to perform such activity.
2. The application for a permit shall be submitted to the planning department and must include the applicant's erosion and sedimentation control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in subsection (c) of this Section. Soil erosion and sedimentation control plans shall conform to the provisions of Section 22-21(b) and (c).
3. (3) Alternate design criteria which conform to sound conservation and engineering practices. The Manual for Erosion and Sediment Control in Georgia is hereby incorporated by reference into this article. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and storm water management facilities, local ordinances and State laws.
4. The data required for a site plan is as follows:

    a. Narrative or notes, which are to be located on the site plan in general notes or in erosion and sediment control notes, and other information.
    b. Description of existing land use at project site and description of proposed project.
    c. Name, address, and phone number of the property owner.
    d. Name and phone number of 24-hour local contact responsible for erosion and sedimentation controls.
    e. Size of project, or phase under construction, in acres.
    f. Activity schedule showing anticipated starting and completion dates for the project. Include the statement in bold letters, "The installation of erosion and sedimentation control measures and practices shall occur prior to or concurrent with land-disturbing activities."
    g. Storm water and sedimentation management systems-storage capacity, hydrologic study, and calculations, including off-site drainage areas.
    h. Vegetative plan for all temporary and permanent vegetative measures, including species, planting dates, and seeding, fertilizer, lime, and mulching rates. The vegetative plan should show options for year-round seeding.
    i. Detail drawings for all structural practices. Specifications may follow guidelines set forth in the Manual for Erosion and Sediment Control in Georgia.
    j. Maintenance statement to read, "Erosion and sedimentation control measures will be maintained at all times. If full implementation of the approved plan does not provide for effective erosion and sediment

control, additional erosion and sediment control measures shall be implemented to control or treat the sediment source."

5. Maps, drawings, and supportive computations shall bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying, or erosion and sedimentation control. After December 31, 2006, all persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements as developed by the commission pursuant to O.C.G.A. § 12-7-20. The certified plans shall contain:

    a. Graphic scale and north point or arrow indicating magnetic north.
    b. Vicinity maps showing location of project and existing streets.
    c. Boundary line survey.
    d. Delineation of disturbed areas within project boundary.
    e. Existing and planned contours, with an interval in accordance with the following:

Map Scale	Ground Slope	Contour Interval (feet)
1 inch = 100 ft.	Flat: 0-2%	0.5 or 1
or larger scale	Rolling: 2-8%	1 or 2
	Steep: 8%	2, 5

    f. Adjacent areas and feature areas such as streams, lakes, residential areas, etc., which might be affected should be indicated on the plan.
    g. Proposed structures or additions to existing structures and paved areas.
    h. Delineate the 25-foot horizontal buffer adjacent to State waters and the specified width in MRPA areas.
    i. Delineate the specified horizontal buffer along designated trout streams, where applicable.
    j. Location of erosion and sedimentation control measures and practices using coding symbols from the Manual for Erosion and Sediment Control in Georgia, Chapter 6.

6. Maintenance of all soil erosion and sedimentation control practices, whether temporary or permanent, shall be at all times the responsibility of the property owner.

c) Permits.

1. Permits shall be issued or denied as soon as practicable but in any event not later than 45 days after receipt by the local issuing authority of a completed application, providing variances and bonding are obtained, where necessary.
2. No permit shall be issued by the local issuing authority unless the erosion and sedimentation control plan has been approved by the district, the local issuing authority has affirmatively determined that the plan is in compliance with this article, any variances required by Section 22-21(c)(15) and (c)(16), are obtained, bonding requirements, if necessary, as per subsection (b)(5)b of this Section are met, and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the local issuing authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
3. If the tract is to be developed in phases, then a separate permit shall be required for each phase.
4. The permit may be suspended, revoked, or modified by the local issuing authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this article. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.
5. (Ord. of 7-20-2004, § V)

State law reference - Permits, O.C.G.A. § 12-7-7 et seq.

Section 22-23. Inspection and enforcement.

a) The inspector will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. Also, the local issuing authority shall regulate both primary and secondary permittees as such terms are defined in the State general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this article, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be

completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this article.

b) The planning department shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.

c) No person shall refuse entry or access to any authorized representative or agent of the issuing authority, the commission, the district, or division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

d) (Ord. of 7-20-2004, § VI)

Section 22-24. Penalties and incentives.

a) Failure to obtain a permit for land-disturbing activity. If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this article without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the issuing authority.

b) Stop-work orders.

    1. For the first and second violations of the provisions of this article, the local issuing authority shall issue a written warning to the violator. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the local issuing authority shall issue a stop-work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the State or if the land-disturbing activities are conducted without obtaining the necessary permit, the local issuing authority shall issue an immediate stop-work order in lieu of a warning;
    2. For a third and each subsequent violation, the local issuing authority shall issue an immediate stop-work order;
    3. All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred; and
    4. When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the local issuing authority or by the director or his designee, have been or are being discharged into State waters and where best management practices have not been properly designed, installed, and maintained, a stop-work order shall be issued by the local issuing authority or by the director or his designee.

All such stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop-work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.

c) Bond forfeiture. If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this article and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of Section 22-22(b)(5)b. The issuing authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

d) Monetary penalties. Any permit condition or limitation established pursuant to this article, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the director issued as provided in this article shall be liable for a civil penalty not to exceed $2,500.00 per day. For the purpose of enforcing the provisions of this article, notwithstanding any provisions in any City Charter to the contrary, municipal courts shall be authorized to impose penalty not to exceed $2,500.00 for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations of County ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this article under County ordinances approved under this article shall be authorized to impose penalties for such violations not to exceed $2,500.00 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

(Ord. of 7-20-2004, § VII)

State law reference - Similar provisions, O.C.G.A. §§ 12-7-12, 12-7-15.

Section 22-25. Education and certification.

All persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. § 12-7-20.

(Ord. of 7-20-2004, § VIII)

State law reference - Similar provisions, O.C.G.A. § 12-7-19.

Section 22-26. Administrative appeal; judicial review.

(a) The suspension, revocation, modification or grant with condition of a permit by the issuing authority upon finding that the holder is not in compliance with the approved erosion and sediment control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the Mayor and Council within 30 days after receipt by the issuing authority of written notice of appeal.
(b) Any person, aggrieved by a decision or order of the issuing authority, after exhausting his administrative remedies, shall have the right to appeal de novo to the Superior Court of the County.
(Ord. of 7-20-2004, § IX)

Section 22-27. Liability.

a) Neither the approval of a plan under the provisions of this article, nor the compliance with provisions of this article shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the issuing authority or district for damage to any person or property.
b) The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this article or the terms of the permit.
c) No provision of this article shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975 (O.C.G.A. § 12-7-1 et seq.), the Georgia Water Quality Control Act (O.C.G.A. § 12-5-20 et seq.), or the rules and regulations promulgated and approved thereunder or pollute any waters of the State as defined thereby.
(Ord. of 7-20-2004, § X)

Section 22-28. Compliance with the Manual for Erosion and Sediment Control in Georgia.

Persons conducting land disturbing activity requiring a land disturbance permit as prescribed in this Article shall comply with the manual for Erosion and Sediment Control in Georgia. This Section shall not relieve such persons from complying with more stringent requirements set forth in this Article. This Section is not intended to modify or repeal any other provision of this Article.

Chapter 26

FIRE PREVENTION AND PROTECTION

Section 26-1. Permit required.
Section 26-2. Location restricted.
Section 26-3. Attendance of open fires.
Section 26-4. Chief may prohibit.
Section 26-5. Burning permits.
Section 26-6. Burning provisions.
Section 26-7. Violations of this chapter.

FIRE PREVENTION AND PROTECTION

Section 26-1. Permit required.

No person shall kindle or maintain any bonfire or rubbish fire or authorize any such fire to be kindled or maintained without a permit or other proper authorization. During construction or demolition of buildings or structures, no waste materials or rubbish shall be disposed of by burning on the premises or in the immediate vicinity without having obtained a permit or other proper authorization from the fire department.
(Code 2001, § 10-102(1))

Section 26-2. Location restricted.

No person shall kindle or maintain any bonfire or rubbish fire or authorize any such fire to be kindled or maintained on any private land unless the location is not less than 50 feet from any structure and adequate provisions are made to prevent fire from spreading to within 50 feet of any structure, or the fire is contained in an approved waste burner located safely not less than 15 feet from any structure.
(Code 2001, § 10-102(2))

Section 26-3. Attendance of open fires.

Bonfires and rubbish fires shall be constantly attended by a competent person until such fire is extinguished. This person shall have a garden hose connected to the water supply, or other fire extinguishing equipment readily available for use.
(Code 2001, § 10-102(3))

Section 26-4. Chief may prohibit.

The Chief of Police or his representative is permitted to prohibit any or all bonfires and outdoor rubbish fires when atmospheric conditions or local circumstances make such fire hazardous.
(Code 2001, § 10-102(4))

Section 26-5. Burning Permits.

Permits will be issued by the State from October 30 – April 30 by the Georgia Forestry Commission. A numbered permit will be issued to the person requesting permission to burn. These permits will be issued Monday through Friday from 9:00 a.m. to 5:00 p.m. Permits for burning on Saturday will be issued the preceding Friday from 3:00 p.m. to 5:30 p.m. But there will be no permits issued for burning on Sunday. All permits are valid for a 24-hour period from time issued to the applicant on the designated date.
(Code 2001, § 10-102(5))

Section 26-6. Burning provisions.

a) Burning of any petroleum-based products is prohibited (example: tires, wire insulation, etc.).
b) Burning of any hazardous materials is prohibited (example: automotive batteries, chemicals, etc.).
c) Burning will be allowed between 30 minutes before daylight and 3 minutes before sunset, at which time it should be entirely extinguished.
(Code 2001, § 10-102(6))

Section 26-7. Violations of this chapter.

a. First violation. The person responsible will be forewarned that he must have a permit to burn and the fire will be extinguished.
b. Second violation. The person responsible will be issued a written warning.
c. Third violation. The person responsible will be issued a citation and charged with an ordinance violation. A fine of $50.00 shall be imposed. (Code 2001, § 10-102(7))

RESERVED

CHAPTER 30

FLOODS

ARTICLE I.

Section 30-1 – 30-20. Reserved

ARTICLE II. FLOOD DAMAGE PREVENTION ORDINANCE

Section 30-21. Authorization.
Section 30-22. Findings of fact.
Section 30-23. Statement of purpose.
Section 30-24. Objectives.
Section 30-25. Lands to which this ordinance applies.
Section 30-26. Basis for area of special flood hazard.
Section 30-27. Establishment of development permit.
Section 30-28. Compliance.
Section 30-29. Abrogation and greater restrictions.
Section 30-30. Interpretation.
Section 30-31. Warning and disclaimer of liability.
Section 30-32. Penalties for violation.
Section 30-33. Designation of ordinance administrator.
Section 30-34. Permit procedures.
Section 30-35. Duties and responsibilities of the administrator.
Section 30-36. General standards.
Section 30-37. Specific standards.
Section 30-38. Building standards for streams without established base flood elevations and/or floodway (A-Zones)
Section 30-39. Standards for areas of special flood hazard (Zones AE) with established base flood elevations without designated floodways.
Section 30-40. Standards for subdivisions.
Section 30-41. Standards for critical facilities.
Section 30-42. Procedures.
Section 30-43. Conditions for variances.

ARTICLE I. Reserved

Section 30-1 – 30-20. Reserved.

ARTICLE II. FLOOD DAMAGE PREVENTION ORDINANCE

Division 1. Statutory Authorization, Findings of Fact, Purpose and Objectives

Section 30-21. Authorization.

Article IX, Section II of the Constitution of the State of Georgia and Section 36-1-20(a) of the Official Code of Georgia Annotated have delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Mayor and Council of the City of Statham, GEORGIA, does ordain as follows:

Section 30-22. Findings of fact.

(1) The flood hazard areas of the City of Statham, Georgia 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.
(2) These flood losses are caused by the occupancy in flood hazard areas of uses vulnerable to floods, which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

Section 30-23. Statement of purpose.

It is the purpose of this ordinance 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. Control filling, grading, dredging and other development which may increase flood damage or erosion, and;
4. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands;
5. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters.

Section 30-24. Objectives.

The objectives of this ordinance are:

1. To protect human life and health;
2. To 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. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas,
4. To minimize expenditure of public money for costly flood control projects;
5. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
6. To minimize prolonged business interruptions, and;
7. To insure that potential homebuyers are notified that property is in a flood area.

Division 2. General Provisions

Section 30-25. Lands to which this ordinance applies.

This ordinance shall apply to all Areas of Special Flood Hazard within the jurisdiction of the City of Statham, Georgia.

Section 30-26. 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 December 18, 2009, with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this ordinance. For those land areas acquired by a municipality through annexation, the current effective FIS and data for (*Barrow 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. (*NONE*)

Section 30-27. Establishment of development permit.

A Development Permit shall be required in conformance with the provisions of this ordinance PRIOR to the commencement of any Development activities.

Section 30-28. Compliance.

No structure or land shall hereafter be located, extended, converted or altered without full compliance with the terms of this ordinance and other applicable regulations.

Section 30-29. Abrogation and greater restrictions.

This ordinance is not intended to repeal, abrogate, or impair any existing ordinance, easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section 30-30. Interpretation.

In the interpretation and application of this ordinance all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body, and; (3) deemed neither to limit nor repeal any other powers granted under state statutes.

Section 30-31. Warning and disclaimer of liability.

The degree of flood protection required by this ordinance 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 man-made or natural causes. This ordinance 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 ordinance shall not create liability on the part of the City of Statham or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 30-32. Penalties for violation.

Failure to comply with the provisions of this ordinance or with any of its requirements, including conditions and safeguards established in connection with grants of variance or special exceptions shall constitute a violation. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $1,000.00 or imprisoned for not more than 180 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Statham from taking such other lawful actions as is necessary to prevent or remedy any violation.

Division 3. Administration

Section 30-33. Designation of ordinance administrator.

The Planning and Zoning Administrator is hereby appointed to administer and implement the provisions of this ordinance.

Section 30-34. Permit procedures.

Application for a Development Permit shall be made to the City Building Inspector 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, 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 sea 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 non-residential structure will be flood-proofed;
(c) Design certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria of Article 4, Section B (2);
(d) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development, and;

(2) Construction Stage -

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 flood-proofing level immediately after the lowest floor or flood proofing 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 flood proofing is utilized for non-residential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

Any work undertaken prior to submission of these certifications shall be at the permit holder's risk.

The Planning and Zoning Administrator 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.

Section 30-35. Duties and responsibilities of the administrator.

Duties of the Planning and Zoning Administrator shall include, but shall not be limited to:

1. Review all development permits to assure that the permit requirements of this ordinance have been satisfied;
2. Review proposed development to assure 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 U.S.C. 1334. 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 Article 2 Section B, then the Planning and Zoning Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other sources in order to administer the provisions of Article 4.
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 Article 3, Section B(2).
5. Verify and record the actual elevation, in relation to mean sea level to which any new or substantially improved structures have been flood-proofed, in accordance with Article 3, Section B (2).

6. When flood-proofing is utilized for a structure, the Planning and Zoning Administrator shall obtain certification of design criteria from a registered professional engineer or architect in accordance with Article 3(B)(1)(c) and Article 4(B)(2) or (D)(2).
7. Made substantial damage determinations following a flood event or any other event that causes damage to structures in flood hazard areas.
8. Notify adjacent communities and the Georgia 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).
9. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the 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.
10. 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) the Planning and Zoning Administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.
11. All records pertaining to the provisions of this ordinance shall be maintained in the office of the Planning and Zoning Administrator and shall be open for public inspection.

Division 4. Provisions for Flood Hazard Reduction

Section 30-36. 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. Elevated Buildings - 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:

    i. 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;
    ii. The bottom of all openings shall be no higher than one foot above grade; and,
    iii. 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 ordinance, 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, and
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, 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 flood waters into the system;
8. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
9. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding, and;
10. Any alteration, repair, reconstruction or improvement to a structure, which is not compliant with the provisions of this ordinance, shall be undertaken only if the non- conformity is not furthered, extended or replaced.

Section 30-37. 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 Article 4, Section A (4), "Elevated Buildings".

    a. All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other services facilities shall be elevated at or above one foot above the flood elevation.

2. Non-Residential Construction - New construction or the substantial improvement of any structure located in A1-30, AE, or AH zones, may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to one (1) 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 Article 3, Section C.(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:

        i. The lowest floor of the manufactured home is elevated no lower than one foot above the level of the base flood elevation, or
        ii. 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 to resist flotation, collapse and lateral movement. (ref. Article 4(A)(6) above)
d. All recreational vehicles placed on sites must either:

    I. Be on site for fewer than 180 consecutive days:
    II. 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
    III. The recreational vehicle must meet all the requirements for "New Construction", including the anchoring and elevation requirements of Article 4, Section B (3)(a)(c), above.

4. Floodway - Located within Areas of Special Flood Hazard established in Article 2, Section B, 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 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 Article 4 (B)(4)(a) above is satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of Article 4.

Section 30-38. Building standards for streams without established base flood elevations and/or floodway (A-Zones)

Located within the Areas of Special Flood Hazard established in Article 2, Section B, where 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 Article 2(B), then the Planning and Zoning Administrator shall obtain, review, and reasonably utilize any scientific or historic base flood elevation and floodway data available from a Federal, State, or other source, in order to administer the provisions of Article 4. ONLY if data are not available from these sources, then the following provisions (2&3) shall apply:
2. No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty 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 more than one foot 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 (3) feet above the highest adjacent grade at the building site. (Note: Require the lowest floor to be elevated one foot above the estimated base flood elevations in A-Zone areas where a Limited Detail Study has been completed). Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Article 4, Section A (4) "Elevated Buildings".

    a. All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be elevated to no less than three feet above the highest adjacent grade at the building site.

    b. The Planning and Zoning Administrator shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

Section 30-39. Standards for areas of special flood hazard (Zones AE) with established base flood elevations without designated floodways.

1. No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

2. New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with Article 4, Section B.

Section 30-40. Standards for subdivisions.

1. All subdivision proposals shall be consistent with the need to minimize flood damage;
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and;
4. For subdivisions and/or developments greater than fifty lots or five acres, whichever is less, base flood elevation data shall be provided for subdivision and all other proposed development, including manufactured home parks and subdivisions. Any changes or revisions to the flood data adopted herein and shown on the FIRM shall be submitted to FEMA for review as a Conditional Letter of Map Revision (CLOMR) or Conditional Letter of Map Amendment (CLOMA), whichever is applicable. Upon completion of the project, the developer is responsible for submitting the "as-built" data to FEMA in order to obtain the final LOMR.

Section 30-41. Standards for critical facilities.

1. Critical facilities shall not be located in the 100-year floodplain or the 500-year floodplain.
2. All ingress and egress from any critical facility must be protected to the 500-year flood elevation.

Division 5. Variances

Section 30-42. Procedures.

A. The Mayor and Council shall hear and decide requests for appeals or variance from the requirements of this ordinance.

B. The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Planning and Zoning Administrator in the enforcement or administration of this ordinance.

C. Any person aggrieved by the decision of the Mayor and Council may appeal such decision to the Superior Court of Barrow County, as provided in Section 5-4-1 of the Official Code of Georgia Annotated.
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. (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 ordinance.

Section 30-43. Conditions for variances.

1. A variance shall be issued ONLY when there is:

   i. a finding of good and sufficient cause,

   ii. a determination that failure to grant the variance would result in exceptional hardship, and;

   iii. a 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 Ordinance 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 a 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 Planning and Zoning Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

Upon consideration of the factors listed above and the purposes of this ordinance, the Mayor and Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

Division 6. Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

"Accessory Structure" means a structure having minimal value and used for parking, storage and other non-habitable uses, such as garages, carports, storage sheds, pole barns, hay sheds and the like.

"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 Planning and Zoning Administrator's interpretation of any provision of this ordinance.

"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 Article 2, Section B.

"Base flood," means the flood having a one percent chance of being equaled or exceeded in any given year.

"Base Flood Elevation (BFE)" means the elevation shown on the Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and

VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

"Basement" means that portion of a building having its floor sub grade (below ground level) on all sides.

"Building" means any structure built for support, shelter, or enclosure for any occupancy or storage.

"Critical Facility" means any public or private facility, which, if flooded, would create an added dimension to the disaster or would increase the hazard to life and health. Critical facilities include:

a. Structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic, or water-reactive materials;
b. Hospitals and nursing homes, and housing for the elderly, which are likely to contain occupants who may not be sufficiently mobile to avoid the loss of life or injury during flood and storm events;
c. Emergency operation centers or data storage centers which contain records or services that may become lost or inoperative during flood and storm events; and
d. Generating plants, and other principal points of utility lines.

"Development" means any man-made 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" Any structure for which the "start of construction" commenced before June 17, 1986 [the effective date of the initial FIRM for that community].

"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.

"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:

a. The overflow of inland or tidal waters; or
b. The 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" 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.

“Flood Proofing” means any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"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.

“Freeboard” means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

"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;

a. 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:
b. Certified or preliminarily 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 to qualify as a registered historic district:
c. 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
d. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

    1. By an approved state program as determined by the Secretary of the Interior, or
    2. 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 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 Sea Level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

"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 for the purposes of determining insurance rates, structures for which the “start of construction” commenced after June 17, 1986 [the effective date of the initial FIRM] and includes any subsequent improvements to such structures. For

floodplain management purposes, “new construction” means structures for which the “start of construction” commenced after March 12, 1985 [the effective date of the FIRST floodplain management ordinance adopted by the community and includes any subsequent improvements to such structures.

"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 March 12, 1985 [the effective date of the first floodplain management regulations adopted by a community].

“North American Vertical Datum (NAVD)” has replaced National Geodetic Vertical Datum of 1929 in existing and future FEMA Flood Modernization Maps.

"Recreational vehicle" means a vehicle, which is:

a. Built on a single chassis;
b. 400 square feet or less when measured at the largest horizontal projection;
c. Designed to be self-propelled or permanently towable by a light duty truck; and
d. 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 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.

“Subdivision” the division of a single lot into two or more lots for the purpose of sale or development.

"**Substantial damage"** means damage of any origin sustained by a structure whereby the cost of restoring the structure to it’s before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during a 5-year period, in which the cumulative cost equals or exceeds fifty percent of the market value of the structure prior to the improvement. The market value of the building should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures, which have incurred "substantial damage", regardless of the actual amount of repair work performed.

For the purposes of this definition, "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. The term 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 Official, 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" is a grant of relief from the requirements of this ordinance, which permits construction in a manner otherwise prohibited by this ordinance.

“Violation” means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, or other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

Division 7. Severability

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

CHAPTER 32

SPECIAL CITY INFRASTRUCTURE IMPROVEMENT TAX DISTRICT

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32-110	Federal, State Laws to Prevail

32-101. Constitutional Authority

The Mayor and Council of the City of Statham is authorized by Article 9, Section 2, Paragraph VI of the Constitution of the State of Georgia 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.

32-102. Declaration of Policy and Purpose

The purpose of this ordinance is to provide citizens of the City with a procedure for providing infrastructure for development where infrastructure does not exist or is inadequate. This article is adopted in order to effect the creation of infrastructure improvement tax districts to pay for such infrastructure.

32-103. Definitions

a. Property owner. The term “property owner as used in this ordinance shall include 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(s) 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.

b. Special tax district. A special tax district is authorized pursuant to Article 9, Section 2, Par. VI of the Constitution of the State of Georgia. Special tax districts may be created in order for infrastructure to be provided in areas where service is inadequate or does not exist.

32-104. 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 his or her 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.

32-105. Collection and Responsibility for Administration

a. The office of the City Clerk 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.

32-106. 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.

32-107. Reserved

32-108. 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% 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% of the property owners within the special tax district in each and all of the included subdivisions must sign the petition. Unless 100% 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 or signs shall be posted in the proposed road pavement district giving notice of the hearing, at least 10 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(s) 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 ordinance 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 ordinance 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(s) 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 creation 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 2 acres or 2% 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 10 years from the date established or the time at which the cost of the infrastructure improvements have 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.

32-109. 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% 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. 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 32-108(h).

32-110. Federal, State Laws to Prevail

If any provision of this ordinance is in conflict with any state or federal law, or with any rule, regulation, or any order of any agency of this state or federal agency having jurisdiction of the subject matter of this ordinance, 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 such that the remaining portion of this ordinance shall be deemed to be of full force or effect.

CITY OF STATHAM SPECIAL TAX DISTRICT PETITION

NAME ADDRESS PHONE NUMBER SIGNATURE

Check applicable line:

_____ Signatures above represent at least 75% but less than 100% of property owners within the proposed special tax district. A public hearing will need to be held by the Mayor and Council.

_____ Signatures above are 100% of the property owners within the proposed special tax district. No public hearing by the Mayor and Council is necessary.

_____ Signatures verified by the City Clerk

Attach more sheets as needed.

REQUEST FOR PETITION FOR ROAD PAVEMENT TAX DISTRICT

Name of Subdivision (if applicable):____

Existing Road: ________________________ Proposed Road:________________________

Check here if request is made by a developer of less than five lots or is otherwise not covered by the City of Statham Subdivision Ordinance:_______

Applicant
Name:____

Street
Address:____

City:________________________________ Zip Code:_______________

Phone Number:____

Email Address:____

Please attach a plat or plats showing the proposed Special Tax District. Applications without such a plat or plats will not be considered.

I hereby certify that the road or roads that are to be included in the Special Tax District are public roads dedicated to and accepted by the City of Statham. Private roads cannot be paved by the creation of a special tax district.

I further declare that the information provided herein is true and accurate to the best of my knowledge.

____
Signature of Applicant

CHAPTER 34

LICENSES, TAXATION, & MISCELLANEOUS BUSINESS REGULATIONS

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LICENSES, TAXATION, MISCELLANEOUS BUSINESS REGULATIONS

ARTICLE I. IN GENERAL

Section 34-1. Gross direct premiums tax.

a. Rate of Levy on life, accident, and sickness insurers. There is hereby set and levied for the year 2002 and for each calendar year thereafter upon each company authorized to write life, accident, and sickness insurance and 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 municipality, 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 Section 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 Q.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 the preceding subsection (a) and which is doing business within the municipal corporate limits, an annual tax equal to 2-1/2 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.
c. (Code 2001, § 4-108)

Section 34-2. 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:

Georgia Power Company	four percent
Atlanta Gas Light	three percent
Telegraph & Telephone	three percent
Electric Membership Corporations	four percent
Comcast	five 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)

Section 34-3. 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 chapter.
b. Fee established. The annual business license fee for each company authorized by the State to write life, accident, and sickness insurance, as such terms are defined in O.C.G.A. title 7, Ch. 33 (O.C.G.A. § 33-7-1 et seq.), shall be $40.00 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 $40.00.
(Code 2001, § 32-204)

Section 34-4. 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. The term "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. The term "state of emergency" is defined pursuant to O.C.G.A. § 38-3-3(5) as condition declared by the Governor when, in his 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. The term "subsequent recovery period" is defined as 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)

Section 34-5. Verification of status required.

a. Any applicant for a public benefit listed in subsection (b) 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) must be provided include the following:

    i. Employment benefits;
    ii. Business or occupational licenses, which shall include any license or certification issued by the City of Statham;
    iii. Contracts;
    iv. 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 persons' lawful presence in the United States, as such laws or regulations now exist or may exist in the future.

Secs. 34-6 - 34-26. Reserved.

ARTICLE II. OCCUPATIONAL LICENSE, TAX AND REGULATORY FEES

Section 34-27. 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 his designee or to any police officer of said City, upon request.
(Code 2001, § 4-115(1))

Section 34-28. Construction of terms; 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:

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 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 is 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 article.

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 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 mean 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))

Section 34-29. 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 is set forth below:

Business	Regulatory Fee
Auctioneer	$25.00 per auction
*Bail bondsman	$25.00 per year
Carnivals, circuses, and fairs	$25.00 per day (fee to be waived when a nonprofit organization is the sponsor)
*Dealers in gold, silver, and precious metals	$25.00 per year
*Fortune tellers/palm readers	$25.00 per year
*Game rooms/pool halls	$25.00 per year, $50.00 per table, and $15.00 per pinball or electronic game machine
*Beer and wine package sales	$500.00 per year plus admin fee
*Beer and wine consumption	$500.00 per year plus admin fee
*Tavern	$500.00 per year plus admin fee
*Liquor by the drink consumption on the premises	$3,000 per year plus admin fee
*Body art establishment	$250.00 per year
*Body artist permit	$50.00 per year
*Pawnbrokers	$25.00 per year
Peddlers of produce including flowers or agricultural products	$25.00 per year
Peddlers of all other products	$25.00 per year
*Scrap metal/salvage dealers	$25.00 per year
*Taxicab and limousine operators	$25.00 per vehicle and $10.00 per operator per year
(*requires Council approval)	

(Code 2001, § 4-115(3))

Section 34-30. 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. Occupation tax schedule. The tax rate determined by number of employees for each business, trade, profession, or occupation is as follows and will be developed and updated from time to time by the City Clerk's office. This rate is based on the maximum number of employees associated with each business.

Tax liability per number of employees:

0-3	$25.00
4 or more	$25.00 plus $5.00 per employee over 3

(c) There shall be a maximum tax liability of $250.00 per business.
(Code 2001, § 4-115(4))

Section 34-31. 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))

Section 34-32. 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))

Section 34-33. 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))

Section 34-34. Professionals as classified in O.C.G.A. § 48-18-9(c)(1) through (18).

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

1. The occupation tax based on number of employees.
2. A fee of $25.00 per practitioner who is licensed to provide the service, such tax to be paid at the practitioner's office or location; provided, however, that a practitioner paying according to this subsection shall not be required to provide information to the local government relating to the gross receipts of the business or practitioner. The per-practitioner fee applies to each person in the business that qualifies as a practitioner under the State's regulatory guidelines and framework.
3. This election is to be made on an annual basis and must be done prior to April 15 each year.
   (Code 2001, § 4-115(8))

Section 34-35. 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))

Section 34-36. 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))

Section 34-37. When tax due and payable; effect of transacting business when tax delinquent.

a. Each such occupation tax shall be for the calendar year 1995 and succeeding calendar years thereafter unless otherwise specifically provided. Said registration and occupation tax shall be payable January 1 of each year and shall, if not paid by March 31st of each year, be subject to penalties for delinquency as prescribed in this article. 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 kind of profession, trade, or calling subject to this article without having first obtained said registration, such offender shall, upon conviction by the municipal court judge, be punished by a fine not less than $100.00, or imprisonment not to exceed 30 days, either or both in the discretion of the presiding judge.
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))

Section 34-38. 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))

Section 34-39. Evidence of State registration required if applicable; State registration to be displayed.

Each person who is licensed by the Secretary of State pursuant to title 43 of the Official Code of Georgia Annotated shall provide evidence of proper and current State license before the City registration may be issued. 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))

Section 34-40. 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))

Section 34-41. Liability of officers and agents; registration required; failure to obtain.

All persons subject to the occupation tax levy pursuant to this article shall be required to obtain the necessary registration for said business as described in this article, and in default thereof the officer or agent soliciting for or representing such persons shall be subject to the same penalty as other persons who fail to obtain a registration. Every person commencing business in the City after January 1st 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))

Section 34-42. 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 15th of each year, and by April 15th 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 chapter 1. Said penalties shall be in addition to all other penalties, civil and criminal herein provided; and 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 kind 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))

Section 34-43. Subpoena and arrest powers.

The Chief of Police and his 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))

Section 34-44. Businesses not covered by this article.

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

1. Those businesses regulated by the Georgia Public Service Commission.
2. Those electrical service business 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.GA. § 2-10-105.
5. Insurance companies governed by O.C.G.A. § 33-8-8 et seq.
6. Motor common carriers governed by O.C.G.A. § 46-7-15.
7. Those businesses governed by O.C.G.A. § 48-5-355.
8. Agricultural products and livestock raised in the State governed by O.C.G.A. § 48-5-356.
9. Depository financial institutions governed by O.C.G.A. § 48-6-93.
10. Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55.
    (Code 2001, § 4-115(19))

Section 34-45. 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, the 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))

Section 34-46. 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 chapter, 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))

Section 34-47. 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 article 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))

Section 34-48. When occupation tax due and payable.

The amount of occupation tax shall be payable to the said City, at the City Clerk's office on January 1 each year and delinquent if not paid on or before April 15th each year.
(Code 2001, § 4-115(23))

Section 34-49. 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 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))

Section 34-50. 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))

Section 34-51. Transfers of occupational tax certificate, personnel.

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))

Section 34-52. 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))

Section 34-53. Effect of failure to comply with article provisions; continuing in business after tax registration; revocation.

Any persons, their managers, agents, or employees, who do business in said City after the registration for said business has been revoked as above 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 officer, 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)).

Section 34-54. 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))

Section 34-55. 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 of the City, 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 Charter of said 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 Chief of Police or other appropriate officer of said City upon the property of 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 said 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 him as though he had never defaulted in the payment of the taxes.
(Code 2001, § 4-115(31))

Section 34-56. 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))

Section 34-57. 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 article 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))

Section 34-58 – 34-60. Reserved.

ARTICLE III. COLLECTION OF DELINQUENT TAXES

Section 34-61. Date due.

All property subject to property tax levy by the city shall be due and payable on or before December 20th of each year.

Section 34-62. Failure to pay, Issuance of tax fi. fa.

In the event the property tax due the city is not paid on or before December 20th of each year, then a tax fi. fa. shall be issued on said property.

Section 34-63. Form of tax fi. fa.

The form of the tax fi. fa. to be issued shall be as follows:

STATE OF GEORGIA
COUNTY OF BARROW
CITY OF STATHAM

TO THE CHIEF OF POLICE OF THE CITY OF STATHAM AND ALL HIS LAWFUL OFFICERS.

You are commanded, that of the goods and chattels, if any be found, otherwise of the lands and tenements of party or parties named below, you make levy and sale thereof the sum of $ __________ for City occupation or business taxes or license fees for the year 20____ with interest from date at the highest legal rate provided by law, per annum from said date, provided that the minimum interest payment on such unpaid taxes or fees shall be one dollar, and legally provided costs, and you are hereby required to return this writ to me, with your actings and doings thereon, and the sum aforesaid, within the time prescribed by law, herein fail not.

Given under my hand this _____ day of __________, 20_______.

____

Clerk, City of Statham,

Section 34-64. City Clerk authorized to issue fi. fa.

The clerk of the city is authorized and directed to issue said fi. fa.'s on the 21st day of December of each year for the city property taxes that have not been paid.

Section 34-65. Certain persons authorized to execute fi. fa.

The Chief of Police of the city, or any of his authorized officers, is authorized and directed to execute said fi. fa. under the same manner and procedure as provided by the laws of the state of Georgia governing executions for such process from the Superior Court.

Section 34-66. Issuance of fi. fa. to clerk of Superior Court.

The clerk of the city shall issue to the clerk of the Superior Court of Barrow County, Georgia, said fi. fa. with the following notice attached thereto:

To the Clerk of the Superior Court of Barrow County, Georgia.

You are hereby authorized and directed to file the foregoing tax fi. fa. on the general execution document of the official records of Barrow County, Georgia.

This ____ day of ____________, 20___.

Clerk, City of Statham

Section 34-67. Issuance of fi. fas. for outstanding bills; Recordation.

The clerk of the city is directed to immediately issue fi. fa.s 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 Superior Court of Barrow County, Georgia.

Section 34-68. 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.

Section 34-69 – 34-89. Reserved.

ARTICLE IV. ADULT ENTERTAINMENT ESTABLISHMENTS

Section 34-90. Purpose.

The purpose of this Section 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))

Section 34-91. Definitions.

The following terms used in this Section defining adult entertainment establishments shall have the meanings indicated below:

Adult bookstore means an establishment having a substantial or significant portion of its stock in trade, 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 appear 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, 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. This definition 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 persons who, for a fee, commission, hire, reward or profit, furnished or offer to furnish names of persons, or who introduce, furnish or arrange for persons who may accompany other persons to or about social affairs, entertainments or places of amusement, or who may consort with other about any place of public resort or within any private quarters.

Good moral character means a person that is of good moral character according to this Section 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, for the purposes of this Section, any person who has not attained the age of 18 years.

Specified anatomical areas shall include 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 shall include 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: analingus, buggery, caprifig, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, apphism, zooerasty; or
2. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or
3. Use of human or animal ejaculation, sodomy, or copulation, coitus or masturbation; or
4. Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or
5. Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or

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))

Section 34-92. 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 Section.
b. No later than March 1st 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 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 his place of business to be open on December 25th.
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 Section.
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 3-1/2 foot candles 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))

Section 34-93. 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))

Section 34-94. 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 Section 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))

Section 34-95. 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 Section, which license shall not be under suspension or permanently or conditionally revoked.
(Code 2001, § 32-202(6))

Section 34-96. 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))

Section 34-97. 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))

Section 34-98. Location.

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 parlor 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. 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))

Section 34-99. 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 Section. 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, he shall file a notice with the licensing officer of his 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 of $50.00 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))

Section 34-100. 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 his 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 Section. 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))

Section 34-101. Application contents.

Each application for an adult entertainment establishment permit shall contain the following information:

1. The full true name and any other names used by the applicant;
2. The present address and telephone number of the applicant;
3. The previous addresses of the applicant, if any, for a period of five years immediately prior to the date of the application and the dates of residence at each;
4. Acceptable written proof that the applicant is at least 18 year of age;
5. The applicant's height, weight, color of eyes and hair, and date and place of birth;
6. Two photographs of the applicant at least two inches by two inches taken within the last six months;

7. Business, occupation or employment history of the applicant for the five years immediately preceding the date of application. Business or employment records of the applicant, partners in a partnership, directors and officers of a corporation and, if a corporation, all shareholders holding more than five percent of the shares of corporate stock outstanding;
8. The business license history of the applicant and whether such applicant, in previous operations in this or any other city, state or territory under license, has bad such license or permit for an adult entertainment business or similar type of business revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation;
9. All convictions, including ordinance violations, exclusive pf traffic violations, stating the dates and places of any such conviction.
10. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or Charter, together with the place and date of incorporation, and the names and addresses of each of its current officers and directors, and each stockholder holding more than five percent of the stock in the corporation. If the applicant is a partnership, the applicant shall set forth the name, residence address and dates of birth of the partners, including limited partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership filed with the County Clerk. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply. The applicant corporation or partnership shall designate one of its officers or general partners to act as its responsible managing officer. Such designated persons shall complete and sign all application forms required of an individual applicant under this Section, but only one application fee shall be charged;
11. The names and addresses of the owner and lessor of the real property upon which the business is to be conducted and a copy of the lease or rental agreement;
12. Such other identification and information as the police department may require in order to discover the truth of the matters hereinbefore specified as required to be set forth in the application;
13. The age and date of birth of the applicant, of any partners, or of any and all officers, of any stockholders of more than five percent of the shares of the corporation stock outstanding, directors of the applicant if the applicant is a corporation;
14. If the applicant, any partners or any of the officers or stockholders holding more than five percent of the outstanding shares of the corporation, or the directors of the applicant if the applicant is a corporation, have ever been convicted of any crime constituting a felony, or any crime not a felony involving moral turpitude, in the past five years and, if so, a complete description of any such crime, including date of violation, date of conviction, jurisdiction and any disposition, including any fine or sentence imposed and whether terms of disposition have been fully completed;

15. The City shall require the individual applicant to furnish fingerprints of the applicant;
16. If the applicant is a person doing business under a trade name, a copy of the trade name properly recorded. If the applicant is a corporation, a copy of authority to do business in the State, including articles of incorporation, trade name affidavit, if any, last annual report, if any;
17. At least three character references from individuals who are in no way related to the applicant or individual shareholders, officers or directors of a corporation and who are not or will not benefit financially in any way from the application if the license is granted and who have not been convicted of any felony or a Municipal Code violation involving moral turpitude in the past five years. The licensing officer shall prepare forms consistent with the provisions of this subsection for the applicant, who shall submit all character references on such forms;
18. Address of the premises to be licensed;
19. Whether the premises are owned or rented and, if the applicant has a right to legal possession of the premises, copies of those documents giving such legal right;
20. A plat by a registered engineer, licensed by the State, showing the location of the proposed premises in relation to the neighborhood, the surrounding zoning, its proximity to any church, school, public park, governmental building or site or other business hereunder regulated;
21. Each application for an adult entertainment establishment license shall be verified and acknowledged under oath to be true and correct by if:

    a. The applicant is an individual, the individual;
    b. By a partnership, by the manager or general partner;
    c. A corporation, by the president of the corporation;
    d. Any other organization or association, by the chief administrative official. (Code 2001, § 32-202(12))

Section 34-102. 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))

Section 34-103. Application; investigation.

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 his 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 partners, 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, his 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 Section 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 insure the health, safety and welfare of the citizens of the City or the preservation of its neighborhoods.
    (Code 2001, § 32-202(14))

Section 34-104. Persons prohibited as licensees.

a. No license provided for by this Section 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 officer, 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;

    a. 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))

Section 34-105. 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 Section, 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))

Section 34-106. Same, 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 Section. The renewal fees for the adult entertainment establishment permits shall be established by resolution of the City Council.
(Code 2001, § 32-202(17))

Section 34-107. Same, 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, transferor 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 of 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))

Section 34-108. 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 the City 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 his name and the name of the business as specified on his 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 Section.
(Code 2001, § 32-202(19))

Section 34-109. Appeal; Procedure.

The permittee shall, within ten days after he 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 nor more than 30 days after receipt of the application for City Council action.
(Code 2001, § 32-202(20))

Section 34-110. Same; Council determines procedure.

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 Section.
   (Code 2001, § 32-202(21))

Section 34-111. 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))

Section 34-112. Powers of hearing officer.

The hearing officer appointed pursuant to the procedure set out in this Section may receive and rule on admissibility of evidence, hear testimony under oath and call witnesses as he may deem advisable with respect to the conduct of the hearing.
(Code 2001, § 32-202(23))

Section 34-113. 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 Section. Rules of evidence as applied in an administrative hearing shall apply.
(Code 2001, § 32-202(24))

Section 34-114. 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))

Section 34-115. Same; 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 Section;
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))

Section 34-116. 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 or daily or as often as collections permit.
(Code 2001, § 32-202(29))

Section 34-117. Self-inspection of licensed premises.

The licensee of a licensed premises or his designated representative shall make sanitary inspections of the licensed premises at least once a month and shall record his 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))

Section 34-118. Sealing for unsanitary or unsafe conditions.

A licensed premises or any part thereof may be sealed by order of the licensing officer on his finding of a violation of this Section resulting in an unsanitary or unsafe condition. Prior to sealing, the licensing officer shall serve on the licensee, by personal service on him 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))

Section 34-119. Unlawful operation declared nuisance.

Any adult entertainment establishment operated, conducted or maintained contrary to the provisions of this Section 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 enjoinment 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 Section. In addition, violation of the provisions of this Section shall be per se grounds for suspension or revocation of a license granted hereunder.
(Code 2001, § 32-202(28))

Section 34-120. Abatement as sanitary nuisance.

Unlicensed premises or any part thereof may be abated as a sanitary nuisance.
(Code 2001, § 32-202(32))

Secs. 34-121 - 34-136. Reserved.

ARTICLE V. MASSAGE ESTABLISHMENTS

Section 34-137. 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:

Employee shall mean any employee, massage therapist/practitioner, masseur, masseuse, spa therapist, independent contractor, agent, and/or partner, general or limited, associated with the massage or spa establishment.

Massage apparatus shall mean 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 shall mean 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". This term shall include the administration of "massages" or "massage therapy" off-site, i.e., including but not limited to the client's home or place of business. This term shall not include hospitals or other professional health care establishments separately licensed as such by the State.

Massage or massage therapy shall mean 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. This term shall 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 therapist / practitioner / masseur / masseuse shall mean any person who for good or valuable consideration administers a "massage" or "massage therapy".

Spa establishment shall mean any business established for profit that provides "spa therapy". This term shall include the administration of "spa therapy" off-site, including but not limited, to the client's home or place of business. This term shall 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 shall mean any person who for good or valuable consideration administers "spa therapy".

Spa therapy shall mean any personal services such as body wraps, hydro mineral wraps, body polish, body wash, baths and hydro tub soak. This term shall not include the use of a hydro-bed during which the client is fully clothed.

Section 34-138. Scope of regulations.

a. All licenses issued under this article 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 article 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 the laws of the State.

Section 34-139. 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 article. 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 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 article. 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 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 his 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 shall be granted a license for a massage or spa establishment.

Section 34-140. 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 July1 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.

Section 34-141. Work permits required.

Prior to the issuance of a license on the premise 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.

Section 34-142. General operating provisions for massage and spa establishments.

a. It shall be the duty of all persons holding a license under this article 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 article must additionally report changes in the list of employees and require supplemental information for

new employees to be filed with the Clerk or his designee within ten days from the date of such change.

b. It shall be the duty of any person granted a license under this article 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 his designee, or the Chief of Police or his designee.
c. The establishment shall have an owner, manager, or supervisor on premise 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 article 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 his designee and/or by the Chief of Police or his designee, to ensure compliance with this article.
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 article, "completely clothed" shall mean having on the upper portion of the body appropriate undergarments and either 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 article 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 to receive massage and/or spa therapy unless such person carries with him 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.

Section 34-143. 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 his designee. The Clerk or his 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 his designee.

b. Upon receipt of the background investigation, and completion of review of the application in accordance with the terms of this article, the Clerk or his designee shall act on the application within 30 days. The Clerk or his 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 article.
    3. Contains false information in the application or attached documents.

Section 34-144. 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 his 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 article.
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, his employees, agents, or independent contractors associated with the establishment have allowed occur or have engaged in a violation of any part of this article.

Section 34-145. 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 his 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 chapter. 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 his 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 Bays 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 he 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 he 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 his 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; or
    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 Superior Court of the County. An aggrieved party shall have all other remedies provided by law or at equity to all ordinances.

Section 34-146 – 34-150. Reserved.

Article VI – Tattoo Parlors and Body Art Studios

Section 34-151. Authority.

The legal authority for this Rule is Chapter 31-40 of the Official Code of Georgia Annotated. (O.C.G.A. Chapters 31-40-1, 31-40-2, 31-40-3, 31-40-4, 31-40-5, 31-40-6, 31-40-7, 31-40-8, 31-40-9, and 31-5.)

Section 34-152. Purpose.

The purpose of these rules and regulations is to establish reasonable standards for individuals performing body art procedures and for the facilities from which the procedures are provided. If followed, such standards should ensure the health and safety of all individuals performing and receiving these services.

Section 34-153. Exemptions.

These regulations do not apply to a physician or osteopath licensed under Chapter 34 of Title 43, or a technician acting under the direct supervision of such licensed physician or osteopath. Exemptions may include cosmetic reconstructive surgery or procedures performed under the direct supervision of a physician or osteopath licensed under Chapter 34 of Title 43, or a technician acting under the direct supervision of such licensed physician or osteopath.

Section 34-154. Definitions.

"Administrative body" means the partnership, corporation, association, or the person or group of persons who maintain and control the body art studio and personnel, and who are legally responsible for the operation of the studio.

"Antimicrobial solution" means any solution used to retard the growth of microorganisms approved for application to human skin and includes all products labeled accordingly as approved by the Food and Drug Administration (FDA).

"Antiseptic" means an agent or substance that will destroy or inhibit the growth and development of infectious microorganisms on human skin or mucous membranes.

"Applicant" means any person who applies for a body art license, guest body art license, body art establishment permit, or temporary body art establishment permit.

"Approval" means written approval from the Department of Health indicating that the body art establishment has been inspected and meets all terms of the applicable rules.

"Approved" means being accepted by the Department or local health officer, as appropriate under applicable laws and regulations.

"Aseptic technique" means to render or maintain free from infectious material so as to prevent transfer or transmission of infectious agents.

"ASTM" means the American Society for Testing Materials International.

"Autoclave" means an apparatus for sterilization utilizing steam pressure at a specific temperature over a period of time per manufacturer's specifications.

"Biohazardous waste" means liquid or semi-liquid blood or other potentially infectious materials and/or contaminated items, which if compressed, would release blood or other potentially infectious materials in a liquid or semi-liquid state.

"Blood" means human blood, human blood components, and products made from human blood.

"Blood borne pathogens" means pathogenic microorganisms present in human blood that can cause disease in humans. These pathogens include but are not limited to Hepatitis B virus HBV), Hepatitis C virus (HCV), and Human Immunodeficiency virus (HIV).

"Board of Health" means the Local County Board of Health.

"Body art" means the practice of physical body adornment by means of tattooing or body piercing. This definition does not include practices considered medical procedures by the Georgia Board of Registration in Medicine such as implants under the skin which are prohibited unless such medical procedures are performed by a person licensed by the Georgia Board of Registration in Medicine.

"Body art establishment" or "body art studio" means any permanent building or structure on a permanent foundation, holding a valid city or county business license, if applicable, and permit from the County Board of Health where the practices of body art are performed whether or not for profit.

"Body art establishment permit" or "permit" means the issuance of a written permit by the Department to a body art establishment stating that such establishment, after inspection, was found to be in compliance with these regulations.

"Body artist" means a person at least eighteen (18) years of age who performs tattooing or body piercing and who is responsible for complying with applicable provisions of these regulations.

"Body art license" shall mean a license issued by the Department or City to a specifically identified person who is qualified to engage in the practice of body art in accordance with these regulations.

"Body art regulation" shall mean the rules, regulations and guidelines promulgated by the Board of Health pursuant to O.C.G.A. 31-40-1 as amended from time to time.

"Body piercer" means a person at least eighteen (18) years of age who engages in the practice of body piercing regardless of the type of body ornament utilized or body area to be pierced.

"Body piercing" means puncturing or penetrating the skin or mucosa of a client utilizing a single use sterile needle or other sterile instrument for the purpose of inserting jewelry or other adornment into the body for non-medical purposes; body piercing includes ear piercing, except when the ear piercing procedure is performed on the ear lobe with an ear piercing gun using sterile materials.

"Body piercing establishment" means any permanent building or structure on a permanent foundation holding a valid city or county business license, if applicable, and permit from the County Board of Health where body piercing is performed, including any area under the control of the operator.

"Business" means any entity that provides body art services or procedures for compensation.

"City" means the City of Statham.

"Cleaning room" shall mean the area in a body art establishment used in the sterilization, sanitation or other cleaning of instruments or other equipment used for the practice of body art and shall be separated from any other area in the facility by means of doors, nonabsorbent curtains, or similar approved partition extending from floor to ceiling or a height of eight feet.

"Client" or "customer" shall mean an individual upon whom one or more body art activities are to be performed.

"Contaminated" means the presence or the reasonably anticipated presence of blood, other potentially infectious materials, or potentially harmful chemicals on an item or surface.

"Contaminated waste" shall mean any liquid or semi-liquid blood or other potentially infectious material; contaminated items that would release blood or other potentially infectious material in a liquid or semi-liquid state if compressed; items on which there is dried blood or other potentially infectious material and which are capable of releasing these materials during handling; sharps and any wastes containing blood or other potentially infectious materials, as defined in O.C.G.A. (28)"County" means the Local County Board of Health or its duly authorized representatives.

"Critical item(s)" means those aspects of operation or conditions which, if in violation, constitute the greatest hazards to health and safety, including imminent health hazards Critical violations shall include the following:

a. Autoclave does not meet minimum time, pressure or temperature requirements;
b. Lack of a monthly negative spore or microbiological monitoring test for quality control;
c. Non-disposable tubes and needles are not sterilized or were sterilized greater than one (1) year ago;
d. Work area is not equipped as required or is not stocked;
e. Reuse of single use articles;

f. Sterile instruments are not properly handled;
g. Reusable instruments are not handled properly;
h. Employees with infectious lesions on hands not restricted from body art procedures;
i. Employees not practicing proper cleanliness and good hygienic practices;
j. Water supply not approved or hot and cold running water under pressure not available;
k. Approved sewage and liquid waste disposal not available or improper disposal of liquid wastes;
l. Cross connection allowing back-siphonage present in plumbing system;
m. Toilet and hand washing facilities not available for employees;
n. Insect and rodent evidence, harborage, or outer opening present;
o. Toxic items not properly stored, labeled, or used.

“Decontamination" means the use of physical or chemical means to remove, inactivate, or destroy blood borne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

"Department" means the Local County Board of Health and/or the Office of Environmental Health or any other designee/agent authorized to act on behalf of the Local County Board of Health such as the Georgia Division of Public Health.

"Disinfectant" means a solution registered as a disinfectant by the U.S. Environmental Protection Agency (EPA) and intended to destroy or inactivate specific viruses, bacteria, or fungi on clean, inanimate surfaces.

“Disinfection" means the destruction of disease-causing microorganisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.

"Ear piercing" means the puncturing of the outer ear for non-medical purposes.

"Easily cleanable" means that surfaces are readily accessible and made of such materials and finish and so fabricated that residue may be effectively removed by normal cleaning methods.

"Environmental health inspector" means an official appointed by the Department who is responsible for licensing, permitting, and inspection of body art establishments.

"EPA" means the United States Environmental Protection Agency.

"Equipment" means all machinery, including fixtures, containers, vessels tools, devices, implements, furniture, display and storage areas, sinks, and all other apparatus and appurtenances used in connection with the operation of a body art establishment.

"FDA" means the United States Food and Drug Administration.

"Germicidal solution" means any solution which destroys microorganisms and is so labeled.

"Gloves" means medical grade disposable single use gloves labeled for surgical or examination purposes.

"Guest body artist" shall mean a visiting body artist possessing a guest body art license issued by the Department to perform body art.

"Guest body art license" means the issuance of a 7 day license by the Department. Such license will allow a person to practice body art in accordance with the Body Art Regulations under the direct supervision of a body artist holding a valid body art license issued by the Department.

"Hot water" means water that attains and maintains a minimum temperature of 110°F.

"Imminent health hazard" means any condition, deficiency, or practice, as discovered by the environmental health inspector which, if not corrected, is very likely to result in disease transmission, injury, or loss of life to any person.

"Instruments" means hand pieces, needles, needle bars, and other instruments that may come in contact with a client's body or may be exposed to bodily fluids during any body art procedure.

"ISO" means the International Standards Organization.

"Jewelry" means any ornament used in any body art procedure which is inserted into a newly pierced area. Any jewelry shall consist of a material rated by the ASTM or the ISO as being suitable for permanent surgical implant, such as stainless steel, titanium, niobium, solid platinum or a dense low porosity plastic such as Tygon or PTFE. The jewelry must be free of nicks, scratches, or irregular surfaces and must be properly sterilized prior to use. Copies of the jewelry manufacturer's documentation, which verify compliance with standards, must be available for inspection on request. Solid 14 karat or higher, white or yellow nickel-free gold may also be used. Purity verification must be available for inspection on request.

"Lavatory facilities" means a lavatory providing an adequate supply of potable hot and cold running water under pressure, used solely for washing hands, arms, or other portions of the body. The facility shall include a soap dispenser, soap, and single use disposable towels.

"Law" means any applicable provision of the State of Georgia statutes, rules of any department or agency, and local ordinances or regulations.

"License" shall mean a document issued by the Department or City pursuant to this Body Art Regulation authorizing an individual to conduct allowed body art procedures.

"Microbiological monitoring for quality control" means the use of a standard spore, to challenge the sterilization process.

"Minor" means an individual under the age of eighteen (18).

"NSF" means the National Sanitation Foundation.

"Occupational exposure" means a specific eye, mouth, other mucous membrane, non-intact skin, or parenteral contact with blood or other potentially infectious materials resulting from the performance of an employee's activities.

"Operator/owner" means any person, firm, company, corporation or association that owns, controls, operates, conducts, or manages a body art establishment.

"OSHA" means the Federal Occupational Safety and Health Administration.

"Other potentially infectious material" means the following human body fluids: semen, vaginal secretions, saliva, and any other body fluid visibly contaminated with blood.

"Parenteral" means piercing mucous membranes or the skin barrier through such events as needle sticks and piercings.

"Permit" means departmental or City approval in writing authorizing the administrative body to operate a body art establishment for the purpose of engaging in the practice or business of body art procedures. Departmental or City approval shall be granted solely for the practice of body art pursuant to these regulations.

"Person" means an individual, any form of business or social organization or any other non-governmental legal entity, including but not limited to corporations, partnerships, limited-liability companies, associations, trusts or unincorporated organizations.

"Personal protective equipment" means specialized clothing or equipment, such as gloves or lap cloth, worn by an employee for protection against a hazard. General work clothes not intended to function as protection against a hazard are not considered to be personal protective equipment.

"Personnel" means the permit holder, any person who performs body art, individuals having supervisory or management duties, or any other person employed or working in a body art establishment. This individual may or may not be a body artist.

"Physician" or "osteopath" means an individual licensed to practice medicine in Georgia.

"Pierce" or "piercing" means body piercing (see definition No. 21).

"Potable water" means water that is from an approved water system that is safe for drinking.

"Premises" means the physical location of an establishment which offers and performs body art procedures.

"Proof of age" means a driver's license or other generally accepted means of identification that describes the individual as eighteen (18) years of age or older, contains a photograph, and appears on its face to be valid.

"Registration" means license or permit as applicable to each entity.

"Safe materials" means articles manufactured for the specific purpose of body art procedures which are unlikely to cause injury or disease under proper use and care.

"Sanitary" means clean and free of agents of infection or disease.

"Sanitized" means the application of a U.S. EPA registered sanitizer on a cleaned surface by a process that provides sufficient concentration of chemicals for enough time to reduce the microorganism level, including pathogens, to a safe level on utensils and equipment in accordance with the label instructions.

"Sewage" means human excreta, all water carried waste, and household wastes from residences, buildings, or commercial and industrial establishments.

"Sharps" means any object, sterile or contaminated, that may intentionally or accidentally cut or penetrate the skin or mucosa.

"Sharps container" means a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation, and disposal and that is labeled with the International Biohazard Symbol.

"Single use" means disposable products or items that are intended for one time, one-person use and are properly disposed of by appropriate measures after use on each client. Single use items include but are not limited to cotton swabs or balls, single use

instruments, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, stencils, ink cups, and protective gloves.

"Solid waste" means refuse, garbage, trash, rubbish, and any other item(s) which could cause an unsanitary condition or undesirable health and safety conditions.

"Sterilization" or "sterilize" means the use of a physical or chemical procedure by which all forms of microbial life, including bacteria, viruses, spores, and fungi are destroyed including highly resistant bacterial endospores. This is achieved by holding in an autoclave for fifteen (15) minutes, at fifteen (15) pounds pressure and at a temperature of two hundred fifty degrees (250° F) Fahrenheit or one hundred twenty-one degrees (121°C) Celsius, or any equivalent procedure resulting in complete destruction of microbial life including spores.

“Sterilized indicator” means a tape, strip, bag, or other device designed to change color to indicate that sterilization temperature has been achieved during the sterilization procedure.

"Sterilizer” means an autoclave certified to meet generally accepted medical standards.

"Tattoo" means to mark or color the skin by pricking in, piercing, or implanting indelible pigments or dyes under the skin.

"Tattoo artist" means a person at least eighteen (18) years of age who engages in the practice/service of tattooing regardless of the type of tattoo or area to be tattooed.

"Tattoo establishment, tattoo parlor, tattoo studio" means any permanent building or structure on a fixed foundation, holding a valid city or county business license, if applicable, and permit from the County Board of Health, where tattooing is performed, including any area under the control of the operator.

"Temporary Body Art Establishment" shall mean any location, place, facility or business, whereby an operator has been granted a permit to practice body art by the Department for no more than a period of seven consecutive days only for the purpose of product demonstration in connection with conventions or industry trade shows.

"Ultrasonic cleaning unit" means a unit approved by the Department with lid, physically large enough to fully submerge instruments in liquid, which removes all foreign matter from the instruments by means of high frequency oscillations transmitted through the contained liquid.

"Universal precautions" means treating all blood and body fluids as if they contain blood borne pathogens and taking proper precautions to prevent the spread of any blood borne pathogens. (See Appendix I)

"Utensil" means any implement, tool, or other similar device used in the storage, preparation, operation, or processing of body art.

"Violation correction" means a plan for correcting deficiencies in meeting these rules and regulations of the local Board of Health.

"Waste" means solid waste, sewage, blood and body fluids or other waste resulting from the operation of a body art studio.

"Work area, work station" means an area where clients receive body art.

Section 34-155. Administrative Body.

1. The administrative body shall be responsible for compliance with the requirements in Chapter 31-40 of the Official Code of Georgia Annotated, with applicable administrative rules and regulations of the local County Board of Health, including but not limited to all applicable statutes, rules and regulations regarding disclosure of ownership.
2. The administrative body shall certify in its application the name(s) and exact duties of employees/artists who have been designated as being responsible for carrying out the rules and policies adopted by the administrative body. The following information shall be included: Social Security Number or valid driver's license, DOB, gender, home address, home/work phone numbers, ID photos of all operators/technicians.
3. Prior to being granted a permit, each body art studio shall develop a written statement of policies and standard operating procedures including:
    a. Sterilization
    b. Employee health
    c. Sanitizing areas and equipment between clients
    d. Disposal of waste
    e. Record keeping
    f. Client screening
    g. Aftercare procedures
    h. Emergency sterilization procedures

4. Prohibited Facilities

    a. Body art studios shall not be allowed in the same facilities used for human habitation, any food service establishment, retail sales area, hotel room or similar areas. This does not prohibit body art operations in completely separate areas of these or other businesses.

b. Body art studios shall not be allowed in automobiles, mobile, transitory or other non-fixed facilities. Such non-fixed facilities include, but are not limited to, mobile trailers, tents, and recreational vehicles.

5. Prohibited Procedures

    a. Implants, 3 D procedures or other procedures involving insertion of foreign objects completely under the skin are prohibited.
    b. Any body art procedures which result in the permanent removal of tissue or requiring medical equipment (ex. scalpels, dermal punches) shall be prohibited, except that a physician or osteopath licensed under Chapter 34 of Title 43, or a technician acting under the direct supervision of such licensed physician or osteopath shall be authorized to perform such procedures.

    c. It shall be unlawful for any person to pierce the body, with the exception of the ear lobes, of any person under the age of 18 for the purposes of allowing the insertion of earrings, jewelry, or similar objects into the body, unless the body piercing is performed in the presence of the person's parent or legal guardian.
    d. No person under the age of eighteen (18) shall be tattooed, except that a physician or osteopath licensed under Chapter 34 of Title 43, or a technician acting under the direct supervision of such licensed physician or osteopath shall be authorized to do so.

6. Body artists shall not be under the influence of alcohol and/or drugs while performing body art procedures.
7. Operators shall refuse services to any person who is under the influence of alcohol or drugs.
8. A body artist shall not provide service to any person who shows evidence of being mentally incapacitated.
9. Live animals shall be excluded from within the body art studio and from adjacent areas within the facility under the control of the permit holder. However, this exclusion does not apply to fish in aquariums. Service animals accompanying disabled persons shall be permitted in the establishment.
10. The skin of a body artist shall be free of rash, any lesion or visible sign of infection. A body artist shall not conduct any form of body art activity upon any area of a client that evidences the presence of any rash, lesion or other visible signs of infection.
11. No person except a duly licensed physician shall remove or attempt to remove any tattoo.
12. My future body art procedures not covered within these rules which have the potential for transmitting infectious disease must receive written departmental approval prior to being offered to customers or patrons.

13. Body art shall only be performed by currently licensed body artist in a permitted body art establishment or temporary facility meeting the requirements of these regulations.

Section 34-156. Minimum Standards.

Each studio where body art procedures are administered shall provide a work area separate from observers or visitors.

1. At least one work area shall provide complete privacy for clients by means of doors, nonabsorbent curtains, or similar approved partition.
2. A body art establishment shall have a cleaning room to be used exclusively for the cleaning, disinfection, and sterilization of instruments.

a) The cleaning room shall have a separate NSF approved instrument sink or stainless steel instrument sink reserved only for instrument disinfectant activities and shall be equipped with hot and cold running water.
b) The cleaning room shall be separated from any other area in the facility by means of doors, nonabsorbent curtains, or similar approved partition extending from floor to ceiling or a height of eight feet.
c) The cleaning room shall be equipped with an ultrasonic cleaning unit and a medical grade autoclave. The autoclave shall be used to sterilize all non-disposable and reusable body art equipment.
d) The cleaning room walls, doors, windows, skylight, and similar closures shall be constructed of smooth, nonabsorbent, durable material and be maintained in good repair.
e) The cleaning room ceiling shall be maintained in good repair allowing for easy and effective cleaning.

4. A hand washing sink shall be provided and accessible within 30 feet from any workstation. These are in addition to the required sinks in toilet rooms.

5. Any hand washing sink and instrument sink shall not be used as a janitorial sink.

6. Each location shall have the facilities to properly dispose of all waste material. All materials (e.g., needles) must be disposed of in accordance with Georgia Department of Natural Resources - Environmental Protection Division - Solid Waste Management - Chapter 391-3 4.15.

7. The use of common towels and cloths is prohibited. Hand sinks shall be equipped with a soap dispenser and single use disposable towels.

8. Sanitary Facilities and Controls.

   a) Water Supply.

      1. Enough potable water for the needs of the body art studio shall be provided from an approved source that is a public water system; or a nonpublic water system that is constructed, maintained and operated according to applicable state or local codes.
      2. Water from a public water system shall meet 40 CFR 141 - National Primary Drinking Water Regulations and state drinking water quality standards.
      3. Water from a nonpublic system shall meet state drinking water quality standards.

         a. Water from a nonpublic water system shall be sampled and tested at least annually and as required by Department water quality regulations.

         b. The most recent sample report for the nonpublic water system shall be retained on file in the body art establishment or the report shall be maintained as specified by state water quality regulations.

   b) Sewage. All sewage, including liquid water, shall be disposed of by a public sewerage system or by a sewerage disposal system constructed and operated according to law.
   c) Plumbing. Plumbing shall be sized, installed, and maintained according to law. There shall be no cross-connection between the potable water supply and any other water supply or other source of contamination.

9. Toilet Facilities.

   a. Toilet installation. Toilet facilities shall be designed, installed, and maintained according to law. Public access to toilet facilities shall not be through cleaning rooms or work areas with the exception that access through such areas will be allowed if the risk of contamination is determined to be minimal.
   b. Toilet rooms. Toilet rooms opening directly into work or client waiting areas shall be completely enclosed and shall have tight-fitting, solid doors, which shall be closed except during cleaning or maintenance.
   c. All toilet rooms shall have sufficient mechanical ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes.
   d. Toilet fixtures. Toilet fixtures shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials. Toilet rooms shall have at least one covered waste receptacle.

10. Lavatory Facilities.

a. Lavatory installation. Lavatory facilities shall be designed, installed, and maintained according to law.
b. Lavatory faucets. Each lavatory shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet. Any self-closing, slow-closing, or metering faucet used shall be designed to provide a flow of water for at least 20 seconds without the need to reactivate the faucet.
c. Lavatory supplies. A soap dispenser and a supply of antiseptic, hand-cleaning soap or detergent shall be available at each lavatory. A supply of single use sanitary towels shall be conveniently located near each lavatory. Easily cleanable covered waste receptacles shall be conveniently located near the hand washing facilities.

d. Lavatory maintenance. Lavatories, soap dispensers, paper towel dispensers, and all related fixtures shall be kept clean and in good repair.

11. Solid Waste.

a. Containers.

   1. Garbage and refuse shall be kept in durable easily cleaned containers that do not leak and do not absorb liquids. Containers shall be kept in a clean and sound condition and disposed of according to O.C.G.A. 12-8-20.
   2. Containers used in work areas shall be kept covered when not in use and after they are filled.
   3. There shall be a sufficient number of containers to hold all the garbage and refuse that accumulate.

b. Garbage and refuse shall be disposed of at such frequency to prevent the development of odor and the attraction of insects, rodents, or vermin.
c. Disposal of infectious waste such as blood, fluids, used inks, or other liquid waste may be deposited directly into a drain connected to a sanitary sewer system. Disposable needles and other sharp items shall be placed intact into puncture-resistant containers with a biohazard label before disposal. Filled shams containers shall be considered regulated waste and must be disposed of in accordance with Georgia Department of Natural Resources, Environmental Protection Division - Solid Waste Management: Chapter 391-3-4.15.
d. Waste potentially contaminated with small amounts of blood or other infectious body fluids (e.g., gauze, wipes, disposable lap cloths), which do not meet the definition of regulated waste, shall be double-bagged in

sealed, impervious bags to prevent leakage of the contained items. These bags shall be of sufficient strength to prevent breakage or leakage and shall not contain any sharps. The waste bags shall be containerized and disposed of in an approved sanitary landfill.

12. The premises shall be kept in such condition as to prevent the entrance, harborage, or feeding of insects, rodents, or vermin.

13. Floors.

Floor construction. Floors and floor coverings of all work areas, dressing rooms, locker rooms, toilet rooms and vestibules shall be constructed of smooth, nonabsorbent, durable material and maintained in good repair. Carpeting is allowed in the lobby area only and shall be of closely woven construction, properly installed, easily cleanable, and maintained in good repair.

14. Walls

a. Walls must be painted, covered, or sealed in a manner which would allow for easy and effective cleaning.
b. Attachments.

   Light fixtures, vent covers, wall-mounted fans, and similar equipment attached to walls and ceilings shall be easily cleanable and maintained in good repair.

15. Ceilings.

Ceilings shall be maintained in good repair allowing for easy and effective cleaning.

16. Physical Facilities.

Floors, walls, ceilings, and attached equipment and decorative materials shall be kept clean and maintained in good repair.

17. Lighting.

a. Artificial light sources shall be installed to provide at least 50 foot candles of light on all work area surfaces and at equipment washing work levels.

b. Artificial light sources shall be installed to provide at a distance of 30 inches from the floor at least 10 foot candles of light in all other areas

18. Ventilation.

All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes.

19. Poisonous or Toxic Materials.

a. Materials permitted: There shall be present in the body art studio only those poisonous or toxic materials necessary for maintaining the establishment and cleaning or sanitizing equipment, as well as controlling insects and rodents.
b. Labeling of materials: Containers of poisonous or toxic materials shall be prominently and distinctly labeled according to law for easy identification of contents. A written policy for a color coding system may be acceptable with prior approval.

c. Toxic items shall be separated from other forms of materials used in body art procedures.
d. Spray bottles containing cleaning solutions may be used for the purpose of cleaning but not while conducting a body art procedure.

a) Premises.

a. Body art establishments shall be kept neat, clean, and free of litter and rubbish.
b. Only articles necessary for the operation and maintenance of the body art establishment shall be stored on or within the establishment.

21. Animals: If applicable, all fish aquariums shall be cleaned and maintained in good repair. Reptiles are prohibited due to the possibility of Salmonella and other infectious microbes.

22. Equipment and Utensils.

a. Materials.

1. Multi-use equipment and utensils shall be constructed and repaired with safe materials, including finishing materials; they shall be corrosion resistant and nonabsorbent; and they shall be smooth, easily cleanable, and durable under conditions of normal use. Single-service articles shall be made from clean, sanitary, and safe materials.
2. Re-use of single service articles is prohibited

b. Design and Fabrication.

1. General: All equipment and utensils, including plastic ware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, pitting, and chipping.

   a) Body art operational surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits, and similar imperfections, as well as free of difficult to clean internal corners and crevices.
   b) Sinks and drain boards shall be self-draining.

2. Operational surfaces: Surfaces of equipment not intended as operational surfaces, but which are exposed to splash or debris or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections, or crevices and readily accessible for cleaning. Such surfaces shall be of material and in such repair as to be easily maintained in a clean and sanitary condition.
3. Needles, needle bars, and pigments shall be designed and manufactured for the sole purpose of body art.

(23) Aisles and working spaces: Aisles and working spaces between units of equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of equipment or of operational surfaces by clothing or personal contact.

(24) Minimum supplies of establishment: Each work station is to be equipped or stocked in the following manner:

(a) Body Tattooing Establishments:

- A minimum of six (6) sterilized needles (with bars), and six (6) sterilized needle tubes;

(b) Body Piercing Establishments:

- A minimum of six (6) sterilized needles, six (6) sterilized needle tubes, six (6) sterilized forceps, and six (6) sterilized hemostats/sponge clamps.
- A minimum of four extra packages of disposable towels other than the package that is being used;
- A minimum of three extra boxes of medical grade disposable gloves other than the box being used;
- An extra supply of bandages, ointment or gel, and antimicrobial soap.

(25) Temporary facilities shall meet the requirements of these regulations. Additional requirements include:

(a) Hand washing facilities located within each work or demonstration area.

(b) Hand washing facilities shall consist of liquid antimicrobial hand soap, single use paper towels and warm potable water dispensed from an insulated container that contains at least 5 gallons of potable water with a spigot that is raised a minimum of 25 inches off the floor.

(c) Waste water, which can be covered, shall be collected in a bucket that will hold at least 5 gallons of waste water placed on the floor under the spigot. Warm potable water shall be replenished and wastewater removed as necessary to the sanitary sewer system, or, in the absence thereof, in a manner approved by the Department.

(d) Only single use disposable sterilized supplies can be used.

Section 34-157. Furnishings and fixtures.

(1) Furnishings of the body art studio shall be maintained in good condition, intact, and functional. Furnishings should be made of or covered in a material that is easily cleanable and non-absorbent. The studio shall be kept clean, neat, and free of lifter and rubbish.

(2) Cabinets and closed sealable containers for the storage of instruments, pigments, single use articles (ex., gloves, ink caps, carbon, stencils, etc.) shall be provided for each body artist and shall be maintained in a sanitary manner which protects them from contamination.

(3) Work tables and chairs shall be provided for each body artist.

(a) All exposed surfaces of all worktables and chairs shall be constructed of material, which is smooth, nonabsorbent, corrosive resistant, and easily sanitized.

(b) All exposed surfaces of work tables and chairs shall be sanitized with an antimicrobial solution after each application.

Section 34-158. Supplies.

(1) Bulk single use articles shall be commercially packaged and handled to protect them from contamination. These articles shall be stored in an area separate from the work area and toilet facilities.

(2) All materials applied to the human skin shall be from single use containers and shall be disposed of after each use.

Section 34-159. Sanitation.

(1) With the exception of a plain ring such as a wedding band, body artist jewelry such as watches, rings, etc., should be removed prior to the start of the body art procedure.

(2) Prior to the start of the body art procedure, the artist should inspect his/her hands for hangnails, small cuts, sores, and abrasions. If a cut, sore, or abrasion is detected, a bandage should be applied for added protection before gloving. Trim fingernails to ensure that gloves are not punctured. Recent tattoos or piercings in the healing process shall also be properly covered as to prevent any bodily fluid transfer.

(3) Use aseptic technique. Thorough hand washing is essential after client contact, after handling blood and body fluids, after wearing gloves, and prior to exiting the work area.

(4) Before performing body art procedures, the artist must thoroughly wash their hands in hot, running water with antibacterial soap, then rinse hands and dry with disposable paper towels. Use of hand sanitizers is recommended after each hand washing. Hand washing shall be done as often as necessary to remove contaminants.

(5) Medical grade single use disposable latex or approved non-latex examination gloves shall be worn during the body art procedure. Gloves shall be changed and properly disposed of each time there is an interruption in the body art procedure, the gloves become tom or punctured, or whenever their ability to function is compromised. Under no circumstances shall a single pair of gloves be used on more than one individual.

(6) A body artist shall maintain the highest degree of personal cleanliness, conform to standard hygienic practices, and wear clean clothes when

performing body art procedures. Single use aprons, smocks, or sleeve covers are acceptable. Open-toed shoes shall not be permissible.

(7) The skin of the artist shall be free of rash or infection. No artist affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions or acute respiratory infection shall work in any area of a body art establishment in any capacity in which there is a likelihood that the individual could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.

(8) Only single use disposable razors shall be used to shave the area receiving body art.

(9) Any item or instrument used for body art that is contaminated during the procedure shall be discarded and replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.

(10) Universal precautions, as defined in these rules, shall be observed to prevent contact with blood or other potentially infectious materials. All employees shall be trained in universal precautions.

(a) Assume all human blood, plasma, serum, body fluids (semen, saliva, breast milk, vaginal secretions and any fluid contaminated with blood) and tissues to be contaminated with Human Immunodeficiency Virus (HIV) and/or Hepatitis viruses (e.g., HBV, [ACV).

(b) The most susceptible route of occupational infection for HIV, HBV, and HCV is by accidental needle sticks, but may include contamination of the mucous membranes, or through broken, abraded, or irritated skin. Use appropriate caution and maximum protection to prevent such contact.

(c) Proper decontamination procedures, emergency biohazard spill management, and proper use of biosafety equipment shall be utilized.

(d) Use aseptic technique. Thorough hand washing is essential after client contact, after handling blood and body fluids, after wearing gloves, and prior to exiting the work area.

(e) All regulated wastes shall be disposed of in labeled, manufacturer's color-coded waste containers.

(f) Infectious material spills shall be cleaned using an EPA registered disinfectant and universal precautions.

(g) Clean all work areas and equipment used in handling human biohazardous materials with an EPA registered disinfectant when concluding work to protect personnel from accidental infection.

(h) Eating, use of tobacco products, applying cosmetics or lip balm are not permitted in the work area. Drinking will be allowed only when a single service cup that has a secure lid and straw is used in a way as to prevent the contamination of the artist's hands.

(i) All procedures shall be performed carefully to minimize the creation of aerosols.

(j) Employees shall report all work related accidents, incidents, and unexplained illness to your supervisor and/or physician immediately.

(k) Soiled gloves shall be removed in a manner to minimize the risk of self-contamination or cross contamination after each Operation and prior to contacting work surfaces, door knobs, wall 1 switches, or telephones. Dispose of used gloves in a bagged trash container.

(l) Food storage cabinets or refrigerators shall be located outside the work area.

Section 34-160. Sterilization.

1. An ultrasonic cleaning unit and operational medical grade autoclave shall be provided in each body art studio.

2. Ultrasonic cleaning units shall be clearly labeled "biohazardous" and placed away from the autoclave and workstations and shall be operated in accordance with the manufacturer's recommendation.

3. The ultrasonic cleaning unit and medical grade autoclave shall be used and maintained according to manufacturer's specifications. Each ultrasonic cleaning unit and medical grade autoclave shall be emptied and thoroughly cleaned and disinfected per manufacturer's recommendations.

4. Used non-disposable instruments shall be kept in a separate puncture resistant container until cleaned. The cleaning method shall include the following:

   (a) Instruments should be pre-scrubbed prior to being placed into an ultrasonic cleaning unit.

   (b) After removal from the ultrasonic cleaning unit, instruments should then be brush scrubbed in hot water and soap, then rinsed in clean water.

   (c) Instruments shall then be packed individually in sterilized packs and sterilized in a medical grade autoclave. All sterilized packs shall contain either a sterilized indicator or internal temperature indicator.

   (d) Prior to being placed in the autoclave all equipment shall be bagged, labeled, initialed, dated and sealed.

   (e) Each autoclave bag must be used in accordance with the manufacturer's recommendations and may hold no more than one individual item (ex. one tube or needle bar). A piercing set may be bagged together.

5. After sterilization, the packaged instruments shall be stored in a clean dry cabinet or other tightly covered container reserved and labeled for storage of sterile instruments.

6. If a sterilized package has been breached or allowed to get wet, the instrument(s) must be re-packaged and sterilized again before use.

7. Spore indicators shall be used a minimum of at least once a month and the results must be kept on-site for a minimum of two years. An independent commercial testing laboratory contracted by the operator/ body artist or both shall perform monthly biological spore testing of the autoclave. A provision shall be included in the contract between the operator or body artist (or both) with the commercial testing laboratory requiring the commercial testing facility to notify the Department of any failure of the autoclave to eradicate all living organisms, including spores.

8. Upon notification of a positive microbiological monitoring report, the sterilizer shall be immediately checked for proper use and function and the operator shall cease use of the sterilizer immediately upon receipt of the positive report. Three consecutive negative biological tests must be

achieved before the studio is reopened. The studio shall have the option to obtain a properly functioning sterilizer with a negative biological report in order to remain open or if the studio has more than one autoclave in operation they may be given approval to remain open. The Department will consider the body art studio's emergency plan should autoclave failure or malfunction occur.

Section 34-161. Dyes and pigments.

1. All pigments used in tattooing shall be from commercial professional suppliers specifically manufactured as pigments only for the tattooing of human skin.

2. In preparing or mixing pigments, only nontoxic materials shall be used. Pigments shall be mixed and placed in individual single use containers.

3. After tattooing, the remaining unused pigment in the single use container(s) shall be properly discarded along with the container(s).

Section 34-162. Tattoo preparation.

1. Medical grade disposable gloves shall be worn during the preparation of equipment and during the tattoo procedure.

2. Only a commercially packaged single use pre sterilized needle assembly with bar shall be used and disposed of immediately after use into a puncture proof disposable biohazard container.

3. Sterilized instruments shall remain in sterile packages until opened in front of the client.

4. Any part of a tattooing machine that may be touched by the body artist during the procedure shall be covered with a disposable plastic sheath that is discarded after each procedure and the $ machine shall be disinfected.

5. A clip cord sleeve and barrier film shall be used over exposed electrical cords or other cleaning and disinfection methods demonstrated to prevent contamination.

6. All devices used to apply pigments must be designed and used to prevent backflow of pigments into the machine.

7. Single use towels or gauze shall be used in preparing the site to be tattooed and shall be disposed of after use on each patron or client.

8. If shaving is necessary, single use disposable razors shall be used.

9. After shaving the area to be tattooed, or if the area does not need to be shaved, the site of the tattoo shall be thoroughly cleaned and germicidal solution applied in a sanitary manner before each placement of design on the skin.

10. When a workstation rinse cup is used alone, the cup and solution shall be disposable and discarded after each client.

11. If squirt/spray bottles are used to dispense liquids, the liquid shall be applied onto a single use wipe rather than directly onto the client.

12. Single use ointment tubes, applicators, and supplies shall be discarded after each tattoo application.

13. When a paper stencil is used by a tattoo artist for transferring the design to the skin, it shall be single use and disposable. The use of roll-on or stick deodorants for tattoo site preparation is prohibited.

14. The stencil shall be applied with antimicrobial soap or a departmental-approved product dispensed from a container in a manner that does not contaminate the unused portion.

15. When the design is drawn directly onto the skin, pre-sterilized, single use non-toxic pens or markers shall be used and discarded after each use.

Section 34-163. Piercing Jewelry.

1. Client and body piercer should have appropriate size and quality jewelry chosen before the procedure begins. Random jewelry shall not be used for the initial piercing.

2. Jewelry used in piercing shall consist of a material rated by the ASTM or the ISO as being suitable for permanent surgical implant, such as stainless steel, titanium, niobium, solid platinum or a dense low porosity plastic such as Tygon or PTFE. Copies of the jewelry manufacturer's documentation, which verify compliance with standards, must be available for inspection on request. Solid 14 karat or higher, white or yellow nickel-

free gold may also be used. Purity verification must be available for inspection on request.

3. The jewelry must be free of nicks, scratches, or irregular surfaces and must be properly sterilized prior to use.

4. All jewelry shall be sterilized in a medical grade autoclave, stored in sterile indicator bags, sealed and dated.

5. Ear studs or other jewelry designed for earlobe piercing are not appropriate jewelry for other body parts and must not be used by body piercers.

Section 34-164. Body piercing preparation.

1. Medical grade disposable gloves shall be worn during the preparation of equipment for a body art procedure and during the procedure.

2. Only a commercially packaged single use pre-sterilized piercing needle shall be used and disposed of immediately after use into a puncture proof disposable biohazard container.

3. Pre-sterilize all forceps, hemostats, calipers, and tubes in sealed, properly labeled, sterile indicator bags. These items are to be used on one person, in one sitting. After one such use, they must be cleaned in an ultrasonic cleaner, placed in sealed indicator bags, properly labeled, autoclaved and stored in sterile indicator bags.

4. Sterilized instruments shall remain in sterile packages until opened in front of the client.

5. Single use towels or gauze shall be used in preparing the piercing site and shall be disposed of after use on each patron or client.

6. After shaving the area to be pierced, or if the area does not need to be shaved, the piercing site shall be thoroughly cleaned and germicidal solution applied in a sanitary manner before beginning the procedure.

7. In the case of oral piercings, the operator shall provide the individual with antiseptic mouthwash in a single use cup and shall ensure that the individual utilizes the mouthwash provided. In the case of a lip, labret, or cheek piercing, procedures described in this Section for both skin and oral piercings shall be followed.

Section 34-165. After body art application.

1. The completed tattoo shall be washed with a single use towel saturated with an antimicrobial solution.

2. After the area has dried, apply a layer of antibacterial ointment or other approved product from a single use packet, collapsible plastic tube, or applied from a bulk container in a sanitary manner using a single use dispenser.

3. A bandage or dressing shall then be applied to the tattoo using a sealed non-sticking pad or wrap.

4. Verbal and written instructions, approved by the Department for the care of the body art procedure site shall be provided to each client by the operator upon completion of the procedure. The written instructions shall advise the client to consult a physician at the first sign of infection and contain the name, address and phone number of the establishment. These documents shall be signed and dated by both parties, with a copy given to the client and the operator retaining the original with all other required records.

5. The facility shall also post in public view the name, address and phone number of the local County Health Department and the City Inspector, as well the procedure for filing a complaint. A copy of the notice for filing a complaint shall be included in the establishment application packet.

Section 34-166. Disinfection of workplace.

1. Each body art studio must be kept clean and sanitary. The owner must develop and implement a written cleaning schedule that includes appropriate methods of decontamination and tasks or procedures to be performed.

2. This written schedule must be based on the location within the studio, the type of surfaces to be cleaned, type of possible contamination present, the tasks or procedures to be performed, and their location within the studio.

3. The following procedures should be adhered to:

(a) Clean and sanitize all equipment and work surfaces with an appropriate EPA registered disinfectant after completion of the body art procedures and at the end of the work shift when surfaces have become contaminated since the last cleaning.

(b) Remove and replace protective coverings such as plastic wrap and aluminum foil after each body art procedure.

(c) Inspect and decontaminate, on a daily basis, reusable receptacles such as bins, pails, and cans that have the likelihood of becoming contaminated. When contamination is visible, clean and decontaminate receptacles immediately.

Section 34-167. Disposal of waste.

1. Needles or other sharp instruments used during body art procedures shall be placed in puncture resistant, closed containers immediately after use.

2. Used needles shall not be purposely bent or broken, or otherwise manipulated by hand.

3. Containers of sharp waste shall be sent to a facility where they are either incinerated, rendered nonhazardous, or deposited in a landfill approved to accept biomedical waste in compliance with Georgia Department of Natural Resources - Environmental Protection Division - Solid Waste Management - Chapter 391 3 4.15.

4. Contaminated waste, which may release liquid blood or body fluids when compressed or may release dried blood or body fluids when handled, must be placed in a sealed bag. It must then be disposed of in compliance with Georgia Department of Natural Resources -Environmental Protection Division -Solid Waste Management -Chapter 391 34.15.

5. Waste containers shall be kept closed when not in use.

6. Disposable waste shall be handled, stored, and disposed of to minimize direct exposure of personnel to waste materials.

7. At least one covered waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily and solid waste shall be removed from the premises at least weekly or more often if necessary. All refuse containers shall be covered and maintained.

8. Solid waste shall not be stored outdoors unless in a secured and lidded dumpster, or comply with County/City Solid Waste Ordinances.

Section 34-168. Personnel.

1. Persons performing the body art operation shall successfully complete a departmental exam, and obtain current certification in Red Cross Basic First Aid/CPR or equivalent and proof of successful completion of an OSHA approved Blood Borne Pathogen/Universal Precautions training program, approved by the Health Department Training/courses provided by professional body art organizations/associations or by equipment manufacturers may also be submitted for consideration.

2. If the artist is currently in business at the time of application for permit or effective date of the rules, the above certification must be obtained within 90 days from the date the permit is issued.

3. The body art establishment operator shall make available, at no cost to the personnel, Hepatitis B vaccination series, as well as any routine booster dose(s) to every person who may have occupational exposure to blood or other potentially infectious material. For new personnel, the vaccine shall be made available within ten (10) business days of initial work assignment.

4. Proof shall be provided upon request that all operators have either completed or were offered and declined in writing, the Hepatitis B vaccination series; that antibody testing has revealed that the employee is immune to Hepatitis B; or that the vaccine is contraindicated for medical reasons. Contraindication requires a dated and signed physician's statement specifying the name of the employee and that the vaccine cannot be given. Personnel who decline to accept the Hepatitis B vaccination series must sign a form indicating their refusal.

5. The owner or governing, body must maintain a file on all employees who perform body art procedures. Employees must be kept on location for a minimum of two years even if the employee is terminated. The employee files must be available for inspection and include the following:

    (a) Report of Hepatitis B Vaccination, Hepatitis B antibody testing, contraindication to Hepatitis B vaccine, or signed Hepatitis B Vaccine declination letter.
    (b) Evidence of Red Cross Basic First Aid/CPR certification or equivalent and completion of an OSHA approved Blood Borne Pathogen/Universal Precautions training program.

(c) A copy of a Photo I.D.

Section 34-169. Client files.

1. For each client, proper records of identification, body art administered, informed consent, and care instructions shall be kept and retained for a minimum of two (2) years at the studio or pre-approved location.

2. Records of each client shall be prepared prior to the body art procedure being performed and shall reflect the client's name and signature, address, proof of age, date procedure performed, design, its location and name of the artist.

3. A statement of informed consent by the individual receiving the body art must be maintained on file.

4. A statement by the client attesting that he/she is not under the influence of alcohol and/or drugs shall be on file.

5. A copy of procedures signed by the client advising them of proper subsequent care of the body art shall be maintained on file.

6. A copy of instructions signed by the client informing them of the risks involved and possible complications that might result from the body art procedure must be maintained on file.

Section 34-170. Operator/Artist License.

1. No person shall practice body art procedures without first obtaining an operator/artist license from the City.

2. An applicant for a body art license must be a minimum of 18 years of age and shall demonstrate to the City his/her successful compliance with all training, disclosure, consent and educational requirements of this Body Art Regulation prior to the issuance or renewal of a body art license by the City.

3. Application for the operator/artist license shall include:
   (a) Name
   (b) Date of Birth
   (c) Sex
   (d) Residence address

(e) Mailing address
(f) Phone number
(g) Place(s) of employment as an operator/artist
(h) Photo I.D.
(i) Proof of successful completion of a departmental exam, an OSHA approved Blood Borne Pathogen/ Universal Precautions training program and Basic First Aid/CPR class approved by the Department.

4. No license will be issued without successfully completing an OSHA approved course in Blood Borne Pathogens/Universal Precautions and Basic First Aid/CPR.

5. Individuals seeking body art license shall submit a completed application provided by the City, pay a set fee determined by the City, and provide proof of completion of required courses.

6. Acting within scope of license: A body artist shall only perform those form(s) of body art that is/are indicated in the body art license application submitted to the City.

7. The operator/artist license shall be valid from the date of issuance and shall automatically expire in (12 months) and must be renewed unless revoked sooner by the City.

8. In order for a body artist license to be renewed, body artist must attend a departmental approved educational class on Blood Borne Pathogens/Universal Precautions every 2 years, maintain current certification in Basic First Aid/CPR, and pay all applicable fees.

9. All operator/artist licenses shall be posted in a prominent and conspicuous area where they may be readily observed by clients.

Section 34-171. Application for permit.

1. The administrative body of each body art studio shall submit to the City an application for a permit to operate under the rules and regulations. No studio shall be operated and no body art performed without such permit, which is current under these rules and regulations.

2. The application for permit shall be made on forms provided by the City.

3. Each application for a permit shall be accompanied by an 8 W x 11' or larger page containing a detailed floor drawing to scale of the body art studio. Such drawing shall show the accurate placement of each of the following: windows, doors, room measurements, chairs, tables, sinks, bathrooms, waiting area, and equipment placement for clients and/or staff.

4. A listing of the names of all staff including the owner who will be working in the studio shall be included with the application for a permit. This listing shall include the full name of each staff person.

5. The ownership of the studio shall be fully disclosed in its application for a permit.

6. Zoning and other local requirements regarding proper location and establishment of body art studios shall be addressed by the applicant with the responsible local officials.

7. Existing Establishments and personnel.

    a. Body art establishments and artists in operation at the date of implementation of the rules and regulations shall make application for a permit within (30) days.

    b. The City may approve up to a (12-month) period from the date of application for compliance of physical facilities of existing establishments; provided, however, that no exemptions will be granted for circumstances presenting an immediate threat to public health such as lack of potable water, toilet facilities, waste disposal, adequate lighting, adequate sinks and lavatories, and universal precautions.

    c. Body artists operating at the date of adoption of these rules must be certified in Blood Borne Pathogens/Universal Precautions and Basic First Aid/CPR certification within (90 days) of adoption date.

8. Temporary Body Art Facilities

    a. A Temporary facility permit and/or license may be issued for Body Art services provided outside of the physical site of a facility registered with the City for the purpose of product demonstration or in connection with Body Art conventions or industry trade shows.

b. A Temporary Body Art Establishment permit may be obtained by the operator of a body art establishment after submitting an application for a temporary facility. Such application must contain the location, the operating days, hours of operation of the temporary facility, and the plans/description of the temporary facility.

c. Temporary facility permits will not be issued unless:

   1. The applicant is a minimum of 18 years of age and demonstrates to the City his/her successful compliance with all training, disclosure, consent and educational requirements of this Body Art Regulation.

   2. Application for a permit and/or license for the practitioner and/or temporary facility has been submitted for review by the City, at least (30 days) prior to the event.

   3. The applicant has paid all required fees set by the City.

d. If the applicant is currently registered with the City, then only a temporary facility permit is required.

e. The following criteria pertain to temporary facilities permitting and licensing:

   1. No permit and/or license for a temporary body art establishment may be issued for more than seven (7) consecutive days,

   2. An applicant for a Temporary Body Art Establishment permit and/or license shall not receive more than two consecutive (7-day) permits and/or license during a (30-day) period.

   3. Temporary facility permits and/or licenses shall not be transferable from one place to another or from one person to another.

   4. Temporary facility permits and/or licenses shall be posted in a prominent and conspicuous place so clients can readily observe it.

9. Variance Procedures.

The City may grant a variance either upon its own motion or upon request of the applicant from the provisions of any rule or regulation in a specific case if it finds that a literal enforcement of such provision will result in unnecessary hardship to the applicant and that such a variance will not be contrary to the public interest, public health and/or health and safety of clients.

A request for a variance shall be filed by an applicant in writing, setting forth in detail the basis upon which the request is made.

Within thirty (30) days of filing a request for a variance, the City shall notify the applicant by certified mail of its approval or in the case of a denial, a hearing date, time and place may be scheduled if the facility appeals the denial and in accordance with OCGA 31-5-2 and 31-5-3 Hearing Procedures.

Section 34-172. Establishment permit.

1. Any person planning to operate a body art establishment shall obtain a written application for a permit on a form provided by the City prior to operating a body art establishment.

2. A new or initial application is required for body art establishments that have not previously been permitted or for instances when ownership changes. To be eligible for a permit the studio must be in compliance with these rules and regulations.

3. The City shall issue a body art establishment permit:

    a. After an inspection of the proposed facility reveals that the facility is in compliance with requirements of these rules, and
    b. Upon receiving a completed application with applicable fees.

4. The permit shall be displayed in a conspicuous place on the premises.

5. Permits must be renewed yearly and are not transferable from one studio to another.

6. A permit shall no longer be valid and shall be returned to the county when the studio ceases to operate, has moved to another location, the ownership changes, or the permit is suspended or revoked.

7. A studio which fails to comply with these rules and regulations shall be subject to the sanctions available to a County Health Department pursuant to O.C.G.A. 31-5 including, but not limited to, denial or revocation of its permit by the City.

Section 34-173. Inspections.

1. The studio and its records shall be available for review and examination by properly identified representatives of the City.

2. A copy of the inspection report shall be displayed in a conspicuous place on the premises and also shall be available for public inspection at the appropriate county offices wherein the studio is located.

3. Body art establishments shall be inspected at least (twice) each calendar year.

4. Environmental Health Inspectors shall complete an OSHA approved Blood Borne Pathogens/Universal Precautions, and Departmental exam.

5. Inspection results Reporting and Scoring.

   a. Inspection results for body art establishments shall be recorded on standard departmental forms.
   b. The scoring system shall include a weighted point value for each requirement in which critical terms are assigned values of five (5) points, with minor violations having assigned values of either one (1) or two (2) points.
   c. The rating score of the facilities shall be the total of the weighted point values for all violations subtracted from one hundred (100).

6. Violation Correction.

   a. Correction of critical and minor violations shall be within five (5) and ten (10) calendar days, respectively.

   b. Upon declaration of an imminent health hazard which cannot be immediately corrected, the city inspector shall issue an order requiring the facility to immediately cease operations until authorized to reopen.

   c. In the case of temporary body art facilities, all critical violations shall be corrected within twenty-four (24) hours. If critical

violations are not corrected within twenty-four (24) hours, the establishment shall immediately cease operations until authorized to resume by the city inspector or his duly authorized representative. Upon declaration of an imminent health hazard which cannot be immediately corrected, the city inspector shall issue an order requiring the facility to immediately cease operations until authorized to reopen.

Section 34-174. Enforcement and penalties

1. Enforcement of these Rules and Regulations shall be in accordance with O.C.G.A. 31-5, Article 1. The City shall have the power and authority to suspend or revoke permits for failure to comply with the provisions of this Chapter.

2. RESERVED.

3. The City is empowered to institute appropriate proceedings in a court of competent jurisdiction for the purpose of enjoining violation of any applicable provision of Title 31 of the Official Code of Georgia Annotated, or of the Rules and Regulations.

4. No body art studio shall operate without a permit. Failure or refusal to file an application for a permit shall constitute a violation of Chapter 40 of Title 31 of the Official Code of Georgia Annotated. Any person who fails or refuses to file including, but not limited to, an order to cease and desist operating a body art studio shall be subject to an injunction or other penalties from a court of jurisdiction.

5. When an application for a permit is denied or the permit previously granted is to be suspended or revoked, the applicant or holder thereof shall be afforded notice and hearing before the Mayor and City Council.

    a. If an application is denied or a permit is suspended or revoked, the applicant or holder of the permit must be notified in writing, specifically stating any and all reasons why the action was taken.

    b. The purpose of these procedures is to state the minimum actions to be taken to fulfill the obligation of the City in assuring compliance with the regulations when the continued operation of a body art establishment presents a substantial and imminent

health hazard to the public or when a body art establishment is in flagrant or continuing violation of this Chapter.

c. Suspension is effective upon service of a written notice thereof, and body art procedures must cease immediately.

d. The notice must state the basis for the suspension and advise the permit holder of the right to a preliminary hearing on request within 15 business days.

e. The rules of evidence will not apply, but both the City and the permit holder may present witnesses, records and argument. The City will issue subpoenas no less than five days before the hearing upon written request.

f. The Mayor and Council will be authorized immediately to rescind or modify the suspension or to continue the suspension with or without conditions.

g. If a hearing is not requested, upon correction of all violations, the owner may request an inspection to reinstate the permit.

h. Notice of Hearing. For the purpose of this Chapter a notice of hearing is properly served when delivered in person or by registered or certified mail.

6. Conditions Warranting Action. The City may summarily suspend a permit to operate a body art establishment if it determines through inspection, or examination of employees, records, or other means as specified in this Chapter, that an imminent health hazard exists.

7. Resumption of Operations. If operations of a body art establishment are discontinued due to the existence of an imminent health hazard or otherwise according to law, the permit holder shall obtain approval from the Department before resuming operations.

Section 34-175. Severability.

If any provision or subpart thereof contained in this Body Art Regulation is found to be invalid, unconstitutional, or in conflict with O.C.G.A. or a court of competent jurisdiction, the validity of all remaining provisions or subpart thereof shall not be so affected but shall remain in full force and effect.

Appendix

Universal Precautions means a set of guidelines and controls, published by the Centers for Disease Control and Prevention (CDC), as "Guidelines for Prevention of Transmission of Human Immune deficiency Virus (HIV) and Hepatitis B Virus (HBV) to Health-Care and Public Safety Workers" in Morbidity and Mortality Weekly Report) (MMWR), June 23, 1989, Vol.38 No. S-6, and as "Recommendations for Preventing Transmission of Human Immune Deficiency Virus and Hepatitis B Virus to Patients During Exposure- Prone Invasive Procedures" in MMWR, July 12, 1991, Vol.40, No. RR-8. This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV, HCV, and other blood pathogens. Precautions include hand washing; gloving; personal protective equipment; injury prevention; and proper handling and disposal of needles, other sharp instruments, and blood and body fluid-contaminated products.

Section 176 to 180 Reserved

ARTICLE VII. - PRECIOUS METALS DEALERS

Section 34-181. Applicability of certain Sections.

(a) Section 34-186 shall not apply to any precious metals or goods containing precious metals obtained from industrial producers, manufacturers, licensed dealers, or distributors.

(b) Sections 34-183 and 34-184 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 34-186 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. 10-18-2011)
Cross reference - Pawnshops, Ch. 49.

Section 34-182. Definitions.

For purposes of this article, the term:

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.

Permanent location means a business domiciled within a properly constructed building which must be located within a properly zoned area according to the zoning ordinance.

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 applicant to be used to conduct such business for a limited or specific time.

Section 34-183. 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(s), date(s) of birth, and Social Security number(s) of any other person(s) 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.

Section 34-184. Work permits required.

Prior to the issuance of an occupation tax certificate, a work permit shall be required for the owner(s), manager(s), and employee(s).

Section 34-185. Applicant disqualifications.

No occupation tax certificate shall be granted to any person under the age of 34 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.

Section 34-186. Records and information to be maintained; display of transaction number; identification; digital photographs; fingerprints; records storage.

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.

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 paragraph

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 paragraph.

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.

Section 34-187. 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 Section 34-346. Precious metals dealers shall be responsible for maintaining an adequate inventory of these forms.

(4) The Chief of Police or his 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 accessed 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 his designee, which may be a third party administrator of the automated reporting system.

Section 34-188. Property not to be disposed of for thirty 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 his designee. The Chief of Police shall not approve any off-premises storage facilities located outside Statham 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.

Section 34-189. Dealing with minors.

It shall be unlawful for any precious metals dealers, his or her 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.

Section 34-190. 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 the City code.

Section 34-191. 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 Statham City Recorder's Court and upon conviction or other finding of guilt, be punished by a fine of up to $1,000.00 or 60 days imprisonment, or both.

Secs. 34-192—34-231. - Reserved.

Article VIII - PAWNSHOPS

Section 34-231. 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 his or her duties or the management of the business affairs of a pawnshop, comes into contact with members of the public; or
(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 whatever, as security for the repayment of money lent thereon.

Pawnshop transaction means to take or receive any article of property or, from any customer, by pawning, pledging, trading, exchanging, purchasing, or other means.

Police department means the Statham 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. 10-18-2011)

Section 34-232. Location; Conditional Use

Pawnshops may only be located in areas zoned C (commercial) or CH (highway commercial). Prior to applying for a permit, persons desiring to operate a pawnshop or similar business must obtain the conditional use permit required by the Statham Zoning Ordinance.

Section 34-233. Annual permit required.

All persons before beginning the business of operating a pawnshop or similar place, 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 $100.00, or a fee established by the Mayor and City Council. 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.

Section 34-234. 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 49-3 of this chapter has been issued or approved by the City police department.

Section 34-235. Application for permit.

The application for the annual permit required by Section 49-3 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.

Section 34-236. 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 insure 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 his 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 his 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 his 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 his 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 Section.

(6) All permits issued through administrative error can be terminated and seized by the Chief of Police or his designee or the licensing and revenue manager or his 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 his 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.

Section 34-237. Denial, suspension or revocation of permit.

A permit may be denied, suspended or revoked by the Chief of Police or his 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.

Section 34-238. 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) The Chief of Police or his designee shall provide written notice to the applicant of his or her 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.

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 of $100.00.

(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 he or she is not related to or personal friends with any owner of the establishment in question in the appeal being considered and that he or she 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 superior court of Barrow County.

Section 34-239. 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 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(s) 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, title 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(s) 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.

Section 34-240. 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 failing 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 him/her.

(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 his 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 his 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 certificate holder.

e. Any aggravating circumstances or failure by the certificate holder to take remedial or corrective steps.

Section 34-241. 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) The City Clerk shall provide written notice to the applicant or certificate holder of his or her 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.

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 of $500.00. The City Clerk, at his/her discretion, may waive or reduce the filing fee amount if it's determined 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 he or she 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 he or she 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 his 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 superior court of Barrow County.

Section 34-242. 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 paragraph 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 paragraph.

(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 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.

Section 34-243. 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 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 49-12. Pawnbrokers shall be responsible for maintaining an adequate inventory of these forms.

(4) The Chief of Police or his 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 accessed 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 his designee, which may be a third party administrator of the automated reporting system.

Section 34-244. 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 his designee. The Chief of Police shall not approve any off-premises storage facilities located outside Statham 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 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.

Section 34-245. Dealing with minors.

It shall be unlawful for any pawnbroker, his or her 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.

Section 34-246. 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 the City code.

Section 34-247. 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 Statham 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 imprisonment, or both.

Section 34-248 – 34-250. Reserved.

ARTICLE IX. OUTDOOR EVENTS

Section No. 34-251. Penalties.

A. Any person who conducts an outdoor event without receiving a regulatory license as required by this ordinance, or conducts an outdoor event not meeting the requirements of this ordinance, or both, shall be subject to the penalties otherwise allowed by the Code of Ordinances, 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 ordinance shall be deemed a separate offense.

Section No. 34-252. 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.

A. 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:

1. 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;

2. 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;

3. 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;

4. 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 (4) 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;

5. That the applicant has provided for adequate toilet facilities such that a minimum of one toilet fixture per 100 patrons is provided;

6. That the applicant has provided adequate drinking water for the members of the public who patronize his business or event, or both;

7. That the applicant shall designate a resident of this 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;

8. 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.

9. 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.

B. The City Council, considering whether the applicant meets the above requirements, 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.

C. 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 (10) days prior to the event shall result in the automatic denial of the license.

D. 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 demonstrate the health and safety minimum requirements for each day.

E. The specifically enumerated requirements set forth in subsection A.1 through A.9 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.

Section 34-253 – 34-254. Reserved.

ARTICLE X. HOTEL AND MOTEL TAX

Section 34-255. 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:

Due date means from the twentieth 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 (1) or more occupants for the purpose of living quarters or residential use.

Hotel means any structure or any portion of a structure, including any lodging house, rooming house, 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. It 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 (10) 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 article.

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 article.

Tax means the tax imposed by this article.

Section 34-256. 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), it is hereby declared that in each fiscal year, the amount of tax collected under this article shall be used in accordance with O.C.G.A. § 48-13-51(a).

Section 34-303. Imposition and rate of tax.

There is hereby levied and there shall be paid a tax of seven (7) per cent 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.

Section 34-257. Collection of tax by operator.

Every operator maintaining a hotel in this city and renting guest rooms in this city, not exempted under Section 34-305 shall collect the tax from the occupant.

Section 34-258. Exemptions.

The tax authorized by this article 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 Georgia state or local governmental officials or employees when traveling on official business. Notwithstanding the availability of any other means of identifying the person as a state or local government official or employee, whenever a person pays for any rooms, lodgings, or accommodations with a state or local government credit or debit card, such rooms, lodgings, or accommodations shall be deemed to have been furnished for use by a Georgia state or local government official or employee traveling on official business for purposes of the exemption provided by this paragraph. For purpose of the exemption provided under this paragraph, a local government official or employee shall include officials or employees of counties, municipalities, consolidated governments, or county or independent school districts; or
4. Charges made for continuous use of any rooms, lodgings, or accommodations after the first 30 days of continuous occupancy.

Section 34-259. 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 this 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 thirty (30) days after the effective date of the article from which this Section derives May 1, 2011. 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 or places 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.

Section 34-260. Date of taxes.

Taxes hereunder shall be due and payable to the city monthly on or before the twentieth day of every month next succeeding each respective monthly period as set forth in Section 34-308.

Section 34-261. Information on return.

On or before the twentieth 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.

Section 34-262. 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.

Section 34-263. Deficiency determinations.

A. Recomputation of tax. If the City Clerk is not satisfied with the return or returns of the tax or the amount of the tax required to be paid to the city by any person, he may compute and determine the amount required to be paid upon the basis of any information within his possession or that may come into his possession. One (1) or more deficiency determinations may be made of the amount due for one (1) or more monthly periods.
B. Interest on deficiency. The amount of the determination shall bear interest at the rate of one (1) per cent 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 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 (3) years after the twentieth day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three (3) years after the return is filed, whichever period should last expire.

Section 34-264. 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 this 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 34-210.

B. Interest. The amount of the determination shall bear interest at the rate of one (1) per cent per month, or fraction thereof, from the twentieth 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.

Section 34-265. Administration.

A. Authority of the City Clerk. The City Clerk shall administer and enforce the provisions of this article for the collection of the tax imposed by this article.

B. Records required from operators. Every operator renting guest rooms in this 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 article, 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.

Section 34-266. Penalties.

A. Time limitation. At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable and at any time within three (3) 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 article 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.

Section 34-267. Liability of successor.

A. If the purchaser of a business fails to withhold the purchase price as required, he 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 article, it may be offset by the City Clerk. If the operator or person determines that he has overpaid or paid more than once, which fact has not been determined by the City Clerk, the operator shall have three (3) 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.

CHAPTER 38

MUNICIPAL COURT

Section 38-1. Bailiff.
Section 38-2. Record of cases.
Section 38-3. Limitations.
Section 38-4. Service of summons.
Section 38-5. Subpoenas.
Section 38-6. Failure to obey summons or subpoena.
Section 38-7. Arrest and bond.
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Section 38-9. Court cost.
Section 38-10. Malicious prosecution.
Section 38-11. Collection of fines.
Section 38-12. Appeal.
Section 38-13. Penalties.
Section 38-1. 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 him by the judge of the municipal court and the City Clerk/Treasurer.
(Code 2001, § 5-104)

Section 38-2. 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)

Section 38-3. Limitations.

All prosecutions for violations of City ordinances shall be commenced within two years after the commission of the crime.
(Code 2001, § 5-106)

Section 38-4. 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 his 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)

Section 38-5. Subpoenas.

The City Clerk/Treasurer 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)

Section 38-6. 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 him shall be guilty of contempt of court and upon conviction thereof shall be punished for same.
(Code 2001, § 5-109)

Section 38-7. 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 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 him until a trial can be held. No person shall be incarcerated for more than 72 hours without being tried by the municipal judge.
(Code 2001, § 5-110)

Section 38-8. 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 his 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)

Section 38-9. 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)

Section 38-10. 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, he shall assess the prosecution with the court costs and such punitive damages as he deems appropriate.
(Code 2001, § 5-113)

Section 38-11. 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)

Section 38-12. Appeal.

Appeals from decisions of the municipal court shall be taken to the Barrow County Superior Court or State Court in the manner provided for appeals under State law.
(Code 2001, § 5-115)

Section 38-13. Penalties.

Unless otherwise specifically provided by ordinance or law, the Mayor and Council may from time to time establish by resolution fines or fees to be paid upon conviction for violation of the laws, ordinances and regulations as found by a court of competent jurisdiction.

CHAPTER 42

NUISANCES

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ARTICLE I. IN GENERAL

Section 42-1. Definitions.

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

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, repairman 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, repairman 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 article.

Owner means the owner, lessor, lessee, security interest holders and all lienholders as shown on the records of the State department of revenue.

State law reference-Similar provisions, O.C.G.A. § 41-1-1.

Section 42-2. Enumeration.

A. 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. 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 that are 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 pending death of the tree, or due to damage by weather conditions or due to disease infestation. Tree stumps greater than 12 inches in height aboveground 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. (15) Obstruction of public ways. Obstruction of a public street, highway or sidewalk without a permit.
16. (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. (17) As defined by State law. Any other condition constituting a nuisance under State law.
18. (18) As determined by court. Any condition found by the judge of the municipal court, after an evidentiary hearing, to be determined to or endanger the health, welfare or good order of the City and declared by him therefore to be a nuisance.

Section 42-3. Prohibition; notice.

It shall be unlawful for any person to maintain or permit the existence of any nuisance on any property within the City.

Section 42-4. 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.

Section 42-5. 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.

Section 42-6. 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 his 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.

State law reference-Authorization and procedure for abatement of nuisances in cities, O.C.G.A. § 41-2-5.

Section 42-7. 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.

Section 42-8. 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 article.

Section 42-9. Other powers preserved.

Nothing in this article 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 his order.

Section 42-10 - 42-36. Reserved.

ARTICLE II. VEGETATION

Section 42-37. 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, 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.

Section 42-38. 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.

Section 42-39. 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.

Section 42-40. 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 42-39, the City is authorized to have the contractor enter upon the property, and the contractor is authorized to enter such property, and 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 his 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 42-39 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.

Section 42-41. 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.

Section 42-42. Award of contracts for clearing of lots by City.

Upon adoption of the ordinance from which this Section is derived, and thereafter 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.

Section 42-43 - 42-72. Reserved.

ARTICLE III. MOSQUITO CONTROL

Section 42-73. Violation declared nuisance.

A violation of any provision of this article is a nuisance.

Section 42-74. 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.

Section 42-75. Treatment of collections of water.

The method of treatment of any collections of water that are specified in Section 42-74 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. (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, his 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.

Section 42-76. 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, his authorized agent or representative, shall be deemed a violation of this article.

Section 42-77. 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 him, the officer authorized to enforce this article, or his authorized agent may do so, and all necessary costs incurred by him for this purpose shall be a charge against the property owner or other offending person, as the case may be.

Section 42-78. Right of entry of officer.

For the purpose of enforcing the provisions of this article, the officer authorized to enforce this article or his duly accredited agent under his authority, may at all reasonable times lawfully enter in and upon any premises within his jurisdiction.

Secs.42-79 - 42-99. Reserved.

ARTICLE IV. JUNK MOTOR VEHICLES

Section 42-100. Definitions.

For the purpose of this article, the following terms are defined as follows:

Disposal contractor. The person contracted with by the City of Statham to remove and dispose of junk motor vehicles and parts, as required by the City.

Junk motor vehicle. Any motor vehicle discarded, dismantled, wrecked, scrapped or ruined on public or private property.

Legal junkyard. A junkyard which complies with the laws of this 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 herein, notice shall mean 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.
(Ord. of 7-19-2005, § 2-11-20)

State law reference-Definition of abandoned motor vehicle, O.C.G.A. § 40-11-1.

Section 42-101. 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.
(Ord. of 7-19-2005, § 2-11-21)

State law references-Effort required in identifying owner, O.C.G.A. § 40-11-2; for authority, see O.C.G.A. § 36-60-4.

Section 42-102. 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.
(Ord. of 7-19-2005, § 2-11-22)

Section 42-103. 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.
(Ord. of 7-19-2005, § 2-11-23)

Section 42-104. 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.
(Ord. of 7-19-2005, § 2-11-24)

Section 42-105. 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 Chief of Police 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. (Ord. of 7-19-2005, § 2-11-25)
State law reference-Authority to remove, O.C.G.A. § 40-11-2 et seq.

Section 42-106. Disposal, general; fee; collection.

A. In the event, after diligent effort, 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 Chief of Police 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 of the City may order a fieri facias issued against the owner for the cost of same, to be collected as provided by law.

(Ord. of 7-19-2005, § 2-11-26)

Section 42-107. 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.
(Ord. of 7-19-2005, § 2-11-27)
State law reference-Lien foreclosure procedure, O.C.G.A. § 40-11-5.

Section 42-108. 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 this State relating to the licensing and regulation of motor vehicle junkyards.
(Ord. of 7-19-2005, § 2-11-28)

Section 42-109. 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.

(Ord. of 7-19-2005, § 2-11-29)

Section 42-110 - 42-132. Reserved.

ARTICLE V. DANGEROUS BUILDINGS*

*State law reference-Dangerous buildings, O.C.G.A. § 41-2-7 et seq.

Section 42-133. 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.

Drug crime means an act which is a violation of the Georgia Controlled Substances Act. (O.C.G.A. § 16-13-20 et seq.).

Dwellings, buildings, or structures 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 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. 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
State law reference-Similar provisions, O.C.G.A. § 41-2-8.

Section 42-134. 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 dwellings, 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 such 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.

State law reference-Similar provisions, O.C.G.A. § 41-2-7.

Section 42-135. 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 he 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.

State law reference-Similar provisions, O.C.G.A. § 41-2-10.

Section 42-136. Additional powers of code enforcement officer.

The code enforcement officer 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 he deems necessary to carry out the purposes of this article; and
5. Delegate any of his functions and powers under the ordinance to such officers and agents as he may designate.

State law reference-Similar provisions, O.C.G.A. § 41-2-11.

Section 42-137. 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.
State law reference-Similar provisions, O.C.G.A. § 41-2-9(a)(l).

Section 42-138. 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 interested1parties 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 or 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 us 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 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 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 moneys 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.

State law reference-Similar provisions, O.C.G.A. § 41-2-9(a)(2)-(a)(7).

Section 42-139 – 42-140. Reserved

ARTICLE VI. UNFIT STRUCTURES.

Section 42-141. Findings.

A. It is found and declared that in the City of Statham 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 of Statham 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 of Statham; 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 of Statham 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 of Statham 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.

Section 42-142. Abatement.

A. Where it is determined by the City Planner tor that there exists in the City of Statham 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 of Statham, or vacant, dilapidated dwellings, buildings or structures in which drug crimes are being committed, the City Planner or his/her 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 ordinance, 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 ordinance.

Section 42-143. Severability.

Should any Section or provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of this ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

Section 42-144. Powers cumulative.

The authority provided by this Article VI shall be cumulative of any other authority or remedy provided by state or local law, regulation or ordinance.

Chapters 43-45

RESERVED

Chapter 46

OFFENSES AND MISCELLANEOUS PROVISIONS

Section 46-1. Littering.
Section 46-2. Misdemeanors under State law.
Section 46-3. Penalties.
Secs. 46-4 - 46-22. Reserved.

Article II. Offenses Against the Person

Section 46-23. Simple battery.
Secs. 46-24-46-49. Reserved.

Article III. Offenses Against Property Rights

Section 46-50. Destruction of property.
Section 46-51. Theft of services.
Secs. 46-52-46-75. Reserved.

Article IV. Offenses Against Public Safety

Section 46-76. Reckless conduct.
Section 46-77. Discharging firearms.
Secs. 46-76-97. Reserved.

Article V. Offenses Involving Public Peace and Order

Division 1. Generally

Section 46-98. Refusal to disperse.
Section 46-99. Disorderly conduct.
Section 46-100. Public drunk.
Section 46-101. Urban Camping and Improper Use of Public Places.
Section 46-102. Juvenile curfew.
Secs. 46-103-46-128. Reserved.

Division 2. Noise

Section 46-129. Noise regulation; generally.
Section 46-130. Noises prohibited.

Section 46-131. Exemptions.
Secs. 46-132-46-150. Reserved.

Article VI. Public Morals

Section 46-151. Possession of marijuana.
Secs. 46-152-46-170. Reserved.

Article VII. Offenses Against Administration of Government

Section 46-171. False fire alarm.
Section 46-172. Obstruction of an officer.
Section 46-173. Fleeing from an officer.

ARTICLE I. IN GENERAL

Section 46-1. Littering.

A person who intentionally litters shall be guilty of a misdemeanor.

Section 46-2. 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 therefore shall not exceed the maximum penalty prescribed in Section 1-7 for violations of this Code.

Section 46-3. Penalties

Unless otherwise specifically provided by ordinance or law, the Mayor and Council may from time to time establish by resolution fines or fees to be paid upon conviction for violation of the laws, ordinances and regulations as found by a court of competent jurisdiction.

Secs. 46-4 - 46-22. Reserved.

ARTICLE II. OFFENSES AGAINST THE PERSON

Section 46-23. 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.

Section 46-24 - 46-49. Reserved.

ARTICLE III. OFFENSES AGAINST PROPERTY RIGHTS

Section 46-50. Destruction of property.

A person who willfully destroys, damages, defaces, or harms any City or private property shall be guilty of a misdemeanor.

Section 46-51. Theft of services.

A person commits the offense of theft of services when by deception and with the intent to avoid payment he knowingly obtains services, accommodations, entertainment, or the use of property which is available only for compensation.

Section 46-52 - 46-75. Reserved.

ARTICLE IV. OFFENSES AGAINST PUBLIC SAFETY

Section 46-76. 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 his act or omission will cause the harm or endanger the safety, he is guilty of a misdemeanor.

Section 46-77. Discharging firearms.

It shall be unlawful for any person (other than a law enforcement official in the lawful discharge of his or her duties) to discharge any gun, pistol, or other firearm in the City.

Section 46-78 - 46-97. Reserved.

ARTICLE V. OFFENSES INVOLVING PUBLIC PEACE AND ORDER

DIVISION 1. GENERALLY

Section 46-98. Refusal to disperse.

A person in a gathering who refuses to obey the reasonable request or order of a peace officer or fireman to move for the purpose of promoting the public safety by dispensing those gathered in dangerous proximity shall be guilty of a misdemeanor.

Section 46-99. 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.

Section 46-100. 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.

Section 46-101. Urban camping and improper use of public places.

A. Definitions.

Camp shall mean residing in our 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 shall mean 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.

B. City parks. It shall be unlawful to camp or to store personal property in any park owned by the City.

C. 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.

D. Other public property—Blocking ingress and egress. It shall be unlawful to camp, sleep, store personal property, or to sit or lie down on any public property so as to interfere with the ingress or egress from buildings.

E. Warning. No person may be arrested for violating this Section by simply sleeping, sitting or lying down in a prohibited location or for a prohibited period of time without having first received an oral or written warning to cease such unlawful conduct.

F. Exceptions. Notwithstanding anything in this code Section to the contrary, this code Section 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 2 das for which the organizing group has obtained a permit from the City Clerk and demonstrates proof of insurance covering the group and event or posts a $5000 cash bond.

G. (Enforcement. The Statham Police Department shall be responsible for the enforcement of this Section.

H. Penalty. Any person who violates any provision of this Section may be subject to arrest or summoned to appear in the Statham 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.

Section 46-102. Juvenile curfew.

A. Definitions. 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:

1. **Adult** means a person who is at least 17 years of age or is an emancipated minor.

2. **Curfew hours** means 12:00 a.m. on any day until 6:00 a.m. of the same day.

3. **Emancipated** minor means:

    i. 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, parents, guardian, person standing in locus parentis, or the juvenile court of competent jurisdiction; or

    ii. Any person under the age of 17 years who has had the disabilities of minority removed by a court of competent jurisdiction.

4. **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.

5. **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.

6. **Loiter** means to stand or sit idly about or to linger at a place aimlessly.

7. **Minor** means any person 16 years of age or under.

8. **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.

9. **Parent** means a person who is a natural parent, an adopted parent, or stepparent of another person.

10. **Prescribed Authority** - When a parent/guardian grants supervisory rights of a minor to an adult to oversee a minor's activity.

11. **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.

12. **Remain** means 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.

13. **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.

14. **Vacant Property** means a parcel of land which is either an unimproved parcel or an improved parcel which is unoccupied.

15. **Wander** means to move about aimlessly.

B. 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 a.m. 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 a.m. 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 a.m. and 6:00 a.m. It is a defense to prosecution under this Section that the owner, operator, or employee of an establishment promptly notify the Police Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

C. Exceptions. The provisions of this Section shall not apply in the following instances:

1. When a minor is accompanied by his 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 his 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.

D. Violations and penalties.

E. Minors. Upon a first offense the minor will be remanded to his 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 his parent, guardian or custodian and a Juvenile Court complaint will be filed with Juvenile Court Services.

F. Adult, parent, guardian or owner, operator or employee. Upon conviction of violations of this Section for the first time, an adult, parent, guardian or owner, operator of 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 subject to a fine not to exceed $500.00, or imprisonment for not more than 30 days, or by both.

G. Enforcement.

Before taking any enforcement action under this Section, 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 Section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances that no exception listed in subsection (C) of this Section is present.

Section 46-103 - 46-128. Reserved.

DIVISION 2. NOISE

Section 46-129. Noise regulation; generally.

It shall be unlawful for any person to willfully make, 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)

Section 46-130. Noises prohibited.

The following acts are declared to be loud, disturbing, and unnecessary noises in violation of this chapter, 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 using, operating, or permitting to be played , used or operated, 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 Chief of Police. 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, motor boat, 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 Chief of Police. Such a permit shall be issued upon a showing that public peace and order will not be disturbed.

(Code 2001, § 14-102)

Section 46-131. Exemptions.

The following uses and activities shall be exempt from the noise regulations set forth in this chapter:

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)

Section 46-132 - 46-150. Reserved.

ARTICLE VI. PUBLIC MORALS

Section 46-151. Possession of marijuana.

Anyone in possession of less than one ounce of marijuana shall be guilty of a misdemeanor.

Section 46-152 - 46-170. Reserved.

ARTICLE VII. OFFENSES AGAINST ADMINISTRATION OF GOVERNMENT

Section 46-171. 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.

Section 46-172. Obstruction of an officer.

A person who knowingly and willfully obstructs or hinders any law enforcement officer in the lawful discharge of his official duties is guilty of a misdemeanor.

Section 46-173. 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.

Chapter 50

PLANNING

Section 50-1. Comprehensive plan.

The city's Comprehensive Plan, as heretofore adopted and amended by the City, is incorporated by reference as if fully set out herein.
(Code 2001, § 39-103)

CHAPTER 51

PUBLIC PLACES

Article I. Advertising Standards for Statham Owned Signs

Section 51-101. Purpose.
Section 51-102. Limitation upon advertisements.
Section 51-103. Advertising Standards Committee.
Section 51-104. Review of Advertisements.
Section 51-105. Dispute Resolution.
Section 51-106. Severability.

Section 51-101. Purpose.

(a) The purpose of these rules is to implement a ban on advertisements that contain tobacco and tobacco related products and obscene, false, controversial, deceptive, misleading or illegal goods, services or activities from being displayed on signs or properties owned by the City of Statham. The purpose of these rules is to announce the City of Statham is a responsible member of the community; to establish that the City is not desirous of lending its name, directly or indirectly, to the promotion of the use of tobacco and tobacco related products, especially among minors; and independently, to promote the general health and welfare of the City's citizens.

(b) The standards in this chapter shall apply to all contracts to set forth the standards for the installation, display and maintenance of advertising on properties and facilities owned or controlled by the City of Statham (collectively "The City").

(c) The display of advertising on property owned or controlled by the City does not constitute an endorsement by the City of any of the products, services or messages so advertised, unless authorized in writing by the City and so stated within the advertisement.

(d) The installation of signs or other facilities by the City on City property does not create a public forum or limited public forum. Rather these city owned advertising signs and facilities shall be a non-public forum.

Section 51-102. Limitation upon advertisements.

(a) No advertisement located on property owned or controlled by the City shall be displayed or maintained that falls within one or more of the following categories:

1. The advertisement proposes a commercial transaction and the advertisement or information contained in it is false, misleading or deceptive;

2. The advertisement or information contained in it promotes unlawful or illegal goods, services or activities;

3. The advertisement or information contained therein declares or implies an endorsement by the City of any service, product or point of view without prior written authorization of the City;

4. The advertisement contains obscene material. The advertisement is obscene if (1) To the average person, applying contemporary community standards, taken as a whole, it predominantly appeals to the prurient interest, that is, a shameful or morbid interest in nudity, sex, or excretion; (2) The material taken as a whole lacks serious literary, artistic, political, or scientific value; and (3) The material depicts or describes, in a patently offensive way, sexual conduct specifically defined as:

   (A) Acts of sexual intercourse, heterosexual or homosexual, normal or perverted, actual or simulated;

   (B) Acts of masturbation;

   (C) Acts involving excretory functions or lewd exhibition of the genitals;

   (D) Acts of bestiality or the fondling of sec organs of animals; or

   (E) Sexual acts of flagellation, torture, or other violence indicating a sadomasochistic sexual relationship.

5. The advertisement portrays graphic violence;

6. The advertisement displays a weapon that appears to be aimed or pointed at the viewer or observer in a menacing manner;

7. The advertisement is controversial and, therefore, can promote vandalism of advertising materials and associated City property;

8. The advertisement proposes the use of or promotes tobacco or tobacco-related products; or

9. The advertisement is not in the best business interest of the City of Statham.

Section 51-103. Advertising Standards Committee.

The Mayor shall establish a three member Advertising Standards Committee (as "Committee"). Such Committee shall be independent and its determinations shall constitute the City's final agency determinations.

Section 51-104. Review of Advertisements.

(a) The Clerk shall review each advertisement submitted for installation, display and maintenance on the City properties and facilities to determine whether the advertisement falls within, or may fall within, one or more of the categories set forth in section 41-102. If the Clerk determines that an advertisement falls within or may fall within one or more of the categories set forth in section 51-102:

1. The City shall promptly provide the advertiser with a copy of these standards and written notice of the determination, the reason(s) for the determination and the advertiser's right to request a prompt review before the Committee.

2. The Clerk shall provide the Committee with a copy of the written notice to the advertiser and the advertisement at issue.

3. Upon request of the advertiser, the Committee shall conduct a prompt review to determine whether the advertisement at issue falls within one or more of the categories set forth in section 51-102.

4. The Committee shall promptly provide the advertiser and the advertising firm with a written notice of its determination. The Committee's determination shall be final as per section 51-103.

Section 51-105. Dispute Resolution.

In the event of a dispute arising under these rules, an aggrieved party shall transmit its grievance in writing to the Committee. The Committee shall then render a final agency decision appealable to the Superior Court of Barrow County.

Section 51-106. Severability.

If any category set forth in section 51-102 is determined to be invalid as applied to any particular type of City property or facility, the category shall remain applicable to other types of City property and facilities. If any category set forth in section 51-102 is determined to be invalid as applied to all The City of Statham property and facilities, the remaining categories shall remain valid.

Chapters 52-53

RESERVED

Chapter 54

SIGNS

Section 54-100.	Findings and purpose.
Section 54-101.	Definitions.
Section 54-102.	General provisions.
Section 54-103.	Sign permit application.
Section 54-104.	Expiration date.
Section 54-105.	Sign permit fees.
Section 54-106.	Labels required on signs.
Section 54-107.	Nonconforming signs.
Section 54-108.	Signs and sign devices prohibited.
Section 54-109.	Temporary signs.
Section 54-110.	Flags.
Section 54-111.	Signs exempt from specified provisions of this article.
Section 54-112.	Maintenance and appearance of signs.
Section 54-113.	Illumination of signs.
Section 54-113.5.	Electronic Signs
Section 54-114.	Maximum heights, maximum sizes, setback requirements and number allowance of signs permitted.
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Section 54-121.	Enforcement and penalties.
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Section 54-123.	Severability.
Section 54-124.	Customary home occupation signs prohibited.
Section 54-125.	Annual registration of oversized signs.

Section 54-100. Findings and purpose.

The Mayor and City Council finds that signs provide an important medium through which persons may convey a variety of noncommercial and commercial messages. However, left completely unregulated, signs can become a threat to public safety as a traffic hazard and a detriment to property values and to the city's general public welfare, as well as create an aesthetic nuisance. By enacting this article, the Mayor and City Council intends to:

1. Balance the rights of persons to convey their messages through signs and the right of the public to be protected against the unrestricted proliferation of signs;

2. Protect the public health, safety, and welfare of the citizens and others within the city;
3. Reduce traffic hazards, pedestrian hazards, and other hazards;
4. Promote and maintain the aesthetic qualities of the city;
5. Protect property values by minimizing the possible adverse effects and visual blight caused by signs;
6. Promote economic development;
7. Ensure the fair and consistent enforcement of sign regulations;
8. Promote the stated purposes of the City of Statham Zoning Ordinance, as amended, which are expressly incorporated herein; and
9. Promote the stated purposes of the Standard Building Code, as adopted and modified by the city, which are expressly incorporated herein.

Section 54-101. Definitions.

Except as specifically defined herein, all words used in this article shall be as defined in the most recent edition of The Illustrated Book of Development Definitions (Rutgers). Words not defined herein or in the above book shall be construed to have the meaning given by common and ordinary use, and shall be interpreted within the context of the sentence, Section and article in which they occur.

For the purpose of this article, certain words or terms used herein shall be defined as follows:

Words used in the singular include the plural and words used in the plural include the singular.

Words used in the present tense include the future tense.

The word **"erected"** includes the **words "constructed", "moved", "located" or "relocated"**.

The word **"lot"** includes the word **"plot"** or **"parcel".**

The word **"map"** or **"zoning map"** means the Zoning Map of City of Statham, Georgia.

The word **"person"** includes the words **"individuals", "firms", "partnerships", "corporations", "associations", "governmental bodies" and all other legal entities**.

The word **"shall"** is always mandatory and never discretionary.

The words **"used"** or **“occupied”** include the words "intended, arranged or designed to be used or occupied."

Accessory ground sign means a permanently affixed sign which is wholly independent of a building for support, and which is accessory and subordinate to a primary ground sign.

Accessory structure means a structure detached from a principal building on the same lot and customarily incidental and subordinate to the principal building or use.

Accessory use means a use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use.

Aggregate sign area means the combined sign surface area of all signs on a lot, excluding the area of one face of all double-faced signs. Noncommercial flags and banners are excluded from any determination of aggregate sign area.
Animated sign means any sign or portion thereof involving motion, flashing, blinking, rotation or varying light intensity. The term "animated sign" excludes electronic signs which are operated in conformity with this ordinance and where the only periods of full non-illumination are less than one (1) second and exist only between the display of separate individual messages.

Banner means a piece of fabric or similar material which is attached to a pole, enclosed in a frame, or mounted as a temporary sign device.

Billboard. See "oversized signs."

Building means any structure attached to the ground which has a roof and which is designed for the shelter, housing or enclosure of persons, animals, or property of any kind.

Building space, gross means the sum of the gross horizontal areas of the several floors of a building from the exterior face of the exterior walls, or from the centerline of a wall separating two buildings, but excluding any space where the floor to ceiling height is less than six feet.

City shall mean the City of Statham, Georgia.

Department shall mean the city department of Planning, Zoning, Building and Code Enforcement (or a successor department as designated by the Mayor), and its subordinate divisions, Sections and units.
Director shall mean the director of the department of Planning, Zoning, Building and Code Enforcement, who may act through designee(s).

Double faced sign means a sign which has two display areas against each other or where the interior angle formed by the display areas is 60 degrees or less, where one face is designed to be seen from one direction and the other face from another direction.

Electronic Sign means a static message only, and shall not have movement nor flashing on any part of the sign structure, design, or pictorial segment of the sign, nor shall such sign have varying light intensity during the display of any single message, and whose message is displayed through the use of LED, LCD, plasma or other similar type panels or screens, including devices known as commercial electronic message signs and similar devices.

Entrance sign means a permanent sign located at the public street or private driveway entrance to a residential development, residential subdivision development or nonresidential subdivision development.

Flag means a piece of fabric or other flexible material solely containing distinctive colors, patterns, standards, words or emblems used as the symbol of an organization or entity.

Flashing sign. See "animated sign."

Graduation banner. A banner that provides information about a student's or students' graduation from any school or college.

Ground sign height means the distance in vertical feet from the elevation of the adjacent dedicated public street, edge of pavement, to the highest point of the sign structure. For property with an elevation higher than the adjacent public street, the height shall be measured from ground level at base of sign to the highest point of the sign structure. The ground shall not be altered for the sole purpose of providing additional sign height.

Historic means a building, structure, site or district identified as historic by the Barrow County Historic Preservation Commission, the Barrow County Historic Resources Survey, the comprehensive plan, by listing on the Georgia or National Register of Historic Places, by listing as a National Historic Landmark, or determined potentially eligible for listing in the National Register of Historic Places or as a result of review under Section 106 of the National Historic Preservation Act, as amended

Indirectly illuminated sign means a sign illuminated by an external light source directed primarily toward such sign.

Interior project directional sign means a sign located no closer than 100 feet from the exterior public street entrance of a nonresidential project, at a street intersection or along a private driveway within the project. The purpose of this sign is to provide more definitive directional information concerning the whereabouts of the tenants.
Internally illuminated sign means a sign illuminated by an internal light source.

Landscape strip means land area located within the boundary of a lot and required to be set aside and used for landscaping upon which only limited encroachments are authorized.

Lot means a designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

Monument-type sign means a permanent ground sign designed so that the base of the sign face is flush with the supporting base, and the supporting base is flush with the ground and extends the full width of the sign face.

Multi-faced sign means a sign structure with more than two sign faces situated so that each sign face is facing a different direction.

Nonconforming sign means any sign lawfully existing on the effective date of this article, or amendment thereto, that renders such sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended ordinance.

Non-residential or non-residentially zoned shall mean properties that are zoned pursuant to the Statham Zoning Ordinance with a classification that is not defined as Residential or Residentially Zoned.

Oversized sign means a ground sign which exceeds 30 feet in sign height and/or 300 square feet of sign surface area.

Parkway means a divided or undivided classified roadway, including University Parkway (Ga. Hwy. 316).

Planned unit/commercial/office/industrial development (PUD) means a contiguous area or subdivision of land, planned and maintained as a single entity and containing one or more structures to accommodate retail, service, commercial, office or industrial uses, or a combination of such uses, and appurtenant common areas and accessory uses incidental to the predominant uses (i.e., office park, shopping center, industrial park).

Portable sign means any sign which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support constructed without wheels is converted to an "A" or "T" frame sign or attached temporarily or permanently to the ground.

Primary ground sign means a permanently affixed sign which is wholly independent of a building for support.

Principal use means the primary or predominant purpose for which a lot is occupied and/or used.

Projecting sign means a sign projecting more than six inches from the outside wall or walls of any building upon which it is located.

Residential or residentially zoned shall mean properties that are zoned pursuant to the Statham Zoning Ordinance as R-1, R-1M, R-2, R-3 or CSO.

Road frontage means the distance on which a parcel of land adjoins a public street or public road right-of-way dedicated to and accepted by the city for vehicular traffic or over which the city may hold a prescriptive easement for public access, and including designated and numbered U.S. and state highways.

Roof sign means a sign projecting over the coping of a flat roof, or wholly or partially over the ridge of a gable, hip or gambrel roof, and supported by or attached to said roof.

Sign, sidewalk or sandwich means a moveable sign not secured or attached to the ground or surface upon which it is located.

Sign means an object, device, display, or structure, or part thereof, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. Any sign provided for in any zoning district may contain noncommercial messages.

Sign face means the area or display surface of a sign which is used for the message.
Sign, off-premises means a real estate sign which advertises or directs attention to property other than on the premises on which the sign is located.

Sign structure means poles, beams, columns, posts, foundations, or other means providing structural support for the sign surface area to which the sign is affixed.

Sign surface area means the smallest square, rectangle, triangle, circle or combination thereof, which encompasses the entire sign inclusive of any border and trim, but excluding the base, apron, supports, and other structural members.
Special use permit is a use listed in the zoning resolution as being permitted if it meets stated conditions and is approved by the Mayor and City Council.

Streamer means any long, narrow flag, banner, tinsel or roping which is hung or strung from any structure to another structure or the ground.

Structure means anything constructed or erected on the ground or attached to something on the ground.

Subdivision directional sign means an off-premises sign which provides directions to property for sale, lease or rent. Subdivision directional signs are placed at intersections, directing traffic to a specific project(s).

Temporary sign means a sign of a nonpermanent nature.

Trailer sign means any sign which is mounted on wheels and which may be moved from one location to another.

Wall sign means a sign applied to or mounted to the wall or surface of a building or structure, the display surface which does not project more than six inches from the outside wall of such a building or structure.

Weekend directional sign means an off-premises sign which provides directions to property for sale, lease or rent. Weekend directional signs may be erected from Friday 3:00 p.m. until Sunday 11:59 p.m., and direct traffic to a specific project. Note: Weekend direction signs are prohibited by Section 54-108.

Window sign means a sign installed flush with the interior or exterior of a window and intended to be viewed from the outside. Any sign prohibited by Section 54-108 shall not be allowed as a window sign.

Yard, front means an open, unoccupied space on the same lot with a principal building or use, extending the full width of the lot and located between the street line and the front line of the building projected parallel to the street to the side lines of the lot. Corner lots shall be considered to have two front yards.

Yard, rear means an open space on the same lot with a principal building or use, unoccupied except by an accessory building or use, extending the full width of the lot and located between the rear line of the lot and the rear line of the building or use projected to the side lines of the lot.

Yard, side means an open, unoccupied space on the same lot with a principal building or use, located between the building or use and the side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.

Section 54-102. General provisions.

It shall be unlawful for any person to post, display, alter the structure, or erect a sign without a sign location permit or temporary sign permit. A change in the copy of a sign or advertising device shall not constitute an alteration.

Section 54-103. Sign permit application.

Applications for sign permits shall be submitted by the sign owner or their agent upon official forms furnished by the department. Applications shall be complete and shall include the following:

1. The type of sign, and cost of sign construction.
2. The street address of the property upon which subject sign is to be located. In the absence of a street address, a method of location acceptable to the department shall be used.
3. For ground signs: A site plan drawn to scale, showing the proposed location of all primary and accessory ground sign(s) on subject property. The site plan includes, at a minimum, a closed boundary survey of the property, gross acreage, the proposed sign location, street right-of-way lines, public or private easements, driveway locations and parking spaces.
4. Sign details, including a scaled elevation of the size and height and of the proposed sign from ground level and adjacent street level.
5. The square foot area per sign and the aggregate square foot area if there is more than one sign face.
6. The gross building space of all building(s) on the property.
7. The name(s) and address(es) of the owner(s) of the real property upon which the sign is to be located.
8. Written consent of the property owner, or his agent, granting permission for the placement and/or maintenance of subject sign. The signature of consent may be electronic subject to the requirements of Georgia law.
9. The name, address and phone number of the sign contractor.

Section 54-104. Expiration date.

A sign location permit shall expire if the sign for which the permit was issued has not been erected, installed and completed within six months after the date of permit issuance, provided, however, that one six-month extension of the permit shall be granted if an additional permit extension fee has been paid prior to the expiration date of the initial permit.

Section 54-105. Sign permit fees.

A sign location permit or temporary sign permit shall not be issued until the appropriate application has been submitted and fees have been paid, as established by the Mayor and City Council.

Section 54-106. Labels required on signs.

A. For each wall or ground sign location permit, an official sticker bearing the same number as the permit will be issued. It shall be the duty of the permit holder or

their agent to affix the sticker to the sign so it will be easily read from ground level. The absence of an official sticker shall be prima facie evidence that the sign has been, or is being, erected or installed in violation of the provisions of this article.

B. For each temporary sign permit, the permit holder or, permit holder's agent shall keep the official permit on file at the premises as evidence of permit issuance. The absence of an official permit shall be prima facie evidence that the sign has been, or is being, displayed in violation of this ordinance.

Section 54-107. Nonconforming signs.

A. The lawful use of a permanent sign existing at the time of the adoption of this article may be continued in nonconformance with the requirements of this article, except that the nonconforming sign shall not be enlarged, altered, modified, improved or rebuilt. A nonconforming sign may be repaired to the extent necessary to maintain it in a safe condition and neat and orderly appearance. A change in the advertising message on the sign shall not constitute an alteration or modification of the sign.

B. No structural repair or change in shape, size or design, shall be permitted except to make a nonconforming sign comply with all requirements of this article or to render the sign structurally sound. Routine maintenance and changing of copy shall be permitted as long as such maintenance or changing of copy does not result in or change the shape, size, or design.

C. A nonconforming sign structure may not be replaced by another nonconforming sign structure, except where changed conditions beyond the control of the owner warrant the signs repair.

Section 54-108. Signs and sign devices prohibited.

A. The following types of signs or advertising devices are prohibited in all zoning districts of the city:
   1. Roof signs.
   2. Streamers.
   3. Portable, trailer, sidewalk, sandwich, curb, or "A"-type signs.
   4. Multi-faced signs.
   5. Animated signs, including but not limited to those involving motion, flashing, blinking, rotation or varying light intensity. Properly permitted animated signs existing on October 16, 2012 shall be considered nonconforming signs. Animated signs owned or installed by a government are not prohibited.
   6. Signs placed within public rights-of-way, except publicly owned, authorized or maintained signs which serve an official public purpose.
   7. Signs erected by nailing, fastening or affixing the sign in any manner to any tree, rock, post, curb, utility pole, canopy or light pole, any other pole not specifically and exclusively erected for a permitted sign, natural feature, official street sign or marker, traffic control sign or device, fence, sidewalk railing, or other structure except as may be set forth herein.
   8. Any sign placed or erected on property without the permission of the owner.

9. Weekend directional signs.
10. Except in single family residential areas, individual or aggregate window signs exceeding 20 percent of the window area per building elevation.
11. Signs which contain words, pictures, or statements which are obscene, as defined by O.C.G.A. § 16-12-80.
12. Signs which simulate an official traffic control device, warning sign, or regulatory sign or which hide from view any traffic control device, signal or public service sign.
13. Signs which emit or utilize in any manner any sound capable of being detected on any traveled road or highway by a person with normal hearing abilities.
14. Signs which interfere with road or highway visibility or obstruct or otherwise interfere with the safe and orderly movement of traffic or which otherwise pose a hazard to traffic due to structural deficiencies in the structure of such signs.
15. Signs which advertise any activity, service, or product prohibited by the laws or regulations of the United States or the state or by the ordinances or resolutions of the city. This Section shall not prohibit signs promoting the legalization of any matter presently prohibited by federal, state, or local law.
16. Signs which obstruct any fire escape, any means of egress or ventilation or shall prevent free passage from one part of a roof to any other part thereof, as well as signs attached to any fire escape.
17. Signs which do not conform to applicable building and electrical codes.
18. Signs for which a permit is required that do not display the sign permit number and the name and address of the person responsible for erecting and maintaining the sign.
19. Signs which are in violation of the rules and regulations of any zoning overlay district presently existing or as may later be enacted.
20. Any sign constructed of nondurable material including, but not limited to, paper, cardboard or flexible plastic that has been displayed for more than 60 days. Nothing herein shall prohibit such a sign from being replaced by an identical sign. This provision does not apply to temporary signs as governed by this article.
21. Signs located on any substandard lot created after the enactment of this article, unless the substandard lot is created as the result of governmental action.
22. Abandoned commercial signs. Commercial signs (including sign structures) shall be deemed abandoned if the business, service or commercial transaction to which it relates has been discontinued for 90 days.
23. Any sign that is structurally unsound, or is a hazard to traffic or pedestrians.
24. Dilapidated or neglected signs. A sign (including sign structure) will be dilapidated or neglected if it does not present a neat and orderly appearance, which may be manifested by the following: rust or holes on or in the sign or sign structure, or broken, missing, loose or bent parts, faded or flaking paint,

non-operative or partially non-operative illuminating or mechanical devices or missing letters in sign copy.

25. Signs placed with the rights-of-way of any railroad.

Section 54-109. Temporary signs.

The following types of signs or advertising devices shall be permitted only by issuance of a temporary sign permit allowing use of this type advertising for a period of 21 consecutive days. A temporary sign permit may not be issued for the same premises at less than three-month intervals. In no case shall the same premises be allowed a temporary sign permit more than four times in a 12-month period. A fee, as established by the Mayor and City Council, shall be paid for each temporary sign permit. Upon expiration of the temporary sign permit, the permittee shall remove the air or gas filled device, search light, or banner(s) including any temporary supporting structure.

1. Air or gas filled devices not exceeding:
    a. Twenty feet in height and 150 square feet of area in a nonresidential zoning district.
    b. Four feet in height and 16 square feet of area in a residential zoning district.
2. Except as exempted under Section 54-111, banners which display a message, logo, statement, or commercial message shall be regulated as follows:
    a. Each banner shall not exceed 16 square feet.
    b. Each banner must be individually attached to a pole, mast, arm, or other structure.
    c. For any lot, banners shall be limited to one banner per public street frontage.
    d. Banners must be maintained in good condition.
3. Search lights and similar devices.

Section 54-110. Flags.

A. All flags shall be displayed on purpose-built, professionally fabricated flagpoles, which may be vertical or mast-arm flagpoles. In nonresidential districts, flagpoles shall not exceed the allowed height provided for a structure or building in the applicable zoning district, or 50 feet, unless approved through the tall structure permit process. Flagpoles in residential districts shall not exceed 25 feet in height or the height of the primary structure on the lot, whichever is less.

B. The maximum dimensions of any flag shall be proportional to the flagpole height. The hoist side of the flag shall not exceed 20 percent of the vertical height of the flagpole on free standing flagpoles, and 60 percent of the vertical height of the flagpole on structure mounted flagpoles. In addition, flags are subject to the following limitations:

Pole Height	Maximum Flag Size (total square feet)
Up to 30 feet	30 square feet

30 to 50 feet	60 square feet
50 feet or greater	150 square feet

C. Each lot or parcel shall be allowed a maximum of three flag poles.
D. A maximum of two flags shall be allowed per flagpole.
E. Flags displaying a logo, message, statement, or commercial message and banners not meeting the definition of a flag contained herein shall conform to all applicable ordinances pertaining to signs.
F. A vertical flagpole must be set back from all property boundaries a distance which is at least equal to the height of the flagpole.
G. Flags and flagpoles shall be maintained in good repair, and to the extent applicable shall be in compliance with the building code. Flagpoles with broken halyards shall not be used and flags which are torn or frayed shall not be displayed.
H. On officially designated city, state, or federal holidays, there shall be no maximum flag size or number or other limitations on display.
I. This Section shall not be construed to restrict the right to display eligible flags as banners or noncommercial signage as provided elsewhere in this article.
J. A sign permit is not required for flags.

Section 54-111. Signs exempt from specified provisions of this article.

The following types of signs are exempt from the requirements of this article unless otherwise expressly prohibited under Section 54-108. However, all of these signs shall abide by the height and setback requirements as specified in Section 54-114A (Sign Table).

1. Non-illuminated temporary freestanding signs (excluding banners which are regulated in accordance with Section 54-109 and subsection 54-111(11)). For each residential or non-residential lot, the quantity of these signs shall be limited to either one sign that is 16 square feet in area or up to four signs with each of these signs limited to a maximum of four square feet in area. In addition, each sign shall not be greater than eight feet above the grade level of the adjacent street to which the sign is located or three feet above ground level, whichever is greater. These signs shall not be located within the public street right-of-way and shall be no closer than ten feet to the back of the curb (or from pavement if no curbing exists) of a public roadway.
2. Signs for the sole purpose of displaying street numbers as may be required by other ordinances and other signs required by law.
3. Signs erected by, or on the order of, a public officer in the performance of his duty including but not limited to public notices, safety signs, danger signs, trespassing signs, traffic and street signs, memorial plaques and signs of historical interest.
4. Signs on private property prohibiting trespassing in accordance with state law.
5. Any sign not visible from public thoroughfares or any sign within a business, office, mall, or totally enclosed area.

6. In non-residential areas, window signs not exceeding 20 percent of the available window space per building elevation.
7. One official sign per road frontage, as required by the state, identifying vehicle emissions inspection stations licensed by the state.
8. Swinging or projecting signs not exceeding three square feet, or projecting more than four feet and attached under the eave or awning of a building above a business entrance.
9. Signage on courtesy benches, trash receptacles, newspaper boxes, automated teller kiosks and phone booths, not exceeding eight square feet of sign area and not located within the required front yard setback for the zoning district. Limited to one bench sign and one trash receptacle sign per lot.
10. Signage on coin-operated beverage dispensers, limited to three per lot and not located within the required front yard setback for the zoning district.
11. Graduation banners placed on residentially zoned property. Such banners may be no more than 24 square feet in size and must be maintained in good condition and individually attached to a pole, mast, arm, or other structure. A graduation banner may not be displayed on any lot for more than 60 consecutive days.
12. Signs owned or installed by a governmental entity.

Section 54-112. Maintenance and appearance of signs.

A. All signs shall be maintained in good condition, so as to present a neat and orderly appearance. Neglected or dilapidated signs shall be manifested by the following: rust or holes on or in the sign or sign structure, or broken, missing, loose or bent parts, faded or flaking paint, non-operative or partially non-operative illuminating or mechanical devices or missing letters in sign copy. The director may cause to be removed after due notice any sign which shows gross neglect or becomes dilapidated.
B. The department shall give the owner ten days written notice to correct the deficiencies or to remove the sign or signs. If the owner refuses to correct the deficiencies or remove the sign, the department may have the sign removed at the expense of the owner.

Section 54-113. Illumination of signs.

A. No sign shall give off light which glares, blinds or has any other such adverse effect on traffic or adjacent properties. The light from an illuminated sign shall be established in such a way that adjacent properties and roadways are not adversely affected and that no direct light is cast upon adjacent properties and roadways. No illuminated sign shall be constructed or maintained within 75 feet of the property line of any single-family residential lot.
B. Except for Electronic Signs that comply with Section 54-113.5, no sign shall have blinking, flashing, or fluctuating lights or other illuminating devices which have a changing light intensity, brightness or color.

C. Colored lights shall not be used at any location or in any manner so as to be confused with or construed as traffic control devices. Neither direct nor reflected light from primary light sources shall create a hazard to operators of motor vehicles.
D. Signs located within any residential district may only be indirectly illuminated.

Section 54-113.5.Electronic Signs.

Electronic Signs shall be used in accordance with the following provisions:

A. Electronic signs may contain static messages only, and shall not have movement nor flashing on any part of the sign structure, design, or pictorial segment of the sign, nor shall such sign have varying light intensity during the display of any single message. (except as provided in h.)
B. Electronic signs may not be larger than 26 square feet.
C. Electronic signs may only be permitted in non-residentially zoned areas.
D. Electronic Signs may not operate at brightness levels of more than 0.30 foot candles above ambient light levels as measured at the following distances:
E. Each sign must have a light sensing device that will adjust the brightness of the display as the natural ambient light conditions change.
F. The owner of said electronic sign shall provide to the Director information for a 24 hour contact able to turn off the electronic sign promptly if a malfunction occurs. If, at any time more than 50% of the digital display lights malfunction or are no longer working, the owner of said electronic sign shall make repairs to the sign within sixty (60) days or the sign will require removal.
G. If the staff of the City of Statham finds that the electronic sign the brightness specified in paragraph d. above, the owner of the sign, within twenty four (24) hours of a request by the staff of the City of Buford, shall reduce the intensity of the sign to be in compliance with this ordinance.
H. Electronic signs may provide for variable messages, but not more than three times per minute.

Section 54-114. Maximum heights, maximum sizes, setback requirements and number allowance of signs permitted.

Signs in the City shall be permitted and regulated in accordance with the sign table attached hereto as Appendix 54-114A, unless otherwise regulated, prohibited or exempted herein.

Section 54-115. Oversized signs.

This Section is supplemental to all other provisions of this chapter and applies to oversized signs.

1. Zoning districts where allowed. Oversized signs are permitted on lots that are adjacent to routes permanently designated and maintained by the Georgia Department of Transportation as a state or federal highway and are located within

non-residentially zoned districts, provided the lot abutting the street carries a non-residential zoning for at least one thousand (1,000) continuous feet along both sides of this street or one thousand seven hundred fifty (1,750) continuous feet along one (1) side of such street. In PUD zoning districts oversized signs will permitted and regulated as allowed by the conditions of the PUD.

2. Location and spacing.
    a. No oversized signs shall be placed within one thousand (1,000) feet of a residence, church, school, park or cemetery, any residential zoning district boundary, any historic district boundary, or any historic property.
    b. No oversized signs shall be located within two thousand five hundred (2.500) feet of another oversized sign, as measured from any direction.
    c. Oversized signs shall be erected only in the buildable area of the lot; provided, however, that no such sign shall be located nearer than seventy-five (75) feet of an interstate highway right-of-way. Any oversized sign with any sign face visible from an interstate highway shall also not be any further than one hundred (100) feet from said interstate highway. No tree shall be cut, trimmed, or pruned in locating, erecting or maintaining any oversized signs.
3. No oversized signs shall exceed seven hundred (700) square feet or fourteen (14) feet in height or fifty-two (52) feet in length inclusive of any border and trim, but excluding the base, apron, supports and other structural members; however, additional size and dimensional allowance for extensions or protrusions from the basic geometric shape of a sign may be permitted up to a maximum of fifty (50) percent of the basic sign area.
4. No oversized signs shall contain more than two (2) faces, not to exceed seven hundred (700) square feet collectively, exclusive of the allowance permitted for extensions and protrusions, visible from the same direction on the main traveled street or road. Double-faced and back-to-back constructed signs shall, for the purpose of determining compliance with size and spacing limitations, be considered as one (1) sign.
5. No oversized signs or any part of an oversized sign or structure thereof shall be located over any part of the roof of any building.
6. No oversized signs shall be allowed within any duly designated historic district.
7. Oversized signs shall require a building permit and an electrical permit to the extent applicable.

Section 54-116. Subdivision directional signs.

Subdivision directional signs shall be permitted within any zoning district, provided they serve a temporary purpose, are maintained in an attractive and sound manner, and are removed at the owner's expense. They are intended to encourage parties involved in subdivision development projects in proximity to one another to work together and place directional information for multiple projects on one sign or sign structure. Subdivision

directional signs may be allowed for a period of time from the beginning of the project until ten days following the sale of the final property. Subdivision directional signs shall be subject to the following requirements:

1. Shall not be located within ten feet of the pavement of any street and shall not be permitted on any public right-of-way.
2. Shall not be illuminated or affixed in any manner to trees, street or light poles, utility poles, other signs or sign structures.
3. Shall be made of wood.
4. Shall include the name, address and phone number of the owner or party responsible for the removal and maintenance of the sign. This information must be written in weatherproof ink or paint on at least one face of the sign in letters not exceeding one-half inch in height.
5. Shall be located no greater than two miles or two intersections, whichever is greater, from the project or property to which they refer, as measured along existing streets.
6. Signs prohibited under this article shall not be used as a subdivision directional sign.
7. Subdivision directional signs shall not exceed 24 square feet in total sign area per face with no one project allowed more than four total square feet per face (four projects per face) and shall not exceed eight feet in height excluding embellishments which shall not exceed two feet above the maximum height of the sign structure.
8. Subdivision directional signs shall be limited to four per intersection with no more than one per corner.
9. Subdivision directional signs shall be located within 200 feet of an intersection but no closer than 20 feet from the intersection.
10. These signs require a sign permit.

Section 54-117. Convenience stores and service stations with pump islands.

A. Convenience stores and service stations with pump islands may have additional signage subject to the following limitations:
    1. Two signs per canopy face with a maximum of 8 square feet per sign.
    2. Spreader bars (signs located under canopy over pumps islands) shall be limited to no more than two signs per spreader bar, not to exceed four square feet per sign. However, total square footage for all spreader bars shall not exceed 24 square feet.
    3. Accessory car wash, if a separate drive-through car wash building is on site, two additional wall signs may be allowed not to exceed eight square feet each.

Section 54-118. Interior project directional sign.

Such signs are authorized in all developments or planned subdivisions of land within any nonresidential zoning district subject to the following:

1. May not be located within 100 feet of an entrance to a project.
2. Maximum sign area shall not exceed 32 square feet.
3. Maximum sign height shall not exceed four feet.
4. Setback from right-of-way may be zero feet.
5. Only one such sign may be located at each internal intersection of private driveways or public streets within the project.
6. The purpose of the sign is to provide more definitive directional information concerning the whereabouts of tenants within the development.

Section 54-119. Permit approval, denial or revocation.

A. Procedure. An action by the department to approve or deny a sign permit shall be taken within 30 days of receipt of a complete sign permit application. Any sign permit application for which no action has been taken after 30 days or more shall be deemed to be approved.

   The director shall deny permit application(s) for signs that do not comply with the provisions of this article, incomplete applications, and applications containing any false material statements. A violation of any provision of this article and any other applicable state laws or city ordinances will be grounds for terminating a permit granted by the city for the erection of a sign. Should it be determined that a sign permit was issued pursuant to an incomplete application or an application containing a false material statement, or that a permit has been erroneously issued in violation of this article, the director shall revoke the permit. Should the director deny a permit, the reasons for the denial are to be stated in writing and mailed by certified mail, return receipt requested, to the address on the permit application, postmarked on or before the 30th business day after the director's receipt of the application, or by hand delivery to the applicant at time of denial. Any application denied and later resubmitted shall be deemed to have been submitted on the date of resubmission, not the date of the original submission. A permit shall not be denied or revoked except for due cause, being the violation of the provisions of this article, other applicable ordinances, state or federal law, or the submission of an incomplete application or an application containing false material statements.

B. Appeal. A person whose permit application has been denied or a permittee whose permit has been revoked may appeal the decision of the director to the Mayor and Council.

C. Certiorari. In the event a person whose permit has been denied or revoked is dissatisfied with the decision of the Mayor and Council, they may petition for writ of certiorari to the superior court of the county as provided by law.

Section 54-120. Variances.

Where a literal application of this article, due to special circumstances, would result in an unusual hardship in an individual case, a variance may be granted by the Mayor and Council pursuant to procedures set forth including, but not limited to:

1. Exceptional conditions pertaining to the property where the sign is to be located as a result of its size, shape, or topography, which are not applicable to other lands or structures in the area.
2. The applicant would be deprived of rights that are commonly enjoyed by others similarly situated.
3. Granting the variance would not confer on the applicant any significant privileges which are denied to others similarly situated.
4. The exceptional circumstances are not the result of action by the applicant.
5. The requested variance is the minimum variance necessary to allow the applicant to enjoy the rights commonly enjoyed by others similarly situated.
6. Granting of the variance would not violate more than one standard of this article.
7. Granting the variance would not result in allowing a sign that interferes with road or highway visibility or obstruct or otherwise interfere with the safe and orderly movement of traffic.

Section 54-121. Enforcement and penalties.

The sign provisions of this article shall be administered and enforced by the director.

1. The director or designee may issue a citation for violation of this article by any person, including, if applicable, the owner, manager or tenant of the lot on which a sign is located; for a sign erected, altered, maintained, converted, or used in violation of this article; or in violation of any other applicable ordinance, including, but not limited to, building or electrical codes.
2. Any person violating any provision of this article shall be guilty of an offense, and upon conviction by a court of competent jurisdiction, shall be subject to a penalty of not less than $25.00 nor more than $1,000.00, or by confinement in the county jail for a total time not to exceed 60 days, or both, and may not be stayed or suspended.

3. The city may seek affirmative equitable relief in a court of competent jurisdiction to cause the removal or repair of any sign in violation of this or other city ordinances.
4. The director or his/her designee may remove any sign or structure illegally placed upon a public right-of-way without any notice and may dispose of said sign or structure by taking it to any landfill. Such removal and disposal of illegally placed signs shall not preclude the prosecution of any person for illegally placing such signs in the public right-of-way.

Section 54-122. Reserved.

Section 54-123. Severability.

In the event any Section, subsection, sentence, or word of this article is declared and adjudged to be invalidated or unconstitutional, such declaration or adjudication shall not affect the remaining portions of this chapter, which shall remain in full force and effect as if such portion so declared or adjudged unconstitutional were not originally part of this chapter, even if the surviving parts of the ordinance result in greater restrictions after any unconstitutional provisions are stricken. The Mayor and City Council declares that it would have enacted the remaining parts of this chapter if it had known that such portion thereof would be declared or adjudged invalid or unconstitutional. The Mayor and City Council declares its intent that should this article be declared invalid in part or in whole, signs are to be subject to regulations applicable to structures contained in other ordinances, including the zoning resolution.

Section 54-124. Customary home occupation signs prohibited.

For each parcel of real property upon which a home occupation is conducted a sign advertising the customary home occupation conducted on the premises shall be prohibited. There shall be no exterior evidence of the conduct of the home occupation upon such premises.

Section 54-125. Annual registration of oversized signs.

1. On or before May 1 of each calendar year, the owner of any oversized sign shall register such sign with the director on a form (or via electronic means) provided by the City. The initial annual registration shall identify such oversized sign by tax parcel number, physical street address, or GIS coordinates, and shall describe all structures and equipment on the site associated with such oversized signs. Annually thereafter, each subsequent registration shall identify any transfer of

ownership of such sign, and/or any modifications to such sign which occurred during the preceding calendar year.

2. For all oversized signs which were constructed more than ten years prior to the submittal of the annual registration, at least once every three years the owner of such sign shall submit certification to the director that such sign was inspected by an employee or authorized agent of the owner whose responsibilities and job duties include the inspection and maintenance of signs for such sign owner that no signs of defect, disrepair, or other hazardous condition exist.
3. Any sign owner which owns more than 20 oversized signs subject to subsection (2) shall be deemed to be in compliance with its requirements so long as all of such sign owner's oversized signs which are more than ten years old are inspected within three years of the first deadline for registration under this Section.
4. The annual registration fee for each oversized sign shall be $100.00 per sign per year for the first registration and $50.00 per sign per year for each subsequent year.

Section 54-114A. - Sign table.

<table>
<tr><th>Type of Sign Purpose or Use</th><th>Maximum Height</th><th>Setback from Right-of-Way (1)</th><th colspan="3">Maximum Size Per Sign Allowed</th><th>Number and

Type Permitted</th></tr>
<tr><td rowspan="8">1. Primary signs for an individual establishment on an individual nonresidential lot.</td><td rowspan="8">5 ft.
10 ft.
20 ft.</td><td rowspan="8">0—5 ft.
> 5 ft. or
< 20 ft.
20 ft. or ></td><td colspan="3">GROUND SIGNS:</td><td rowspan="8">GROUND SIGNS:
One sign structure per road frontage not to exceed maximum allowable square footage.*
WALL SIGNS:
Signs may not exceed 50 percent of the total permitted square footage on any building elevation.
The total of all signs on all elevations shall not exceed the total square footage lists.</td></tr>
<tr><td><u>Gross Building Space</u></td><td><u>Max. Sign Size</u></td><td></td></tr>
<tr><td>0—10,000</td><td>75 s.f.</td><td></td></tr>
<tr><td>10,001—50,000</td><td>100 s.f.</td><td></td></tr>
<tr><td>50,001—100,000</td><td>150 s.f.</td><td></td></tr>
<tr><td colspan="3">WALL SIGNS:</td></tr>
<tr><td><u>Gross Building Space</u></td><td><u>Max Sign Size</u>

<u>Per Elevation</u></td><td><u>Agg. Total all Elev.</u></td></tr>
<tr><td>0—2,500</td><td>36 s.f.</td><td>72 s.f.</td></tr>
</table>

			2,501—15,000	60 s.f.	120 s.f.	
			15,001—50,000	100 s.f.	200 s.f.	
			50,001— >	200 s.f.	400 s.f.	
2. Accessory ground signs for an individual establishment on an individual nonresidential lot.	3 ft.	0—5 ft.	GROUND SIGNS:			GROUND SIGNS: Two sign structures per entrance.
			Gross Building Space	*Max. Sign Size*		
			0—10,000	3 s.f.		
			10,001—50,000	4 s.f.		
			50,001—100,000	5 s.f.		
3. Primary signs for an individual building on an individual residential lot.	5 ft.	0 ft.	GROUND SIGNS:			GROUND SIGNS: One sign structure per road frontage not to exceed maximum allowable square
			Lot acreage	*Max. Sign Size*		
			3—5 acres	24 s.f.		

			5 or greater	48 s.f.		footage. WALL SIGNS: Signs may not exceed one placed on the front elevation.
			WALL SIGNS:			
			Lot acreage	*Max. Sign Size*		
			3—5 acres	9 s.f.		
			5 or greater	18 s.f.		
4. Accessory ground signs for an individual building on an individual residential lot.	3 ft.	0 ft.	GROUND SIGNS:			GROUND SIGNS: Two sign structures per entrance.
			Lot acreage	*Max. Sign Size*		
			3—5 acres	4 s.f.		
			5 or greater	6 s.f.		
5. Signs for individual		N/A	WALL SIGNS:			GROUND SIGNS:

establishments, shops, etc. within a planned commercial center.			*Gross Building Space*	*Max Sign Size Per Bldg. Elevation*		Not allowed. WALL SIGNS: Signs may not exceed 50 percent of the total permitted square footage on any building elevation. The total of all wall signs on all elevations shall not exceed the total square footage listed.
			0—2,500	36 s.f.		
			2,501—15,000	60 s.f.		
			15,001—50,000	100 s.f.		
	Not greater than height of wall		50,000— >	200 s.f.		
			Gross Building Space	*Aggregate Total of All Wall Signs*		
			0—2,500	72 s.f.		
			2,501—15,000	120 s.f.		
			15,001—50,000	200 s.f.		
			50,001— >	400 s.f.		

6. Signs for individual offices, etc. within a planned office or industrial center.	Not greater than height of wall	N/A	20 square feet or five percent of the wall areas, whichever is greater			GROUND SIGNS: Not allowed WALL SIGNS: One per building elevation per tenant
7. Primary ground sign for planned office, commercial, industrial or retail center.	5 ft. 10 ft. 20 ft.	0—5 ft. > 5 or < 20 ft. 20 ft. or >	GROUND SIGNS:			GROUND SIGNS: One sign structure per road frontage not to exceed maximum allowable square footage.*
			Gross Building Space	*Max. Sign Size*		
			0—10,000	75 s.f.		
			10,001—50,000	100 s.f.		
			50,001—100,000	150 s.f.		
8. Accessory ground sign for planned office, commercial, industrial or retail center.	3 ft.	0—5 ft.	*Gross Building Space*	*Max. Sign Size*		GROUND SIGNS: Two sign structures per entrance.
			0—10,000	3 s.f.		
			10,001—50,000	4 s.f.		

			50,001—100,000	5 s.f.		
9. Permanent entrance sign for a nonresidential subdivision.	8 ft. excluding embellishments which shall not exceed two feet above the maximum height of the sign structure.	0 ft.	50 square feet			Two per entrance
10. Permanent entrance sign for a residential development or subdivision.	8 ft. excluding embellishments which shall not exceed two feet above the maximum height of the sign structure.	0 ft.	32 square feet per sign (sign structure must be constructed of brick, stone, masonry or equal architectural material).			Two per entrance
11. Interior Project Directional Sign (See section 86-118	4 ft.	0 ft.	32 square feet			One per internal intersection
12. Permanent sign for a subdivision recreation area.	5 Ft.	0 Ft.	GROUND SIGNS—24 square feet WALL SIGNS—9 square feet			GROUND SIGNS: One sign structure per road frontage not to exceed the maximum allowable square footage. WALL SIGNS: Signs shall not exceed one

				placed on the front elevation.

(1) No sign shall be located closer than ten feet to the back of curb (or pavement if not curb exists) of a public roadway.

*Properties with multiple road frontages may transfer a maximum of 50 percent of the allowable square footage from one road frontage to the other.

Chapter 62

TELECOMMUNICATIONS

Section 62-1. Definitions.
Section 62-2. Granting authority
Section 62-3. Franchise applications.
Section 62-4. Nonrefundable application fees for new franchises.
Section 62-5. Responsibilities of applicants.
Section 62-6. Public availability of applications.
Section 62-7. Evaluation criteria.
Section 62-8. Procedure for consideration of and action on applications.
Section 62-9. Terms and conditions of franchise.

Section 62 1. Definitions.

For purposes of the chapter, the following terms, phrases, words 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 "cable services" is no longer defined in the Cable Act or that the definition in the Cable Act otherwise becomes inapplicable, "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.

City Council means the City Council of the City of Statham and his designee or any successor thereto.

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 Section 76.1500(a) of part 76 of the Code of Federal Regulations.

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 "telecommunications service" is no longer defined in the Communications Act or the definition in the Communications Act otherwise becomes inapplicable, "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))

Section 62 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 Section.
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))

Section 62 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 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 finding source, addressed to both the applicant and the Council, setting forth the basis for a study performed by such lending institution or finding 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 a sources and uses of funds statement; and
   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 applicant's and its, parent's or subsidiary's resources committed to the completion thereof:

3. A detailed description of the proposed plan of operation of the applicant which shall include, but not be limited to, the following;
4. A description of the cable services proposed to be provided;
5. 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;
6. 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;
7. A detailed, informative, and referenced statement describing the actual equipment and operational standards proposed by the applicant;
8. 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
9. 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
10. 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))

Section 62-4. 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 chapter, each applicant must furnish with its proposal a nonrefundable application fee in the amount of $150.00 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))

Section 62-5. 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(6))

Section 62-6. 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))

Section 62-7. 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
4. throughout the term of the franchise;
5. 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;

6. 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))

Section 62-8. 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))

Section 62-9. 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))

Chapter 66

TRAFFIC AND VEHICLES

Article I. In General

Section 66-1.	Uniform rules of the road.
Section 66-2.	Additional charge for traffic offenses.
Section 66-3.	Traffic control signs, signals, devices and markings.
Section 66-4.	Stopping, standing, or parking prohibited in specified places; stopping or standing for collecting municipal solid waste or recovered materials.
Section 66-5.	Weight regulations in residential areas.
Section 66-6.	Statham Enhanced 911 Addressing Ordinance.
Section 66-7.	List of Roadways for the Use of Speed Detection Devices.
Secs. 66-8 – 66-28.	Reserved.

Article II. Golf Carts

Section 66-29.	Findings; definition.
Section 66-30.	Registration/inspection certification.
Section 66-31.	Operation regulations.
Section 66-32.	Recreation path users - Authorized.
Section 66-33.	Same-Prohibited uses.
Section 66-34.	Hazardous activities and special rules.
Section 66-35.	Liability.
Section 66-36.	Penalties.

ARTICLE I. IN GENERAL

Section 66-1. Uniform rules of the road.

Pursuant to O.C.G.A. §§ 40-6-372-40-6-376, 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 this municipality with like effect as if recited herein.
(Code 2001, § 11-101)

Section 66-2. Additional charge for traffic offenses.

Effective July 1, 2001, the City shall impose an additional $1 .00 surcharge fee on each person convicted of traffic offenses or violations in the municipal court of the City. Said surcharge fee shall be used to pay for acquisition, repair d maintenance of computer software.
(Code 2001, § 11-102)

Section 66-3. 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.

Section 66-4. Stopping, standing, or parking prohibited in specified places; stopping or standing for collecting municipal solid waste or recovered materials.

A. Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control device, no person shall:

    1. Stop, stand or park a vehicle:

        a. On the roadway side of any vehicle stopped or parked at the edge of a curb of a street;
        b. On a sidewalk;
        c. Within an intersection; or any area that restricts the view when pulling out from an intersection;

        d. On a crosswalk;

e. Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;
f. Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;
g. Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
h. On any railroad tracks;
i. On any controlled-access highway;
j. In the area between roadways of a divided highway, including crossovers;
k. In the areas not marked as a parking area for the type of vehicle being parked there. This would entail no parking for trucks with trailers, dump trucks, or any other commercial vehicle that by its very size alone would not fit into the designated marked parking space; or
l. At any place where official signs or yellow painted curbs would prohibit parking.

2. Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger:

a. In front of a public or private driveway;
b. Within 15 feet of a fire hydrant;
c. Within 20 feet of a crosswalk at an intersection;
d. Within 30 feet upon the approach to any flashing signal, stop sign, yield sign, or traffic-control signal located at the side of a roadway;
e. Within 20 feet of the driveway entrance to any fire station or on the side of a street opposite the entrance to any fire station within 75 feet of such entrance (when properly posted); or
f. At any place where official signs prohibit standing.

3. Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers:

a. Within 50 feet of the nearest rail of a railroad crossing; or

b. At any place where official signs prohibit parking.

B. No person shall move a vehicle not lawfully under his control into any prohibited area or to such a distance away from the curb as is unlawful.
C. Notwithstanding any other provision of law, any vehicle used solely for the purpose of collecting municipal solid waste or recovered materials may stop or stand on the road, street, or highway for the sole purpose of collecting such waste or materials; provided, however, that such vehicle shall maintain flashing hazard

lights at all times that it is engaged in stopping or standing for the purpose of waste or materials collection.

D. Any person violating this Section shall be guilty of a misdemeanor and fined no less than $25.00.
E. Except as otherwise provided in this Code Section, every vehicle stopped or parked upon a two-way roadway shall be stopped or parked with the right-hand wheels parallel to and within 12 inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder, and in the direction of authorized traffic movement.
F. Except when otherwise provided by local ordinance, every vehicle stopped or parked upon a one-way roadway shall be stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within 12 inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder or with its left-hand wheels within 12 inches of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder.

(Ord. of 5-17-2005(2); 5-17-2011)

Section 66-5. 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.

{Ord. of 5-17-2005(1))

66-6. Statham Enhanced 911 Addressing Ordinance.

(a) Enactment and Short Title.

The Mayor and Council of the City of Statham, Georgia, hereby enacts and adopts the following Ordinance, which shall be known and cited to as the "Statham Enhanced 911 Addressing Ordinance".

(b) Definitions

Mayor and Council – Mayor and Council of the City of Statham.

Building Official - Person, who the Mayor has appointed to administer and enforce the provisions of this Ordinance. May also be referred to as "Code Enforcement".

City– City of Statham, Georgia.

(c) Purpose

The purpose of this Ordinance 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 of Statham. 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 Statham, Georgia.

(d) Display Required.

Every location furnished with a 911 address inside the City of Statham 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.

(e) Method of Display

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 sixty (60) feet from the center line 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 sixty (60) feet from the center line 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 (10) 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 forty-five (45) feet from the edge of the road nearest the location.

If the house, apartment, business or other building or location to be numbered is more than sixty feet from the center line 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 Section.

(f) Size, Condition of Addresses.

Assigned 911 addressed numbers and/or characters shall be a minimum of three (3) inches in height and one and one half (1 ½) inches in width. Address numbers and characters for businesses shall be a minimum of four (4) inches in height and two (2) 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.

(g) 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.

(h) Duty of Owner; Notification; and Enforcement.

The obligation of complying with the provisions of this Ordinance shall be upon the owner of the property. Failure to comply shall constitute a violations article of this Ordinance. Upon such violation, notice shall be given the owner of the property, or his 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.

Property owners shall have ninety (90) days from the adoption of this ordinance to comply.

It shall be unlawful for any person to remove, damage, alter or deface any posted E-911 Address Sign in Statham. 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 Statham, Georgia.

Section 66-7. List of Roadways for the Use of Speed Detection Devices

List of Roadways
On-System

STATE ROUTE	WITHIN THE CITY OF AND/OR SCHOOL NAME	FROM	MILE POINT	TO	MILE POINT	LENGTH IN MILES	SPEED LIMIT
SR8	Statham	2007' west of McCarty Road (West Statham city limits)	15.60	847' west of Barber Creek Road (East Statham City Limits)	17.36	1.76	65
SR 211	Statham	State Route 8/316	00.00	606' north of Statham Drive	00.40	00.40	45
SR 211	Statham	606' north of Statham Drive	00.40	90' north of Atlanta Highway	00.93	00.53	35
SR 211	Statham	90' north of Atlanta Highway	00.93	Broad Street	01.13	00.20	25
SR 211	Statham	Broad Street	01.13	1131' north of Oak Springs Street	01.82	00.69	35
SR 211	Statham	1131' north of Oak Springs Street	01.82	2330' north of Oak Springs Street	02.05	00.23	45
SR 211	Statham	2330' north of Oak Springs Street	02.05	2502' north of Oak Springs Street (North Statham City Limits)	02.08	00.03	45

Off-System

ROAD NAME	WITHIN THE CITY OF AND/OR SCHOOL NAME	FROM	TO	LENGTH IN MILES	SPEED LIMIT
Atlanta Highway	Statham	West Statham City Limits	Price Street	.75	45
Atlanta Highway	Statham	Price Street	Commercial Drive	1.12	35
Atlanta Highway	Statham	Commercial Drive	East Statham City Limits	.47	45
Broad Street	Statham	Dooley Town Road	Eighth Street	1.99	35
Dooley Town Road	Statham	Atlanta Highway	North Statham City Limits	0.84	35
Eighth Street	Statham	South Statham City Limits	Atlanta Highway	0.53	35
Jefferson Street	Statham	North Statham City Limits	State Route 211	0.98	35
Price Street	Statham	Atlanta Highway	State Route 211	0.81	35
Railroad Street	Statham	State Route 211	Eighth Street	0.58	25
Providence Road	Statham	Broad Street	North Statham City Limits	0.73	35
Broad Street	SCHOOL ZONE Statham Elementary SCHOOL DAYS ONLY	State Route 211	150’ east of Providence Road	0.28	25
Providence Road	SCHOOL ZONE Statham Elementary SCHOOL DAYS ONLY	Broad Street	727’ north of Broad Street	0.14	25
Jefferson Street	SCHOOL ZONE Bear Creek Middle SCHOOL DAYS ONLY	State Route 211	North Statham City Limits	0.91	25

SCHOOL ZONE HOURS ARE EFFECTIVE

A.M. From 30 minutes prior to the commencement time to 30 minutes after the commencement time – **SCHOOL DAYS ONLY**

P.M. From 30 minutes prior to dismissal time to 30 minutes after dismissal time – **SCHOOL DAYS ONLY**

Sections 66-8 – 66-28. Reserved.

ARTICLE II. GOLF CARTS

Section 66-29. 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.
(Ord. of 4-19-2005, § 1)

Section 66-30. 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 owned by City residents shall be $10.00, and the registration shall be effective until such time as the cart is sold or otherwise disposed of. An annual registration/user fee of $60.00 shall be charged to nonresidents of the City. The nonresident fee is due by January 31each year until such time as the cart is sold or otherwise disposed of. This nonresident registration/user fee shall be prorated for carts purchased after January 31of the first calendar year of ownership, unless the nonresident had previously paid the registration/user fee the same calendar year, in which case a one-time transfer fee of $5.00 would be applicable. 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 of $5.00 and if the new owner is not a City resident, the nonresident registration/user fee for the balance of the year shall be due from the

new owner. If the registration is not transferred within ten business days, a $20.00 penalty will be applied in addition to the $5.00 transfer charge; and the cart shall be considered an unregistered cart after the ten business-day period.

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.

      1. 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, which is placed on a cart by the manufacturer, to render the device unserviceable by removal, alteration or which interferes with its operation.
      2. 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.
      3. 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.

B. 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.

C. 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.
D. 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.

(Ord. of 4-19-2005, § 2)

Section 66-31. 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 his 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 he does not have in his possession a valid instructional permit issued by the State pursuant to O.C.G.A. § 40-5-24, as maybe amended, and has not had his instructional permit suspended or revoked, then he 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 he shall be accompanied in the front seat by a parent, grandparent or legal guardian; or
    2. If he has in his 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)(l) of this Section, or is unaccompanied by a parent, grandparent or legal guardian as provided in subsection (b)(l) of this Section, then he may be accompanied in the vehicle by up to one other person who must be at least 15 years of age, or he may be accompanied by up to three immediate family members.

B. 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.

C. 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.
D. 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.
E. Motorized carts shall not be operated on sidewalks at any time.
F. 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.
G. 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.
H. 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.
I. 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.
J. 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.

(Ord. of 4-19-2005, § 3)

Section 66-32. 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 66-29);

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 66-33; and
10. LSMV 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.

(Ord. of 4-19-2005, § 4)

Section 66-33. Same-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. Un-registered electric-powered golf carts;
8. Un-registered gasoline-powered golf carts;
9. Electric or gasoline powered scooters;
10. Except as permitted in Section 66-32, any vehicle designed by the manufacturer to go faster than 20 miles per hour under its own power on a flat surface; and
11. Un-registered LSMV.

(Ord. of 4-19-2005, § 5)

Section 66-34. 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 66-33 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 his 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. Ali 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 shall operate an electric bicycle on the recreational paths.
K. Seat belts on LSMVs shall be worn by all occupants at all times the vehicle is moving.
    1. 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.

(Ord. of 4-19-2005, § 6)

Section 66-35. Liability.

Each person using the recreation paths is liable for his 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.
(Ord. of 4-19-2005, § 7)

Section 66-36. Penalties.

A. Any person who violates the terms of this article, except Section 66-31(b), (c) or (d), shall be punished as provided in Section 1-11; except that any fine for a littering offense shall be doubled.
B. Any violation of Section 66-31(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 as follows:

   1. For the first offense, a fine of not less than $250.00.
   2. For the second offense, a fine of not less than $500.00.
   3. For a third offense committed within one year of conviction for a second offense for a motorized cart, a fine of $1,000.00, and the registered owner's motorized cart registration shall be revoked . The registered owner or family member cannot there- after register a motorized cart for use in the City for a period of two years following the third conviction.

C. Any violation by an operator of a LSMV shall be charged against the operator according to the provisions of Title 40 of the Official Code of Georgia Annotated and this Code. Any violation by an owner of a LSMV shall be charged against the owner according to the provisions of Title 40 of the Official Code of Georgia Annotated and this Code.

(Ord. of 4-19-2005, § 8)

CHAPTER 70

UTILITIES

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ARTICLE I. IN GENERAL

Section 70-1. Deferral of Tap Fees.

(a) Findings. The Mayor and Council of the City of Statham find that the current real estate market makes it difficult for builders to obtain necessary financing to construct new homes.

(b) Deferral of Tap Fees. The City of Statham requires the payment of Tap Fees for Water and Sewer service in an amount determined by the Mayor and Council from time to time. These fees must be paid at the time a person obtains a building permit. Upon application submitted in writing at the time a building permit is requested the person seeking the building permit may defer payment of the Tap Fees for Water and Sewer service subject to the terms and requirements set forth herein.

(c) Requirements. The City may allow deferral of fees for water and sewer taps to no more than two lots in a platted subdivision at one time. Upon payment of a deferred fee for a lot, an application may be made for another lot in the subdivision. The application must state the name of the subdivision, the lot number, names and addresses of the applicant, the builder (if different than the applicant), the owner(s), and the financial institutions or other persons providing financing for the development and construction of the house. Applications shall be received and approved or denied by the City Planner. Notice of the assessment shall be filed in the office of the Clerk of Superior Court of Barrow County.

(d) Lien. Pursuant to the City of Statham Charter Section 4.13 the cost of the deferred tap fees shall be assessed against the lot. These assessments shall become due and payable eight months after the application is approved. If no house is commenced on the lot within six months, the deferral shall be terminated, the building permit suspended and such lot will not be eligible for another deferral pursuant to this Ordinance. Notice of the termination shall be sent by certified mail to the builder, applicant, owner and financial institutions listed on the application. Failure to pay the assessment within eight months shall result in a penalty of 7% and the amounts shall be subject to interest at the rate of 1% per month or fraction thereof until paid. A lien as provided by Section 4.13 of the

Charter shall exist against the lot and may be enforced as provided for in the Charter and state law.

Section 70-2. Pre-Purchase of Sewage Treatment Connection(s).

Owners of residential property within the service area of Statham that at the adoption of this ordinance 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 ordinance. 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.

1. 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.
2. Calculation of Cost. Using the information provided, the City Clerk or a designee shall calculate the cost of the connection(s) the person seeks to pre-purchase.

    a. The cost for a single family residential use connection for the owner of such property will be $1,200.00.

3. Payment of Costs. The City Clerk shall notify the requesting person of the amount of the total cost amount within three (3) days of the request. The person shall then have thirty (30) days 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 thirty (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.
4. Infrastructure. By pre-selling sewage treatment connection(s) 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, if a connection purchased pursuant to this ordinance is not available within two (2) years, the City shall refund the connection fee paid, with interest earned while in the City's account.

Section 70-3. Damage to Water Meters Not Caused by City

(a) The City of Statham 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 thirty days from delivery, the City may:

i. Suspend water service until the bill is satisfied; and
ii. 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 of Statham.

Section 70-3 - 70 18. Reserved.

ARTICLE II. WATER

Section 70-19. Rate schedule.

(a) Water and sewer rate schedules shall be established by resolution of 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).

Section 70-20. 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 the resolution of the City Council (Code 2001, § 20-102)

Section 70-21. 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 the 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 established from time to time by the Mayor and Council. There will be no sewerage charge on this second meter. For the months this meter is not in use, the customer will be charge the minimum fee as established by Mayor and Council unless the owner has a lock placed on the meter. (Code 2001, § 20-103)

Section 70-22. 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)

Section 70-23. City responsibility and liability.

The City shall rim 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 70-21, 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.

(a) 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.

(b) 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.

(c) 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.

(d) Under normal conditions, the consumer will be notified of any anticipated interruptions of service by the City. (Code 2001, 20 105)

Section 70-24. 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)

Section 70-25. 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 of right of way across any property traversed by the water and sewer lines (Code 2001, § 20-107)

Section 70-26. Change of occupancy.

(a) Not less than three days' notice must be given, in person or in writing, at the City Hall of the City 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 him liable for paying for the water consumed since the last meter reading (Code 2001, § 20-108)

(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.

Section 70-27. 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 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)

Section 70-28. 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, unavoidable accident.

(Code 2001, § 20-110)

Section 70-29. Complaints; adjustments.

If the consumer believes his bill to be in error, he shall present his 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 his claim.

(a) 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.

(b) 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.

(c) 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 his previous bills and/or from other proper data.

(d) 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 he 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 aboveground 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)

Section 70-30. 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 number 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 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)

Section 70-31. Water conservation plan.

(a) A voluntary water restriction will be placed on all customers when the water use reaches 70 percent [.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 pm 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 [.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 [.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 .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)

Section 70-32. Violation of water restrictions.

Any person violating water restrictions set by the Mayor and Council of the City shall be guilty of a misdemeanor, and upon the first offense shall be warned, and upon the second and subsequent offenses shall be punished by a fine not to exceed $1,000.00. (Ord. of 6 20 2000, § 12-119)

Section 70-33 – 70-50. Reserved.

ARTICLE III. CROSS CONNECTIONS

Section 70-51. Definitions.

The following definitions and terms shall apply in the interpretation and enforcement of this article.

Auxiliary intake. Any piping connection or other device whereby water may be secured from a source other than that normally used.

By pass. 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. 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. 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. 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. The waterworks system furnishing water to the City for general use and which supply is recognized as the public water supply by the Georgia Department of Natural Resources/Environmental Protection Division. (Ord. of 3-18-2003, §1)

Section 70-52. Compliance with State rules required.

The City public water supply is to comply with Chapter 391 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. (Ord. of 3-18-2003, § 2)

Section 70-53. Cross connections prohibited.

It shall be unlawful for any person to cause a cross connection, auxiliary intake, by pass, or interconnection to be made, or allow one to exist for any purpose whatsoever. (Ord. of 3-18-2003, §3)

Section 70-54. 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 water department of the City a statement of the nonexistence of unapproved or unauthorized cross connections, auxiliary intakes, by passes, or interconnections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, by pass, or interconnection will be permitted upon the premises. (Ord. of 3-18-2003, §4)

Section 70-55. 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 water department of the City.

(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 water department of the City 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 his 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 water department of the City. (Ord. of 3-18-2003, §5)

Section 70-56. Compliance required.

The director of the water department or his 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, by passes, or interconnection. 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. (Ord. of 3-18-2003, § 6)

Section 70-57. Timeframe of compliance.

Any person who now has cross connections, auxilliary intakes, by passes, 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 of the City. (Ord. of 3-18-2003, §7)

Section 70-58. 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 his 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
4. Alterations need be made to the plumbing.
5. There is likelihood that protective measures may be subverted, altered, or disconnected.

(Ord. of 3-18-2003, § 8)

Section 70-59. Preservation of potable water supply; warning sign.

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 be labeled in a conspicuous manner as water unsafe for drinking. Minimum acceptable sign shall have black letters one inch high located on a red background. (Ord. of 3-18-2003, §9)

Section 70-60. 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 fined not less than $10.00 nor more than $100.00; and each day of continued violation after conviction shall constitute a separate offense. In addition to the foregoing fines and penalties, the director of the water department of the City shall discontinue the public water supply service at any premises upon which there is found to be a cross connection, auxiliary intake, by pass, or interconnection, and service shall not be restored until such cross connection, auxiliary intake, by pass, or interconnection has been discontinued. (Ord. of 3-18-2003, §10)

Section 70-61 – 70-85. Reserved.

ARTICLE IV. SEWERS AND SEWAGE DISPOSAL

Section 70-86. 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 quanta, 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 storm water 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. Such terms 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 his 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, chapter 1, part 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 non-fatty 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/D, BOD5 is not more than 300 mg/I, total phosphorous is not more than 15 me, total oil and grease is not more than 100 milligrams per liter (nag11), total Kjeldahl nitrogen is not more than 20 mg/I, 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 mean 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 ground waters, storm waters 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 Decontamination of Water and Wastewater" and referred to as non-filterable 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 than 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 storm water 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.

Section 70-87. 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 owner 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 this article, is required at the owner's 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 this article 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 similarly 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.

Section 70-88. Private wastewater disposal.

(a) Where a public sanitary sewer is not available under the provisions of Section 70-87, 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 wellbeing.

(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 wellbeing.

(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 (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 his 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.

Section 70-89. 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, court yard, 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 WEI' 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 his sewer from the City sewer system.

Section 70-90. Restricted use of the public sewers.

(a) No person shall discharge or cause to be discharged any unpolluted waters such as storm water, groundwater, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters, to any sewer; except storm water runoff from limited areas such as solid waste dumpster pads, which storm water may be polluted at times, may be discharged to the sanitary sewer by permission of the designated City representative.

(b) Storm water 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, tri 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, aldehpdes, 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, underground 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 his 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, non-biodegradable 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, properly shredded garbage in Section 70 86). 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:

Pollutant	Maximum daily concentration (mg/l)	Maximum monthly concentration (mg/l)
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
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:

Pollutant	Maximum daily concentration (mg/l)	Maximum monthly concentration (mg/l)
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.

(5) 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.

(6) Any waters or wastes containing odor producing substances exceeding limits which may be established by the designated City representative.

(7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established in compliance with applicable State or federal regulations.

(8) Quantities of flow, concentrations, or both that constitute a slug.

(9) 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.

(10) Any waters or wastes which, by interaction with other waters or wastes in the public sewer system, release obnoxious gases, form solids which interfered with the collection system, or create a condition deleterious to structures and treatment processes.

(11) Any gasoline, kerosene, benzene, naphtha, acetone, toluene, turpentine, xylene, ethers, alcohols, ketones, aldephydes, peroxides, chlorates, perchlorates,

bromates, carbides, hydrides, sulfides, fuel oil, mineral spirits or other flammable or explosive liquid, solid or gas.

(2) 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/1), biochemical oxygen demand in such quantities as to constitute a significant load on the sewage treatment plant.

(d) Unusual suspended solids (above 800 mg/1) 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 cost of handling and treatment 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 his 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.

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.

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.

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 his 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.

Section 70-91. 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 charge of disorderly conduct.

Section 70-92. 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 Lind and source of discharge to the public wastewater system.

(c) The City Clerk or his designated representative shall be 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.

Section 70-93. 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.

Section 70-94. 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 exists. 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 violation 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 wellbeing.

Section 70-95. 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.

Section 70-96. 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 70 94(0;

(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; or

b. Discharges wastewater at an uncontrolled, variable rate in sufficient quantity to cause an imbalance in the wastewater treatment process; or

c. Fails to pay monthly bills for sanitary sewer services, surcharge, or fines, when due; or

d. Repeats a discharge of prohibited wastes into public: sewers; or

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.

g. Notification processes for discontinuance of service are presented in Section 70 94W).

Section 70-97 – 70-100. Reserved.

ARTICLE V - WATER CONSERVATION AND DROUGHT RESTRICTION

Section 70-101. Title, authority and applicability

(a) Title. This division 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 this division pursuant to Article 9, Section 2, Paragraph I and Article 9, Section 2, Paragraph III of the Constitution of the State of Georgia, Section 31 of Chapter 5 of Title 12 of the Official Code of Georgia Annotated, and the Georgia Department of Natural Resources (DNR) Rules for Outdoor Water Use, Ga. Comp. R. &; Regs. Ch. 391-3-30 (hereinafter, the Rules).

(c) Applicability. This ordinance shall apply to all persons and jurisdictions receiving potable or reuse water from the City of Statham.

Section 70-102. Purpose and intent.

(a) Purpose. The purpose of this division 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 division.

Section 70-103. Definitions.

When used in this division, the following definitions apply:

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 of Statham or his/her 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 division.

Environmental Protection Division means the Georgia 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 of Statham water system that results in water flowing down any gutter, street, storm drain, or adjacent property.

Section70-104. 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, twenty-four 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 storm water 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 waste water 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 use not listed in Sections (a) and (b)(1) immediately above may occur during non-drought periods twenty-four 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 Section 7-104(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.

Section 70-105. 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 use other than activities exempted in Section 70-104(a) of this division shall occur only during scheduled hours on the scheduled days.

(1) Declared drought response level one. 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.
   a. Scheduled days for odd-numbered addresses are Tuesdays, Thursdays and Sundays.
   b. Scheduled days for even-numbered addresses are Mondays, Wednesdays and Saturdays.
   c. Use of hydrants for any purpose other than firefighting, public health, safety or flushing is prohibited.

(2) Declared drought response level two. Outdoor water use may occur on scheduled days within the hours of 12:00 midnight to 10:00 a.m.
   a. Scheduled days for odd-numbered addresses are Tuesdays, Thursdays and Sundays.
   b. Scheduled days for even-numbered addresses and golf course fairways are Mondays, Wednesdays and Saturdays.
   c. The following uses are prohibited during level two droughts:
      i. Using hydrants for any purpose other than firefighting, public health, safety or flushing.
      ii. Washing pavement, such as streets, gutters, sidewalks and driveways except when necessary for public health and safety.

(3) Declared drought response level three. Outdoor water use may occur on the scheduled day within the hours of 12:00 midnight to 10:00 a.m.

a. The scheduled day for odd-numbered addresses is Sunday.
b. The scheduled day for even-numbered addresses and golf course fairways is Saturday.
c. The following uses are prohibited during level three droughts:
    i. Using hydrants for any purpose other than firefighting, public health, safety or flushing.
    ii. Washing pavement, such as streets, gutters, sidewalks, driveways, except when necessary for public health and safety.
    iii. Washing vehicles, such as cars, boats, trailers, motorbikes, airplanes, golf carts, unless such washing occurs at facilities certified under DNR regulations at 391-3-31-.02.
    iv. Washing buildings or structures except for immediate fire protection.
    v. Non-commercial fund-raisers, such as car washes.
    vi. 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 70-104(a) of this division, or as the EPD may allow.

(5) 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 70-104(a).

(b) Curtailment by Resolution. To the extent allowed by the Authorities cited in Section 70-101(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 County 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 70-104(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.

Section 70-106. Water wasting prohibited.

Wasting water is prohibited if such usage leaves a trail of flowing water for more than fifty feet off the property. Water waste also includes irrigation for more than twenty minutes during precipitation, and failure to repair a controllable leak. Water wasting, including water wasting by exempt uses in Section 70-104(a), is subject to fines, penalties, and enforcement up to and including termination of service.

Section 70-107. Administrative orders and fines.

i. Cease and Desist Orders. When the Director finds that a water user has violated, or continues to violate, any provision of this Ordinance, the Director may issue an order to the non-conserving water user directing it to cease and desist all such violations and directing the non-conserving water user to:

ii.

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 Ordinance, 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 two hundred and fifty dollars ($250).

1. Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of ten percent (10%) 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 fourteen (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.

Section 70-108. Civil penalties for violation.

(a) Violations. Violations of this Article V 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 home owner, renter, any person 17 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 twelve-month period, the violator may be given either an administrative fine or a citation.

(d) Penalties. 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), above, shall be guilty of a violation of this ordinance and shall be punished as follows:

i. 1st address citation:
   a. Household: $250 fine, which fine shall not be subject to suspension, stay or probation, except as provided in subsection (5) below; and
   b. Business: $500 fine, which fine shall not be subject to suspension, stay or probation;

ii. 2nd address citation:
   a. Household: $500 fine, which fine shall not be subject to suspension, stay or probation, except as provided in subsection (5) below, plus not more than two days of Work Alternative Program (WAP), which shall mean an in-custody eight-hour community service work day, which shall be subject to the court's discretion; and
   b. Business: $1,000 fine, which fine shall not be subject to suspension, stay or probation, and the business licensing division shall be notified of the conviction;

iii. 3rd address citation:

a. Household: $1,000 fine, which fine shall not be subject to suspension, stay or probation, except as provided in subsection (5) below, plus not more than ten days to serve or not more than 20 days of WAP, which shall be subject to the court's discretion; and
b. Business: $1,000 fine, which fine shall not be subject to suspension, stay or probation; and the business licensing division shall be notified of the conviction;

iv. (4) 4th address citation:
a. Household: $1,000 fine, which fine shall not be subject to suspension, stay or probation, except as provided in subsection (5) below, plus not more than 60 days to serve and WAP as appropriate, which shall be subject to the court's discretion; and
b. Business: $1,000 fine, which fine shall not be subject to suspension, stay or probation, and the business licensing division shall be notified of the conviction;

v. (5) If the payment of the penalty imposed for a household violation pursuant to this subsection (d) 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.

Section 70-109. 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 2nd or subsequent citation violation, as provided in subsection 70-108(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 the amount of $500 to restore water service that has been terminated as provided in paragraphs (a) or (d) of this Section.

Section 70-110. 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 twelve months.

Section 70-111. Authority to implement.

The Director is authorized to make all necessary and reasonable rules and policies with respect to the enforcement of this division. All such rules, policies, and procedures shall be consistent with the provisions of this division and shall be effective thirty days after being filed with the City Clerk.

Section 70-112 – 70-120. Reserved.

ARTICLE VI – METERS AND FIXTURES

Section 70-121. Meters

A. Except as otherwise provided in subsections (c) and (d) of this Code 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 waste-water 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 Code Section, the owner or operator of a building containing residential units may charge tenants separately for water and waste-water 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 waste-water service for such building plus a reasonable fee for establishing, servicing, and billing for water and waste-water 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 waste-water 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. (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 Code Section shall seek reimbursement for water and waste-water 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 waste-water use through an economic allocation which approximates the portion of the common area water and waste-water services allocable to each unit.

(3) The total amount of charges to the units under paragraphs (1) and (2) of this subsection shall not exceed the total charges paid by the owner or operator for water and waste-water service for the building, plus a reasonable fee for establishing, servicing, and billing water and waste-water consumption.

(4) The director shall be empowered to issue a temporary waiver of this subsection 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 waste-water usage as required by this chapter 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 Code 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 Code Section shall not apply to any construction of a building the permit for which was granted prior to July 1, 2012.

Section 70-122. Fixtures

A. All new construction permitted on or after before July 1, 2012, shall be required to install high efficiency plumbing fixtures.
B. As used in this Section, the term:

(1) **'Commercial'** means any type of building other than residential.

(2) **'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.

(3) **'Department'** means the Department of Community Affairs.

(4) **'Residential'** means any building or unit of a building intended for occupancy as a dwelling but shall not include a hotel or motel. 'Lavatory faucet' means a faucet that discharges into a lavatory basin in a domestic or commercial installation.

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

(6) **'Plumbing fixture fitting'** means a device that controls and directs the flow of water. The term includes a sink faucet, lavatory faucet, showerhead, or bath filler.

(7) **'Pressurized flushing device'** means a device that contains a valve that:

(A) 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

(B) 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.

(8) **'Toilet'** means a water closet.

(9) **'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.

(10) **'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:

(i) The average flush volume of two reduced flushes and one full flush may not exceed 1.28 gallons;

(ii) 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

(iii) 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:

(i) The average flush volume may not exceed 1.28 gallons;

(ii) 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

(iii) The toilet must be listed to the WaterSense™ Tank-Type High Efficiency Toilet Specification;

(2) A shower head 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; or 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 shower heads 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 shower heads required by this part 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 shall be in the same manner as for a variance.
F. Any person who installs any toilet, faucet, urinal, or shower head in violation of this Code Section shall be guilty of a misdemeanor.

Section 70-123 – 70-124. Reserved.

ARTICLE VII - STATE CABLE AND VIDEO SERVICE FRANCHISES.

Section 70-125. Definitions.

Gross Revenues. 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.

Section 70-126. Purpose.

City of Statham 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 City of Statham. O.C.G.A. Section 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 City of Statham, the Act further authorizes cable service providers and video service providers to obtain a state franchise to serve all or parts of City of Statham. In the event any cable service provider or video service provider operating within City of Statham, Georgia elects, after January 1, 2008, to obtain a state franchise to serve all or parts of City of Statham, it is the intention of the Mayor and Commission of City of Statham that such cable service providers or video service providers be subject to any franchise fees authorized by law. City of Statham is authorized by law to collect a franchise fee at a rate up to and including 5% of each cable or video service provider's gross revenues generated within City of Statham or the maximum amount established by federal and state law. Furthermore, City of Statham currently collects a franchise fee of 5% of annual gross revenues generated within City of Statham 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.

Section 70-127. Franchise fees.

City of Statham shall require collection of franchise fees at the rate of 5% of annual gross revenues generated by any cable or video service provider providing cable or video services within City of Statham pursuant to a state franchise or the maximum fee that may be subsequently allowed by law. Such fees shall be paid directly to City of Statham as provided for by O.C.G.A. Section 36-76-6 or as may be subsequently allowed by law.

Section 70-128. Regulations pertaining to use of government streets and public rights-of-way.

All regulations set forth in City of Statham Code of Ordinances including Sections 70-120 through 70-125, 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 City of Statham pursuant to a state franchise.

Section 70-129 – 70-130. Reserved.

ARTICLE VIII. DEFERRAL OF TAP FEES

Section 70-131. Findings.

The Mayor and Council of the City of Statham find that the current real estate market makes it difficult for builders to obtain necessary financing to construct new homes.

Section 70-132. Deferral of Tap Fees.

The City of Statham requires the payment of Tap Fees for Water and Sewer service in an amount determined by the Mayor and Council from time to time. These fees must be paid at the time a person obtains a building permit. Upon application submitted in writing at the time a building permit is requested the person seeking the building permit may defer payment of the Tap Fees for Water and Sewer service subject to the terms and requirements set forth herein.

Section 70-133. Requirements.

The City may allow deferral of fees for water and sewer taps to no more than two lots in a platted subdivision at one time. Upon payment of a deferred fee for a lot, an application may be made for another lot in the subdivision. The application must state the name of the subdivision, the lot number, names and addresses of the applicant, the builder (if different than the applicant), the owner(s), and the financial institutions or other persons providing financing for the development and construction of the house. Applications shall be received and approved or denied by the City Planner. Notice of the assessment shall be filed in the office of the Clerk of Superior Court of Barrow County.

Section 70-134. Lien.

Pursuant to the City of Statham Charter Section 4.13 the cost of the deferred tap fees shall be assessed against the lot. These assessments shall become due and payable eight months after the application is approved. If no house is commenced on the lot within six months, the deferral shall be terminated, the building permit suspended and such lot will not be eligible for another deferral pursuant to this Ordinance. Notice of the termination shall be sent by certified mail to the builder, applicant, owner and financial institutions listed on the application. Failure to pay the assessment within eight months shall result in a penalty of 7% and the amounts shall be subject to interest at the rate of 1% per month or fraction thereof until paid. A lien as provided by Section 4.13 of the Charter shall exist against the lot and may be enforced as provided for in the Charter and state law.

Section 70-135 – 70-140. Reserved.

Article IX -- Identity Theft Prevention Program

Section 70-141. Short title.

This article shall be known as the Identity Theft Prevention Program.

Section 70-142. 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.

Section 70-143. Definitions.

For purposes of this Article, the following definitions apply:

(a) **City** means the City of Statham.

(b) **Covered account** means (i) 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 (ii) 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.

(c) **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 therefore.

(d) **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.

(e) **Customer** means a person that has a covered account with a creditor.

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

(g) **Person** means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

(h) **Personal Identifying Information** means a person=s credit card account information, debit card information bank account information and driver's license information and for a natural person includes their social security number, mother=s birth name, and date of birth.

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

(j) **Service provider** means a person that provides a service directly to the City.

Section 70-144. Findings.

(1) 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.

(2) Covered accounts offered to customers for the provision of City services include water, sewer, and garbage accounts.

(3) The City has not had an instance of identity theft related to covered accounts.

(4) 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.

(5) 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.

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

(a) Use by an applicant of another person=s personal identifying information to establish a new covered account;

(b) 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;

(c) Use of another person=s credit card, bank account, or other method of payment by a customer to pay such customer's covered account or accounts; and

(d) 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.

Section 70-145. Process of establishing a covered account.

(1) 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.

(2) 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.

Section 70-146. Access to covered account information.

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

(2) Such password(s) 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 8 characters in length and shall contain letters, numbers and symbols.

(3) 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.

(4) 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.

Section 70-147. Credit card payments.

(1) 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.

(2) 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 data base.

(3) 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.

Section 70-148. 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 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:

i. 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 is not consistent 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, 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, 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 is not consistent 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, 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:

   i. 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 not consistent with established patterns of activity on the account. There is, for example:

   i. Nonpayment when there is no history of late or missed payments;

ii. 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 customers, law enforcement, victims or other reliable sources regarding possible identity theft or phishing relating to covered accounts.

Section 70-149. Prevention and mitigation of identity theft.

(1) 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 his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his or her 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 his or her 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 his or her discretion determine that no further action is necessary. If the Mayor in his or her 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:

a. Contact the customer;

b. 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:

   i. Change any account numbers, passwords, security codes, or other security devices that permit access to an account; or

   ii. Close the account;

c. 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;

d. Notify a debt collector within twenty-four (24) hours of the discovery of likely or probable identity theft relating to a customer 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;

e. 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

f. Take other appropriate action to prevent or mitigate identity theft.

(2) 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 his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his or her 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 his or her 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 his or her discretion determine that no further action is necessary. If the Mayor in his or her 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:

a. Request additional identifying information from the applicant;

b. Deny the application for the new account;

c. Notify law enforcement of possible identity theft; or

d. Take other appropriate action to prevent or mitigate identity theft.

Section 70-150. 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.

Section 70-151. 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 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 his or her discretion in determining the amount and substance of training necessary.

Section 70-152. 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 his or her discretion in reviewing such arrangements in order to ensure, to the best of his or her 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.

Section 70-153 – 70-160 Reserved.

Article X. Use of General Streets and Public Rights of Way.

Section 70-161. Definition.

Grantee. 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.

Section 70-162. 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 of Statham's Public Works Director in the exercise of his or her 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 of Statham shall be so located as to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any streets 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 70-123(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 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.

Section 70-163. 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.

Section 70-164. 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 10 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 10 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 10 days of such demand; upon award of any contract or contracts for such work, grantee shall pay to government within 10 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. "Cost," as used herein, shall include 15 percent of other costs for government's overhead.

Section 70-165. 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.

Section 70-166. 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.

Section 70-167. 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 10 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 commission, 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 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.